



Commission for
Communications Regulation

Response to Consultation Document and Final Decision

**Response to Consultation Document No. 09/11:
Review of the regulatory asset lives of Eircom
Limited**

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1. Executive Summary

- 1.1 The Commission for Communications Regulation (“ComReg”) published the consultation “Review of the regulatory asset lives of Eircom Limited” on 17 February 2009 in ComReg Document No. 09/11. The consultation set out ComReg’s preliminary assessment of what it considered to be the appropriate regulatory asset lives for Eircom Limited’s (“Eircom”) fixed line network and it sought interested parties’ views as regards the appropriateness of ComReg’s preliminary views.
- 1.2 ComReg received five responses to the consultation. Following consideration of the responses received, including a no comments letter from the European Commission, ComReg does not believe that any of the proposed changes to the regulatory asset lives require further amendment. ComReg believes that the implementation of the changes will bring the regulatory asset lives of Eircom up to date and in line with best practice in reflecting the expected lives of the assets of the company.
- 1.3 Set out in the table below are ComReg’s main changes, which take into consideration the views of respondents. As a result of the review, ComReg has decided on decreases to the regulatory asset lives for certain asset categories and increases in the case of some others. ComReg has also decided that the regulatory asset lives for certain other asset categories should be left unchanged. A full summary of the changes resulting from this decision are set out in Appendix A in Section 6, however the main changes to asset lives to be implemented are as follows:

Asset type	Original regulatory asset life	New regulatory asset life
Duct, roadway and footway boxes	20 years	40 years
Poles	15 years	30 years
Underground cables and fibre	14 years	20 years
Overhead cables and fibre	8 to 10 years	15 years

- 1.4 The date of this Decision is 11 August 2009. The regulatory asset lives set out in this Decision apply from the date of publication of this document. The Decision (as set out in Section 6) will apply to all regulatory related pricing reviews and any subsequent decisions, where relevant, as and when they occur, following publication of this Decision.

2. Introduction

Background

- 2.1 As set out in ComReg Document No. 09/11 fixed assets is a key component of a telecommunications operator's infrastructure and can account for a significant proportion of its asset base. These assets are consumed annually, in the production of goods and services, and this consumption is recorded as a depreciation charge in a company's profit and loss account (or income statement). The calculation and application of the related depreciation charge may be relevant to the majority of regulated wholesale prices. Most of these wholesale prices ultimately feed into retail prices charged by operators, both Eircom and others, to end users.
- 2.2 ComReg initiated a review of the Eircom's fixed asset lives for a number of reasons including, for example the passage of time since the previous review, which was in 1999. Further reasons are discussed below and also as part of Question 1. In February 2009 ComReg published Consultation Document No. 09/11¹ on the "*Review of the regulatory asset lives of Eircom Limited*". This document was accompanied by ComReg Document No. 09/11a which set out a report prepared for ComReg by consultants RGL Forensics and which ComReg took into account when making its preliminary assessment.
- 2.3 A national consultation ran from 17 February 2009 to 20 March 2009. ComReg would like to thank all respondents for their submissions and ComReg believes that it has carefully considered, and also taken into account these submissions, when reviewing the reasons for this Decision.
- 2.4 ComReg notified the European Commission, pursuant to its obligations under Article 7 of the Framework Directive² concerning the amendment of the regulatory asset lives of the fixed incumbent operator's assets in Ireland. ComReg received a "no comments" letter from the European Commission.

Reasons for Undertaking the Review

- 2.5 In ComReg Document No. 09/11, ComReg discussed its reasons for undertaking the review of the regulatory asset lives of Eircom and how it arrived at its preliminary conclusions. ComReg considered that it was necessary to undertake the review at this time for a number of reasons which are summarised in the paragraph below.
- 2.6 Since the last review, approximately 10 years ago, there have been significant technological and other developments in the telecommunications industry. In recent years, ComReg has conducted some detailed reviews of Eircom's fixed line network, including a review of the copper access network. These reviews highlighted that the current regulatory asset lives applied by Eircom required further assessment. In parallel, ComReg notes that a number of other European regulators e.g. Ofcom, ARCEP, BAKOM have also conducted reviews of

¹ ComReg Document No. 09/11 and 09/11a should be read in conjunction with this document.

² Article 7 of Directive 2002/21/EC of the European Parliament and the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services ("Framework Directive").

regulated asset lives which resulted in similar adjustments to those being implemented by ComReg. As ComReg wishes to take account of, amongst other matters and where appropriate, changes in technology and facilitate Eircom's ongoing compliance with its relevant cost orientation obligations when conducting price reviews, as well as adhere to best practise applied in other European Union Member States, ComReg believes that a full and comprehensive review of Eircom's regulatory asset lives was appropriate at this juncture. The conclusions of this review and resultant Decision demonstrate clearly that significant changes to the regulatory asset lives are required and indeed necessary.

Statutory and Regulatory Financial Statements

- 2.7 In considering the background to depreciation ComReg was mindful that depreciation is a material charge for Eircom Limited's statutory financial statements. It should also be noted that, in ComReg's view, the statutory and regulatory financial statements do not necessarily serve the same purposes. The statutory financial statements report historical trading results to shareholders whereas regulatory financial statements are reported to all stakeholders but through regulatory requirements rather than statutory requirements. Due to the application of, amongst other things, different accounting policies between both sets of accounts, reconciliation statements are sometimes required to ensure that any differences between the statutory and regulatory financial statements are fully disclosed in the regulated financial statements. Where applied, such reconciliation statements help ensure that any differences between regulatory and statutory accounts are fully transparent, which can be used to inform both shareholders and other regulatory stakeholders.
- 2.8 Assets lives for regulatory purposes can also be used in a different context to statutory financial statements. For example, regulatory decisions are often made with forward looking information using costing methodologies such as Long Run Incremental Cost ("LRIC"). Asset lives are often used in the development of independent costing models and it is imperative that the most accurate Economic Useful Lives ("EUL") are applied in these models.
- 2.9 Issues raised by respondents regarding the use of statutory and regulatory accounts are further considered by ComReg in its position and conclusion in relation to Question 61.

Methodology Employed in the Review

- 2.10 As ComReg reviewed the various asset classes of Eircom, it examined the following in relation to each class of asset:
- Company specific factors: These are issues which relate exclusively to Eircom and to no other operator in Ireland or abroad. Significant information on company specific factors has been reviewed and meetings have been held;
 - Technical issues: These are issues of changing technologies i.e. the introduction of Next Generation Networks ("NGN") or technical obsolescence. ComReg considered that some assets are more likely to be subject to technological change than others;
 - Market developments: These relate to any potential changes in market requirements in Ireland;

- A review of Eircom's fixed asset register: ComReg's review of the Eircom fixed asset register is discussed as part of Questions 8 and Question 10;
- Consideration of the expert opinion of its advisors;
- Its own knowledge of Eircom's network; and
- Benchmarks (discussed further below).

2.11 As a result, ComReg proposed decreases to the regulatory asset lives for certain asset categories and increase for some others. ComReg also recommended that the regulatory asset lives for certain other asset categories be left unchanged.

Use of Benchmark Data

2.12 As outlined in ComReg Document No. 09/11, ComReg has taken account of benchmark data but has assessed it carefully in so doing. These benchmark data were used to inform decision-making and not as a substitute for it. In particular, ComReg has not taken the asset lives of other jurisdictions and mechanically applied them to an Irish case. Instead it has researched the bases for the asset lives specific to Irish circumstances and gained an understanding of the differences that arose compared to other similar jurisdictions. ComReg also carried out wider research by researching suppliers of telecoms assets as well as acquiring any other publically available information to assist in this review of the regulatory asset lives of Eircom.

2.13 ComReg also considered what similarities and/or differences there might be between Eircom's regulatory asset lives, as a regulated entity, and those as applied by other countries national regulatory authorities ("NRA's"). When comparing the regulatory asset lives applied by other NRA's, ComReg has assessed their findings along with other available information as well as its own knowledge and understanding of Eircom's network and the expert opinion of its advisors. It has now formed its opinion on the most appropriate regulatory asset lives for Eircom going forward.

2.14 ComReg has carried out a detailed review of the regulatory asset lives applied in a number of countries. As well as the UK, specific detail on regulatory asset lives was available for Switzerland, Denmark, France, Germany, Belgium, Sweden, Australia New Zealand, and the United States. Of these countries ComReg has reviewed asset categories that appear to be similar with those being amended as part of this Decision. The conclusion of this review is that the changes here are consistent with regulatory asset lives in most of those countries. For example almost all of the countries reviewed had a regulatory asset life of 40 years, for ducts and trenches.

2.15 Where another regulator has imposed a different approach to the statutory life for a particular asset category, ComReg has where possible ensured a full understanding of such differences has been made available to it prior to making its decision. As outlined in "*ComReg's position and conclusion in relation to Question 61*", and as already discussed, ComReg considers that statutory financial statements and regulatory accounts do not necessarily serve the same purpose.

2.16 ComReg notes that there may be exceptional circumstances where a comparison between Eircom and incumbents in other member states, may not be appropriate.

However, ComReg believes it has taken full account of these differences and similarities in conducting its review and final decision.

- 2.17 One of the more significant issues that Ireland faces is the possible impact of climatic conditions to the regulatory fixed asset lives. This is particularly evident from ComReg's treatment of overhead cables compared to underground cables. In the case of overhead cables, ComReg has applied a life less than the asset life applied for underground cables. Severe weather conditions (in an Irish context this usually means storms; significant fluctuations in temperature are not common) can play a significant role in how long an asset will last over time. ComReg has considered such issues in detail and the outcome of this review reflects many of the real life issues that a network in Ireland faces when compared with conditions in many other parts of mainland Europe.
- 2.18 Another example is the regulatory asset life applied by ComReg to poles. ComReg has applied an asset life lower than that considered possible in some of the data presented in the consultation. ComReg considers that this life also reflects the windier weather conditions that poles would be subjected to in Ireland compared to continental European countries.
- 2.19 Issues raised by respondents regarding benchmarks are considered further by ComReg in the document according to where such issues arise.

ComReg's Obligations and the Obligations on Eircom

- 2.20 ComReg considers that this Direction is proportionate and justified in light of ComReg's functions and objectives³, to ensure compliance by undertakings with its obligations (including under Regulation 14 (1) of the Access Regulations⁴ in relation to price control, cost orientation and cost accounting). ComReg believes that this Decision will facilitate the promotion of competition and will encourage efficient investment in infrastructure.
- 2.21 Eircom owes obligations pursuant to Regulation 14 of the Access Regulations including in relation to price control, cost orientation and cost accounting. This decision will now ensure that the asset lives now imposed are more accurate and are appropriate for regulatory asset lives. This will ensure for instance a lower risk of over or under recovery from any eventual prices set –thereby ensuring that Eircom is meeting its price control obligations imposed by virtue of its status as an Significant Market Power (“SMP”) operator. This Decision will ensure that any regulatory pricing models going forward used to set regulatory prices, will include the most up-to-date and appropriate regulatory asset lives. This ensures a lower risk of over or under recovery from any eventual prices set. It should be noted that to facilitate for example Eircom being cost oriented it should neither under recover costs (through asset lives being too long) nor over recover costs

³ As more particularly set out in sections 10 and 12 of the Communications Regulation Act 2002. ComReg further considers this Decision/Direction will also, in accordance with Regulation 14 (3) promote efficiency, sustainable competition and maximise consumer benefits -for the reasons explained throughout this document (in particular at Question 61 and the RIA) and now briefly summarised.

⁴ The European Communities (Electronic Communications and Network Services) (Access) Regulations, 2003 (S.I. No. 305 of 2003) as amended by the European Communities (Electronic Communications Networks and Services) (Access) (Amendment) Regulations 2007 (S.I. No. 373 of 2007).

(through asset lives being too short). ComReg has considered this by lengthening, reducing and leaving unchanged various asset lives.

- 2.22 ComReg has taken into account any investment made by Eircom⁵ while allowing Eircom a reasonable rate of return. ComReg has reviewed its decision to changes in regulatory fixed asset lives with respect to the Weighted Average Cost of Capital (“WACC”) and any possible increase in Eircom’s risk exposure. ComReg considers that the decisions in respect of asset lives in this decision do not materially impact on the WACC as further discussed in this document.
- 2.23 Eircom’s Key network charges are set by ComReg on the basis of forward looking long run incremental cost methodologies which allow for reinvestment in modern assets and are set with the intention of incentivising investment and innovation. However the detailed policy and economic arguments around each pricing decision are not set out here.
- 2.24 In ComReg’s view this decision will ensure that the costs of assets deployed are recovered over the appropriate timeframe. This ensures that such costs, when used in price control and cost orientation reviews are reasonable and proportionate.
- 2.25 For consideration of benefits, including consumer and other authorised operator benefits, please refer to the Regulatory Impact Assessment (“RIA”) at Section 4.

Structure of this Response to Consultation and Decision Document

- 2.26 The remainder of the document is structured as follows:
- Section 3 sets out the responses to Consultation Document No. 09/11 and ComReg’s Position and Conclusion in relation to the various Questions. Please note that given that the most substantive comments ComReg received were in relation to Question 61, ComReg considered it would be more beneficial to consider Question 61 first. ComReg’s position and conclusion in relation to Question 61 will also inform the other consultation Questions and these should therefore be read in conjunction with ComReg’s position and conclusion regarding Questions 61 (and with the RIA). Questions 1 through to 60 are then considered in numerical order, but with ComReg’s position and conclusion in relation to Question 62 appearing directly after Question 60.
 - Section 4 sets out the RIA;
 - Section 5 sets out the Legal Basis;
 - Section 6 sets out the Decision Instrument with Appendix A setting out the Regulated EULs to be applied by Eircom to its assets.
- 2.27 As a result of this consultation and Decision, ComReg is directing that the implementation of the changes should take place from the date of publication of this Decision.

⁵ Regulation 14(2) of the Access Regulations.

3. Responses to ComReg Consultation Document No. 09/11

Introduction

- 3.1 ComReg published Consultation Document No. 09/11 on 17 February 2009.
- 3.2 ComReg received five responses to the consultation. The five respondents are listed below:
 - Magnet Networks Limited (“**Magnet**”);
 - Vodafone Ireland Limited (“**Vodafone**”);
 - BT Communications Ireland Limited (“**BT**”);
 - Eircom Limited (“**Eircom**”); and
 - IrelandOffLine.
- 3.3 ComReg has taken all responses (both confidential and non confidential) into consideration when determining its response to consultation and final Decision. BT’s response was in the main confidential; however the response was in broad agreement with the proposals consulted on in ComReg Document No. 09/11. However, where BT did not agree with ComReg (mainly in respect of cables) ComReg has stated this and has provided in broad detail the reasons why BT did not agree.
- 3.4 Below, ComReg has for each Question posed in Consultation Document No. 09/11, restated the Question, summarised the views of the various respondents and stated its final position and conclusion -having carefully considered the views of respondents. Note not all the respondents considered the Questions individually but ComReg has nonetheless endeavoured to reproduce and respond to all issues raised where they might best be considered or relevant.
- 3.5 While stating its final position and conclusion in relation to each Question posed in Consultation Document No. 09/11, ComReg has outlined its findings as to why, in its view, certain regulatory asset lives required amendment.

Overview

- 3.6 In a number of cases, Eircom has stated that the proposed changes are a disproportionate use of its powers or unreasonable. However, ComReg does not consider the changes to be disproportionate or unreasonable for the reasons set out in its position and conclusion in relation to each of the Questions below. Again it is important to refer to the RIA (and to Question 61) for further consideration of the proportionality of the changes in relation to the each of the Questions set out below.
- 3.7 As stated above, given that the most substantive comments ComReg received were in relation to Question 61, ComReg considered it would be more beneficial to consider Question 61 first. ComReg’s position and conclusion in relation to Question 61 will also inform the other consultation Questions and these should therefore be read in conjunction with ComReg’s position and conclusion regarding Questions 61 (and with the RIA).

Operator Responses and ComReg's Position and Conclusion

Consultation Question

Q. 61. *Respondents are requested to provide views on whether the proposed direction is proportionate and justified and also to offer views on other factors (if any) ComReg should consider in completing its Regulatory Impact Assessment? Please explain in detail your response.*

Views of respondents

- 3.8 There were four responses to this Question.
- 3.9 **Magnet, Vodafone, and BT** considered that the proposed direction on the regulatory asset lives was proportionate and justified.
- 3.10 **Eircom** combined its answer to Question 61 with that of Question 62 where it stated that it considered that the proposed direction was not proportionate, reasonable nor justified. It also made submissions in its Executive Summary and elsewhere, which for completeness, ComReg has now sought to collate. Eircom made the following points in particular in respect of :
- Use of statutory financial statements;
 - Materiality of assets reviewed
 - Timing: timing of review and spreading any price adjustment over time; and
 - Miscellaneous comments.
- 3.11 **Use of statutory financial statements**
- Eircom believe that the statutory financial statements constitute the main source of information for the regulatory accounts;
 - Eircom believe that unless there are particular reasons for them to differ, assets lives between both sets of accounts should be the same. Eircom state that ComReg must also show that the asset lives used in the statutory financial statements are materially inappropriate for regulatory purposes. If not then the statutory asset lives should be used. Eircom believe that the assessment of asset lives is subjective and a company is better placed to make this assessment;
 - Eircom believe that regulatory accounts build upon the statutory accounts. ComReg can only change asset regulatory lives if it can show that the statutory asset lives are inappropriate for cost orientation obligations;
 - Eircom believe that ComReg must justify its changes *vis-à-vis* the previous direction and also against the statutory accounts;
 - Eircom believe that the proposed creation of new asset classes would result in immaterial changes and will lead to further inconsistencies between the regulatory and statutory financial statements; and
 - Eircom believe that ComReg has not demonstrated why the current statutory asset lives are inappropriate or why previously directed asset lives are no longer appropriate. This includes the conclusion of the Industry Advisory Group (“IAG”) which considered that the existing asset lives were appropriate.
- 3.12 **Materiality of asset reviewed**
- Eircom believe a number of changes proposed by ComReg are immaterial from the point of view of regulatory pricing;
 - It states the changes should only be made if it can be shown that they improve the quality of disclosure of the various operating units;

- Eircom believe that many asset classes (reference was made to a number of assets being amended) are fully depreciated and therefore the review would have no effect;
 - Eircom believes it would also be disproportionate to create some new asset classes (and refers to the assets considered under Questions 24, 25, 35 and 54 in this regard).
- 3.13 **Timing: timing of review and spreading any price adjustment over time**
- Eircom believe that ComReg should await the “return of some stability to the overall economic climate before continuing further with its review” bearing in mind what it considers as the increased risk to Eircom at this time and from this review; and
 - Eircom believe that ComReg has ignored a 2005 European Commission recommendation to spread any price adjustment over a reasonable period of time to minimise the potential “step” effects on metrics such as depreciation, regulatory asset base, wholesale pricing inputs etc (and must be assessed against ComReg’s objectives including ensuring efficient investment and promoting innovation).

3.14 **Miscellaneous comments**

- Eircom stated that technological change does not support the lengthening of certain asset lives. It also states that ComReg must demonstrate that current lives no longer meet its policy objectives which must include the objective of encouraging efficient investment in infrastructure in accordance with Section 12 of the Communications Regulation Act 2002;
- Eircom believe that the level of analysis undertaken by ComReg in relation to benchmarking data is entirely inappropriate and insufficient and that the heavy reliance placed by ComReg on benchmarking data is misplaced;
- Eircom believe that the review must reflect the SMP obligations imposed upon Eircom. Eircom state “*many revenue streams are either directly controlled through regulation or indirectly constrained through the effect of upstream access provisions, key regulatory decisions taken by ComReg can have a direct impact upon EULs*”;
- Eircom believe that no assessment has been undertaken on a possible impact to Eircom’s risk profile and the WACC;
- Eircom believe that it is prudent not to consider the period over which a return could be earned but rather the period over which a positive economic contribution could be made;
- Eircom does not understand ComReg’s assertion in the context of its RIA that the proposed changes would result in lower regulated prices; and
- Eircom believe that ComReg has not set out any benefit which would accrue from the significant changes proposed.

ComReg’s Position and Conclusion

- 3.15 In relation to Eircom’s views expressed above ComReg addresses its points under the following headings:
- Use of statutory financial statements;
 - Materiality of assets reviewed;
 - Timing: timing of review and spreading any price adjustment over time;
 - Miscellaneous comments; and

- Concluding comments.

Use of Statutory Financial Statements

- 3.16 Taking Eircom's comments in accordance with the manner by which they were reproduced above, ComReg now responds to each of those points in turn. Firstly, in relation to Eircom's comments on the statutory financial statements constituting the main source of information for the regulatory accounts, ComReg has given careful consideration to all of the information submitted by Eircom as part of this review and has also considered the further comments submitted by Eircom in its recent response. This included an assessment of the appropriateness or otherwise of the statutory asset lives of Eircom. ComReg carefully considered all of the information provided by Eircom and undertook a comprehensive review throughout this consultation. ComReg also felt it necessary to carry out a further detailed review with the assistance of experts as evident in Consultation Document No. 09/11 and 09/11a.
- 3.17 In relation to Eircom's comment that ComReg must show that the statutory financial statements are materially inappropriate for regulatory purposes ComReg would make several observations. First as outlined in various Questions (dealt with subsequently) ComReg has formed the view that many of the asset lives currently applied in the regulatory accounts are inappropriate, and in many cases to a substantial degree (e.g. by a factor 100%). ComReg has not sought, in assessing the appropriate asset lives for regulatory purposes, to diverge from Eircom's statutory accounts for no good reason, but has only done so where its overall assessment of the evidence, the views of various stakeholders and (where applicable) appropriate benchmarking show that the asset lives currently applied should be amended.
- 3.18 Depreciation policies between regulatory and statutory accounts may differ. In particular, the lives used in the regulatory accounts need to be based on an informed view of the actual service life of these assets whereas many assets are depreciated more quickly on a statutory basis. Therefore while an asset might be fully depreciated on a statutory basis it may still be in use and remain on a company's fixed asset register. Adopting a longer period in regulatory accounts creates no bias against Eircom since it will recover costs on regulated products throughout the useful life of the asset. The application of statutory asset lives may therefore be inappropriate for regulatory pricing purposes as the cost of the asset could be written off too quickly.
- 3.19 Longer regulatory asset lives, reflecting the likely useful service life of the asset in question, are particularly justified in the context of telecommunications regulation. The existence of such regulation is expressly based on the notion that the incumbent does not face the prospect of credible large scale entry to replicate the fixed network that would threaten to potentially disrupt potential asset lives. In other words, the fact of being regulated means that the company concerned necessarily has a high degree of immunity from effective competition, which in turn will often allow it to maintain assets in useful service for longer.
- 3.20 There is no requirement that statutory and regulatory accounts should in all cases, or even generally, converge. However ComReg would agree that there should be good reasons where they do not converge. Differences between regulatory and statutory accounts are proportionate when bearing in mind the different purposes

of the two sets of accounts. Regulatory accounts assist regulation in a variety of ways, including most notably in determining efficient costs for existing and/or future price controls. Appropriate asset lives are a component of such costs. By contrast, statutory accounts provide information to shareholders and other potential stakeholders on the financial health of the company, including in non-regulated activities and are concerned with reporting past performance, mostly on an historical cost basis. By way of contrast regulatory assets lives are used in a number of different contexts including the use of current costs and forward looking methodologies such as LRIC. Regulatory assets lives are also often used independently of financial statements in independent cost models. It is entirely reasonable that a regulator and the board of Directors of a company may have a different perspective on these matters.

- 3.21 ComReg does not consider that its proposals will increase the level of disconnect between the statutory and regulatory financial statements. There have been reconciliation statements present in the regulated accounts since 2001. One of the items included in these reconciliation statements are adjustments for differences in asset lives between the regulatory and statutory financial statements. These adjustments arise primarily due to the different regulatory and statutory accounting policies being applied to the same asset categories. These adjustments show, in total, the impact of differences in asset lives and are not broken down by asset category. Therefore, while the level of monetary value of the reconciling item for asset lives may change, as it currently does from year to year, ComReg does not consider that it will distort either set of financial statements.
- 3.22 Finally, it is the case that many asset lives are left unchanged again showing that ComReg has been mindful of the need to act in a proportionate manner.
- 3.23 Based on ComReg's own knowledge of Eircom's network, a review of the age profile and content of Eircom's fixed asset register, the expert opinion of its advisor RGL, the regulatory and statutory lives of other incumbents and other operators; reviews undertaken by other NRA's (e.g. Ofcom); and the likelihood of technological obsolescence, or replace by other forms of technology - the preliminary conclusions drawn by ComReg were that certain of the statutory asset lives of Eircom did not meet its regulatory requirements in certain respects and were therefore inappropriate for use as part of this review.
- 3.24 For the reasons set out above ComReg does not accept that only company directors can assess the asset lives of a company. As already set out statutory accounts and regulatory accounts perform different functions. Clearly it will be within the remit of ComReg, as regulator, to consider and indeed to determine the accuracy of Eircom's regulated asset lives.
- 3.25 In relation to Eircom's comment that regulatory accounts build upon financial statements and that changes can only be made if the statutory asset lives are inappropriate for Eircom's cost orientation obligation, ComReg has reviewed and attempted to understand the basis of statutory assets lives but believes that it is justified in mandating different assets lives for regulatory purposes where this is warranted. For example in relation to duct, roadway and footway boxes, the current statutory asset life applied to these, by Eircom, is 20 years. All of the information assessed by ComReg however during this review indicated that an

appropriate asset life for this asset class was in excess of 20 years. Having made the preliminary assessment that Eircom's statutory asset lives were inappropriate for regulatory purposes ComReg considered that in order to conduct this consultation and make its recommendations, it was then more appropriate to use the information it had compiled rather than Eircom's statutory asset lives.

- 3.26 In relation to Eircom's point that ComReg must justify its changes the previous direction and also against the statutory financial statements ComReg considered, that many of Eircom's regulated asset lives under the previous direction required amendment. ComReg believes that it has done so. What is important is that now the asset lives used in the regulatory accounts are up-to-date and appropriate. However, ComReg believed, as outlined in its position and conclusion in relation to Question 1 below that it was appropriate to hold the consultation now for the following reasons:
- It has been approximately 10 years since the last full review. On any reasonable view, this is a material length of time;
 - ComReg is required to ensure Eircom's ongoing compliance with its SMP obligation of cost orientation. As depreciation of assets can be a material input to pricing models ComReg would be failing in its duty if it did not review this issue at meaningful time intervals; and
 - Other NRA's have conducted reviews with the same or higher periodicity during this period and in order to accord with best practice it is appropriate to consider and compare changes made elsewhere to an Irish context.
- 3.27 ComReg also notes Eircom's comments in relation to Question 18 where it agrees that there should be common lives for assets common to both the core and access network. When ComReg reviewed Eircom's fixed asset register it observed certain inconsistencies in asset lives applied to some assets common to both the core and access networks. The outcome of this decision ensures that such inconsistencies are not continued.
- 3.28 In relation to immaterial changes, ComReg has considered this in more detail below. As regards Eircom's comment concerning inconsistencies between regulatory and statutory financial statements this has already been considered above.
- 3.29 In relation to the final Eircom comment set out above, regarding the IAG, ComReg notes that the report of Industry Advisory Group 2 ("IAG2") was published 6 years ago and was in connection with Local Loop Unbundling ("LLU") only. Although the asset lives formed part of the LLU model inputs they were not subject to specific public consultation. Therefore, while some of the assets reviewed are common between the core and access networks (i.e. ducts, poles, and cables), the IAG review did not consider the regulatory lives applied to the assets within the core network. However, as noted by ComReg it considers that there should not be any difference in asset lives between common assets (and this has been supported by the responses to this Question). However, as ComReg's review has indicated there are differences in the regulatory asset lives of common assets. This is consistent with the position adopted by other NRAs who have reviewed and amended certain asset lives including those within the access network, in recent times.

3.30 Materiality of Assets Reviewed

- 3.31 In relation to Eircom's comment that asset lives should only be changed where the changes will have a material impact, ComReg considers all understatements (and indeed overstatements) of regulatory fixed asset lives merit corrective action. It is ComReg's intention not to undertake this review for several years unless where again warranted. It is possible that the relative materiality of various assets classes may change over that time depending on investment profiles. In addition, just because a particular change may have a relatively small impact on Eircom does not imply that the impact on other operators using Eircom network would also be immaterial. In ComReg's opinion it is therefore appropriate to assess, and where necessary, revise regulatory asset lives as part of this review rather than consulting on an ad-hoc basis. ComReg considers that to undertake reviews in an ad-hoc fashion would be burdensome and disproportionate to Eircom. Such a review would also require individual public consultations every time a change was to be implemented. Note that ComReg considers below (under Miscellaneous comments and in the RIA), in further detail, possible implications for regulatory pricing.
- 3.32 Furthermore, ComReg considers that its changes will improve the quality of disclosure of the various operating units of Eircom as they reflect the most appropriate asset lives applicable to those units. It considers that within the regulated accounts more accurate depreciation charges will be calculated. This in turn will be reflected in more accurate income statements.
- 3.33 In relation to Eircom's comment regarding assets which are fully depreciated and which therefore have no effect on this review, ComReg would note that while some assets may not be material now, further Eircom investment may lead to values in the future for these asset categories that require appropriate EULs going forward.
- 3.34 In almost all asset categories ComReg has made adjustments to regulated asset lives, to a greater or lesser extent. These adjustments, it considers, reflect the most up to date regulatory asset lives and will assist in facilitating Eircom's compliance with its cost orientation obligations.
- 3.35 Assets which might be fully or partially written off on an historic basis might be reinstated at full cost or at their modern equivalent asset value in pricing reviews. This is because many pricing models are constructed on a forward looking basis, unlike statutory financial statements which are constructed on a historical basis. In these forward looking models assets are often included as if they were purchased recently without regard to the actual date of purchase. Therefore, an asset might be immaterial from an historical cost point of view as it may be completely or almost completely written off. However it could be material from a regulatory pricing point of view because if the asset was reinstated at its modern equivalent cost its value could be higher.
- 3.36 For cost orientation purposes it is appropriate to ensure that the underlying data is as accurate as possible. This is to ensure neither an under recovery or over recovery of costs. Depreciation is regularly one of the costs assessed and within this it is necessary to consider the asset lives applied to the assets being reviewed. It should be further noted that the cumulative effect of changing regulated asset lives may be significant to the regulated accounts even though the individual

effects may not be significant on their own. This review has been comprehensive and going forward all assets will now reflect their average economic useful lives. Whether a slightly shorter or slightly longer asset life was in place is not sufficient reason to leave some regulatory asset lives unchanged. This impact of this review on the regulated accounts will be a once off amendment to Eircom's depreciation charge. It is not intended that it be a regular review or occurrence.

3.37 Regarding Eircom's comment that the creation of some new asset classes is immaterial, ComReg points out that new asset classes are only created where ComReg believes that it is necessary. ComReg does not believe that the once off creation of assets classes is a significant burden and where it aids transparency the benefits far outweigh the cost over the medium to long term.

3.38 **Timing of review and spreading any price adjustment over time**

3.39 Please refer to ComReg's position and conclusion in relation to Question 1 where ComReg has outlined why it considered that it was necessary to hold the review at this time.

3.40 Please refer to ComReg's position and conclusion in relation to Question 56 where ComReg has outlined why it considered that it is more appropriate to introduce its changes with immediate effect rather than via a glide path.

3.41 **Miscellaneous Comments**

3.42 In relation to Eircom's comments that ComReg has not demonstrated any reasons for lengthening asset lives ComReg considers it has addressed Eircom's comments on technological change at Question 1 below, as well as in relation to individual asset categories. In relation to Eircom's comments that ComReg must demonstrate that the current regulatory asset lives no longer meet its policy objectives ComReg has outlined in Question 1, below, its policy objectives. These are further substantiated by its comments in the RIA.

3.43 In relation to Eircom's comments on benchmarking ComReg has outlined its approach to benchmarking in Section 2 and also where applicable to various categories of assets. The results of the benchmarking data are also supported by the views of the majority of respondents, the expert opinion of ComReg's advisors and information reviewed as part of this process. This information included ComReg's assessment of Eircom's fixed asset register, the expert opinion of its advisors, and data available from other regulatory authorities. This information (both regulatory and statutory) was assessed as part of the overall review of asset lives as opposed to being the primary basis for ComReg's proposals and as mentioned above ComReg has not simply applied benchmark data to Eircom. That said, ComReg would note that asset lives and the assessments underlying them for example in the UK are a good indicator for or cross-check against the regulatory situation in Ireland for analogous assets. ComReg would also reiterate in this regard that the UK regulator, Ofcom, has made a number of significant adjustments to BT's asset lives for regulatory purposes and, in so doing, has materially diverged from BT's own statutory accounts⁶.

⁶ See, e.g., Ofcom, *Valuing copper access*, Final statement, 18 August 2005.

- 3.44 In relation to Eircom's comments that the review must reflect the SMP obligations imposed, ComReg would make note throughout this document that Eircom owes obligations pursuant to Regulation 14 of the Access Regulations including in relation to price control, cost orientation and cost accounting. This decision will now ensure that the asset lives now imposed are more accurate and are appropriate for regulatory asset lives. This will ensure for instance a lower risk of over or under recovery from any eventual prices set –thereby ensuring that Eircom is meeting its price control obligations imposed by virtue of its status as an SMP operator. In relation to Eircom's comment concerning function or economic contribution in the context Line Share consultation, ComReg considers that the decision to appreciate EULs (as opposed to EULs that are too short/too long) will ensure that SMP obligations such as cost orientation will be more effectively implemented.
- 3.45 ComReg has considered in detail the comments by Eircom that changing the economic useful lives of assets would have an impact on the WACC as set out in 2008⁷ and that this decision would increase the level of risk exposure of Eircom. ComReg has reviewed its decision to changes in regulatory fixed asset lives with respect to the WACC and any possible increase in Eircom's risk exposure. ComReg considers that the decisions in respect of asset lives in this decision do not materially impact on the WACC as determined in 2008 because the WACC methodology principally relied on a Capital Asset Pricing Model that which is not linked to any particular assumption about asset lives. Any increases, decreases or absence of change to asset lives does not therefore materially impact on the WACC assessment made in 2008. In line with normal practice, it would be the intention of ComReg to commence a further review of the WACC in 2010 to ensure 10.21% remains appropriate to Eircom Limited for the next control period. Similar to the review carried out over 2007/2008, ComReg will assess all relevant influences on the WACC calculation which must be assessed in order to arrive at an alternative WACC, or to reach a decision that the current WACC remains appropriate.
- 3.46 In relation to Eircom's comment on the accounting principle of prudence and regulatory pricing ComReg considers its appraisal is limited to necessary and appropriate changes carried out in a prudent and proportionate fashion. ComReg considers Eircom could have no legitimate expectation that current EUL would be maintained without amendment where they are clearly wrong. ComReg is required to monitor and keep up to date price and other controls, which includes monitoring EULs. Distortions in price signals (which was also raised) can have a negative impact to other stakeholders. ComReg must consider to what extent Eircom might over recover through inappropriate EULs. This decision seeks to strike a balance between over and under recovery. But there is also no direct impact on existing cost/price controls based on this decision, since these are set and will not change until another review replaces them. It is premature and wrong to suppose that there would be a material, still less a material adverse, effect on future price controls (with pre-empting these). These will be assessed at the

⁷ ComReg Document No. 08/35 – “Response to Consultation and Decision Notice (D01/08) - Eircom's Cost of Capital.” ComReg was assisted in this regard by Oxera. ComReg Document No. 07/88a – “Oxera's Report on Eircom's Cost of Capital - Appendix C.” ComReg in Decision D01/08, set the allowable WACC to Eircom on the 24 May 2008 at 10.21%.

relevant time and it should be noted that depreciation is a sub-component of costs, which is itself a component in an overall price review assessment. In principle, however, to the extent that any cost-oriented charges imposed on Eircom would be directly affected by the changes in EULs in this review following any new pricing decision, this would then be a necessary and proportionate change, since the review has found that current EULs are out of line with the up-to-date position.

- 3.47 In relation to Eircom's comments on the RIA and regulated prices please refer to ComReg's analysis as set out in Section 4.
- 3.48 In relation to Eircom's comments that ComReg has not outlined any benefits that would arise from its proposed changes, ComReg considers that it did outline the relevant factors in ComReg Document No. 09/11 if "Option 2"⁸ were to be adopted. It identified benefits such as best accounting practice and better assurance of compliance with the principal of cost orientation. ComReg would also add the following benefits which it considers likely:
- Facilitating Eircom's ongoing compliance with its cost orientation obligations;
 - Consistency with all available information;
 - Reduction in the future level of regulatory intervention in asset lives (as this review has been comprehensive, future ad hoc and intrusive regulatory asset life reviews for Eircom can be avoided reducing the level of regulatory intervention);
 - Provides transparency for Eircom and OAO's regarding the applicable economic useful lives to be used for future pricing models and therefore provides certainty of inputs;
 - The changes will ensure more accurate accounting for assets and also the assurance key regulatory cost inputs are in line with best practice ;
 - By directing that assets common to both the core and access networks have similar asset lives ComReg considers that it has improved the information contained within the regulatory accounts and removed a level of inconsistency; and
 - As the review has been comprehensive it will add certainty to inputs for future pricing reviews.
- 3.49 Please refer to Section 4 on the RIA where ComReg sets out the benefits in further detail.

Concluding Comments:

- 3.50 ComReg considers its approach is reasonable and proportionate and that it is not imposing any unnecessary additional regulatory burden on Eircom that will have a material impact upon it. There will of course be a once off impact of implementing these changes in Eircom's regulated accounts through an adjustment to its depreciation charge.
- 3.51 It should be noted that ComReg is proposing to leave several assets unchanged (such as towers) and is shortening the lives of other assets.

⁸ ComReg determined asset lives for regulatory purposes.

- 3.52 Furthermore in order to be proportionate ComReg agrees not to mandate the provision of the Fixed Assets Register annually.
- 3.53 As stated ComReg considers that there will be many benefits that will accrue from the implementation of this direction and these benefits outweigh any potential negative impact.
- 3.54 In line with the views of the majority of respondents, and based on ComReg's own assessment of the regulatory asset lives, ComReg considers that the final direction is necessary, proportionate, and justified.
- 3.55 ComReg's final Decision Instrument is set out in Section 6 (with the regulatory EULs for Eircom appended at Appendix A to the Decision Instrument).
- 3.56 As stated a full consideration of the RIA can be found in Section 4.

Conclusion: ComReg is of the opinion that the direction is both proportionate and justified and that all relevant factors have been assessed throughout the consultation process and in the regulatory impact assessment.

Consultation Question

Q. 1. Do you agree or disagree that it is appropriate for ComReg to undertake this review at this time? Please explain in detail your response.

Views of respondents

- 3.57 There were five responses to this Question.
- 3.58 **Magnet, Vodafone, BT, and IrelandOffLine** agreed that it was appropriate to hold the consultation at this time, citing in particular significant technological changes, the considerable lapse of time since the last review, and the duty on ComReg to ensure Eircom's ongoing compliance with its regulatory obligations.
- 3.59 **Eircom** disagreed and cited the current downturn in economic activity as a reason for delaying the review. It considered that ComReg should wait until there was a return to economic stability before it undertook this review. Eircom also added that as ComReg's proposals would extend the asset lives of much of its asset base there would be an increased level of risk to Eircom. This issue is addressed in Questions 61 and 62.

ComReg's Position and Conclusion

- 3.60 As outlined in ComReg Document No. 09/11, ComReg was of the preliminary view that it is appropriate to undertake this review at this time. ComReg, while taking into account the comments of the respondents and in looking again at this matter remains of the view that it is appropriate to hold this review at this time. ComReg considers, for the following main reasons, that it is appropriate to undertake this review at this time:
- 3.61 *The length of time since the last formal review in 1999;*
- ComReg considers the main purpose of this review is to facilitate Eircom's ongoing compliance with its cost orientation obligations. ComReg considers this will aid pricing reviews as they will include more accurate economic useful lives.

- The main assets being amended that might have a material impact on depreciation charges relate to the access network. ComReg considers the changes will ensure that these charges are more reflective of the asset lives of these capital intensive projects, for example trenching and ducting.
- Asset lives that are too short can, in ComReg's view, lead to either an over recovery of costs in the initial years and excessive charges that could render the competitive pricing of services difficult. It is ComReg's view that reflecting the most accurate and up to date asset lives for these assets will ensure that a more balanced approach is taken in the medium to long term use of these assets.

3.62 *Changes in technology in the intervening period;*

- ComReg considers that there have been technological changes across a broad range of assets since the last full review in 1999. Some assets which might have been commonly used pre 1999 may have become obsolete in the intervening period whereas with the advances in technology new assets and applications may have been introduced. It is in this context that ComReg considered that this was one reason that the regulatory asset lives of fixed assets, as a whole, should be reviewed since there may be significant numbers of new asset types whose lives have never been reviewed by ComReg.
- As a result of this review a number of changes will be made to a range of regulatory asset lives, including for reasons of technological change, leading to increases but also where appropriate, decreases in certain asset lives. ComReg acknowledges that certain assets are more sensitive or vulnerable to technological change than others. Some reasons, for example, for the reduction to asset lives can be attributed to current and expected technological advances that may render some assets more replaceable than others over the medium to long term.
- Furthermore with the increasing demands for certain services, such as higher speed broadband it is likely that particular assets in the access network, such as trenching and duct, may remain in use for many more years than might have originally been predicted. These assets will support the increased demands and may remain in use for periods beyond those being set out in this document.
- ComReg considers that it is primarily assets in the core network which may have been affected by competition, economic circumstances or technological change. It has been noted that call charges and volumes have decreased in recent times. It is further noted that technological innovation is more prevalent in the core network rather than in the access network. For many assets which could be deemed to be at risk due to these factors (i.e. Digital Subscriber Line Access Multiplexers ("DSLAMs") and Multi Service Access Networks ("MSANs")) there have been, where ComReg considered it appropriate, reductions to asset lives to reflect this increased level of risk.

3.63 *Eircom's ongoing pricing obligations;*

- ComReg reiterates that the main purpose of this document is to facilitate Eircom's ongoing compliance including its cost orientation obligations which is considered in detail through detailed price reviews. ComReg considers that many of Eircom's regulatory asset lives require amendment. It should be noted that for Eircom to remain cost oriented it should neither under recover costs (through asset lives being too long) nor over recover costs (through asset lives being too short). ComReg has considered this by lengthening, reducing and leaving unchanged various asset lives as it considers is more appropriate. Depreciation can sometimes be a material input to pricing models used by ComReg to set regulatory prices and it is therefore important that the asset lives used are reflective of the true EUL of those assets. ComReg's comments are set out in the RIA in relation to the possible impact on other operators and consumers also refer.

3.64 *Experiences, and changes made, by other regulators in recent years;*

- ComReg's decision to conduct a review now is consistent with the periodicity of such reviews by NRAs in other Member States. See Section 2 for ComReg comments in relation to the experiences and changes made by other regulators (ComReg also discusses specific points on benchmark data throughout this document as they arise).
- In the light of the above reasons, ComReg considers that it would be wrong to wait (as Eircom suggests) until there was a return to "*some [economic] stability*" before undertaking a review. While ComReg is cognisant of the current economic conditions in Ireland, it considers that it would not be appropriate to delay a review of useful asset lives on the basis of a wholly unspecified return to a situation of "*some stability*." The reasons outlined above are in any event stronger imperatives favouring the conduct of a review now.
- As stated, ComReg has considered in detail the comments by Eircom that changing the economic useful lives of assets would have an impact on the WACC as set out in 2008⁹ and also that this decision would increase the level of risk exposure of Eircom. ComReg has reviewed its decision to changes in regulatory fixed asset lives with respect to the WACC and any possible increase in Eircom's risk exposure. ComReg considers that the changes set out would not directly affect the cost of capital estimate for Eircom, given the adopted methodology for determining WACC, which is not linked to any particular assumption about asset lives.
- Please also refer to ComReg's position and conclusion in relation to Question 55 for Eircom's comments on the current economic climate and ComReg's further response.

Conclusion: ComReg is of the opinion that it is appropriate and necessary to undertake the review of fixed asset lives.

⁹ ComReg Document No. 08/35 – "Response to Consultation and Decision Notice (D01/08) - Eircom's Cost of Capital"

Consultation Question

Q. 2. Do you agree or disagree with ComReg’s preliminary conclusion that while the calculation of economic depreciation was optimal it was not straightforward, and used data which was sometimes difficult to obtain and subject to forecasting error and judgement. ComReg considered that accounting depreciation generated a reliable and acceptable approximation to economic depreciation, while being less burdensome to produce and consider. Please explain in detail your response.

Views of respondents

- 3.65 There were four responses to this Question.
- 3.66 **BT, Magnet, Vodafone and Eircom** agreed that accounting depreciation was an appropriate means for assessing depreciation as opposed to using economic depreciation.

ComReg’s Position and Conclusion

- 3.67 In ComReg Consultation Document No. 09/11, ComReg outlined its preliminary reasons why it considered that accounting depreciation was an appropriate means for assessing depreciation as opposed to using economic depreciation. The reasons included in that document can be summarised as follows:
- The calculation of economic depreciation, while theoretically optimal, is not necessarily straightforward;
 - Economic depreciation requires the use of data which can be subjective or difficult to obtain;
 - This data can be subject to forecasting error or judgement;
 - The calculation of economic depreciation could represent a burden in terms of information and computation; and
 - Accounting depreciation is less burdensome to calculate than economic depreciation but provides a reasonable approximation for it.
- 3.68 ComReg remains of the view that it is appropriate to assess regulatory asset lives on the basis of accounting depreciation. This is also consistent with the views of the respondents to this Question. It should be noted that for certain individual price reviews, ComReg does consider the application of economic depreciation but would use as an input the regulatory asset lives set out in this decision.

Conclusion: ComReg is of the opinion that accounting depreciation is an appropriate means of assessing depreciation.

Consultation Question

Q. 3. Do you agree or disagree with ComReg’s preliminary conclusion that the Eircom’s fixed asset register (in an equivalent form to that received as part of this consultation process) should be submitted annually to ComReg at the same time as the due date for submission of the HCAs to ComReg? Please explain in detail your response.

Views of respondents

- 3.69 Of the four respondents who responded to this question, **Magnet**, **BT** and **Vodafone** agreed that Eircom should submit a copy of its fixed asset register annually.
- 3.70 **Eircom** did not agree that it was proportionate for the annual submission of its fixed asset register.

ComReg's Position and Conclusion

- 3.71 In ComReg Document No. 09/11 ComReg was of the preliminary conclusion that Eircom should submit a copy of its fixed asset register annually. This it said, would have allowed it:
- To review annually the level of investment into the fixed line network;
 - To have insight into the different types of assets being invested in which it considered could have had implications for regulatory pricing;
 - To be provided with information on the maintenance of the integrity of the network; and
 - To have information on the future roll out of Next Generation Networks.
- 3.72 ComReg has considered carefully the concerns expressed by Eircom. As this requirement may not be absolutely necessary every year, ComReg does not currently propose to make this an annual legal requirement. Instead, ComReg will use its other regulatory powers to request information as required.

Conclusion: ComReg will not request Eircom to annually submit a copy of its fixed asset register. Instead, and if required it will, as the need arises, request the necessary information from Eircom under its existing statutory information gathering powers.

Consultation Question

Q. 4. Do you agree or disagree with a regulatory asset life of 4 years for customer sited Digital Subscriber Line (“DSL”) equipment? Please explain in detail your response.

Views of respondents

- 3.73 There were four responses to this Question.
- 3.74 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that customer sited DSL equipment should have a regulatory asset life of 4 years.
- 3.75 **BT** was in broad agreement with ComReg's proposals.
- 3.76 **Eircom** stated that it considered the proposed change was immaterial from the point of view of regulatory pricing, was therefore unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.77 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset life of 6 years for this type of asset might require amendment. ComReg concluded initially that this equipment has been subject to rapid technological change. ComReg was also of the preliminary view that it is produced in large quantities, at relatively low cost, primarily for home usage. Furthermore much of this equipment is sent directly to homes and premises for installation by the end user and not by the telecom operators. Many of the end users may not have a high level of skill or technical expertise in maintaining this equipment and as such ComReg considered initially that it could be subject to higher levels of wear and tear than equipment used in businesses where there might be dedicated IT or technical support. As such, the telecom operators might only be able to recommend, but not necessarily ensure, the correct installation and usage of this equipment. Therefore, this equipment may be subject to certain environmental conditions such as heat or dust which it was not designed to deal with. ComReg also considered that this type of equipment would also be subjected to the same type of wear and tear as P.C.'s and server hardware where it has recommended a regulatory asset life of 4 years (see further ComReg's position and conclusion in relation to Question 51). Finally, customer-sited DSL equipment will typically be changed when the customer moves house, which also contributes to a lower asset life.
- 3.78 Having taken into consideration the views of the respondents, information reviewed, as well as the expert opinion of its advisors, and having reviewed again its reasoning, ComReg continues to consider, based on this approach, that the existing regulatory asset life of 6 years was materially overstated by 2 years. ComReg continues to consider, for the reasons stated above, that the regulatory asset life of 4 years remains appropriate for customer sited DSL equipment. For these reasons ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further details in Q61 and in the RIA). ComReg again notes, in any event Eircom's main comment on the materiality of the change for regulatory pricing which ComReg has already discussed above at Q61.

<p>Conclusion: ComReg is of the opinion that 6 years is an inappropriate regulatory asset life for customer sited DSL equipment and that 4 years more adequately reflects its useful economic life for regulatory purposes.</p>
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Consultation Question

Q. 5. Do you agree or disagree with a regulatory asset life of 8 years for customer sited Data, Ethernet and Internet Protocol ("IP") terminating equipment? Please explain in detail your response.

Views of respondents

- 3.79 There were four responses to this Question.
- 3.80 **Magnet and Vodafone** agreed with ComReg's preliminary conclusion that customer sited Data, Ethernet and IP terminating equipment should have a regulatory asset life of 8 years.

- 3.81 **BT** was in broad agreement with ComReg's proposals.
- 3.82 **Eircom** stated it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.83 In ComReg Document No 09/11, ComReg considered initially that the existing regulatory asset lives of between 6 and 12 years for this type of asset might require amendment.
- 3.84 It considered initially whether 12 years was too long as much of the equipment contained an IP element. Also as much of this equipment may be subject to rapid technological change, ComReg also considered that 12 years might not appropriately reflect the possible impact of it.
- 3.85 ComReg also gave consideration as to whether 6 years would be too short for the regulatory asset life for this equipment. ComReg was of the preliminary view that much of the equipment would be used by businesses which often have a certain minimum level of IT expertise and experience in installing and maintaining the equipment in an appropriate environment. For these businesses regular replacement could be disruptive to the smooth running of the organisation. The switching out of equipment for replacement by other equipment could lead to periods when systems have to be shut down to allow the changeover to take place. In certain instances the telecom operators may also have some influence in the installation of the equipment even though it is sited on a customer premises. Some commercial organisations may call upon the expertise of the telecom operators to assist them in installing the equipment and as such it may not be exposed to certain environmental hazards. As such it considered initially that this equipment would have a regulatory asset life longer than that of customer sited DSL equipment which had been 6 years (which ComReg has adjusted to 4 years in its conclusion to Question 4).
- 3.86 For this asset category ComReg considered it appropriate to combine the IP elements and physical elements of the equipment and this view was supported by its expert advisors. For that reason ComReg was of the preliminary view that 8 years struck a fair and appropriate balance encompassing both IP elements and the physical elements of the equipment.
- 3.87 Having taken into consideration the views of the respondents, information reviewed, as well as the expert opinion of its advisors, and having reviewed again its reasoning, ComReg continues to consider, based on this approach that the existing regulatory asset lives of a minimum of 6 years and a maximum of 12 years were materially understated and overstated by 2 to 4 years respectively. ComReg continues to consider for the reasons stated above that the regulatory asset life of 8 years is accordingly more appropriate for customer sited Data, Ethernet and IP terminating equipment.
- 3.88 ComReg has also considered the possible impact of technological change in its review and remains of the opinion that a life of 8 years reflects its possible

impact. No convincing evidence has been offered to ComReg to rebutt the findings of ComReg that the asset life should be any different. For these reasons ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom's main queries in relation to the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that a regulatory asset life of a minimum of 6 years and a maximum of 12 years was inappropriate for customer sited Data, Ethernet and IP terminating equipment and that 8 years more adequately reflects its useful economic life for regulatory purposes.

Consultation Question

Q. 6. Do you agree or disagree with a regulatory asset life of 8 years for customer sited transmission terminating equipment? Please explain in detail your response.

Views of respondents

- 3.89 There were four responses to this Question.
- 3.90 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that customer sited transmission terminating equipment should have a regulatory asset life of 8 years.
- 3.91 **BT** was in broad agreement with ComReg's proposals.
- 3.92 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.93 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset life of 11 years for this type of asset might require amendment as it may be subject to rapid technological change. However ComReg initially considered that as it is generally used in a commercial organisation it would not have a relatively short asset life. As it is also housed in conditions similar to customer sited Data, Ethernet and IP terminating equipment (see Question 5) a regulatory asset life of 8 years was considered possibly appropriate.
- 3.94 Having taken into consideration the views of the respondents, relevant fixed asset information reviewed, as well as the expert opinion of its advisors, ComReg continues to consider, based on this approach that the existing regulatory asset life of 11 years is materially overstated by 3 years. ComReg continues to consider for the reasons stated above that the regulatory asset life of 8 years remains appropriate for customer sited transmission terminating equipment. No convincing evidence has been offered to ComReg to rebutt the findings of

ComReg that the asset life should be any different. For these reasons ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom's main comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that 11 years is an inappropriate regulatory asset life for customer sited terminating equipment and that 8 years more adequately reflects its useful economic life for regulatory purposes.

Consultation Question

Q. 7. Do you agree or disagree with a regulatory asset life of 8 years for customer sited application capability equipment? Please explain in detail your response.

Views of respondents

- 3.95 There were four responses to this Question.
- 3.96 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that customer sited application capability equipment should have a regulatory asset life of 8 years.
- 3.97 **BT** did not have any comments regarding these assets as it was not obvious exactly, to it, what type of equipment ComReg was referring to.
- 3.98 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.99 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset life of 12 years for this type of asset might require amendment as it contained an IT component which, in its view, has a shorter asset life. ComReg also initially considered that this equipment was more prevalent in a commercial organisation rather than a residential setting. As such ComReg initially considered that many commercial organisations utilising this type of equipment would have a certain minimum level of technical or IT expertise and experience necessary to install and maintain it. In ComReg's preliminary view this would result in it having a longer life than customer sited DSL equipment. It was of the preliminary view that, a regulatory asset life similar to other customer sited equipment might be more appropriate. Based on this, ComReg proposed initially that a regulatory asset life of 8 years struck the required balance.
- 3.100 Having taken into consideration the views of the respondents, information reviewed, as well as the expert opinion of its advisors, ComReg continues to consider, based on this approach that the existing regulatory asset life of 12 years

is materially overstated by 4 years. ComReg continues to consider, for the reasons stated above, that the regulatory asset life of 8 years remains appropriate for customer sited application capability equipment. No convincing evidence has been offered to ComReg to rebutt the findings of ComReg that the asset life should be any different. For these reasons ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom's main comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that 12 years is an inappropriate regulatory asset life for customer sited application capability equipment and that 8 years more adequately reflects its useful economic life for regulatory purposes.

Consultation Question

Q. 8. Do you agree or disagree with a regulatory asset life of 30 years for poles (access)? Please explain in detail your response.

Views of respondents

- 3.101 All five respondents answered this Question.
- 3.102 **Magnet, Vodafone, and IrelandOffLine** agreed with ComReg's preliminary conclusion that poles should have a regulatory asset life of 30 years.
- 3.103 **BT** was in broad agreement with ComReg's proposals.
- 3.104 **Eircom** disagreed with ComReg's proposal. It stated ComReg had failed to justify its proposed lengthening of asset lives for poles, ducts or underground and overhead cables and concluded that it believed that the existing asset lives should be maintained. It combined certain of its response at Question 8 with Questions 10, 12, 13, 19, 21, 22, and 23 and 49 and these responses are summarised herein insofar as possible:
- 3.105 Eircom considered that the regulatory asset lives being proposed by ComReg do not adequately reflect their useful economic lives for regulatory purposes:
- It stated in its view, elsewhere in its response, the asset lives in Eircom's fixed asset register were average values. Because an asset is fully depreciated this did not mean that its asset life was too short. Some assets may no longer be operational but have not yet been removed from the fixed asset register;
 - It stated in its view that benchmarking must be used very cautiously (this is because in its view, of the effect the rural/dispersed nature of Ireland's population base has on network deployment as well as climatic conditions particular to Ireland compared to other operators). Eircom also state that ComReg has not compared "*like with like*" as many cases concrete poles or metal pylons are used in other countries or by other utilities. It also states that the data advanced by ComReg does not necessarily support ComReg's conclusion;
 - Eircom queried the supplier/manufacturer information. It queried the source for the claims made by PDM Limited on its website in relation to poles installed pre 1930;

- Eircom stated in its view, technologies, such as wireless and mobile, were in some cases replacing copper and fibre based infrastructure. This would shorten the economic useful lives of this asset on a progressive basis. It also stated that planning rules were increasingly favouring the transferring of overhead plant underground or with radio based technologies. This, it said had the effect of shortening the useful life of poles. In addition, Eircom stated the life of poles was also affected by the equipment carried on the poles (i.e. overhead cables) which often had a shorter asset life. When the cables were decommissioned it was not unusual to decommission the poles at the same time.
- It also stated that certain classes of assets are fully depreciated and for which a review would, by definition, have no effect.

ComReg's Position and Conclusion

3.106 ComReg remains of the view that the existing regulatory asset life of 15 years is too short and that 30 years is more appropriate because of the further reasons set out below.

3.107 ComReg's response to Eircom's comments in relation to "*average values*";

- ComReg has assessed the asset lives over an average basis which takes account of both assets with longer and shorter lives in this fixed asset category. ComReg confirms it has not chosen the maximum asset life but instead what it considers to be an appropriate regulatory asset life for the circumstances particular to Ireland. ComReg has not received any convincing evidence that current average asset lives are shorter than those initially proposed in ComReg Document No. 09/11. In its assessment of Eircom's fixed asset register, ComReg observed fixed assets on the register which had lives in excess of the regulatory asset lives applied. While it was not possible however to precisely determine whether these fixed assets were still in use, ComReg considers that there is a high probability that the majority of these fixed assets remain in use.

3.108 ComReg has made general comments in Section 2 in relation to benchmarking. ComReg's would also make the following specific comments in relation to its benchmarking exercise for poles as follows:

- In relation to Eircom's specific comments in relation to benchmark data for poles ComReg would note that the regulatory asset lives reviewed by it showed a range of lives. ComReg considers that by assessing these ranges in regulatory lives alongside other available data and gaining an understanding as to the differences its life of 30 years strikes an appropriate balance. In relation to Eircom's comment of comparing "like with like" ComReg has only considered wooden poles in its analysis and these are the type of poles which is consistent with what Eircom currently deploys.
- As stated previously ComReg considered overall benchmark data as part of a reasonableness check. This data was assessed in conjunction with Eircom's fixed asset register and these indicate that wooden poles can have a life in excess of 30 years with some even lasting up to 40 or 50 years.

3.109 ComReg's response to Eircom's comments in relation to "*supplier/manufacture information*";

- Supplier/manufacturer material has been used as an additional source of information and guidance and not as primary evidence. The material was mentioned for completeness as broadly upholding ComReg's preliminary views. ComReg would note that while the source of some of the claims was queried by Eircom, ComReg was not provided with any convincing evidence refuting them or saying why they were inaccurate. ComReg would note, however, that one of the sources concerned, PDM Limited, is a major supplier of wooden poles to Eircom and other utilities. Its views as an actual supplier of the relevant poles therefore have particular relevance.
 - As noted in ComReg Document No. 09/11 both an Irish supplier of wood poles (PDM Limited) and an American trade association (North American Wood Council) consider that a life of a minimum of 30 is appropriate, and these consider that a useful life of at least 50 years is possible. While it is acknowledged that there may in certain instances be differences in climatic conditions between North America and Ireland the useful life considered by the North American Wood Council is broadly consistent with those of the other references obtained during this review. ComReg considers that the statements made by the Irish supplier and the US trade association to be reasonably objective. ComReg would also note that while various supplier/trade associations have been cited as indicating useful lives for poles they were principally relied upon to show consistency in the economic lives applied. They were not decisive in themselves and thus noted for completeness. This is shown by the fact that the sources relied upon in many cases advocated for asset lives considerably longer than 30 years.
 - Please refer to ComReg's position and conclusion in relation to Question 1 for its views on the possible risk to copper access from changing technologies and as regards what effect the life of poles had by any equipment carried on the poles (i.e. overhead cables).
- 3.110 In relation to Eircom's comments on the possible impact of planning rules and the decommissioning of poles and overhead cables ComReg considers that while it may be preferable for overhead plant and poles to be replaced by underground plant (i.e. in scenic areas), Eircom offers no convincing evidence that wholesale migration from overhead to underground plant is likely to happen for the foreseeable future. ComReg is aware that certain planning rules and guidelines may require or request that plant be placed underground (mainly, ComReg understands, for parts of certain new developments in urban or semi-urban areas). However, ComReg is not aware of a general requirement for operators to revisit existing overhead plant and to invest resources in its replacement underground. So the overall issue remains on what is the useful asset life of existing poles. Furthermore, ComReg considers that the wholesale switching of overhead plant to underground is unlikely to happen and would in most cases be an extremely capital intensive exercise at great cost and general disruption with limited obvious benefit.
- 3.111 In addition, ComReg would add the regulatory asset life of 30 years being specifically applied to poles in Ireland is consistent with the views provided by the majority of respondents, as well as the expert opinion of its advisors.

ComReg does not exclude in individual cases that there may be examples of poles lasting somewhat longer or shorter than 30 years. ComReg considers that the life of 30 years is generally reflective of the situation in Ireland. Regarding Eircom's point that some poles may be decommissioned at the same time as replacing cables, this may be true in a limited number of cases. However, ComReg has not been provided with any justification for why this would have a material impact on the overall asset life of poles and why this would lead to a shorter life than that being decided here. If ComReg were to accept this point it could indicate inefficient engineering rules are in place where a cable for whatever reason becomes redundant or faulty and that all related poles would be replaced. ComReg considers this would be highly unlikely to occur on a large scale. No convincing evidence has been offered to ComReg to convincingly rebut that the asset life should be materially shorter than ComReg's finding of 30 years and as stated an average life of 30 years is a prudent reflection of poles deployed in Ireland.

- 3.112 In relation to Eircom's comment that certain classes of assets are fully depreciated and for which a review would, by definition, have no effect, this has already been considered by ComReg at Question 61.
- 3.113 Having taken into consideration the views of the respondents, relevant benchmark data, a review of Eircom's fixed asset as well as the expert opinion of its advisors insofar as ComReg considered appropriate, ComReg continues to consider that the existing regulatory asset life of 15 years is at least half of what it should be and that a regulatory asset life of 30 years remains appropriate for poles. For the reasons set out above ComReg considers the current asset life to be inappropriate or arbitrary and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA).

Conclusion: ComReg is of the opinion that 15 years is an inappropriate regulatory asset life for poles and that 30 years more adequately reflects their useful economic life for regulatory purposes.

Consultation Question

Q.9. Do you agree or disagree with a regulatory asset life of 35 years for towers? Please explain in detail your response.

Views of respondents

- 3.114 There were four responses to this Question.
- 3.115 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that towers should have a regulatory asset life of 35 years.
- 3.116 **BT** was in broad agreement with ComReg's proposals.
- 3.117 **Eircom** stated it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.118 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset life of 35 years for this type of asset seemed appropriate and might not require amendment. ComReg initially considered that many towers have a design life of 20 years while in practice many are used for longer. This assessment was consistent with the opinion of ComReg's expert advisors.
- 3.119 Having taken into consideration the views of the respondents, information reviewed, as well as the expert opinion of its advisors, ComReg remains of the view that the existing regulatory asset life of 35 years is appropriate for towers. No convincing evidence has been offered to ComReg to rebutt the findings of ComReg that the asset life should be any different. For these reasons ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom's main comment queries the materiality of any change for regulatory pricing -which ComReg has already discussed above at Q61.

<p>Conclusion: ComReg is of the opinion that 35 years is an appropriate regulatory asset life for towers and that it does not require amendment.</p>

Consultation Question

Q. 10. Do you agree or disagree with a regulatory asset life of 40 years for duct, roadway, and footway boxes (access)? Please explain in detail your response.

Views of respondents

- 3.120 There were four responses to this Question.
- 3.121 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that duct, roadway and footway boxes should have a regulatory asset life of 40 years.
- 3.122 **BT** was in broad agreement with ComReg's proposals.
- 3.123 **Eircom** disagreed with ComReg's proposal for the reasons already outlined under Question 8 (i.e. in relation to the fixed asset register, benchmarking, supplier material and technological obsolescence).
- 3.124 **Eircom** also made specific comments in relation to ducts:
- It queried the inclusion of "an outlier" which when compared to telecoms operators "*distorted*" the benchmark data; and
 - It stated that ComReg had not given any consideration to the impact of having to dig up pre-existing trench to add additional bores, which would reduce the asset life.

ComReg's Position and Conclusion

- 3.125 ComReg's response to *Eircom's* comments on *average values* is as discussed at Question 8 and note ComReg's knowledge of Eircom's fixed network together with the expert opinion of its advisors would indicate that there is a high probability that the duct, roadway, and footway boxes currently in use by Eircom last longer and are used for longer than 40 years.

- 3.126 ComReg confirms again *Supplier/manufacturer* material has been used as an additional source of information and guidance and not as primary evidence. The material was mentioned for completeness as broadly upholding ComReg’s preliminary views. ComReg would note that while the source of some of the claims was queried by Eircom, ComReg was not provided with any convincing evidence refuting them or saying why they were inaccurate.
- 3.127 ComReg’s response to Eircom’s comments on *benchmarking* is discussed generally in Section 2. And in relation to Eircom’s specific comments on benchmarking ComReg would note that it has assessed the regulatory asset life applied by a number of other NRA’s. Of the NRA’s reviewed¹⁰, almost all had a regulatory asset life for duct of 40 years. Germany had a regulatory asset life of 35 years. While Belgium had a regulatory asset life of 30 years BIPT noted that concrete ducts could expect to have an asset life of 40 years. ComReg also considers that a regulatory asset life of 40 years is also consistent with its review of Eircom’s fixed asset register.
- 3.128 In relation to Eircom’s specific comments regarding the inclusion of the outlier in benchmark data ComReg would note that the majority of operators compared have asset lives for ducts of 40 years. Some have shorter lives but these generally relate to statutory asset lives and as noted by ComReg in Question 61 it considers that statutory financial statements and regulatory accounts can serve different purposes.
- 3.129 ComReg initially considered that there is unlikely to be any significant risk associated with either *technological obsolescence* (see Question 1) or NGN (see ComReg’s position and conclusion in relation to Question 11). It is unlikely therefore that duct, roadway, and footway boxes will be replaced by other means of technology for the foreseeable future. This conclusion should be unsurprising since duct, roadway, and footway boxes are relatively low technology assets that provide protection for higher technology equipment.
- 3.130 In relation to ComReg’s response to Eircom’s comments on “additional bores” please see ComReg’s response and conclusion in relation to Question 11.
- 3.131 In ComReg Document No. 09/11, ComReg’s preliminary conclusion was that the existing regulatory asset life of 20 years might require amendment for this type of asset.
- 3.132 Following an analysis of the views of respondents, the majority of whom agree with ComReg, ComReg remains of the opinion for the reasons set out above and in ComReg Document No. 09/11, that 40 years represents an appropriate regulatory asset life for duct. In these circumstances, it is reasonable to conclude that:
- There is convincing evidence that the current asset life of 20 years is unjustified and/or appropriate, and by some margin;
 - There is no convincing evidence that the specific conditions of Ireland are so different to other countries (which apply considerably longer asset lives for these assets) that an asset life as short as 20 years is appropriate; and

¹⁰ France, UK, Denmark, Germany, Switzerland, Belgium, Sweden, Australia, New Zealand, United States.

- Having taken into consideration the views of the respondents, relevant benchmark data, a review of Eircom's fixed asset register, as well as the expert opinion of its advisors, ComReg continues to consider that the existing regulatory asset life of 20 years is at least half of what it should be and that a regulatory asset life of 40 years remains appropriate for duct, roadway and footway boxes.

Conclusion: ComReg is of the opinion that 20 years is an inappropriate regulatory asset life for duct, roadway and footway boxes and that 40 years more adequately reflects their useful economic life for regulatory purposes.

Consultation Question

Q. 11. Do you agree or disagree with ComReg's preliminary conclusion that it is likely that the rollout of NGN will also use the same ducts to provide services extending the lives of ducts, and associated civil works even further? Please explain in detail your response.

Views of respondents

- 3.133 There were four responses to this Question.
- 3.134 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that the rollout of NGN will most likely use the same ducts to provide services extending the lives of ducts, and associated civil works.
- 3.135 **BT** was of the view that ComReg should not extend the regulatory asset lives beyond those proposed.
- 3.136 **Eircom** disagreed with ComReg stating that while NGN might extend some asset lives it was of the view that both duct and cable will be replaced by other bearer technologies thereby shortening their lives.

ComReg's Position and Conclusion

- 3.137 In ComReg Document No. 09/11 ComReg was of the preliminary view that as NGN is rolled out it was likely to use the same ducts and to extend their lives and those of associated civil works further.
- 3.138 Having considered the comments of respondents, ComReg remains of the view that some of the existing assets will offer and support future NGN services. It is of the view that cable based technologies will remain a feature of NGN networks, particularly in the access network.
- 3.139 As outlined in "*ComReg's position and conclusion in relation to Question 1*" ComReg is of the view that it is not possible to say with any degree of certainty at this stage that the copper access network will be replaced by alternative technologies for the foreseeable future. As such ComReg remains of the view that fixed lines will continue to be the primary infrastructure for NGN for the foreseeable future. It was of the preliminary view that the rollout of NGN may enhance some services being offered over fixed lines thereby prolonging the lives of certain assets. ComReg remains of that view.
- 3.140 If, and when, NGN is rolled out ComReg was of the preliminary view that the duct assets could continue to be used by operators. ComReg remains of that

view. If Eircom finds that new ducts are required to replace single bore ducts this does not necessarily render the single bore duct obsolete nor does it necessarily impact upon maintenance of services during transition. There is the further possibility of selling/renting the single duct space to other operators.

- 3.141 As outlined in an Eircom presentation to the NGN forum¹¹ Eircom considers that the main cost of rolling out NGN access will be the cost of civil engineering (i.e. ducts and trenches).
- 3.142 In relation to the views expressed on the possibility of NGN extending asset lives further, ComReg is of the opinion that its approach in not extending the asset lives beyond those proposed based on the perceived usage of them by NGN is appropriate. The possible impact of NGN on asset lives will be kept under review by ComReg.

Conclusion: ComReg is of the opinion that while NGN may extend the useful economic lives of certain assets, it is prudent not to extend them beyond those set out in the consultation.

Consultation Question

Q. 12. Do you agree or disagree with a regulatory asset life of 15 years for overhead cables and fibre (access)? Please explain in detail your response.

Views of respondents

- 3.143 There were four responses to this Question.
- 3.144 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that overhead cables and fibres should have a regulatory asset life of 15 years.
- 3.145 **BT** stated its statutory financial statements reflect an asset life of 10 years for overhead cables and fibres. However as noted below Ofcom, the UK regulator, has applied an asset life of between 15 and 20 years for cables.
- 3.146 **Eircom** disagreed with ComReg's proposal for the reasons already outlined under Question 8 (i.e. in relation to the fixed asset register, benchmarking, supplier material and technological obsolescence).

ComReg's Position and Conclusion

- 3.147 ComReg's response to Eircom's comments on *average values* is discussed at Question 8.
- 3.148 ComReg's response to Eircom's comments on *benchmarking* is discussed in Section 2. ComReg would make the following points :
- ComReg notes that Ofcom has applied a regulatory asset life of 18 years to both overhead and underground cables and fibres. Ofcom considered that the BT asset life of 15 years for copper, in 2005, was likely to be significantly shorter than its useful life and inconsistent with comparable international benchmarks. BT had indicated to it as part of its response to

¹¹ ComReg Document No. CP44e NGN Forum 2007 – “Working to put Ireland at the forefront of the broadband revolution”

the 2005 Ofcom consultation that the design life of its cables was 20 years, under ideal conditions. Ofcom was of the view that its useful life would be closer to its design life. Furthermore, with the increasing use of copper for broadband services Ofcom considered that the asset life should increase from 15 years; and

- ComReg also notes that a regulatory asset life of 15 years is also consistent with benchmark data of other NRA's.
- 3.149 ComReg's response to Eircom's comments on *supplier/manufacturer* information is discussed at Question 8 above.
- In addition in ComReg Document 09/11 ComReg cited a U.S. cable manufacturer, which considered that its copper cables could last 30 years. The statements from manufacturers were not used as the primary source of evidence but as part of the overall corroborating evidence. These statements, together with other available information indicated a consistency in findings.
- 3.150 Please refer to "ComReg's position and conclusion in relation to Question 1" for its views on the possible risk to copper access from changing technologies.
- 3.151 In relation to Eircom's comments on the possible impact of planning rules and the decommissioning of overhead plant ComReg's comments at Question 8 above.
- 3.152 In ComReg Document No. 09/11 ComReg's preliminary conclusion was that the existing regulatory asset lives of between 8 and 10 years might require amendment for this type of asset. ComReg initially considered that 15 years is possibly more appropriate. ComReg had initially considered that due to climatic conditions in Ireland overhead cables would probably have a shorter life than underground cables (where 20 years was proposed as a regulatory asset life – see Question 13.) It is a fact that Ireland has high rainfall and significant regular periods of high winds however, while parts of Ireland may encounter more serious conditions than our European counterparts, ComReg does not believe, based on its knowledge of the network, that cables would only last 8 to 10 years. Cables may, in exceptional circumstances, last only a few years where, for example, a strike of lightning hits a certain cable. Such exceptional circumstances should not reduce the average regulatory life of overhead cables and fibres as low as their current regulatory asset life. ComReg's assessment is also consistent with a review of Eircom's fixed asset register. It is likely that there is a probability that the average life of overhead cables could be longer than that proposed. Finally, as noted, the UK has adopted an asset life of 18 years for overhead cables. ComReg therefore considers, consistent with principles of prudence, it reasonable and proportionate to have a similar, if somewhat shorter, asset life of 15 years in Ireland.
- 3.153 Having taken into consideration the views of the respondents, relevant benchmark data, a review of Eircom's fixed asset register as well as the expert opinion of its advisors, ComReg continues to consider that the existing regulatory asset life of between 8 years and 10 years is materially understated and that a regulatory asset life of 15 years remains appropriate for overhead cable and fibres, ComReg remains of the view that the proposed regulatory asset life of 15

years is an appropriate and prudent average asset life for overhead cables and fibre.

Conclusion: ComReg is of the opinion that a regulatory asset life of between 8 years and 10 years is inappropriate for overhead cables and fibres and that 15 years more adequately reflects their useful economic life for regulatory purposes.

Consultation Question

Q. 13. Do you agree or disagree with a regulatory asset life of 20 years for both underground cables and fibre (access)? Please explain in detail your response.

Views of respondents

- 3.154 There were four responses to this Question.
- 3.155 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that underground cables and fibres should have a regulatory asset life of 20 years.
- 3.156 **BT** was in broad agreement with ComReg's proposals.
- 3.157 **Eircom** disagreed with ComReg's proposal for the reasons already outlined under Question 8 (i.e. in relation to the fixed asset register, benchmarking, supplier material and technological obsolescence). It also questioned how ComReg concluded that the regulatory asset life for Eircom's underground cables and fibres could be considered too short as the average benchmark was less than 20 years. Furthermore ComReg had not explained how Irish cables should have a longer life than those in the UK and Northern Ireland.

ComReg's Position and Conclusion

- 3.158 ComReg's response to Eircom's comments on *average values* is discussed at Question 8. ComReg also notes Underground cables would normally be deployed in densely populated areas, for example cities and new housing developments. It is highly unlikely that, on average, cables in these areas will suffer any significant damage within the twenty years set in this decision. Underground cables are by their nature well protected from the elements and other issues that arise with overhead cables. Where cables are correctly installed a telecom company would not expect to replace these cables within a 20 year timeframe unless damage is caused by other contractors, for example builders, interfering with the roadway or footway.
- 3.159 ComReg's response to Eircom's comments on *benchmarking* is discussed in Section 2. As outlined in Question 12, Ofcom considered that the useful economic life of cables would be closer to their design life (i.e. 20 years). It should be noted that Ofcom while considering that cables could last up to 20 years applied a benchmark of 18 years (to the UK and Northern Ireland). In relation to Eircom's specific comments on the use of benchmark data a regulatory asset life of 20 years is also consistent with benchmark data of other NRA's.
- 3.160 Please refer to "ComReg's position and conclusion in relation to Question 1" for its views on changing technologies.

- 3.161 ComReg's response to Eircom's comments on *supplier/manufacturer* information is discussed at Question 8 and Question 12 above.
- 3.162 It can be recalled that in ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset life of 14 years might require amendment for this type of asset. ComReg was of the preliminary view that 20 years is possibly more appropriate.
- 3.163 It is likely, based on the information reviewed by ComReg that the average life of underground cables could be more than that proposed. However, ComReg remains of the view that 20 years is an appropriate asset life for underground cables and fibres.
- 3.164 Having taken into consideration the views of the respondents, relevant benchmark data, a review of Eircom's fixed asset register as well as the expert opinion of its advisors, ComReg continues to consider that the existing regulatory asset life of 14 years is materially understated and that a regulatory asset life of 20 years remains appropriate for underground cables and fibres.
- 3.165 ComReg remains of the view that the regulatory asset life of 20 years is an appropriate regulatory asset life for underground cables and fibre.

<p>Conclusion: ComReg is of the opinion that a regulatory asset life of 14 years is inappropriate for underground cables and fibres and that 20 years more adequately reflects their useful economic life for regulatory purposes.</p>

Consultation Question

Q. 14. Do you agree or disagree with a regulatory asset life of 20 years for equipment associated with the maintenance of cables? Please explain in detail your response.

Views of respondents

- 3.166 There were four responses to this Question.
- 3.167 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that equipment associated with the maintenance of cables should have a regulatory asset life of 20 years.
- 3.168 **BT** did not have any comments regarding these assets as it was not obvious exactly, to it, what type of equipment ComReg was referring to.
- 3.169 **Eircom** stated it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.170 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset lives of between 8 and 22 years for equipment associated with the maintenance of cables might require amendment. ComReg considered that the life of these assets should relate to the life of the equipment that it

primarily serves. The majority of these assets relates to pressurisation equipment used on underground cables. Underground cable pressurisation equipment is deployed to counteract the ingress of moisture or water into the cable through small holes or cracks which can cause deterioration of service and eventual breakdown over time.

- 3.171 ComReg initially proposed a regulatory asset life of 20 years for underground cables (please refer to Question 13). The majority of this fixed asset class had a regulated asset life of 22 years and therefore ComReg initially proposed adjusting the existing regulatory asset lives of between 8 and 22 years to a regulatory asset life of approximately 20 years.
- 3.172 ComReg remains of the view, for the reason stated above, that the regulatory asset life of 20 years for equipment associated with the maintenance of cables is appropriate. This is in line with the views of those respondents who offered opinions, is also consistent with the review undertaken in this consultation, and the expert opinion of its advisors. In particular, ComReg is of the view that a range of between 8 years and 20 years is too broad for a class of assets that are subject to similar overall maintenance lives and that the maintenance lives should be fixed at a single figure that more closely corresponds with the lifetime of the asset being maintained. Thus ComReg considers that the existing regulatory asset lives of a minimum of 8 years and a maximum of 22 years materially understate and significantly overstate, respectively, the appropriate regulatory asset life. ComReg also considers it appropriate to combine the assets lives within this category and to adopt this approach. For these reasons ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable.
- 3.173 No convincing evidence has been offered to ComReg to rebutt the findings of ComReg that the asset life should be any different. For these reasons ComReg considers the current asset life to be inappropriate. ComReg again notes, in any event Eircom's which comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that a regulatory asset life of a minimum of 8 years and a maximum of 22 years is inappropriate for equipment associated with the maintenance of cables and that 20 years more adequately reflects their useful economic life for regulatory purposes.

Consultation Question

Q. 15. Do you agree or disagree with a regulatory asset life of 8 years for active equipment including DSLAMs and MSANs in exchanges or other conditioned areas? Please explain in detail your response.

Views of respondents

- 3.174 There were four responses to this Question.

- 3.175 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that active equipment including DSLAMs and MSAN's in exchanges or other conditioned areas¹² should have a regulatory asset life of 8 years.
- 3.176 **BT** was in broad agreement with ComReg's proposals.
- 3.177 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.178 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset lives of between 6 years and 14 years might require amendment for this type of asset.
- 3.179 ComReg initially considered that 8 years may be a more appropriate asset life, and that it struck an appropriate balance, for active equipment including DSLAMs and MSANs in exchanges or other conditioned areas. As there have been technological advances in this fixed asset category, ComReg's initial consideration was that asset lives greater than 8 years would not reflect this. However, given that technological change in the access network may not be as rapid as the core network, ComReg initially considered that lives of 6 years may be too short. Approximately half the assets have a life of 6 years (relating mainly to installation and field work) while the other half have an asset life of 11 years (mainly relating to equipment). Installation and field work could include both initial installation as well as connections/disconnections associated with customer churn. ComReg initially considered that the two categories should be more closely aligned reflecting the proposed life of the equipment. While there may be customer churn ComReg is of the view that a regulatory asset life of 8 years more adequately reflects installation and field work.
- 3.180 In recent times there has been a tendency for traditional voice switching architecture to be replaced by soft switches, call servers or IMS technologies. These are based on IP and can deliver a much wider set of services, beyond voice, to customers. In the access network IP and Ethernet based equipment, such as DSLAMs and MSANs are progressively replacing traditional services supported by switch line terminals at the access layer. However given the significant cost of rolling out fibre and the fact that it will take many years to implement it is likely that much of the current access network equipment will continue to be used until the supporting infrastructure is rolled out.
- 3.181 ComReg remains of the view for the reasons stated above that the regulatory asset life of 8 years is an appropriate asset life for active equipment including DSLAMs and MSANs in exchanges or other conditioned areas and that this reflects the possibility of technical obsolescence. Having taken into consideration the views of the respondents, information reviewed, as well as the expert opinion of its advisors, ComReg continues to consider that the existing regulatory asset

¹² "Conditioned areas" refer to for example air conditioned areas for locating servers etc.

life of a minimum of 6 years and a maximum of 14 years are significantly understated and materially overstated and that a regulatory asset life of 8 years remains appropriate for active equipment including DSLAMs and MSANs in exchanges or other conditioned areas. ComReg also considers it appropriate to combine the assets lives within this category and to adopt this approach. For these reasons ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable.

- 3.182 ComReg again notes Eircom's main comment regarding this asset queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that a regulatory asset life of a minimum of 6 years and a maximum of 14 years is inappropriate for active equipment including DSLAMs and MSANs in exchanges or other conditioned areas and that 8 years more adequately reflects its useful economic life for regulatory purposes.

Consultation Question

Q. 16. Do you agree or disagree with the maintenance of a regulatory asset life of 8 years for switching: line terminals? Please explain in detail your response.

Views of respondents

- 3.183 There were four responses to this Question.
- 3.184 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that the regulatory asset life of switching: line terminals should be maintained at 8 years.
- 3.185 **BT** did not have any comments regarding these assets as it was not obvious exactly, to it, what type of equipment ComReg was referring to.
- 3.186 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.187 The preliminary reason ComReg considered, in ComReg Document No. 09/11, that the existing regulatory asset life of 8 years might not require amendment for switching: line terminals was that it is consistent with the proposed regulatory asset life of 8 years for active equipment (please refer to Question 15). This was supported by the expert opinion of its advisors.
- 3.188 ComReg remains of the view for the reasons stated above that the regulatory asset life of 8 years for switching line terminals is appropriate. This is in line with the views of those respondents who offered opinions, is consistent with the review undertaken in this consultation and is also consistent with the asset life for active equipment. No convincing evidence has been offered to ComReg by respondents to suggest that the asset life should be changed. ComReg again notes Eircom's

main comment regarding this asset queries the materiality of any change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that 8 years is an appropriate regulatory asset life for switching: line terminals and that it does not require amendment.

Consultation Question

Q. 17. Do you agree or disagree with regulatory asset lives of 20 years for pair gains systems, 10 years for radio access and 8 years for antennae? Please explain in detail your response.

Views of respondents

3.189 There were four responses to this Question.

3.190 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that the regulatory asset lives of pair gains systems, radio access and antennae should be 20 years, 10 years, and 8 years respectively.

3.191 **BT** was in broad agreement with ComReg's proposals.

3.192 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

3.193 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset lives of between 11 and 22 might require amendment for this type of equipment. As outlined in ComReg Document No. 09/11 ComReg initially considered that the asset lives should reflect the following:

- Pair Gains systems should have a similar asset life to underground cables and fibres (i.e. 20 years). Pair gains systems are either housed indoors and generally in an exchange building or when outdoors, they are protected from the elements. Therefore, ComReg is of the view that they are not subject to the same climatic conditions as overhead cables. As such ComReg initially considered that that the existing regulatory asset life of 22 years might require amendment so as to bring it in line with the proposed regulatory asset life for underground cables (see Question 13);
- Radio access equipment should have an asset life of 10 years. It also had an existing regulatory asset life of 22 years which ComReg also initially considered might require amendment. In ComReg's preliminary view, due to the fact that most of this equipment is exposed to external weather conditions, its asset life should reflect this and therefore 10 years is considered an appropriate regulatory asset life for radio access equipment; and
- Antennae had an existing asset life of 11 years which ComReg initially considered might also require amendment as almost all of this equipment

would be exposed to external weather conditions. ComReg initially considered that 8 years appropriately reflected its useful economic life. This was consistent with the fact that ComReg considered radio access equipment has a useful economic life of approximately 10 years and it was partially housed indoors whereas antennae are located almost exclusively outdoors and in exposed areas.

- 3.194 ComReg remains of the view for the reasons stated above that the respective regulatory asset lives of 20 years for pair gains systems, 10 years for radio access equipment and 8 years for antennae are appropriate. This is in line with the majority of views of the respondents, the expert opinion of ComReg's advisors and is also consistent with the review undertaken in this consultation. ComReg continues to consider that the existing regulatory asset life of 22 years for pair gains systems is significantly overstated and that a regulatory asset life of 20 years remains appropriate.
- 3.195 ComReg continues to consider that the existing regulatory asset lives of 10 years for radio access equipment and 8 years for antennae are appropriate and do not require amendment.
- 3.196 For these reasons ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable. ComReg again notes one of Eircom's main comment regarding this asset, queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that the regulatory asset lives of a minimum of 11 years and a maximum of 22 years are inappropriate asset lives for pair gains systems, radio access and antennae. In ComReg's opinion 20 years for pair gains systems, 10 years for radio access and 8 years for antennae more adequately reflect their useful economic lives for regulatory purposes.

Consultation Question

Q. 18. Do you agree or disagree with ComReg's preliminary conclusions that the regulatory asset lives of the physical assets, common between both the core and access networks should be the same? Please explain in detail your response.

Views of respondents

- 3.197 There were four responses to this Question.
- 3.198 **Magnet, Vodafone, and Eircom**, agreed with ComReg's preliminary conclusion that the regulatory asset lives of the physical assets, common between both the core and access networks should be the same.
- 3.199 **BT** was in broad agreement with ComReg's proposals.

ComReg's Position and Conclusion

- 3.200 In ComReg Document No.09/11, ComReg's preliminary conclusion was that the regulatory asset lives of the physical assets common to both the core and access networks should be the same.

- 3.201 ComReg initially considered that the main assets that are common to both the core and access networks include:
- Duct, roadway, and footway boxes;
 - Poles; and
 - Underground and overhead cables.
- 3.202 While technological developments often initially take place in the core network, there is often infrastructure sharing between both the core and access network. Furthermore as outlined in “*ComReg’s position and conclusion in relation to Question 1*” technological changes in the core network generally do not relate to these particular assets.
- 3.203 ComReg remains of the view for the reasons stated above that the regulatory asset lives of the physical assets, common to both the core and access networks should be the same and this is consistent with the views of all the respondents to this Question, and the expert opinion of its advisors.

<p>Conclusion: ComReg is of the opinion that assets common between the core and access networks should have the same regulatory lives.</p>

Consultation Question

Q. 19. Do you agree or disagree with a regulatory asset life of 30 years for poles (core)? Please explain in detail your response.

Views of respondents

- 3.204 There were four responses to this Question.
- 3.205 **Magnet** and **Vodafone** agreed with ComReg’s preliminary conclusion that the regulatory asset life of poles should be 30 years.
- 3.206 **BT** was in broad agreement with ComReg’s proposals.
- 3.207 **Eircom** disagreed with ComReg’s proposal as it believed ComReg’s proposals did not adequately reflect the assets useful economic lives for regulatory purposes. Please refer to Question 8 for Eircom’s detailed response in this regard.

ComReg’s Position and Conclusion

- 3.208 ComReg’s response to Eircom’s comments on *average values* is discussed at Question 8 and ComReg’s response to Eircom’s comments on *supplier/manufacture information* is also discussed at Question 8 above.
- 3.209 ComReg’s response to Eircom’s comments on *benchmarking* is discussed in Section 2 and at Question 8.
- 3.210 Please refer to ComReg’s position and conclusion in relation to Question 1 for its views on the possible risk to copper access from changing technologies.
- 3.211 In addition the reasons ComReg considered that a regulatory asset life of 30 years might require amendment for poles in the core network are set out in ComReg’s position and conclusion in relation to Question 8 which addressed these assets in

relation to the access network. In its response to Question 18, ComReg highlighted, that in its preliminary view, the regulatory asset lives of the physical assets, common to both the core and access networks should be the same (including poles). It should be noted that the existing regulatory asset lives for poles in the core network is 8 years whereas in the access network it is 15 years.

- 3.212 Having taken into consideration the views of the respondents, a review of Eircom's fixed asset register, as well as the expert opinion of its advisors, ComReg continues to consider that the existing regulatory asset life of 8 years is materially understated and that a regulatory asset life of 30 years remains appropriate for poles. This conclusion also applies to the views of respondents to Question 18 whereby physical assets common to both the core and access networks should have the same lives.

Conclusion: ComReg is of the opinion that 8 years is an inappropriate asset life for poles. In its opinion 30 years more adequately reflects their useful economic life for regulatory purposes.

Consultation Question

Q. 20. Do you agree or disagree with a regulatory asset life of 35 years for towers? Please explain in detail your response.

Views of respondents

- 3.213 There were four responses to this Question.
- 3.214 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that the regulatory asset life of towers should be 35 years.
- 3.215 **BT** was in broad agreement with ComReg's proposals.
- 3.216 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.217 ComReg set out the reasons that it initially considered 35 years (the existing regulatory asset life) might not require amendment for towers in the core network in "*ComReg's position and conclusion in relation to Question 9*" which addressed these assets in relation to the access network. In its response to Question 18, ComReg highlighted that the regulatory asset lives of the physical assets, common to both the core and access networks should be the same.
- 3.218 Having taken into consideration the views of the respondents, information reviewed, as well as the expert opinion of its advisors ComReg remains of the view that the regulatory asset life of 35 is appropriate for towers. This is consistent with the information provided by the majority of respondents. It also applies the views of respondents to Question 18 whereby physical assets common to both the core and access networks should have the same regulatory asset lives.

ComReg again notes, in any event Eircom's comment, is on the materiality of any change.

Conclusion: ComReg is of the opinion that 35 years remains an appropriate regulatory asset life for towers and that it does not require amendment.

Consultation Question

Q. 21. Do you agree or disagree with a regulatory asset life of 40 years for duct, roadway, and footway boxes (core)? Please explain in detail your response.

Views of respondents

- 3.219 There were four responses to this Question.
- 3.220 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that the regulatory asset life of duct, roadway and footway boxes should be 40 years.
- 3.221 **BT** was in broad agreement with ComReg's proposals.
- 3.222 **Eircom** disagreed with ComReg's proposal as it believed ComReg's proposals did not adequately reflect the assets useful economic lives for regulatory purposes. Please refer to Question 10 for Eircom's detailed response in this regard.

ComReg's Position and Conclusion

- 3.223 ComReg's response to Eircom's comments on *average values* is discussed at Question 10 and ComReg's response to Eircom's comments on *supplier/manufacturer* information is also discussed at Question 10 above.
- 3.224 ComReg's response to Eircom's comments on *benchmarking* is discussed in Question 10.
- 3.225 Please refer to ComReg's position and conclusion in relation to Question 1 for its views on *changing technologies*.
- 3.226 In addition it can be recalled the reasons ComReg initially considered that the regulatory asset life of 20 years for duct, roadway, and footway boxes in the core network might require amendment are set out in *ComReg's position and conclusion in relation to Question 10* which addressed these assets in relation to the access network. In its response to Question 18, ComReg highlighted that the regulatory asset lives of the physical assets, common to both the core and access networks should be the same. ComReg initially considered that 40 years might more adequately reflect their useful economic life for regulatory purposes.
- 3.227 ComReg remains of the view for the reasons stated above that the regulatory asset life of 40 years is appropriate for duct, roadway, and footway boxes. This is consistent with the information reviewed, the majority of respondents, a review of Eircom's fixed asset register, relevant benchmark data as well as the expert opinion of its advisors. ComReg considers that the current regulatory asset life of 20 years is materially understated and that a regulatory asset life of 40 years remains appropriate for duct, roadway, and footway boxes. This conclusion also applies to the views of respondents to Question 18 whereby physical assets common between the core and access networks should have the same lives.

Conclusion: ComReg is of the opinion that 20 years is an inappropriate regulatory asset life for duct, roadway, and footway boxes and that 40 years more adequately reflects its useful economic life for regulatory purposes.

Consultation Question

Q. 22. Do you agree or disagree with a regulatory asset life of 15 years for overhead cables and fibre (core)? Please explain in detail your response.

Views of respondents

- 3.228 There were four responses to this Question.
- 3.229 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that the regulatory asset life of overhead cables and fibres should be 15 years.
- 3.230 **BT** stated its statutory financial statements carry an asset life of 10 years for overhead cables and fibres.
- 3.231 **Eircom** disagreed with ComReg's proposal as it believed ComReg's proposals did not adequately reflect the assets useful economic lives for regulatory purposes. Please refer to Question 8 for Eircom's detailed response in this regard.

ComReg's Position and Conclusion

- 3.232 ComReg's response to Eircom's comments on *average values* is discussed at Question 12 and ComReg's response to Eircom's comments on *supplier/manufacture information* is discussed at Question 12 above.
- 3.233 ComReg's response to Eircom's comments on *benchmarking* is discussed in Section 2.
- 3.234 ComReg's response to BT's asset life is discussed at Question 12.
- 3.235 Please refer to "ComReg's position and conclusion in relation to Question 1" for its views on *changing technologies*.
- 3.236 In addition the reasons ComReg initially considered that the existing regulatory asset lives for overhead cables and fibres in the core network (of between 8 and 10 years) might require amendment are set out in ComReg's position and conclusion in relation Question 12 which addressed these assets in the access network. ComReg initially considered that 15 years might more adequately reflect their useful economic life for regulatory purposes.
- 3.237 ComReg remains of the view, for the reasons stated above, that the regulatory asset life of 15 years is appropriate for overhead cables and fibres in the core network. This is consistent with a review of Eircom's fixed asset register, relevant benchmark data as well as the expert opinion of its advisors. ComReg considers that the current regulatory asset life of between 8 and 10 years is materially understated and that a regulatory asset life of 15 years remains appropriate for overhead cables and fibres. This conclusion also applies the views of respondents to Question 18 whereby physical assets common between the core and access networks should have the same lives.

Conclusion: ComReg is of the opinion that a regulatory asset life of between 8 years and 10 years is inappropriate for overhead cables and fibres and that 15 years more adequately reflects its useful economic life for regulatory purposes.

Consultation Question

Q. 23. Do you agree or disagree with a regulatory asset life of 20 years for underground cables and fibre (core)? Please explain in detail your response.

Views of respondents

- 3.238 There were four responses to this Question.
- 3.239 **Magnet** and **Vodafone** agreed with ComReg’s preliminary conclusion that the regulatory asset life of underground cables should be 20 years.
- 3.240 **BT** was in broad agreement with ComReg’s proposals.
- 3.241 **Eircom** disagreed with ComReg’s proposal as it believed ComReg’s proposals did not adequately reflect the assets useful economic lives for regulatory purposes. Please refer to Question 8 for Eircom’s detailed response in this regard.

ComReg’s Position and Conclusion

- 3.242 ComReg’s response to Eircom’s comments on *average values* is discussed at Question 8 and 13 and ComReg’s response to Eircom’s comments on *supplier/manufacture information* is discussed at Question 8 and 13 above.
- 3.243 ComReg’s response to Eircom’s comments on *benchmarking* is discussed in Section 2 and at Question 13, above.
- 3.244 Please refer to “ComReg’s position and conclusion in relation to Question 1” for its views on *changing technologies*.
- 3.245 In addition the reasons ComReg initially considered that the existing regulatory asset life of 14 years for underground cables and fibres might require amendment are set out in “*ComReg’s position and conclusion in relation to Question 13*” which addressed these assets in the access network. ComReg initially considered that 20 years might more adequately reflect their useful economic life for regulatory purposes.
- 3.246 ComReg remains of the view for the reasons stated above that a regulatory asset life of 20 years is appropriate for underground cables and fibres. This is consistent with the information reviewed, the majority of responses, a review of Eircom’s fixed asset register, relevant benchmark data, as well as the expert opinion of its advisors. ComReg considers that the current regulatory asset life of 14 years is materially understated and that a regulatory asset life of 20 years remains appropriate for underground cables and fibres. This conclusion also applies the views of respondents to Question 18 whereby physical assets common between the core and access networks should have the same lives.

Conclusion: ComReg is of the opinion that a regulatory asset life of 14 years is inappropriate for underground cables and fibres and that 20 years more adequately reflects their useful economic life for regulatory purposes.

Consultation Question

Q. 24. Do you agree or disagree with regulatory asset lives of 11 years for transmission equipment less than 155 M/bits? Please explain in detail your response.

Views of respondents

- 3.247 There were four responses to this Question.
- 3.248 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that transmission equipment less than 155 M/bits should have a regulatory asset life of 11 years.
- 3.249 **BT** was in broad agreement with ComReg's proposals.
- 3.250 **Eircom** disagreed with ComReg's proposals. Eircom combined its answer to Question 24 with that of Questions 25, 35, and 54 which is contained herein. It did not believe that it was appropriate to assess asset lives of transmission equipment by drawing a distinction based on bandwidth. It considered that the creation of new asset classes was disproportionate and would lead to inconsistencies between the statutory financial statements and regulatory accounts.

ComReg's Position and Conclusion

- 3.251 In ComReg Document No. 09/11 ComReg's preliminary conclusion was that the regulatory asset life of between 3 years and 11 years for transmission equipment less than 155M/bits might require amendment. ComReg initially considered that 11 years might more adequately reflect its useful economic life for regulatory purposes.
- 3.252 The majority of the assets in this category have a regulatory asset life of 11 years. ComReg, supported by the expert opinion of its advisors, initially considered that it was likely that some of this equipment was still in use and that 11 years possibly represented a more appropriate regulatory asset life.
- 3.253 Having considered the views of respondents, the majority of whom agreed with ComReg's opinion and in conjunction with the expert opinion of its advisors, and the information reviewed, ComReg remains of the view, for the reasons stated above, that 11 years represents an appropriate regulatory asset life for transmission equipment less than 155 M/bits.
- 3.254 However, in light of Eircom's comments that the proposed division of transmission equipment by bandwidth would be disproportionate, ComReg recommends combining all transmission equipment listed under Question 24 and Question 25 into one category. It should be noted that in Consultation Document No. 09/11, ComReg had recommended that the asset lives of both classes of transmission equipment be 11 years. No convincing evidence has been offered to ComReg to rebut the findings of ComReg that the asset life should be any different. For these reasons ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA).

Conclusion: ComReg is of the opinion that a regulatory asset life of a minimum of 3 and less than 11 years is inappropriate for transmission equipment less than 155 M/bits and that 11 years more adequately reflects its useful economic life for regulatory purposes.

Consultation Question

Q. 25. Do you agree or disagree with a regulatory asset life of 11 years for transmission equipment greater than or equal to 155 M/bits? Please explain in detail your response.

Views of respondents

- 3.255 There were four responses to this Question.
- 3.256 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that transmission equipment greater than or equal to 155 M/bits should have a regulatory asset life of 11 years.
- 3.257 **BT** was in broad agreement with ComReg's proposals.
- 3.258 **Eircom** disagreed with ComReg's proposal. Please refer to Question 24 for Eircom's detailed response in this regard.

ComReg's Position and Conclusion

- 3.259 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the regulatory asset life of between 6 and 11 years might require amendment for this type of asset. ComReg initially considered that 11 years might more adequately reflect its useful economic life for regulatory purposes.
- 3.260 The majority of assets within this category had a regulatory asset life of 11 years. ComReg, supported by the expert opinion of its advisors, initially considered that it was likely that some of this equipment was still in use and that 11 years represented an appropriate life.
- 3.261 Having considered the views of respondents, the majority of whom agreed with ComReg's opinion and in conjunction with the expert opinion of its advisors, and the information reviewed ComReg remains of the view, for the reasons stated above, that the regulatory asset life of 11 years represents an appropriate asset life for transmission equipment greater than or equal to 155 M/bits. ComReg considers that regulatory asset lives of less than 11 years are materially understated and that a regulatory asset life of 11 years (the current life for the majority of the assets) remains appropriate for transmission equipment greater than or equal to 155 M/bits.

In light of Eircom's comments on the division of transmission equipment by bandwidth, ComReg recommends combining all transmission equipment listed under Question 24 and Question 25 into one category. As stated previously, in ComReg Document No. 09/11, ComReg had recommended that the asset lives for the equipment listed in both Questions 24 and 25 be 11 years. No convincing evidence has been offered to ComReg to rebut ComReg's findings that the asset life should be different.

Conclusion: ComReg is of the opinion that a regulatory asset life of a minimum of 6 years and less than 11 years is inappropriate for transmission equipment greater than or equal to 155 M/bits and that 11 years more adequately reflects its useful economic life for regulatory purposes.

Consultation Question

Q. 26. Do you agree or disagree with a regulatory asset life of 9 years for international satellite equipment? Please explain in detail your response.

Views of respondents

- 3.262 There were three responses to this Question.
- 3.263 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that the regulatory asset life of international satellite equipment should be 9 years.
- 3.264 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.265 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that while this type of asset is coming under pressure from newer larger capacity submarine systems the existing regulatory asset life of 9 years may not require amendment. This was supported by the expert opinion of its advisors.
- 3.266 ComReg remains of the view, for the reasons stated above, that 9 years is an appropriate asset life for international satellite equipment. This is also consistent with the views of the majority of respondents, the expert advice of ComReg's advisors, as well as the information reviewed. No convincing evidence has been offered to ComReg by respondents to suggest that the asset life should be changed. ComReg again notes one of Eircom's main comment regarding this asset, queries the materiality of any change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that 9 years is an appropriate regulatory asset life for international satellite equipment and that it does not require amendment.

Consultation Question

Q. 27. Do you agree or disagree with regulatory asset lives of 9 years for submarine transmission equipment and 15 years for submarine cable? Please explain in detail your response.

Views of respondents

- 3.267 There were responses to this Question.

- 3.268 **Magnet and Vodafone** agreed with ComReg's preliminary conclusion that the regulatory asset lives of submarine transmission equipment and submarine cables should be 9 years and 15 years respectively.
- 3.269 **BT** was in broad agreement with ComReg's proposals.
- 3.270 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.271 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset life of 8 years for submarine cable equipment might require amendment while that of 9 years for transmission equipment might not require amendment.
- 3.272 In relation to submarine cable equipment, ComReg cited the fact that many submarine cables run over short distances, such as the Irish Sea, can last up to 20 years. Where there were repeaters they might only last 10 years. ComReg initially considered that 15 years would strike an appropriate balance.
- 3.273 For transmission equipment, ComReg initially considered that 9 years adequately reflected its economic useful life and therefore did not require amendment. This view was supported by the expert opinion of its advisors.
- 3.274 ComReg remains of the view, for the reasons stated above, that the regulatory asset lives of 15 years for submarine cable and 9 years for submarine transmission equipment are appropriate. This is also consistent with the views of the majority of respondents and is supported by the expert opinion of ComReg's advisors, and the information reviewed. ComReg considers that the current regulatory asset life of 8 years is materially understated and that a regulatory asset life of 15 years remains appropriate for submarine cable equipment. No convincing evidence has been offered to ComReg to rebutt the findings of ComReg. For these reasons ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom's main comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

<p>Conclusion: ComReg is of the opinion that 9 years is an appropriate regulatory asset life for submarine transmission equipment and that it does not require amendment. ComReg is of the opinion that 8 years is an inappropriate asset life for submarine cable equipment and that 15 years more adequately reflects its useful economic life for regulatory purposes.</p>
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Consultation Question

Q. 28. Do you agree or disagree with the maintenance of the existing regulatory asset life of 6 years for Internet Protocol ("IP") and Internet router hardware? Please explain in detail your response.

Views of respondents

- 3.275 There were four responses to this Question.
- 3.276 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that the regulatory asset life for IP and internet router hardware should be 6 years.
- 3.277 **BT** was in broad agreement with ComReg's proposals.
- 3.278 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.279 In ComReg Document No. 09/11, ComReg was of the preliminary conclusion that the existing regulatory asset life of 6 years for IP and Internet router hardware was appropriate and might not require amendment.
- 3.280 ComReg initially considered that there is a significant software component to IP and internet equipment. ComReg also initially considered that an asset life of 6 years for bespoke, specialised or in-house developed software is appropriate (see Question 49). ComReg was of the preliminary view that there should be consistency between the regulatory asset life of IP and internet equipment and that of bespoke, specialised or in-house developed software. This view is also supported by the expert opinion of its advisors, the majority of respondents and the information reviewed.
- 3.281 ComReg remains of the view, for the reasons stated above, that the regulatory asset life of 6 years for IP and Internet router hardware is appropriate. No convincing evidence has been offered to rebutt the findings of ComReg. For the reasons set out ComReg considers the current asset life to be appropriate. ComReg again notes, in any event Eircom's main comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

<p>Conclusion: ComReg is of the opinion that 6 years is an appropriate regulatory asset life for IP and Internet router hardware and that it does not require amendment.</p>

Consultation Question

Q. 29. Do you agree or disagree with a regulatory asset life of 6 years for Ethernet: Transport and switch equipment? Please explain in detail your response.

Views of respondents

- 3.282 There were three responses to this Question.
- 3.283 **Magnet** and **Vodafone** agreed with ComReg's conclusion that the regulatory asset life for Ethernet: Transport and switch equipment should be 6 years.

- 3.284 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.285 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset life of 9 years for Ethernet transport and switch equipment might require amendment. In ComReg's initial view technological advances (e.g. change in data rates) would result in a regulatory asset life of 6 years possibly being more appropriate.
- 3.286 In the last 20 years there have been significant changes in technology in the core part of fixed line networks. Data services have changed from low speed protocols, through Frame Relay, and Asynchronous Transfer Mode ("ATM") to the current main technologies of Ethernet and IP. As the technology continues to evolve it is likely that equipment will be withdrawn from service after a relatively short period of time which should be reflected in its regulatory asset life.
- 3.287 ComReg remains of the view, for the reasons stated above, that the regulatory asset life of 6 years is appropriate for Ethernet: Transport and switch equipment. This view is also supported by the expert opinion of its advisors, the majority of respondents and the information reviewed. ComReg considers that the current regulatory asset life of 9 years is materially overstated and that a regulatory asset life of 6 years remains appropriate for Ethernet: transport and switch equipment. For the reasons set out ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom's main comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

<p>Conclusion: ComReg is of the opinion that a regulatory asset life of 9 years is inappropriate for Ethernet: Transport and switch equipment and that 6 years more adequately reflects its useful economic life for regulatory purposes.</p>
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Consultation Question

Q. 30. Do you agree or disagree with regulatory asset lives of 6 years for ATM Frame relay equipment? Please explain in detail your response.

Views of respondents

- 3.288 There were four responses to this Question.
- 3.289 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that the regulatory asset life of ATM Frame relay equipment should be 6 years.
- 3.290 **BT** was in broad agreement with ComReg's proposals although it considered 6 years marginally too long.
- 3.291 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore

entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.292 In ComReg Document No. 09/11, ComReg was of the preliminary conclusion that a regulatory asset life of between 6 years and 12 years for ATM Frame relay equipment might require amendment. As much of this equipment has an IP element, ComReg initially considered that 6 years might be a more appropriate regulatory asset life. It initially considered that given changes in technology 12 years represented too long a regulatory asset life for ATM frame relay equipment
- 3.293 As outlined in Question 29 there have been significant changes in the last 20 years in technology associated with the core part of fixed telecoms networks. The technology has moved from low speed protocols to Frame Relay and ATM with Ethernet and IP also now being introduced. In Question 29 ComReg has proposed a regulatory asset life of 6 years for Ethernet: transport and switch equipment reflecting the ever evolving technology.
- 3.294 ComReg remains of the view that the regulatory asset life of 6 years for ATM Frame relay equipment is also appropriate as it reflects the evolving technologies and the resulting possibility that this equipment might have a relatively short asset life. This view is supported by the majority of respondents, the information reviewed, and expert opinion of ComReg's advisors. ComReg considers that the current regulatory asset lives of a maximum of 12 years are materially overstated and that a regulatory asset life of 6 years remains appropriate for Ethernet: transport and switch equipment. For these reasons ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable. ComReg again notes, in any event Eircom's main submission in this regard was to query the materiality of the change for regulatory pricing.

Conclusion: ComReg is of the opinion that a regulatory asset life of greater than 6 years to a maximum of 12 years is inappropriate for ATM frame relay equipment and that 6 years more adequately reflects its useful economic life for regulatory purposes.

Consultation Question

Q. 31. Do you agree or disagree with regulatory asset lives of 9 years for the "MARTIS" system and 6 years for other data equipment? Please explain in detail your response.

Views of respondents

- 3.295 There were four responses to this Question.
- 3.296 **Magnet and Vodafone** agreed with ComReg's preliminary conclusion that the regulatory asset lives of the "MARTIS" system and other data equipment should be 9 years and 6 years respectively.

- 3.297 While Vodafone stated that although it had a regulatory asset life of 8 years for MARTIS systems it considered that 9 years was appropriate in the case of Eircom. It, however, did not expand upon its answer nor explain how it derived a regulatory asset life of 8 years for its MARTIS system. It agreed that 6 years was an appropriate asset life for other data equipment.
- 3.298 **BT** did not have any comments regarding these assets.
- 3.299 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.300 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset life for "MARTIS" of 9 years might be appropriate and that it does not require amendment. This view was supported by the expert opinion of its advisors. ComReg notes Vodafone's comments in relation to how it has a regulatory asset life of 8 years for its "MARTIS" system. However, Vodafone has not provided any details how it calculates its regulatory asset life of 8 years and it expressed the opinion that it considered ComReg's proposal of 9 years to be suitable.
- 3.301 The MARTIS system is used to provide leased line private circuits. It is used in conjunction with SDH equipment. In Question 25 ComReg initially considered that a regulatory asset life of 11 years for SDH equipment reflected that some of this equipment might still be in use and that this also reflected the level of technological change it was subject to. ComReg considers that a life of 9 years for MARTIS is consistent with that of SDH equipment but also reflects the increased level of technological advances in Data, Ethernet, and IP equipment.
- 3.302 ComReg, however, initially considered that the existing asset life for other data equipment of between 9 and 12 years might require amendment. It was of the preliminary view that a regulatory asset life would have to encompass a more realistic asset life of approximately 6 years for this equipment which is subject to technological change. ComReg remains of the view, for the reasons stated above, that the regulatory asset lives of 9 years for the "MARTIS" system and 6 years for other data equipment are appropriate. This view is supported by the majority of respondents, the expert opinion of its advisors and the information reviewed.
- 3.303 ComReg considers that the current regulatory asset life of between 9 and 12 years for other data equipment is materially overstated and that a regulatory asset life of 6 years remains appropriate. For the reasons set out ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom's main comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that a regulatory asset life of 9 years remains appropriate for “MARTIS” and that it does not require amendment. ComReg is also of the opinion that a regulatory asset life of between 9 and 12 years is inappropriate for other data equipment and that 6 years more adequately reflects its useful economic life for regulatory purposes.

Consultation Question

Q. 32. Do you agree or disagree with a regulatory asset life of 10 years for class 4 / 5 switch hardware (excluding line terminals)? Please explain in detail your response.

Views of respondents

- 3.304 There were four responses to this Question.
- 3.305 **Magnet and Vodafone** agreed with ComReg’s preliminary conclusion that the regulatory asset life for class 4 / 5 switch hardware (excluding line terminals) should be 10 years.
- 3.306 **BT** did not have any comments regarding these assets.
- 3.307 **Eircom** disagreed with ComReg’s proposal as it considered **the** proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg’s review and Decision as regards many assets is a disproportionate use of its powers.

ComReg’s Position and Conclusion

- 3.308 In ComReg Document No. 09/11, ComReg’s preliminary conclusion was that a regulatory asset life of between 6 and 9 years for class 4/5 switch hardware (excluding terminals) equipment might require amendment. ComReg considered that 10 years might more adequately reflect the regulatory asset life of this equipment.
- 3.309 ComReg was of the preliminary view that because much of this equipment was becoming standardised it could run different software applications. In ComReg Consultation Document No. 09/11, ComReg initially considered that bespoke software had a regulatory asset life of 6 years. Therefore ComReg was of the preliminary view that this equipment, which will run software, will last at a minimum 6 years and most likely longer. In ComReg Consultation Document No. 09/11 it was of the preliminary opinion that 10 years as opposed to 6 to 9 years reflected the appropriate asset life for this equipment.
- 3.310 While there has been significant technological change within core networks, in ComReg’s initial view, there has been a cautious adoption of NGN voice and application capabilities to replace conventional switches. Many operators while introducing these NGN technologies have done so on an overlay or trial basis to ensure their robustness and operational suitability before they are introduced in a widespread manner. Therefore the traditional “Class 4/5” switches have not been replaced on a large scale. ComReg is not aware that Eircom has significant plans to replace its existing switches. As such ComReg was of the initial view that the

existing switches will last for the foreseeable future. This view was also supported by the expert opinion of its advisors.

ComReg remains of the view, for the reasons stated above, that the regulatory asset life of 10 years for class 4 / 5 switch hardware (excluding line terminals) equipment is appropriate. This view is supported by the majority of respondents, the expert opinion of its advisors and the information reviewed. ComReg considers that the current regulatory asset lives of a minimum of 6 years and a maximum of 9 years are materially and significantly understated and that a regulatory asset life of 10 years remains appropriate for Class 4 / 5 switch hardware (excluding line terminals). For these reasons ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable. ComReg again notes, in any event Eircom's main submission in this regard was to query the materiality of the change for regulatory pricing.

Conclusion: ComReg is of the opinion that a regulatory asset life of a minimum of 6 years and a maximum of 9 years is inappropriate for class 4 / 5 switch hardware (excluding line terminals) and that 10 years more adequately reflects its useful economic life for regulatory purposes.

Consultation Question

Q. 33. Do you agree or disagree with a regulatory asset life of 5 years for class 4 / 5 switch software? Please explain in detail your response.

Views of respondents

- 3.311 There were four responses to this Question.
- 3.312 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that the regulatory asset life for class 4/5 switch software should be 5 years.
- 3.313 **BT** did not have any comments regarding these assets.
- 3.314 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.315 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset lives of between 4 and 6 years might require amendment for class 4/5 switch software. The majority of this asset class has a regulatory asset life of 6 years and therefore ComReg was of the initial view that 5 years might more appropriately reflect the regulatory asset life for assets in this category.
- 3.316 In ComReg's preliminary view 6 years was too long because most of this equipment is subject to technological change. ComReg was also of the initial view that 4 years was too short because much of the software was tied to

hardware developers and considered that this would have an asset life greater than 4 years. In ComReg's preliminary opinion 5 years struck the appropriate balance.

- 3.317 While ComReg has initially recommended that the associated hardware have a regulatory asset life of 10 years in ComReg's view developments in software would happen more frequently. In Question 49 ComReg had initially recommended a regulatory asset life of 6 years for "bespoke" software. ComReg was of the preliminary view that given the changes in NGN technologies Class 4/5 software is likely to be upgraded and replaced more frequently than bespoke software.
- 3.318 ComReg remains of the view for the reasons stated above that the regulatory asset life of 5 years for class 4 / 5 switch software is appropriate. This view is supported by the majority of respondents, the expert opinion of its advisors and the information reviewed. ComReg considers that the current regulatory asset lives of a minimum of 4 years and a maximum of 6 years are significantly understated and overstated respectively and that a regulatory asset life of 5 years remains appropriate for Class 4 / 5 switch software. For these reasons ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable. ComReg again notes, in any event Eircom's main submission in this regard was to query the materiality of the change for regulatory pricing.

Conclusion: ComReg is of the opinion that regulatory asset lives of a minimum of 4 years and a maximum of 6 years are inappropriate for class 4 / 5 switch software and that 5 years more adequately reflects its useful economic life for regulatory purposes.

Consultation Question

Q. 34. Do you agree or disagree with a regulatory asset life of 6 years for custom hardware and applications? Please explain in detail your response.

Views of respondents

- 3.319 There were four responses to this Question.
- 3.320 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that the regulatory asset life for custom hardware and applications should be 6 years.
- 3.321 **BT** did not have any comments regarding these assets.
- 3.322 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.323 In ComReg Document No.09/11, ComReg's preliminary conclusion was that the existing asset life of between 6 and 20 years might require amendment for custom

hardware and applications. The majority of this equipment currently has an asset life of 6 years and therefore ComReg initially considered that 6 years appropriately reflected the useful economic life of this equipment.

- 3.324 In Question 49 to this consultation, ComReg initially proposed a regulatory asset life of 6 years for bespoke, specialised or in-house developed software. In general ComReg initially considered that customised hardware and applications will, at a minimum, last at least as long as customised software. This view is also consistent with ComReg's preliminary view that hardware in this category has a consistent regulatory asset life as hardware within the "application capability equipment" category.
- 3.325 ComReg was also of the preliminary view that a regulatory asset life of 20 years was possibly too long for this asset. This view is supported by the expert opinion of its advisors, the majority of respondents and the information reviewed. ComReg remains of the view, for the reasons stated above, that the regulatory asset life of 6 years for custom hardware and applications is appropriate. ComReg considers that regulatory asset lives of greater than 6 years are materially overstated and that a regulatory asset life of 6 years remains appropriate for custom hardware and applications. For the reasons set out ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom's main comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that a regulatory asset life of greater than 6 years and a maximum of 20 years is inappropriate for custom hardware and applications and that 6 years more adequately reflects its useful economic life for regulatory purposes.

Consultation Question

Q. 35. Do you agree or disagree with regulatory asset lives of 5 years for server hardware? Please explain in detail your response.

Views of respondents

- 3.326 There were four responses to this Question.
- 3.327 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that the regulatory asset life for server hardware should be 5 years.
- 3.328 **BT** did not have any comments regarding these assets.
- 3.329 **Eircom** disagreed with ComReg's proposal. Please refer to Question 24 for Eircom's detailed response in this regard.

ComReg's Position and Conclusion

- 3.330 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that while no asset class specifically existed at present for server hardware it may be appropriate to recommend a regulatory asset life of 5 years. In its preliminary view the proposed 5 year regulatory asset life, while less than the asset life of 6

years proposed for other hardware equipment, took into account the possibility of technological change as it related to more general hardware applications.

- 3.331 ComReg initially considered it appropriate that a separate asset class should be created for server hardware to differentiate it from standard hardware and custom hardware. ComReg initially considered that standard hardware (i.e. Personal Computers (“PCs”)) has a regulatory asset life of 4 years. In ComReg’s preliminary view, Custom hardware (i.e. Broadband Remote Access Servers (“BRAS”), Session border controllers and media gateways) has a regulatory asset life of 6 years. ComReg was of the preliminary view that server hardware would not be subject to the same wear and tear as standard hardware and therefore requires its own asset category. For example, while PCs will typically be user-facing and subject to every day wear and tear, server hardware is typically housed centrally within an organisation or building and so less subject to such wear and tear, thereby justifying a somewhat longer asset life for server hardware than standard hardware such as PCs. Standard hardware has a regulatory asset life of 4 years which in ComReg’s view would be too short a regulatory asset life for server hardware. ComReg, however, initially considered that a regulatory asset life of 6 years would be too long for server hardware as in its opinion server hardware would most likely be upgraded before custom hardware.
- 3.332 This server hardware ComReg initially considered is used to run specialist IT applications as opposed to more general applications as outlined in Question 51.
- 3.333 ComReg remains of the view for the reasons stated above that the regulatory asset life of 5 years for server hardware is appropriate. This view was supported by the expert opinion of its advisors, the majority of respondents and the information reviewed. No convincing evidence has been offered to rebutt the findings of ComReg. For the reasons set out ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom’s main comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that a regulatory asset life of 5 years adequately reflects the useful economic life of server hardware.

Consultation Question

Q. 36. Do you agree or disagree with a regulatory asset life of 5 years for Applications and Operating Software (“OS”)? Please explain in detail your response.

Views of respondents

- 3.334 There were four responses to this Question.
- 3.335 **Magnet** and **Vodafone** agreed with ComReg’s preliminary conclusion that the regulatory asset life of Applications and OS should be 5 years.
- 3.336 **BT** did not have any comments regarding these assets.
- 3.337 **Eircom** disagreed with ComReg’s proposal as it considered **the** proposed change was immaterial from the point of view of regulatory pricing and is therefore

entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.338 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset of 6 years might require amendment for applications and OS. It was of the initial view that it should be more consistent with other software applications and that 5 years would strike an appropriate balance. In Question 49 of ComReg Document No. 09/11, ComReg initially considered the regulatory asset life of certain types of software. In relation to applications and OS, ComReg initially considered that it is generally not off the shelf software and therefore a regulatory asset life of 3 years would be too short. However, given that much of the software relates to application capabilities in the network which are evolving (e.g. instant messaging and voicemail), ComReg initially considered that a regulatory asset life of 6 years for bespoke, specialised or in-house developed software would be too long.
- 3.339 ComReg remains of the view, for the reasons stated above, that the regulatory asset life of 5 years for applications and OS is appropriate. This is in line with the views of the majority of respondents to this Question and is supported by the expert opinion of ComReg's advisors. ComReg considers that the current regulatory asset life of 6 years is significantly overstated and that a regulatory asset life of 5 years remains appropriate for Applications and OS. For the reasons set out ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom's main comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that a regulatory asset life of 6 years is inappropriate for Applications and OS and that 5 years more adequately reflects its useful economic life for regulatory purposes.

Consultation Question

Q. 37. Do you agree or disagree with the maintenance of the existing regulatory asset lives for network management systems of 4 years, data and traffic management systems of 5 years and OPS support systems of 9 years? Please explain in detail your response.

Views of respondents

- 3.340 There were four responses to this Question.
- 3.341 **Magnet** and **Vodafone** agreed with ComReg's preliminary conclusion that the existing regulatory asset lives for network management systems (4 years), traffic management systems (5 years) and OPS support systems (9 years) be maintained.
- 3.342 **BT** did not have any comments regarding these assets. **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes

must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.343 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset lives of between 4 and 9 years might not require amendment for network management systems, data and traffic management systems and OPS support systems. This view was supported by the expert opinion of its advisors.
- 3.344 As outlined in ComReg Document No. 09/11, the network management systems are the software and the associated servers / hardware used to manage the network equipment.
- 3.345 ComReg initially considered that the existing regulatory asset life of 4 years for network management reflects the fact that this software could be "off the shelf" software. However it may also contain specialised software which ComReg considers would have a longer asset life. ComReg initially considered that the regulatory asset life of 5 years for data and traffic management systems reflects the requirement for the inter-working of other operator networks and existing PSTN networks. ComReg initially considered that a regulatory asset life of 9 years for OPS Support Systems reflects the fact that while underlying network management systems may change periodically it is unlikely that the overall support system would change as frequently.
- 3.346 ComReg remains of the view, for the reasons stated above, that the regulatory asset lives for network management systems of 4 years, data and traffic management systems of 5 years and OPS support systems of 9 years are appropriate. These are in line with the views of the majority of respondents to this Question, the information reviewed and the expert opinion of ComReg's advisors. No convincing evidence has been offered to rebutt the findings of ComReg. For the reasons set out ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom's main comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that the regulatory asset lives of 4 years for network management systems, 5 years for data and traffic management systems and 9 years for OPS support systems reflect their useful economic lives and do not require amendment.

Consultation Question

Q. 38. Do you agree or disagree with regulatory asset lives for specific test equipment of 5 years, miscellaneous test equipment of 11 years and line testing equipment of 20 years? Please explain in detail your response.

Views of respondents

- 3.347 There were four responses to this Question.

- 3.348 **Magnet** agreed with ComReg's assessment.
- 3.349 **Vodafone** commented that it set an asset life of 4 years for specific test equipment and that it did not differentiate with miscellaneous equipment. On this basis it agreed that 5 years was a reasonable asset life for specific test equipment. It also agreed that an asset life of 20 years was appropriate for line testing equipment due to the unchanging nature of the technology it was testing.
- 3.350 **BT** did not have any comments regarding these assets. **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.351 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset lives for specific test equipment of 5 years and miscellaneous test equipment of 11 years might not require amendment. It was of the view however, that the existing regulatory asset life for line testing equipment of 22 years might require amendment and that 20 years would be more reflective of its economic useful life.
- 3.352 In its review ComReg initially deemed it appropriate to differentiate between specific and miscellaneous test equipment and to apply two different regulatory asset lives. It notes Vodafone's comments in relation to it applying 4 years to specific equipment while not differentiating miscellaneous equipment and that it considers that 5 years is a reasonable life for specific equipment. ComReg remains of the view that specific and miscellaneous line testing equipment should be accounted for separately and that 5 years and 11 years respectively are appropriate asset lives for specific and miscellaneous line test equipment.
- 3.353 For specific equipment, ComReg considers that a regulatory asset life of 5 years appropriately reflects the level of wear and tear that this equipment would be subject to.
- 3.354 For miscellaneous equipment, ComReg initially considered that a regulatory asset life of 11 years reflects the fact that this equipment may not necessarily be applied to dedicated tasks and could possibly be used periodically thereby extending its asset life beyond that of specific equipment. For line testing equipment, which is either fixed or exchange based, ComReg initially considered that it should have a similar asset life to the equipment it tests. In Question 13 of the Consultation Document No. 09/11, ComReg initially considered that underground cables and fibres had a regulatory asset life of 20 years.
- 3.355 ComReg remains of the view, for the reasons stated above, that the regulatory asset life of 20 years for line testing equipment is appropriate. This view is supported by the expert opinion of ComReg's advisors, the majority of respondents and the information reviewed. ComReg considers that the current regulatory asset lives of 22 years is overstated and that a regulatory asset life of 20 years remains appropriate for line testing equipment. No convincing evidence has been offered to rebut the findings of ComReg. For the reasons set out

ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom's main comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that a regulatory asset life of 5 years for specific test equipment and 11 years for miscellaneous test equipment reflects their useful economic life and does not require amendment. In ComReg's opinion, the existing regulatory asset life of 22 years for line testing equipment is inappropriate and that 20 years more adequately reflects its useful economic life for regulatory purposes.

Consultation Question

Q. 39. Do you agree or disagree with the maintenance of the non depreciation for land freehold and land leasehold for regulatory purposes? Please explain in detail your response.

Views of respondents

- 3.356 There were four responses to this Question.
- 3.357 **Magnet** and **Vodafone** agreed with ComReg's assessment.
- 3.358 **BT** was in broad agreement with ComReg's proposals.
- 3.359 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.360 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that freehold and leasehold land should not be depreciated. It was of the preliminary view that land, either freehold or leasehold, does not normally expire and therefore is not depreciated.
- 3.361 If land is held under leasehold it is the lease that is normally amortised and not the land itself. ComReg remains of the view, for the reasons stated above, that freehold and leasehold land are not normally depreciated and do not expire. This view is supported by the majority of respondents, the expert opinion of its advisors, and the information reviewed. ComReg considers that the continuation of the non depreciation of both freehold and leasehold land remains appropriate.
- 3.362 ComReg again notes, in any event Eircom's main submission in this regard was to query the materiality of the change for regulatory pricing.

Conclusion: ComReg is of the opinion that the maintenance of the non depreciation of freehold and leasehold land is appropriate.

Consultation Question

Q. 40. Do you agree or disagree with the maintenance of the existing regulatory asset lives for exchange buildings of 40 years? Please explain in detail your response.

Views of respondents

- 3.363 There were four responses to this Question.
- 3.364 **Magnet** and **Vodafone** agreed with ComReg's assessment.
- 3.365 **BT** was in broad agreement with ComReg's proposals.
- 3.366 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.367 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset life of 40 years might not require amendment for exchange buildings. This is also consistent with the regulatory asset lives applied by other NRA's considered by ComReg.

ComReg remains of the view, for the reasons stated above, that the regulatory asset life of 40 years for buildings is appropriate. This view is supported by the expert opinion of its advisors, the majority of respondents and the information reviewed. No convincing evidence has been offered to rebutt the findings of ComReg. For the reasons set out ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom's main comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that the existing regulatory asset life of 40 years for exchange buildings is appropriate and does not require amendment.

Consultation Question

Q. 41. Do you agree or disagree with the maintenance of the existing regulatory asset lives for buildings fixtures and fittings and security equipment of 5 years? Please explain in detail your response.

Views of respondents

- 3.368 There were three responses to this Question.
- 3.369 **Magnet** and **Vodafone** agreed with ComReg's assessment.
- 3.370 **Eircom** considered that this Question and Question 51 did not reconcile with one another. It stated that Question 41 appears to suggest that it is appropriate to treat equipment as property but that Question 50 suggested the opposite as regards

furniture. Eircom considered that it was not necessary to differentiate between and buildings fixtures and fittings and security equipment (Question 41) and furniture (Question 50).

ComReg's Position and Conclusion

- 3.371 ComReg, in Document No. 09/11, was of the preliminary view the existing regulatory asset lives for buildings, fixtures and fittings and security equipment of 5 years might not require amendment. This view was also supported by the views of its expert advisors.
- 3.372 ComReg initially considered that a regulatory asset life of 5 years reflects the level of wear and tear that this equipment would be subject to.
- 3.373 ComReg remains of the view, for the reason stated above, that the regulatory asset life for buildings, fixtures and fittings and security equipment of 5 years is appropriate. This view is supported by the expert opinion of its advisors, the majority of respondents and the information reviewed.
- 3.374 ComReg, however, in examining this matter again in light of Eircom's comments above regarding the materiality of creating a new asset class here, now considers it may more proportionate that furniture be included in the asset class of "*buildings fixtures and fittings and security equipment*" (please see Question 50) instead of creating a new one. ComReg considers that an asset life of 5 years should apply to all assets in this fixed asset category.

Conclusion: ComReg is of the opinion that the existing regulatory asset life of 5 years for buildings, fixtures and fittings and security equipment is appropriate and does not require amendment.

Consultation Question

Q. 42. Do you agree or disagree with the maintenance of the existing regulatory asset lives for phone and internet kiosks of 8 years? Please explain in detail your response.

Views of respondents

- 3.375 There were three responses to this Question.
- 3.376 **Magnet** and **Vodafone** agreed with ComReg's assessment.
- 3.377 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.378 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset life for phone and internet kiosks of 8 years might not require amendment. While Eircom has initiated a programme to remove a number of phone boxes many remain in place and ComReg initially considered that 8 years appropriately reflects their useful economic life.

- 3.379 ComReg remains of the view, for the reasons stated above, that the regulatory asset life of 8 years is appropriate for phone and internet kiosks. This view is supported by the expert opinion of its advisors, the majority of respondents and the information reviewed. No convincing evidence has been offered to rebut the findings of ComReg. ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom's main comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

<p>Conclusion: ComReg is of the opinion that the existing regulatory asset life of 8 years for phone and internet kiosks is appropriate and does not require amendment.</p>
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Consultation Question

- Q. 43. Do you agree or disagree with the maintenance of the existing regulatory asset lives Alternating Current (“AC)/Direct Current (“DC”) power equipment and air conditioning of; (a) 5 years for fixtures and fittings, (b) 17 years for electrical equipment and (c) 22 years for power? Please explain in detail your response.**

Views of respondents

- 3.380 There were three responses to this Question.
- 3.381 **Magnet and Vodafone**, agreed with ComReg's assessment.
- 3.382 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.383 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset lives for the fixed asset category AC/DC power equipment and air-conditioning might not require amendment. This was consistent with the expert opinion of ComReg's advisors.
- 3.384 ComReg remains of the view, for the reasons stated above, that the regulatory asset life for fixtures and fittings of 5 years; for electrical equipment of 17 years and for power of 22 years respectively do not require amendment. This view is supported by the expert opinion of its advisors, the majority of respondents and the information reviewed. No convincing evidence has been offered to rebut the findings of ComReg. For the reasons set out ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom's main comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that the existing regulatory asset life of 5 years for fixtures and fittings, 17 years for electrical equipment and 22 years for power are appropriate and does not require amendment.

Consultation Question

Q. 44. Do you agree or disagree with the maintenance of the existing regulatory asset lives for generators of 25 years? Please explain in detail your response.

Views of respondents

3.385 There were three responses to this Question.

3.386 **Magnet and Vodafone** agreed with ComReg's assessment.

3.387 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

3.388 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset life for generators of 25 years might not require amendment. This view is supported by the expert opinion of ComReg's advisors, the majority of respondents and the information reviewed. ComReg remains of the view, for the reasons stated above, that the regulatory asset life of 25 years for generators is appropriate and that it does not require amendment. No convincing evidence has been offered to rebut the findings of ComReg. ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom's main comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that the existing regulatory asset life of 25 years for generators is appropriate and does not require amendment.

Consultation Question

Q. 45. Do you agree or disagree with a regulatory asset life for standard vehicles (cars, vans and trucks) of 6 years? Please explain in detail your response.

Views of respondents

3.389 There were three responses to this Question.

3.390 **Magnet and Vodafone** agreed with ComReg's assessment.

3.391 **Eircom** disagreed with ComReg's proposal. Eircom combined its responses to Questions 45 and 46. It considered that vans or trucks are commonly used for similar purposes across many industries and that while 6 years may be a

reasonable assessment so too is 5 years such that ComReg's intervention in this regard "*is therefore wholly unwarranted*".

ComReg's Position and Conclusion

- 3.392 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset life of 5 years for standard vehicles might require amendment and that 6 years might more adequately reflect their useful economic life.
- 3.393 While Eircom commented that vehicles across many industries apply a 5 year asset life ComReg considered that this does not take account of the fact that vehicles can remain in use beyond 5 years. Furthermore, while it may be common to have a 5 year statutory life for vehicles -as more particularly outlined in "*ComReg's position and conclusion in relation to Question 61*", ComReg considers that regulatory and statutory accounts serve different purposes.
- 3.394 As such while many companies depreciate these, on a statutory basis, over 5 years the likely actual working life of vehicles is often longer and may continue to be in use despite having a nil net book value. In ComReg's preliminary view, therefore, 6 years strikes an appropriate basis for Eircom's fleet for regulatory purposes. This takes account of the fact that the statutory asset lives often applied are 5 years and also that many vehicles remain in use beyond 5 years. This is also consistent with the expert opinion of ComReg's advisors.
- 3.395 While 5 years may be an appropriate life to apply for statutory purposes, ComReg believes that the additional year (i.e. an amendment to 6 years), is more likely to ensure that the correct depreciation charge is applied to regulatory accounts and thus any consequent pricing reviews that might include vehicles. ComReg is aware that commercial vehicles in particular tend to be branded with company logos, be purpose built internally to cater for the needs of technical/marketing/other staff requirements as they arise in the telecoms industry. As such an average life of 5 years is considered to be overly conservative.
- 3.396 ComReg remains of the view, for the reasons stated above, that the regulatory asset life for standard vehicles (cars, vans and trucks) of 6 years is appropriate. ComReg considers that 6 years strikes an appropriate balance between Eircom's suggested life of 5 years and the possibility of the average asset life of standard vehicles in its fleet being greater than 6 years. This view is supported by the majority of respondents, the expert opinion of its advisors, and the information reviewed. ComReg considers that the current regulatory asset life of 5 years is understated and that a regulatory asset life of 6 years remains appropriate for standard vehicles.
- 3.397 ComReg again notes, in any event Eircom's comments in relation to the materiality of changes for regulatory pricing which ComReg has already considered.

<p>Conclusion: ComReg is of the opinion that the existing regulatory asset life of 5 years for standard vehicles is inappropriate and that 6 years more adequately reflects their useful economic lives for regulatory purposes.</p>

Consultation Question

Q. 46. Do you agree or disagree with a regulatory asset life for specially fitted out vehicles of 6 years? Please explain in detail your response.

Views of respondents

- 3.398 There were three responses to this Question.
- 3.399 **Magnet** and **Vodafone**, agreed with ComReg's assessment.
- 3.400 **Eircom** disagreed with ComReg's proposal. Please refer to Question 45 for Eircom's detailed response in this regard.

ComReg's Position and Conclusion

- 3.401 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset life of 5 years for specialised vehicles may be inappropriate and that 6 years might more adequately reflect their useful economic life.
- 3.402 ComReg initially considered that Eircom may have specialised vehicles in its fleet that are older than 5 years. ComReg was of the preliminary view that it is unlikely that specialised vehicles only last 5 years and this is supported by the expert opinion of its advisors.
- 3.403 ComReg notes Vodafone's comments in relation to specially fitted out vehicles having an asset life of 6 years. ComReg in its review of standard vehicles initially noted that they were typically depreciated over a 5 year period; however, ComReg considered that the period for depreciation for vehicles in Eircom is in excess of 5 years.
- 3.404 For the arguments outlined in its response to Question 45, ComReg remains of the view that the regulatory asset life for specially fitted out vehicles of 6 years is appropriate. While many companies depreciate vehicles, on a statutory basis, over 5 years, ComReg remains of the view that 6 years strikes an appropriate basis for Eircom's fleet. This takes account of the fact that the statutory asset lives often applied are 5 years and also that many vehicles remain in use beyond 5 years. This view is supported by the majority of respondents, the expert opinion of its advisors, and the information reviewed. ComReg considers that the current regulatory asset life of 5 years is understated and that a regulatory asset life of 6 years remains appropriate for specialised vehicles.
- 3.405 ComReg again notes, in any event Eircom's comments in relation to the materiality of changes for regulatory pricing which ComReg has already considered

Conclusion: ComReg is of the opinion that the existing regulatory asset life of 5 years for specialised vehicles is inappropriate and that 6 years more adequately reflects their useful economic life for regulatory purposes.

Consultation Question

Q. 47. Do you agree or disagree with a regulatory asset life of 4 years for P.C.'s and miscellaneous hardware and 5 years for ancillary equipment? Please explain in detail your response.

Views of respondents

- 3.406 There were three responses to this Question.
- 3.407 **Magnet and Vodafone** agreed with ComReg's assessment.
- 3.408 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.409 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset life for IT hardware of between 3 and 4 years might require amendment. It considered that 4 to 5 years would more adequately reflect their useful economic lives.
- 3.410 ComReg initially considered that the existing regulatory asset life of 4 years reflected the useful economic life of P.C.s and miscellaneous hardware and that it did not require amendment. This it considered reflected the general wear and tear that this equipment would be subject to.
- 3.411 ComReg initially considered that the existing regulatory asset life of 3 to 4 years was inappropriate for ancillary equipment as much of this equipment would not be subject to the same wear and tear as the P.C.s to which it related. It initially considered that a regulatory asset life of 5 years was possibly more appropriate for ancillary equipment.
- 3.412 ComReg remains of the view, for the reasons stated above, that the regulatory asset lives of 4 years for P.C.s and miscellaneous hardware and 5 years for ancillary equipment are appropriate. This view is supported by the expert opinion of its advisors, the majority of respondents and the information reviewed. ComReg considers that the current regulatory asset lives of between 3 and 4 years are significantly understated and that a regulatory asset life of 5 years remains appropriate for ancillary equipment. For these reasons ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable. ComReg again notes, in any event Eircom's comments in relation the materiality of changes for regulatory pricing.

<p>Conclusion: ComReg is of the opinion that the existing regulatory asset life of 4 years is appropriate for P.C.s and miscellaneous hardware and does not require amendment. ComReg is of the opinion that the existing regulatory asset lives of between 3 and 4 years are inappropriate for ancillary equipment and that 5 years more adequately reflects its useful economic life for regulatory purposes.</p>
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Consultation Question

Q. 48. Do you agree or disagree with a regulatory asset life of 5 years for IT networking equipment? Please explain in detail your response.

Views of respondents

- 3.413 Of the three responses to this Question **Magnet** and **Vodafone** agreed with ComReg's assessment.
- 3.414 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.415 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset life of 4 years for IT networking equipment might require amendment. It initially considered that 5 years might more adequately reflect its economic useful life.
- 3.416 ComReg initially considered that this equipment would have an asset life similar to the hardware it supported. Furthermore ComReg was of the preliminary view that this equipment is not subject to the same wear and tear as miscellaneous hardware and nor is it subject to frequent upgrading. 5 years is also consistent with the regulatory asset life of server hardware.
- 3.417 ComReg remains of the view, for the reasons stated above, that the regulatory asset life of 5 years for IT networking equipment is appropriate. This view is supported by the expert opinion of its advisors, the majority of respondents and the information reviewed. ComReg considers that the current regulatory asset life of 4 years is significantly understated and that a regulatory asset life of 5 years remains appropriate for IT networking equipment. For the reasons set out ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom's main comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

<p>Conclusion: ComReg is of the opinion that the existing regulatory asset life of 4 years is inappropriate for IT networking equipment and that 5 years more adequately reflects its useful economic life for regulatory purposes.</p>
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Consultation Question

Q. 49. Do you agree or disagree with a regulatory asset life of 6 years for bespoke, specialised or in-house developed software and 3 years for "off the shelf" packages? Please explain in detail your response.

Views of respondents

- 3.418 There were four responses to this Question.
- 3.419 **Magnet** and **Vodafone** agreed with ComReg's assessment.
- 3.420 **BT** was in broad agreement with ComReg's proposals.
- 3.421 **Eircom** did not agree with ComReg's proposal.

3.422 It further stated that it did not see the benefit of creating new asset classes and that if done this would lead to inconsistencies with its statutory accounts. The current economic life was 4 years which it considered was consistent with the regulatory asset lives of between 3 and 6 years proposed by ComReg. It also disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

3.423 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that a regulatory asset life of 4 years might require amendment for bespoke specialised software, in-house developed software or "off the shelf" software packages. ComReg initially considered that a regulatory asset life of 6 years for bespoke, specialised or in-house developed software and 3 years for "off the shelf" packages might more adequately reflect their useful economic lives. ComReg's reasoning can be summarised as follows:

- In 2004¹³ ComReg assessed "carrier billing systems" as having an asset life of 6 years. ComReg initially considered that "Carrier billing systems" would relate to the category of bespoke, specialised or in-house developed software;
- Bespoke, specialised or in-house developed software is not subject to frequent replacement. While they might be subject to upgrades it is likely that the benefits from the initial investment are derived for more than 4 years; and
- "Off the shelf" software can be subject to relatively frequent upgrades which can sometimes render the original incompatible with the upgraded version. ComReg initially considered that as upgrades or new releases of off the shelf software can be issued relatively frequently a 4 year regulatory asset life for this type of asset might require amendment.

3.424 ComReg does not consider that its proposals would add a significant burden to Eircom to account for both categories separately. Carrier billing systems (i.e. "bespoke, specialised or in-house developed software") currently have a regulated asset life of 6 years whereas the remaining software has a regulated asset life of 4 years. Therefore, carrier billing systems have to be accounted for separately by Eircom, for regulatory purposes, and have been since 2002/03, so as to apply two different asset lives. Furthermore no tangible convincing evidence has been offered to ComReg to suggest that the assets lives it has proposed should be different. ComReg is also of the view that an administrative issue should not impede the process of ensuring that assets are accounted for correctly within the fixed asset register and when reporting depreciation within the regulatory accounts.

¹³ ComReg Document No. 04/101 – "Response to consultation 04/69 and Decision Notice; Finalisation of the 2002/03 Interim Inter Connect Conveyance Rates"

- 3.425 ComReg remains of the view, for the reasons stated above, that the regulatory asset life of 6 years for bespoke, specialised or in-house developed software and 3 years for “off the shelf” packages are appropriate. This view is supported by the expert opinion of its advisors, the majority of respondents and the information reviewed. ComReg considers that the current regulatory asset life of 4 years is materially understated for bespoke, specialised and in-house developed software and significantly overstated for off the shelf software. ComReg remains of the view that a regulatory asset life of 4 years is materially understated and that a regulatory asset life of 6 years remains appropriate for bespoke, specialised and in-house developed software. It also remains of the view that a regulatory asset life of 3 years remains appropriate for off the shelf software.
- 3.426 ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom’s main comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that the existing regulatory asset life of 4 years is inappropriate for (a) bespoke, specialised and in-house developed software and (b) off the shelf software. Instead, ComReg considers that 6 years more adequately reflects the useful economic life of bespoke, specialised, and in-house developed software while that of off the shelf software is more adequately reflected by 3 years.

Consultation Question

Q. 50. Do you agree or disagree with a regulatory asset life of 4 years for furniture? Please explain in detail your response.

Views of respondents

- 3.427 There were three responses to this Question.
- 3.428 **Magnet** and **Vodafone** agreed with ComReg’s assessment.
- 3.429 **Eircom** disagreed with ComReg’s proposal. Please refer to Question 41 for Eircom’s detailed response in this regard.

ComReg’s Position and Conclusion

- 3.430 In ComReg Document No. 09/11, ComReg noted that an asset class had not been created for this type of asset. As such it proposed the creation of a new asset class with a regulatory asset life of 4 years. This life, of 4 years, was based on what ComReg initially perceived to be normal wear and tear to furniture in an office setting and was supported by the views of its advisors, the majority of respondents and the information reviewed.
- 3.431 In the interests of proportionality ComReg now considers it appropriate for Eircom to maintain the current practice of accounting for furniture under the asset category of “buildings fixtures and fittings and security equipment” as per Question 41.

- 3.432 In order to maintain consistency in the buildings, fixtures and fittings and security equipment fixed asset class, ComReg recommends an asset life of 5 years for all assets, including furniture, in this fixed asset class.

Conclusion: ComReg is of the opinion that a regulatory asset life of 5 years is appropriate for furniture and that this asset should continue to be accounted for under the asset category: buildings fixtures and fittings and security equipment.

Consultation Question

Q. 51. Do you agree or disagree with a regulatory asset life of 4 years for PCs and server hardware? Please explain in detail your response.

Views of respondents

- 3.433 There were four responses to this Question.
- 3.434 **Magnet** and **Vodafone** agreed with ComReg's assessment.
- 3.435 **BT** was in broad agreement with ComReg's proposals.
- 3.436 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and was therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.437 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the existing regulatory asset life of 4 years for PCs and server hardware may not require amendment. ComReg initially considered that this regulatory asset life took account of the wear and tear that this equipment would be subject to and this view was supported by the expert opinion of its advisors.
- 3.438 This server hardware ComReg initially considered is used to run routine IT applications as opposed to more specialist applications as outlined in Question 35.
- 3.439 ComReg remains of the view, for the reasons stated above, that the regulatory asset life of 4 years for PCs and server hardware is appropriate. This view is supported by the expert opinion of its advisors, the majority of respondents and the information reviewed. No convincing evidence has been offered to rebutt the findings of ComReg. For the reasons set out ComReg considers the current asset life to be appropriate. ComReg again notes, in any event Eircom's main comment queries the materiality of any change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that a regulatory asset life of 4 years is appropriate for P.C.'s and server hardware and as such does not require amendment.

Consultation Question

Q. 52. Do you agree or disagree with a regulatory asset life of 4 years for PCs and server software? Please explain in detail your response.

Views of respondents

3.440 There were three responses to this Question.

3.441 **Magnet** and **Vodafone** agreed with ComReg's assessment.

3.442 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

3.443 In ComReg Document No. 09/11, ComReg noted that an asset class had not been created for this type of asset. As such it proposed the creation of a new asset class with a regulatory asset life of 4 years. This regulatory asset life, of 4 years, was based on ComReg's initial consideration that PCs and server software would have a slightly longer asset life than off the shelf software.

3.444 ComReg remains of the view, for the reasons stated above, that the regulatory asset life of 4 years for PCs and server software is appropriate. This view was supported by the majority of respondents, the expert opinion of its advisors and the information reviewed. No convincing evidence has been offered to rebutt the findings of ComReg. For the reasons set out ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom's main comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that a regulatory asset life of 4 years is appropriate for P.C.s and server software and does not require amendment.

Consultation Question

Q. 53. Do you agree or disagree with the maintenance of the regulatory asset life of 4 years for other electrical equipment? Please explain in detail your response.

Views of respondents

3.445 There were three responses to this Question.

3.446 **Magnet** and **Vodafone** agreed with ComReg's assessment.

3.447 **Eircom** disagreed with ComReg's proposal as it considered the proposed change was immaterial from the point of view of regulatory pricing and is therefore entirely unjustified and should be kept as per the statutory financial statements. It also stated that changes must be proportionate and reasonable. Elsewhere in its submission Eircom state that ComReg's review and Decision as regards many assets is a disproportionate use of its powers.

ComReg's Position and Conclusion

- 3.448 In ComReg Document No. 09/11, ComReg's preliminary conclusion was that the current regulatory asset life of 4 years might not require amendment for other electrical equipment. ComReg initially considered that 4 years reflected the level of wear and tear that this equipment might be subject to.
- 3.449 ComReg remains of the view that, for the reasons stated above, the regulatory asset life of 4 years for other electrical equipment is appropriate. This view is supported by the expert opinion of its advisors, the majority of respondents and the information reviewed. ComReg again notes, Eircom's main comment queried the materiality of the change for regulatory pricing.

Conclusion: ComReg is of the opinion that a regulatory asset life of 4 years is appropriate for other electrical equipment and therefore does not require amendment.

Consultation Question

Q. 54. Do you agree or disagree that the regulatory asset lives of licences and intellectual property rights should be for the duration of licences, copyrights, or agreements? Please explain in detail your response.

Views of respondents

- 3.450 There were four responses to this Question.
- 3.451 **Magnet** and **Vodafone** agreed with ComReg's assessment.
- 3.452 **BT** was in broad agreement with ComReg's proposals
- 3.453 **Eircom** disagreed with ComReg's proposal. Please refer to Question 24 for Eircom's detailed response in this regard.

ComReg's Position and Conclusion

- 3.454 In ComReg Document No. 09/11, ComReg noted that an asset class had not been created for licences and intellectual property rights. Therefore, it proposed the creation of a new asset class with a regulatory asset life corresponding to the duration of the licence copyright or agreement.
- 3.455 ComReg initially considered, in line with best accounting practice that it is appropriate to account for licences and intellectual property rights in a separate asset category.
- 3.456 ComReg remains of the view that, for the reasons stated above, the regulatory asset lives of licences and intellectual property rights should be for the duration of licences, copyrights or agreements. This view was supported by the majority of respondents, the expert opinion of its advisors and the information reviewed. No convincing evidence has been offered to rebut the findings of ComReg. For the reasons set out ComReg considers the current asset life to be inappropriate and does not consider the changes to be a disproportionate use of its powers or unreasonable (see further Q61 and the RIA). ComReg again notes, in any event Eircom's main comment queries the materiality of the change for regulatory pricing -which ComReg has already discussed above at Q61.

Conclusion: ComReg is of the opinion that a regulatory asset life for licences and intellectual property rights corresponding to the duration of the licence copyright or agreement is appropriate.

Consultation Question

Q. 55. Are there any other issues or assets which should be taken into consideration when assessing the regulatory asset lives of a fixed line telecommunications operator? Please explain in detail your response.

Views of respondents

3.457 Four responses were received to this Question.

3.458 **Magnet** considered that all issues and assets had been adequately addressed in the consultation.

3.459 **Vodafone** considered that the RGL report was comprehensive and was also of the view that the information sources and benchmarks seemed appropriate. While it had different treatment for similar categories of assets it said that in most cases the differences were minor and if implemented were unlikely to materially affect subsequent regulated prices.

3.460 **BT** was of the view that there was an expectation that with the introduction of NGN some legacy assets would be completely replaced. As a result it was becoming more common to have a common expiry date rather than an accounting book life that commenced at the date of installation. Assets were now being classified so they would be written off by a certain date.

3.461 **Eircom** said that any review of the economic useful lives of its assets should address the following:

- the period of time for which they would earn an economic return on their investment;
- technological obsolescence (It referred to its submission at Question 8);
- the current economic environment; and
- Ireland's dispersed population and the characteristics of the fixed telecom network in Ireland (regarding this latter point it stated ComReg had not given consideration to this).

ComReg's Position and Conclusion

3.462 ComReg notes BT's comments in relation to NGN. ComReg does not propose to extend asset lives beyond those set out due to the implementation of NGN. In particular, it does not intend to extend the life of duct beyond 40 years. Given that the rollout of NGN is only in its early stages in Ireland, ComReg considers that currently it would be too burdensome and complicated – and therefore disproportionate - to assess asset lives based on expiry dates rather than accounting book lives. If and when ComReg consults on proposed regulatory asset lives for NGN it will consider the views of respondents to this suggestion by which time it ought to be possible to say with a greater degree of certainty than at present whether and to what extent large-scale roll-out of NGNs are a meaningful feature in Ireland. In other words, it seems disproportionate, today, for ComReg

to make a material change in valuations based on firm conclusions in relation to NGN.

3.463 In relation to the Eircom's comments, ComReg would make the following observations:

- ComReg's conclusion is that the changes would not directly affect the cost of capital estimate for Eircom, given the adopted methodology for determining WACC, which is not linked to any particular assumption about asset lives. This is dealt with in more detail in "*ComReg's position and conclusion in relation to Question 1*".
- In the asset review, ComReg has considered the risk of technological obsolescence (at Question 1 above) and this is evident through ComReg proposing both increases and decreases to some asset lives as well as leaving others unchanged and acknowledges that certain (but not all) assets are more technologically "sensitive" than others;
- Given the current economic environment, ComReg is extremely aware of the difficulties many firms may be experiencing. This, however, is not a reason for asset lives to remain unchanged given the convincing evidence provided that would suggest some of these fixed asset lives require significant amendment. On the basis that the last full review of regulatory asset lives was in 1999 postponing this review could result in regulatory asset lives not being assessed for a significant period of time. It is also ComReg's intention not to revisit regulatory asset lives for some time to come (save for exceptional circumstances). Further discussion on the timing of the review is also set out in ComReg's position and conclusion to Question 1, at Question 61 and at the RIA.
- The issue in relation to Ireland's disperse population is one of utilisation and is therefore more suited to pricing models. In ComReg's view population dispersement does not materially affect regulatory asset lives and it would in any event be disproportionate for ComReg in the case of individual assets to engage in complex calculations and matrices based on population dispersement. This consultation is solely concerned with assessing and evaluating the appropriate regulatory asset lives and ComReg considers it is more proportionate to devise a single overall figure for Ireland than to atomise for different assets by different regions or other differentiators.
- More generally respondents are also requested to consider the RIA in Section 4 of this document. When conducting a RIA ComReg has to consider the industry as a whole and the proportionality of its decision vis-à-vis both Eircom and OAOs. ComReg considered it had two options available to it; one being to amend the regulatory asset lives (either up or down) and the other to leave them unchanged and therefore do nothing. ComReg has in fact done a mixture of different things, including in many cases leaving unchanged asset lives for assets that have not undergone significant technological or other change. ComReg considers that it has been proportionate in the use of its powers by implementing changes. In view of the inappropriateness of many asset lives at present, ComReg

considers that it would have been disproportionate not to amend the regulatory asset lives, in particular bearing in mind the overall need to ensure that Eircom complies with its cost orientation obligations.

Conclusion: ComReg is of the opinion that all necessary information has been taken into consideration when informing its decisions in relation to assessing the regulatory asset lives of a fixed line telecommunications operator and that irrelevant information has been excluded.

Consultation Question

Q. 56. Do you agree or disagree with ComReg's proposal that all amended regulatory asset lives be implemented with immediate effect from the date of ComReg's decision? Please explain in detail your response.

Views of respondents

- 3.464 There were four responses to this Question.
- 3.465 **Magnet** submitted its answer to this Question in confidence.
- 3.466 **Vodafone** and **BT** considered that the changes should be implemented with immediate effect.
- 3.467 Vodafone commented that if a glide path were implemented it should be for a period of no greater than one year.
- 3.468 **Eircom** considered that the consultation did not consider the regulatory impact of the proposed changes.
- In Eircom's view the proposals were inconsistent with the European Recommendation of 19th September 2005;
 - In its view the changes could send inappropriate signals to the market and create distortions and tensions in the market;
 - It added that changes needed to be assessed against the objective set out in The Communications Act 2002, in particular the objective of ensuring efficient investment in infrastructure and promoting innovation;
 - It states that ComReg is mistaken to believe that changes in EULs will necessarily result in a decrease of regulatory prices (in this regard GAAP was discussed) and instead depending on the options chosen differing results could arise; and
 - In Eircom's view the implementation of the proposals could lead to a step change in recovery profile of the asset. The step change would result in an inconsistency between pricing models and the separated accounts; and it considered that if a glide path was implemented a number of different outcomes could result depending on various options chosen. If the changes were to be implemented, a glide path should be used over a number of years as this would be the least disruptive.

ComReg's Position and Conclusion

- 3.469 In ComReg Document No. 09/11, ComReg was of the preliminary view that the immediate implementation of its proposed changes may be appropriate from the date of any decision.

- 3.470 Having considered the views of respondents and having very carefully looked at this matter again (including the impact of its Decision) ComReg considers that the immediate implementation, from the date of any decision of the changes remains appropriate. As outlined in the consultation document it has not decided to backdate any amendments to asset lives in relation to regulatory prices set where old EULs have been applied. Instead the proposal is to implement any changes to: *“all relevant Eircom Wholesale regulated price calculations concluded post publication, of any decision.”*
- 3.471 In relation to Eircom’s comments that ComReg has not considered the regulatory impact of its proposed changes, Section 4 of this Consultation and Decision document refers and does ComReg’s position and conclusion in relation to Question 61. However ComReg would note that as depreciation is normally an input into pricing models, it does not see the benefit of delaying the implementation of any changes through the use of a glide path. ComReg is of the view that the normal and appropriate place to assess the impact of amendments to costs (including depreciation) to any future price changes is through price setting models and not through the input cost data itself.
- 3.472 As outlined above, ComReg considers that many of Eircom’s regulatory asset lives are materially inappropriate, have been for some time (in most cases almost 10 years), and therefore require amendment. ComReg is also being consistent in implementing any asset life reductions or increases in the same timeframe. This will ensure that any regulatory pricing models going forward used to set regulatory prices will include the most up-to-date and appropriate regulatory asset lives. This ensures a lower risk of over or under recovery from any eventual prices set. It should be noted that to facilitate Eircom being cost oriented it should neither under recover costs (through asset lives being too long) nor over recover costs (through asset lives being too short). ComReg has considered this by lengthening, reducing and leaving unchanged various asset lives. There is no discrimination in implementation.
- 3.473 Furthermore ComReg considers Eircom’s reliance on the European Commission’s Recommendation of 19th September 2005 does not in fact lead to a different conclusion. In the first place, it is clear from the wording relied upon by Eircom that the suggestion by the Commission that a regulator might wish to spread adjustments over a “reasonable period of time” (recital 7 of the Recommendation) does not relate to asset lives, but to “current levels of regulated charges and/or price mechanisms”, i.e., regulated prices. ComReg is not proposing in this decision to amend any current regulatory prices. Second, the Recommendation actually provides a good deal of support for ComReg’s approach: recital 2 for example states that NRAs must *“satisfy themselves as to the adequacy and effectiveness of the cost accounting and accounting separation systems”* and that such systems *“may be subject to public consultation.”* Finally, the Recommendation makes clear the discretion vested in NRAs and their duty not to take booked accounts at face value: see recital 3 (*“It is recommended that national regulatory authorities take due regard to further adjustments to financial information in respect of efficiency factors, particularly when using cost data to inform pricing decisions since the use of cost accounting systems...may not fully reflect efficiently incurred or relevant costs. Efficiency factors may*

consist of evaluations of different network topology and architecture, of depreciation techniques, of technology used or planned for use in the network”).

- 3.474 In relation to Eircom’s comments that ComReg’s proposals will lead to inappropriate signals to the market or the creation of distortions and tensions ComReg is of the view that its proposals will lead to further certainty in inputs for future pricing models by ensuring a more accurate and up-to-date correlation with costs. This should therefore reduce inappropriate signals to the market and reduce distortions and tensions.
- 3.475 In relation to Eircom’s comments that the proposals need to be assessed against the objectives efficient investment in infrastructure as well as promoting innovation, ComReg’s believes that the current allowed rate of return to Eircom allows for the necessary investment requirements of the company. It is also a fact that key network charges of Eircom are set on the basis of forward looking long run incremental cost methodologies which allow for reinvestment in modern assets and are set with the intention of incentivising investment and innovation. However the detailed policy and economic arguments around each pricing decision made would be further detailed in the respective pricing papers, for example LLU, ComReg Document No. 08/56 and No. 09/39.
- 3.476 In response to Eircom’s comments that ComReg is mistaken that changes to asset lives would necessarily lead to decreases in regulatory prices ComReg would like to clarify that the RIA and ComReg’s conclusion and position at Question 61 has considered the relevant points. However, to summarise, where regulated depreciation charges are too high or too low through the inappropriate assessment of regulatory asset lives resulting regulated prices could be affected. For example, ComReg considers that many of the regulated asset lives applied to assets in the access network have been too short (i.e. ducts, poles, and cables). Therefore it could be considered, all other things being equal that Eircom has over recovered on its costs in prior years through regulated wholesale prices being overstated. Conversely where regulated asset lives could be considered to be too short (which ComReg considers to be primarily in the core network) Eircom could have under recovered on its costs in prior years through regulated prices which were understated. However the extent of any under/over recovery of costs and the potential impact on prices can only be properly assessed through a thorough price review.
- 3.477 In relation to Eircom’s comments that the proposals would necessarily result in a step changed recovery profile for Eircom’s assets. ComReg is of the view that it is easier, from an accounting point of view, to implement any changes to depreciation straight away rather than via a glide path. ComReg consider that its proposals will create further inconsistencies between pricing models and regulated accounts. Pricing models are often forward looking while regulated accounts commence with historical information. Best accounting practice provides for the periodic assessment and amendment to asset lives. ComReg is consistent in its ongoing treatment with the application and usage of each of these.

<p>Conclusion: ComReg is of the opinion that all amended regulatory asset lives be implemented with immediate effect from the date of a ComReg decision.</p>

Consultation Question

Q. 57. If you do not agree with the above preliminary view of ComReg, do you agree or disagree that any proposed changes to regulatory asset lives are implemented by a “glide path” rather than immediate implementation from the date of the direction? If such an approach were adopted do you believe one to two years is a reasonable period? Please explain in detail your response.

Views of respondents

- 3.478 There were three responses to this Question.
- 3.479 **Magnet** submitted its answer in confidence.
- 3.480 **BT** commented that the changes should be implemented immediately as glide paths were normally applied to prices where there was the possibility of a shock to the market.
- 3.481 **Eircom** disagreed with ComReg’s proposal. Please refer to Question 56 for Eircom’s detailed response in this regard.

ComReg’s Position and Conclusion

- 3.482 In ComReg Document No.09/11, ComReg while expressing its preliminary view that it considered the immediate implementation of the proposed changes was appropriate from the date of any decision did ask respondents for alternative views, if any.
- 3.483 As outlined in ComReg’s response to Question 56 ComReg having considered the views of respondents and looked at this issue again and based on its analysis and assessment, ComReg considers that the immediate implementation, from the date of any decision, of the changes remains appropriate. ComReg considers that pricing models can on occasion be the appropriate place to reflect the implementation of glide paths.

<p>Conclusion: ComReg is of the opinion that all amended regulatory asset lives be implemented with immediate effect from the date of a ComReg decision.</p>

Consultation Question

Q. 58. Do you agree or disagree with ComReg's preliminary conclusions that the impact of the introduction of NGN, from an Irish regulatory asset life context, is greatly reduced? Please explain in detail your response.

Views of respondents

- 3.484 There were three responses to this Question.
- 3.485 **Magnet** and **Vodafone** agreed with ComReg’s assessment.
- 3.486 **Eircom** disagreed with ComReg and also referred to its submission to Question 11. It said that while there was some uncertainty in assessing the impact of NGN on asset lives it disagreed with ComReg’s preliminary conclusion that the impact of the introduction of NGN from the Irish regulatory asset life context “*is greatly reduced*”. It considered the deployment of NGN will likely lead to a shortening of the economic useful lives of some assets and it would therefore be prudent not

to make material changes to asset lives as the level of uncertainty increases the longer the time horizon.

ComReg's Position and Conclusion

- 3.487 In ComReg Document No. 09/11, ComReg outlined its preliminary views in relation to the possible impact of the introduction of NGN from an Irish regulatory asset life context. ComReg considered at that time that as:
- NGN is only slowly being introduced;
 - Traditional assets are being overlaid and not replaced;
 - Existing services will continue to be offered over the existing asset base; and
 - That consideration will need to be given to future assets and what future services they might provide.
- 3.488 ComReg remains of the view that any potential impact from the introduction of NGN from an Irish regulatory asset life context is greatly reduced, particularly in relation to the access network. It was noted in ComReg's position statement that: "*eircom has indicated that it does not propose to remove either exchanges or copper and have described their plan as an "overlay" network*".
- 3.489 As part of this review, ComReg has considered the impact of technological change which has been reflected *in the extension, reduction and in some cases the status quo for the regulatory asset lives for particular fixed asset categories*. In relation to Eircom's comments that it is likely NGN will shorten asset lives and it would therefore be prudent not to make material changes ComReg considers that the implementation of NGN will most likely be seen initially in the core network and eventually in the access network (as outlined in "*ComReg's position and conclusion in relation to Question 1*"). ComReg however, considers that NGN will use elements of the existing physical access infrastructure (such as poles, ducts, and cables) which will extend their asset lives. In this regard ComReg considers that its changes reflect the possible impact of NGN on the access network. Consideration has also been given to its potential impact in the core network. In its review, ComReg has decreased or left unchanged a significant number of the core network assets (excluding physical assets such as ducts, poles and cables) in terms of both net book value and number of asset categories.
- 3.490 This, in ComReg's view, will result in many traditional assets continuing to be used as part of Eircom's future NGN deployment. ComReg also refers to its position and conclusion in relation to Question 11 earlier. In its conclusion to Question 11, ComReg does not intend to extend the regulatory asset lives beyond those currently set out.

<p>Conclusion: ComReg is of the opinion that impact of the introduction of NGN, from an Irish regulatory asset life context, is presently, greatly reduced and that only future reviews where the situation of NGNs is more mature and settled could reasonably reach a different conclusion.</p>
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Consultation Question

Q. 59. Do you agree or disagree with the proposal that NGN assets be accounted for separately and that the related accounting policies should be disclosed separately? Please explain in detail your response.

Views of respondents

- 3.491 There were four responses to this Question.
- 3.492 Magnet, **Vodafone** and **BT** agreed with ComReg's proposal.
- 3.493 **Eircom** stated that the premise of this Question is inherently flawed as it considers assets cannot be neatly categorised as either "NGN Assets" and "non-NGN Assets". It considered there was no reason to apply separate accounting policies for NGN assets.

ComReg's Position and Conclusion

- 3.494 In ComReg Document No.09/11 ComReg considered that Eircom's investment in NGN should be accounted for separately (but not disclosed publicly) and that the related accounting policies be disclosed separately to traditional assets. This, in ComReg's preliminary view, would allow for greater transparency.
- 3.495 ComReg remains of the view that as the level of investment in NGN grows, it would be appropriate to account for it under separate headings to traditional assets in Eircom's fixed asset register. ComReg does not consider, in the interests of confidentiality, that these assets be separately disclosed publicly.
- 3.496 It is likely that many NGA assets will have different technical characteristics to traditional fixed lines assets and it would be more appropriate for them to be accounted for separately in Eircom's fixed asset register. While certain assets may be used for both NGN and traditional services this will result in a cost allocation exercise between the two different categories. Cost allocation exercises are currently undertaken in the preparation of the regulated accounts. Therefore, to allocate depreciation of NGN assets based on cost allocation basis would not be a new concept for Eircom. In order to minimise cost allocation difficulties, ComReg recommends, where possible, the creation of new asset classes for NGN assets. Where separate asset categories are created for NGN assets it is recommended that their asset lives be determined using similar criteria to those of traditional assets. In any event it can be noted that ComReg is recommending but is not mandating that NGN assets be accounted for separately from traditional assets.
- 3.497 In the interests of confidentiality and proportionality ComReg currently does not consider it appropriate for Eircom to disclose the accounting policies of its NGN investment. Accounting for NGN will be considered as part of the forthcoming accounting separate consultation. However it should be noted that if and as required and as highlighted in relation to Eircom's fixed asset register ("*ComReg's position and conclusion in relation to Question 3*") ComReg can request information it deems necessary from Eircom under its existing statutory information gathering powers.

Conclusion: While not part of the direction ComReg would recommend that NGN assets should be accounted for separately, where possible, by Eircom from traditional assets.

Consultation Question

Q. 60. Do you believe that once the movement and extent of NGN becomes clearer that ComReg should review the regulatory asset lives of those assets separate to this consultation? Please explain in detail your response.

Views of respondents

3.498 There were four responses to this Question.

3.499 **Magnet, Vodafone and BT** agreed with ComReg's proposal.

3.500 **Eircom** disagreed with ComReg and said that any justification of a review of NGN assets would depend upon the scope of Eircom's SMP obligations. It also referred to its answers to Questions 61 and 62.

ComReg's Position and Conclusion

3.501 In ComReg Document No. 09/11, ComReg was of the preliminary view that as the level and extent of Eircom's NGN investment plans became clearer and as the trialling of equipment was replaced by increased levels of investment, it may be appropriate to conduct a review of NGN regulatory asset lives. As this equipment is currently only in trial phase and has yet to be rolled out on a commercial basis, ComReg was of the preliminary view that a full review or consultation at this time would not be warranted. However ComReg remains firmly of the view that insight into NGN investment will be necessary for the fulfilment of its regulatory responsibilities. Part of this assessment will be a review and consultation of the regulatory asset lives of NGN assets. Any review or consultation would take place only where Eircom is found to have SMP in specific markets.

3.502 As outlined in "*ComReg's position and conclusion in relation to Question 61*", this consultation commenced with an assessment of the suitability of Eircom's statutory asset lives which, following careful analysis, ComReg considered did not meet regulatory needs. While ComReg cannot prejudge the form of any future consultation on NGN assets it is likely that the suitability of the statutory asset lives applied to these assets will also be included in the initial assessment and as such whether they meet ComReg's regulatory requirements.

3.503 ComReg remains of the view that it is likely that a full public consultation on NGN asset lives would be appropriate once the actual or proposed level of investment warrants it and this is in line with the views of the majority of respondents.

Conclusion: ComReg is of the opinion that once the movement and extent of NGN becomes clear, it should review the regulatory asset lives of those assets separate to this consultation, where appropriate.

Q. 61. Respondents are requested to provide views on whether the proposed direction is proportionate and justified and also to offer views on other

factors (if any) ComReg should consider in completing its Regulatory Impact Assessment? Please explain in detail your response.

3.504 For Views of Respondents and ComReg's Position and Conclusion please refer to the beginning of Section 3.

Consultation Question

Q. 62. Respondents are request to provide their detailed views from a commercial, practical and legal perspective in relation to the Draft Decision Instrument.

Views of respondents

3.505 There were three responses to this Question.

3.506 **Magnet** and **BT** had no further comments to add.

3.507 **Eircom** combined its answer to this Question with that of Question 61 but did not query the legal basis for the proposed direction.

ComReg's Position and Conclusion

3.508 In ComReg Document No. 09/11, ComReg provided the legal basis for the consultation as well as the draft direction.

3.509 Having considered the views of all respondents, ComReg attaches its final Decision instrument in Section 6 (with the regulatory EULs appended at Appendix A).

<p>Conclusion: ComReg is of the opinion that its direction is appropriate, proportionate and justified.</p>
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4. Regulatory Impact Assessment

Introduction

- 4.1 The RIA is an analysis of the likely effect of proposed new regulation or regulatory change. The RIA should help identify regulatory options, and should establish whether proposed regulation is likely to have the desired impact. In this regard ComReg also asked interested parties for their views, in ComReg document 09/11, on whether the proposed direction was proportionate and justified and also to offer views on other factors (if any) ComReg should consider in completing its Regulatory Impact Assessment. Respondents were asked to explain in detail their response. The RIA provides a structured approach to the development of policy, and analyses the impact of regulation options on different stakeholders.
- 4.2 ComReg's approach to the RIA is set out in ComReg Documents No. 07/56 and 07/56a, published in August 2007 and is in accordance with the Ministerial Policy Direction on Regulatory Impact Assessment¹⁴. In conducting the RIA ComReg has also taken into account RIA Guidelines adopted under the Government's Better Regulation programme¹⁵. ComReg has taken into account the six principles of Better Regulation that is, necessity, effectiveness, proportionality, transparency, accountability and consistency.
- 4.3 As decisions may vary in terms of their impact, if after initial investigation a particular decision appears to have relatively low impact, then ComReg would generally expect to carry out a lighter RIA in respect of those decisions. ComReg would like to point out that as in this case it is not imposing a new regulatory obligation on an undertaking it is not considered mandatory for it to provide a RIA. However it has been decided to do so in order to demonstrate that it considered and evaluated the alternative options available, with due regard to necessity, effectiveness, proportionality, transparency, accountability and consistency. To ensure that a RIA is proportionate and does not become overly burdensome, a common sense approach has been taken towards RIA.
- 4.4 In determining the impacts of the various regulatory options, current best practice appears to recognise that full cost benefit analysis would only arise where it would be proportionate or in exceptional cases where robust, detailed and independently verifiable data is available. Such a comprehensive review will be taken when necessary but a full cost benefit analysis has not been undertaken here given that ComReg is not imposing a new regulatory obligation on an undertaking.
- 4.5 Following ComReg's consideration of the evidence, taking into account the expert advice of its advisors, considering benchmark data where relevant and appropriate, reviewing responses to consultation, and taking into

¹⁴ Policy Direction 6 of the Directions by the Minister for Communications Marine and Natural Resources to the Commission for Communications Regulation under s. 13 of the Communications Regulation Act 2002, published in February 2003.

¹⁵ See "RIA Guidelines: How to conduct a Regulatory Impact Analysis", October 2005, www.betterregulation.ie

account the detailed submissions and information from Eircom in relation to its fixed asset register, ComReg has set out below a summary of the possible impact on stakeholders prior to making the final decision. The RIA should be considered in conjunction with respect to Question 61 in particular.

4.6 In ComReg Document No. 09/11 ComReg undertook a preliminary RIA. It will be recalled that it considered the objectives of undertaking the RIA to be:

- To consider if a review is appropriate at this time;
- To review the appropriateness of existing regulatory asset lives;
- Make recommendations for any necessary changes;
- Consider the impact of International Financial Reporting Standards (“IFRS”) and NGN.

4.7 The policy issues which ComReg initially considered were to:

- Detail its review of the regulatory asset lives of Eircom; and
- Make recommendations, if any, on the most appropriate regulated asset lives.

4.8 In doing so ComReg was of the initial view that it had two options.

4.9 Option 1 would have allowed Eircom to determine its regulatory asset lives. This option, therefore, could have maintained the status quo. Given that regulatory asset lives impacted upon a wide range of services (both wholesale and retail), ComReg was of the initial opinion that this would not be the optimal approach. In particular, in circumstances where Eircom is subject to certain cost control and price control measures, ComReg considers that it would be inappropriate to allow Eircom to unilaterally determine the applicable asset lives for regulatory purposes. This would lack transparency and could lead to an over or under recovery of costs contrary to the cost orientation principle and Eircom’s general price control obligations. ComReg remains of this view.

4.10 Option 2 would allow ComReg to determine the appropriate regulatory asset lives of Eircom. In ComReg’s preliminary view Option 2 was considered more appropriate as ComReg would determine the regulatory asset lives following consultation with industry and consideration of the opinion of independent experts. This would allow for transparency as well as ensuring that any regulatory pricing decision going forward reflects the appropriate cost recovery from assets deployed in line with any price control obligations set. ComReg remains of this view.

Option 1 – Eircom determines its regulatory asset lives (i.e. maintain status quo).

Impact on Eircom in adopting Option 1

4.11 ComReg’s preliminary view considered that there would be minimal impact upon Eircom if Eircom determined its regulatory asset lives. However, ComReg was of the view that Eircom may not for example be meeting its cost orientation obligations in full where inaccurate depreciation

charges leads to over/under recovery of costs when applied to regulated prices. Currently many of Eircom's existing regulatory asset lives are broadly in line with its statutory asset lives (and it is likely that this will remain the case if Eircom determines its regulatory asset lives). This is particularly the case for major asset categories within the access network (i.e. poles, ducts, and cables). However, ComReg is of the view that it cannot solely rely on the fact that the statutory assets lives are appropriate for regulatory purposes as regulatory accounts and statutory financial statements can serve different purposes. As mentioned in ComReg's position and conclusion to Question 61 above, the regulatory accounts are primarily used for regulatory pricing purposes. Accurate and appropriate regulatory prices are fundamental to proper regulation. As mentioned in the detail of Question 61, the statutory financial statements report the historical results of the company to shareholders and may not be appropriate for use when making key regulatory pricing decisions.

- 4.12 In this consultation ComReg continues to recommend a number of changes with the most material being those for assets within the access network (i.e. poles, ducts, and cables). For these access assets ComReg recommends the lengthening of asset lives with some of the lives being doubled. For many other assets across Eircom's fixed line network ComReg recommends both the lengthening and also the reduction in regulatory asset lives. ComReg is of the view that the lives it proposes more accurately reflect the useful economic lives of those assets. Therefore the resulting depreciation charge more adequately reflects the cost of using these assets in compliance with Eircom's price control and cost accounting obligations.
- 4.13 As is evident from the changes being made now, the short life applied to certain assets could also have given rise to an over recovery from regulated prices in prior years.
- 4.14 ComReg does not consider that its proposals would result in the use, reliability or comparability of either the regulated accounts or statutory financial statements being reduced. Currently within the regulated accounts there are reconciliation statements between the statutory financial statements and the regulatory accounts. These statements have been present in the regulated accounts since 2001. Included in these reconciliation statements are, amongst other things, amounts for differences in asset lives. Therefore should the regulatory asset lives differ from its statutory asset lives the differences would be recorded in the reconciliation statements, a continuation of the current practice.
- 4.15 Should Eircom be allowed to determine its own regulatory asset lives and where Eircom remains of the view that they should be maintained at current levels, ComReg is of the view that this would not be sustainable from a regulatory point of view as some assets are materially out of line with what ComReg believes to be more accurate and representative lives of assets in place. There would be a lack of transparency in the review process. Some larger OAO's have significant experience in other jurisdictions and can bring valuable input to a consultation process on such a subject that is common among operators in many respects.

- 4.16 ComReg also believes that if the current regulatory asset lives be maintained, there is a significant risk that Eircom could over or under recover on its costs. This creates risks in both directions for Eircom itself (under recovery) and for competition in the market (over recovery). When reviewing recovery of costs depreciation can form a material input that must like all inputs be fully assessed and have a robust basis. ComReg believes that following the detailed review that has been carried out this will now be in place and ComReg will have confidence that any subsequent pricing decisions that include the outputs of this decision will be fair and reasonable.

Impact upon OAO's and consumers of adopting Option 1

- 4.17 If the proposed changes to regulatory asset lives were not implemented at this time, certain regulated prices could increase or decrease in the future following price reviews, all other things being equal and remaining unchanged when applied to existing regulatory models used for setting prices. The most material changes would be to certain regulated prices within the access network where leaving regulated asset lives unchanged could result in an over recovery through high access prices. Where regulated prices are set that incorporate inaccurate asset lives, there is a significant risk that this could distort investment incentives to OAOs. This could result in OAOs and by extension consumers being required to pay more for certain access services. However, as asset lives and depreciation form only one of a number of inputs and assumptions used in pricing decisions and therefore cannot be considered in isolation from other necessary inputs and assumptions.
- 4.18 For the above reasons ComReg does not consider it appropriate to proceed with Option 1, i.e., it would be inappropriate not proceed with the review.

Option 2 –ComReg determines the regulatory asset lives.

Impact Eircom in adopting Option 2

- 4.19 ComReg considers that the impact upon Eircom of choosing option 2 (which would allow ComReg to determine the appropriate regulatory asset lives of Eircom) will result in some charges for depreciation; reducing for some assets; increasing for others (and no change for some). However the magnitude of these changes is dependent on the net book value remaining on current assets and on the investments made in future years. ComReg believes that the more accurate reflection of the depreciation profile for each asset in the register will ensure that depreciation is not accelerated so much so that assets with a net book value of zero remain in use for several years and also where assets become obsolete the full depreciation charge has been made in the appropriate time frame.
- 4.20 While the differences between the depreciation charge calculated under a regulatory and statutory basis might widen based on ComReg's proposals this will not have any significant impact upon comparison of the regulatory accounts and the statutory accounts as they should be fully reconciled. As mentioned above there is already provision within the regulated accounts

for recording differences in asset lives. This is done on an overall basis as opposed to an asset category basis. While the differences in asset lives might fluctuate as they have done in previous years the reconciliation statements will continue to reflect these differences.

- 4.21 By amending the regulatory asset lives ComReg considers that it is adhering to best accounting practice which allows for the periodic reassessment of asset lives and where necessary their amendment.
- 4.22 Eircom could in taking this decision in isolation see a reduction to access prices in particular, however ComReg considers any such changes to access prices would be considered in more detail as part of the relevant price reviews. ComReg believes it has taken a practical and proportionate approach to this review. Changes were made where it was evident from detailed analysis from Eircom's fixed asset register that it is highly likely that a significant number of assets with a net book value of nil are still in use and where the market and expert evidence International and European benchmark studies show that some basic assets such as trenching were materially out of line with best practice. It was also clear that technology, in particular in the core network, has progressed significantly over the past ten years and these assets required review. This has resulted in some asset lives being reduced, which is in accordance with the accounting principal of prudence. ComReg is not recommending the maximum life that these assets might last but aims to strike a balance between their maximum theoretical use and expert evidence of likely/actual uses (e.g. poles). Included in ComReg's assessment is, where relevant, the likely impact of technological change or the substitution and replacement of fixed line assets by other forms of technology such as wireless and mobile.
- 4.23 ComReg has considered in detail the possible implications that changing the economic useful lives of assets could have on the WACC¹⁶ as set out in 2008¹⁷ or the level of Eircom's risk exposure. As part of this review ComReg concluded that the changes set out would not directly affect the cost of capital estimate for Eircom, given the adopted methodology for determining WACC, which is not linked to any particular assumption about asset lives.
- 4.24 It also considered that it was necessary to review all asset categories, as fully or almost fully written off assets could be reinstated in pricing models at their modern equivalent value. Assets which may appear immaterial in the fixed asset register could be material for pricing purposes.

Impact upon OAO's and consumers in adopting Option 2

- 4.25 It is clear when assessing the impact of the changes being decided upon that the regulated depreciation charge may fall overall in the regulated accounts as the changes being made will relate to some of the more material balances

¹⁶ ComReg in Decision D01/08, "Eircom's Cost of Capital" set the allowable WACC to Eircom on the 24 May 2008 at 10.21%. It is the intention of ComReg to commence a further review of the WACC in 2010 to ensure 10.21% remains appropriate to Eircom Limited for the next control period.

¹⁷ ComReg Document No. 08/35 – "Response to Consultation and Decision Notice (D01/08) - Eircom's Cost of Capital".

on the fixed asset register. This will not have a direct impact upon regulated prices as no prices are being amended on foot of this direction. If however, the changes being put forward by ComReg are considered in isolation it is clear that some regulated prices in the future would reduce (in relation to the access network in particular), and this could be beneficial for OAOs and ultimately consumers. However regulatory prices are subject to independent reviews which consider many inputs prior to amendment and a change to depreciation does not in many cases automatically mean a reduction in regulatory prices. The full impact of changing regulatory asset lives on future pricing decisions is not yet known and would be subject to separate RIA's if and when pricing reviews take place. In the reverse, if these changes were not being made it could be argued that there could be an over recovery from regulatory prices however the same facts apply, pricing decisions consider a number of factors and depreciation is only one. The actual impact of this decision on future pricing is hard to quantify at this stage, however any possible over recovery through regulated prices in the past or in the future could result in distortions in the market through negative incentives to invest. This clearly would not be in the interests of end users or OAOs.

- 4.26 Following this complete and comprehensive review, the regulated accounts will now reflect the most up to date asset lives, which will be in line with best practice applied by other NRA's. They also reflect conditions unique to Ireland.
- 4.27 For the above reasons, ComReg considers it appropriate to proceed with Option 2 and the review it has undertaken.
- 4.28 As previously highlighted this RIA should be read in conjunction with the overall response to consultation sections 1, 2, and 3 as well as the legal basis and direction in Section 5 and Appendices A and B and in view of ComReg's responses to respondent's particular submissions on Q61.
- 4.29 In determining the impact upon Eircom, OAO's, and consumers in relation to the regulatory options above ComReg further considered the possible impact as per the following two tables:

Option 1 – Incumbent determines asset lives for regulatory purposes		
Impact on incumbent	Impact on OAOs	Impact on consumers
(i) Minimal impact where Eircom maintains the current lives as many of the significant regulatory asset lives are in line with the statutory asset lives.	(i) Depreciation in the regulatory accounts may not reflect the asset lives of those assets and may be over or under stated.	(i) Regulatory objectives of ensuring effective competition and consumer welfare could be impeded where costs are not recovered in the appropriate way (i.e. over a shorter or longer period than is appropriate).
(ii) Incumbent may not comply with cost orientation principle as there may be an	(ii) Lack of transparency for determining asset lives many of which may differ	(ii) Lack of diversification of offerings by OAOs to retail customers where wholesale

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over or under recovery of depreciation in its income statements.	from those adopted by OAO's and other jurisdictions.	pricing is over or under inflated.
(iii) Asset lives applied in the statutory financial statements may differ to those in the regulated accounts. However, both sets of financial statements serve different purposes.	(iii) A possible over/under recovery of costs by the incumbent may lead to inappropriate or inefficient investment by the OAO.	(iii)Lack of incentive for consumers to purchase new services where regulated prices are set off the back of inaccurate inputs such as depreciation
(iv) No additional impact upon regulated accounts as they currently contain reconciliation statements to account for, amongst other things, differences in asset lives	(iv) Uncertainty in depreciation input for modelling purposes as inconsistency between available information and existing asset lives.	
	(v) Inappropriate asset life decision by a regulator could lead to inefficient investment or a lack of investment and innovation. A correct balance needs to be put in place.	

Option 2 – ComReg determines asset lives for regulatory purposes		
Impact on incumbent	Impact on OAOs	Impact on consumers
(i)There may be two distinctive set of asset lives applying to the statutory financial statements and the regulatory accounts.	(i)Certainty of depreciation input into price setting models. Allows OAOs to assess and comment upon specific asset lives. Offers transparency.	(i)Appropriate regulation may lead to increased level of offerings and diversification for consumers.
(ii)Level of reconciliation between statutory financial statements and regulated accounts may increase. However, both sets of accounts serve different purposes.	(ii) Assurance that future regulatory prices contain accurate EULs.	(ii)May lead to the possibility of increased purchasing activity by consumers of differing and additional services in the event that any changes to depreciation charges has a positive impact on prices.
(iii)As ComReg is not directing Eircom to account for NGN assets separately there is no additional burden to Eircom.	(iii)Likely overall reduction in annual depreciation charge. Depending on assumptions made, and all other things being equal, certain wholesale charges might reduce or increase. However all pricing proposals are subject to detailed consultation and review and depreciation may or may not form a material	(iii)There may be an overall increase to consumer benefits through both increased competition at the retail level, OAO diversification, and increased OAO offerings where the regulatory environment is stable and consistent with other jurisdictions when appropriate.

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	input to such decisions.	
(iv)No direct impact to Eircom's WACC from the changes to regulatory asset lives.	(iv)Incentive for OAO's to increase level of efficient investment where there is certainty that incumbent's assets are accounted for correctly, leads to more regulatory assurance.	(iv)Consumers may be provided with some future certainty as their retail costs should remain competitive.
(v)The changes to regulatory asset lives do not pose a risk to NGN investment.	(v)Regulatory policy takes account of most up to date information.	(v)Consumers would have to wait until OAOs consider their retail prices for any possible impact of changes to depreciation.
(vi)There will be a once off amendment to Eircom's fixed asset register for change in asset lives, which is in line with best accounting practice.	(vi)OAOs would have to wait until regulated wholesale price reviews are implemented before the possible impact of changes to asset lives could be assessed. Depreciation would be one of a number of input factors to be assessed.	(vi)New consumers may enter the market acquiring new and diversified services.
(vii)Request for fixed asset register data, if and as when required, under statutory powers does not represent a new procedure and therefore disruption is minimal.		
(viii)Continuing use of Eircom's fixed asset register codes.		
(ix)Creation of new asset codes for certain asset classes. However, the creation of new codes is a normal administrative routine and ComReg does not believe this will cause a disproportionate regulatory burden and it is only in very few cases.		
(x)Full and comprehensive review reduces level of future regulatory intervention.		
(xi) ComReg's proposals may have an impact upon future price reviews when the price reviews are implemented, however depreciation is just one input and when all pricing models are reviewed the net effect of all changes may or may not lead to reductions or increases in prices proposed.		
(xii) A benefit may accrue to		

Eircom in that wholesale prices may reduce allowing it the ability to compete at a retail level with a lower risk of margin squeeze issues.		
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4.30 For the reasons set out above ComReg considers that it is appropriate for it to determine the regulatory asset lives of Eircom.

4.31 ComReg considers that it has taken account of the six principles of “Better Regulation” as follows:

- ComReg has detailed in its position and conclusion in relation to Question 1 why it was necessary to undertake this review;
- ComReg considers that with the correct implementation of these changes its review will be effective. The changes will facilitate Eircom’s ongoing compliance with its price control and cost accounting obligations and provide certainty of inputs for future pricing models. The changes have also been reflected in recent pricing consultations published by ComReg. The implementation of the changes will also result in improved regulation by reflecting current best practice. It will also assist new entrants into both telecoms and the broadband market as certain inputs in pricing models will accurately reflect the most up to date available information. ;
- ComReg considers that it has been *proportionate* in its review. It has not imposed any new obligations upon Eircom. While there will be a once off adjustment to the depreciation charge in Eircom’s regulated accounts ComReg considers that the overall benefits will outweigh this adjustment. (Section 3, Question 61). ComReg is also of the view that its approach will lead to reduced one off interventions in connection with regulatory asset lives.;
- ComReg considers its approach offers complete *transparency* in the determination of regulatory asset lives. ComReg has detailed its work in ComReg Document No. 09/11 supported by the report of its expert advisors in ComReg Document No. 09/11a;
- ComReg considers that it has been *accountable* in its review and that it has provided all of the detail and information necessary to make its decision. In this regard ComReg has informed the European Commission of its proposed changes. It has also taken on board the views of all respondents to the consultation and as such has summarised their responses in this document.
- ComReg considers that it has been *consistent* in its review and that its findings reflect those of other NRA’s, the majority of respondents to the consultation, the expert opinion of its advisors as well as other available data. While there may be an increase in the inconsistencies between the regulated accounts and the statutory financial statements ComReg has detailed the basis for its

regulated asset lives. Therefore any inconsistencies would need to be explained by Eircom in the context of its statutory financial statements.

5. Legal Basis

The legal basis allowing for the review of the regulatory asset lives of Eircom is set out as follows:

Regulation 14 of the Access Regulations includes obligations relating to cost recovery and price controls and the obligation for cost oriented prices. It also provides for obligations concerning cost accounting systems.

- “14. (1) *The Regulator may in accordance with Regulation 9 impose on an operator obligations relating to cost recovery and price controls, including obligations for cost orientation of prices and obligations concerning cost accounting systems, for the provision of specific types of interconnection, access or both such interconnection and access in situations where a market analysis indicates that a lack of effective competition means that the operator concerned might sustain prices at an excessively high level, or apply a price squeeze to the detriment of end-users.*
- (2) *When considering the imposition of obligations under paragraph (1), the Regulator shall, take into account any investment made by the operator in electronic communications networks or services or associated facilities which the Regulator considers relevant and allow the operator a reasonable rate of return on adequate capital employed, taking into account the risks involved.*
- (3) *The Regulator shall ensure that any cost recovery mechanism or pricing methodology that it imposes under this Regulation serves to promote efficiency and sustainable competition and maximise consumer benefits. In this regard, the Regulator may also take account of prices available in comparable competitive markets.*
- (4) *Where an operator has an obligation under this Regulation regarding the cost orientation of its prices, the burden of proof that charges are derived from costs, including a reasonable rate of return on investment shall lie with the operator concerned. For the purpose of calculating the cost of efficient provision of services, the Regulator may use cost accounting methods independent of those used by the operator. The Regulator may issue directions requiring an operator to provide full justification for its prices, and may, where appropriate require prices to be adjusted.*
- (5) *The Regulator shall ensure that, where implementation of a cost accounting system is imposed under this Regulation in order to support price controls, a description of the cost accounting system is made publicly available, showing at least the main categories under which costs are grouped and the rules used for the allocation of costs. Compliance with the cost accounting system shall, at the choice of the Regulator, be verified by the Regulator or by a suitably qualified independent body.*
- (6) *The Regulator shall cause to be published annually a statement concerning compliance with any cost accounting system imposed under this Regulation.”*

Under Regulation 17 of the Access Regulations ComReg may issue directions to Eircom to do or refrain from doing anything which ComReg specifies in the direction. ComReg will use this legal basis for the purposes of further specifying requirements to be complied with by Eircom in relation to its obligations under Regulation 14 of the Access Regulations which pertain to cost accounting and in particular to asset lives for the purposes of the preparation of regulatory accounts.

Eircom has been designated with significant market power (SMP) on various markets and has had various SMP obligations, including the obligation of cost accounting imposed in the following SMP decisions and related pricing decisions which will be affected by the variation in asset lives which lives are relevant for the purposes of the preparation of regulatory accounts and the calculation of costs:

- *Wholesale unbundled access (including shared access) to metallic loops and sub-loops; Decision D8/04, ComReg Document Number 04/70;*
- *Wholesale Terminating Segments of Leased Lines; Decision D06/08 ComReg Document Number 08/103;*
- *Wholesale Fixed Wholesale Call Termination, Decision D06/07, ComReg Document Number 07/109;*
- *Wholesale Call Origination & Transit Services, Decision D 04/07, ComReg Document Number 07/80;*
- *Retail minus wholesale price control for the WBA market Decision D01/06, ComReg Document Number 06/01;*
- *Wholesale Broadband Access Decision D03/05, ComReg Document Number 05/11r;*
- *Retail Price Cap Remedy Fixed Narrowband Access Markets. Decision D 03/07, ComReg Document Number 07/76; and*
- *Market Analysis: Retail Fixed Narrowband Access Markets, Decision D07/61, ComReg Document Number 07/61.*

The following decisions should also be noted including:

- *D5/99 – Accounting Separation and Publication of Financial Information for Telecommunication Operators D5/99, ODTR Document Number 99/35;.*
- *D8/99 – Costing Methodology for use in Accounting Separation, Decision D8/99, ODTR Document Number 99/43;*
- *D10/99 – Accounting Separation and Publication of Financial Information for Telecommunications Operators, Decision D10/99, ODTR Document Number 99/52;*
- *D9/00 – Accounting Separation and Publication of Financial Information for Telecommunications Operators, Decision D9/00, ODTR Document Number 00/59;*
- *D10/00 – Accounting Separation and Publication of Financial Information for Telecommunications Operators, Supplemental Information referring to Decision Notice D9/00, Decision D10/00, ODTR Document Number 00/72;*

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- *D2/01- Accounting Separation for Internet Service provision and Report on Investigation into Indigo and eircom.net, Decision D2/01, ODTR Document Number 01/10;*
- Letter containing Direction issued to Eircom by the ODTR dated 17 April 2001 entitled “*RIO Submission*”;
- *D7/01- Eircom’s Reference Interconnection Offer & Accounting Separation and Publication of Financial Information for Telecommunications Operators, Decision D 7/01, ODTR Document Number 01/24;*
- *D12/01- Revision of Timetable for Publication of Separated Accounts and Financial Information by Eircom, Decision D12/01, ODTR Document Number 01/61;*
- Letter containing Direction issued to Eircom by the ODTR dated 17 April 2001 entitled “*RIO Submission*”;
- Response to Consultation 04/69 and Decision Notice- Finalisation of the 2002/03 Interim Interconnect Conveyance Rates, –D14/04; and
- Decision D14/04, ComReg Document Number 04/101.

6. Decision Instrument

1. Statutory and legal powers

1.1 This Direction is made by the Commission for Communications Regulation:

- i. Pursuant to Regulations 9, 14 and 17 of the European Communities (Electronic Communications Networks and Services) (Access) Regulations 2003¹⁸;
- ii. Having regard to the Significant Market Power (“SMP”) designation on Eircom which found Eircom to have SMP under the provisions of Regulations 25, 26 and 27 of the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2003¹⁹ from time to time and the cost accounting and price control obligation imposed on Eircom further to Regulation 14 of the European Communities (Electronic Communications Networks and Services) (Access) Regulations 2003 including, for example, as contained in:
 - a. *Wholesale unbundled access (including shared access) to metallic loops and sub-loops; Decision D8/04, ComReg Document Number 04/70;*
 - b. *Wholesale Terminating Segments of Leased Lines; Decision D06/08 ComReg Document Number 08/103;*
 - c. *Wholesale Fixed Wholesale Call Termination, Decision D06/07, ComReg Document Number 07/109;*
 - d. *Wholesale Call Origination and Transit Services, Decision D 04/07, ComReg Document Number 07/80;*
 - e. *Retail minus wholesale price control for the WBA market Decision D01/06, ComReg Document Number 06/01;*
 - f. *Wholesale Broadband Access Decision D03/05, ComReg Document Number 05/11r;*
 - g. *Retail Price Cap Remedy Fixed Narrowband Access Markets. Decision D 03/07, ComReg Document Number 07/76; and*
 - h. *Market Analysis: Retail Fixed Narrowband Access Markets, Decision D07/61, ComReg Document Number 07/61.*

¹⁸ European Communities (Electronic Communications Networks and Services) (Access) Regulations 2003 (S.I. No. 305 of 2003), amended by the European Communities (Electronic Communications Networks and Services) (Access) (Amendment) Regulations 2007 (S.I. No. 373 of 2007).

¹⁹ S.I. No. 307 of 2003 the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2003 European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2003 (S.I. No. 307 of 2003), amended by the European Communities (Electronic Communications Networks and Services) (Framework) (Amendment) Regulations 2007 (S.I. No. 271 of 2007).

- iii. Having, where appropriate, complied with Policy Directions made by the Minister²⁰;
- iv. Having taken account of the submissions received in relation to Document No. 09/11²¹
- v. Having had regard to the analysis and reasoning set out in ComReg Document No. 09/11 which shall, where necessary, be construed together with this Direction;
- vi. Having had regard to the provisions of and the individual decisions in the Response to Consultation and Decision in ComReg Document No. 09/65 (Decision No. D03/09), which shall, where necessary, be construed together with this Direction;
- vii. Having notified the draft measure to the European Commission, further to Regulation 20 of the Framework Regulations, whereby it was also made accessible to national regulatory authorities in other EU Member States, and the European Commission having informed the Commission for Communications Regulation that it had examined the draft measure and that it had no comments in relation thereto and that pursuant Article 7 of the Framework Directive²², ComReg could adopt the resulting draft measure; and
- viii. Having regard to its functions and objectives under sections 10 and 12 respectively of the Communications Regulation Act, 2002²³.

2. Definitions and Interpretation

2.1 In this direction:

“**Access Regulations**” means the European Communities (Electronic Communications and Network Services) (Access) Regulations, 2003 (S.I. No. 305 of 2003) as amended by the European Communities (Electronic Communications Networks and Services) (Access) (Amendment) Regulations 2007 (S.I. No. 373 of 2007);

“**ComReg**” means the Commission for Communications Regulation, established under section 6 of the Communications Regulation Act, 2002 as amended by the Communications Regulation (Amendment) Act 2007;

²⁰ Policy Directions made by the Minister for Communications, Marine and Natural Resources on 21 February, 2003 and 26 March, 2004..

²¹ Consultation and Draft Decision – *Review of the Regulatory Asset Lives of Eircom Limited* Document No. 09/11, dated 17 February 2009.

²² Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services (Framework Directive) (2002/21/EC, OJ L 108, 24.4.2002, p.33).

²³ Communications Regulation Act, 2002 as amended by the Communications Regulation (Amendment) Act 2007.

“Framework Regulations” means the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2003, S.I. No. 307 of 2003) as amended by the European Communities (Electronic Communications Networks and Services) (Framework) (Amendment) Regulations 2007 (S.I. No. 271 of 2007);

“ODTR” means the Office of the Director of Telecommunications Regulation, which was dissolved under Section 8 of the Communications Regulation Act, 2002;

“SMP Decisions” mean ComReg Decisions from time to time which found or find Eircom to have SMP under the provisions of Regulations 25, 26 and 27 of the Framework Regulations and imposed from time to time an obligation in relation to price control and cost accounting pursuant to Regulation 14 of the Access Regulations and include, for example:

- a. *Wholesale unbundled access (including shared access) to metallic loops and sub-loops; Decision D8/04, ComReg Document Number 04/70;*
- b. *Wholesale Terminating Segments of Leased Lines; Decision D06/08 ComReg Document Number 08/103;*
- c. *Wholesale Fixed Wholesale Call Termination, Decision D06/07, ComReg Document Number 07/109;*
- d. *Wholesale Call Origination and Transit Services, Decision D 04/07, ComReg Document Number 07/80;*
- e. *Retail minus wholesale price control for the WBA market Decision D01/06, ComReg Document Number 06/01;*
- f. *Wholesale Broadband Access Decision D03/05, ComReg Document Number 03/05 05/11r;*
- g. *Retail Price Cap Remedy Fixed Narrowband Access Markets. Decision D 03/07, ComReg Document Number 07/76; and*
- h. *Market Analysis: Retail Fixed Narrowband Access Markets, Decision D07/61, ComReg Document Number 07/61.*

- 2.2 The provisions of ComReg Decision No. D03/09 and the individual decisions in the Response to Consultation and Decision in ComReg Document No. 09/65 (Decision No. D03/09) shall where necessary be construed as forming part of this Direction.

3. Scope and application

- 3.1 This Direction applies to Eircom Limited and its subsidiaries, and any undertaking which it owns or controls and any undertaking which owns or controls Eircom Limited, and its successors and assigns (“Eircom”).
- 3.2 This Direction is binding upon Eircom and Eircom shall comply with it in all respects.
- 3.3 If any section, clause or provision or portion thereof contained in this Direction is found to be invalid or prohibited by the Constitution, by any other law or judged by a court to be unlawful, void or unenforceable, that

section, clause or provision or portion thereof shall, to the extent required, be severed from this Direction and rendered ineffective as far as possible without modifying the remaining section(s), clause(s) or provision(s) or portion thereof of this Direction, and shall not in any way affect the validity or enforcement of this Direction.

4. Price Control and Cost Accounting

- 4.1 The SMP Decisions imposed *inter alia ex ante* regulatory obligations pursuant to Regulation 14 of the Access Regulations. The obligations imposed from time to time on Eircom under Regulation 14 of the Access Regulations include obligations relating to price control, cost orientation of prices and cost accounting.
- 4.2 Under Regulation 17 of the Access Regulations, ComReg may issue directions to Eircom to do or refrain from doing anything which ComReg specifies in the direction, for the purpose of further specifying requirements to be complied with by Eircom relating to its obligations under the Access Regulations.
- 4.3 This Direction is issued pursuant to Regulation 17 of the Access Regulations, for the purpose of further specifying requirements to be complied with by Eircom relating to obligations imposed on Eircom, under Regulation 14 of the Access Regulations.
- 4.4 Eircom is hereby directed to apply the Economic Useful Lives (“EULs”) per Appendix A to this Direction for the purposes of the preparation of Eircom’s regulatory financial statements and for the purposes of its obligations under Regulation 14 of the Access Regulations.
- 4.5 Any previous decision or direction relating to the EULs of Eircom’s assets either adopted by ComReg or the ODTR, including but not limited to:
-Response to Consultation 04/69 and Decision Notice- Finalisation of the 2002/03 Interim Interconnect Conveyance Rates, Decision D14/04, ComReg Document Number 04/101 are hereby superseded in respect of the EULs as set out in Appendix A of the Decision Instrument, and Section 4.4 of this Direction applies.
- 4.6 Section 4.4 shall apply 28 days after the effective date.
- 4.7 For the avoidance of doubt, this Direction applies in all circumstances where ComReg finds, from time to time, Eircom to have SMP under the provisions of Regulations 25, 26 and 27 of the Framework Regulations (or such equivalent provision) and imposes, from time to time, an obligation in relation to price control and cost accounting pursuant to Regulation 14 of the Access Regulations.

5. STATUTORY POWERS NOT AFFECTED

- 5.1 Nothing in this Direction shall operate to limit ComReg in the exercise and performance of its statutory powers or duties under any primary or secondary legislation (in force prior to or after the effective date of this Direction) from time to time as the occasion requires.

6. EFFECTIVE DATE

- 6.1 This Direction shall be effective from the date of its publication and shall remain in force until further notice by ComReg.

**MIKE BYRNE
COMMISSIONER
THE COMMISSION FOR COMMUNICATIONS REGULATION
THE 11 DAY OF AUGUST 2009**

Appendix A of Decision Instrument - Regulated EULs to be applied by Eircom

	Asset Class	EUL to be applied to each class
1	Customer Sited Equipment	
1.1	Customer Sited Digital Subscriber Line (“DSL”) Equipment	4 years
1.2	Customer Sited Data, Ethernet & Internet Protocol (“IP”) Terminating Equipment	8 years
1.3	Customer Sited Transmission Terminating Equipment	8 years
1.4	Customer Sited Application Capability Equipment	8 years
2	Access Network – Physical	
2.1	Poles	30 years
2.2	Towers	35 years
2.3	Duct, roadway & footway boxes	40 years
2.4	Overhead cables & fibre	15 years
2.5 (a)	Underground cables & fibre	20 years
2.5 (b)	Underground cables & fibre – maintenance equipment	20 years
3	Access Network – Equipment	
3.1	Active equipment incl. Digital Subscriber Line Access Multiplexers (“DSLAMs”), Multi Service Access Network (“MSANs”), COs or other conditioned areas.	8 years
3.2	Switching: Line terminals	8 years
3.3 (a)	Active street cabinets & similar external equipment – pair gains systems	20 years
3.3 (b)	Active street cabinets & similar external equipment – radio access	10 years
3.3 (c)	Active street cabinets & similar external equipment - antennae	8 years
4	Core Network – Physical	
4.1	Poles	30 years
4.2	Towers	35 years
4.3	Duct, roadway & footway boxes	40 years
4.4	Overhead cables & fibre	15 years
4.5	Underground cables & fibre	20 years
5	Core Network Transmission Equipment	
5.1	Transmission equipment	11 years
5.2	International Satellite Equipment	9 years
5.3 (a)	Submarine cable equipment – transmission equipment	9 years
5.3 (b)	Submarine cable equipment	15 years

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	Asset Class	EUL to be applied to each class
6	Data, Ethernet & IP Equipment	
6.1	IP & Internet Router hardware	6 years
6.2	Ethernet Transport & Switch Equipment	6 years
6.3	Asynchronous Transfer Mode (“ATM”), Frame Relay equipment	6 years
6.4 (a)	Other data equipment – “MARTIS”	9 years
6.4 (b)	Other data equipment	6 years
7	Core Network Capability Equipment	
7.1	Class 4 / 5 switch hardware (excl. line terminals)	10 years
7.2	Class 4 / 5 switch software	5 years
7.3	Custom hardware & applications	6 years
7.4	Server hardware	5 years
7.5	Applications & Operating System	5 years
8	Network Management Equipment & Network Operations	
8.1 (a)	Network management systems – network management	4 years
8.1 (b)	Network management systems – data and traffic management	5 years
8.1 (c)	Network management systems – OPS support systems	9 years
8.2 (a)	Fixed & Exchange Based Test Equipment – specific test equipment	5 years
8.2 (b)	Fixed & Exchange Based Test Equipment – miscellaneous test equipment	11 years
8.2 (c)	Fixed & Exchange Based Test Equipment – line testing equipment	20 years
9	Land, Buildings, Mechanical & Electrical Equipment	
9.1	Land – freehold	Not depreciated
9.2	Land - leasehold	Not depreciated
9.3	Exchange buildings	40 years
9.4	Building fixtures & fittings, security equipment	5 years
9.5	Phone / Internet kiosks	8 years
9.6 (a)	Alternating Current (“AC”) & Direct Current (“DC”) power equipment, air conditioning – fixtures and fittings	5 years
9.6 (b)	AC & DC power equipment, air conditioning – electrical equipment	17 years
9.6 (c)	AC & DC power equipment, air conditioning - power	22 years
9.7	Generators	25 years

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Main Category	Subcategory	Asset Life to be applied:
10	Vehicles	
10.1	Standard vehicles – Cars, vans, and trucks	6 years
10.2	Specially fitted-out vehicles	6 years
11	Information Technology (“IT”) Systems	
11.1 (a)	IT Hardware – Personal Computers (“PCs”) and miscellaneous hardware	4 years
11.1 (b)	IT Hardware – ancillary equipment	5 years
11.2	IT Networking equipment	5 years
11.3 (a)	IT Applications / software – bespoke, specialised, in-house developed	6 years
11.3 (b)	IT Applications / software – “off the shelf”	3 years
12	Office Equipment	
12.1	PCs & server hardware	4 years
12.2	PCs & server software	4 years
12.3	Other electrical equipment	4 years
13	Licences & Intellectual Property Rights	
13.1	Radio Frequency Licences	Duration of licence
13.2	Operator regulatory Licences	Duration of licence
13.3	IPR	Duration of copyright etc