



Commission for  
**Communications Regulation**

## Response to Consultation

### Quarterly Key Data Report

Processes for collection of quarterly statistical data

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Quarterly Key Data Report  
/ Processes for collection of quarterly statistical data

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## 1 Foreword

A key challenge for ComReg is to ensure that it gathers comprehensive and representative statistical data which presents a fair and accurate picture of developments in the Irish electronic communications market, while also ensuring that it does not impose an undue or unfair administrative burden on operators.

It is ComReg's objective to ensure that all statistical data requests are:

- Clear, and facilitate the provision of accurate data;
- Justified;
- Proportionate and
- Transparent (in terms of the purpose for which data is requested).

In line with these objectives, ComReg decided to consult on the possible use of a materiality threshold to determine which operators should submit statistical data to ComReg on a quarterly basis. The consultation was carried out as an EConsultation entitled "Consultation on Revision to Processes for collection of Quarterly Report statistical data" (Document No 08/77) dated 11<sup>th</sup> September 2008.

The objective of this consultation was to consult the industry and other key stakeholders on one key issue, that is, whether ComReg should apply a materiality threshold to authorised operators, whereby only those operators exceeding a specified threshold in terms of revenues and/or customer base will be obliged to submit quarterly statistical data to ComReg .

ComReg has decided to proceed with the use of a materiality threshold of €500,000 (based on retail revenues from electronic networks and services per annum) and the value of this threshold will be reviewed by ComReg every 2 years.

ComReg wishes to thank operators who have submitted statistical data and/or comments to consultation to ComReg thus far, and recognises the considerable efforts and resources which operators dedicate to the task of statistical data provision. ComReg welcomes any comments or feedback on any aspect of the Quarterly Report process, and would be particularly interested in suggestions that may improve the accuracy of information received or that would ease the burden for operators when collecting the data.

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

## 2 Introduction

ComReg issues Quarterly Key Data Report data directions to authorised operators who are considered to be actively offering electronic communications services to consumers. This decision is based on monitoring of ComReg's Electronic Register of Authorised Undertakings (ERAU)<sup>1</sup> and monitoring of operator websites. Such data directions are issued to approximately 90 such operators each quarter.

ComReg seeks statistical data from operators for a number of purposes, including:

1. Development and publication of the Quarterly Key Data Report
2. ComReg requires the data for the purposes of market analysis and its obligation to monitor market developments in this regard. ComReg also requires the data to monitor the effectiveness and appropriateness of any significant market power ("SMP") obligations imposed in markets to which *ex ante* regulation applies
3. ComReg requires the data to respond to data requests from third parties (i.e. the Minister for Communications, Energy and Natural Resources, the CSO, the EU Commission, the OECD and the ITU)
4. ComReg cannot obtain the relevant data from any source other than the organisation.

It is ComReg's objective to ensure that all statistical data requests are:

- Clear, and facilitate the provision of accurate data;
- Justified;
- Proportionate and
- Transparent (in terms of the purpose for which data is requested).

The United Nations (UN) has devised a set of Principles Governing International Statistical Activities.<sup>2</sup> Principle 5 states that

**"Sources and methods for data collection are appropriately chosen to ensure timeliness and other aspects of quality, to be cost-efficient and to minimise the reporting burden for data providers. "**

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<sup>1</sup>

[http://www.comreg.ie/licensing\\_and\\_services/electronic\\_register\\_of\\_authorized\\_undertakings.551.843.erauintro.html](http://www.comreg.ie/licensing_and_services/electronic_register_of_authorized_undertakings.551.843.erauintro.html)

<sup>2</sup> [http://unstats.un.org/unsd/methods/statorg/Principles\\_stat\\_activities/principles\\_stat\\_activities.htm](http://unstats.un.org/unsd/methods/statorg/Principles_stat_activities/principles_stat_activities.htm)

In addition, the UN recommends that organisations carry out a “periodic review of statistical programmes to minimise the burden on data providers.”

ComReg aims to follow best practice with regard to statistical data collection. Therefore, in the interests of increased transparency, ComReg decided to consult on the possible use of a threshold to determine which operators should submit statistical data to ComReg on a quarterly basis. The consultation expressed this as follows:

**Whether ComReg should apply a materiality threshold to authorised operators, under which only those operators exceeding a specified threshold in terms of revenues and/or customer base will be obliged to submit quarterly statistical data to ComReg.**

ComReg received 14 submissions to this consultation which was carried out by electronic means via our website as a pilot eConsultation.

Responses were received from:

- 3 Ireland
- Bitbuzz
- BT Ireland
- Cable & Wireless
- Colt Telecom
- Complete Telecom
- Eircom
- Fastcom
- Interfusion Networks
- Magnet Networks
- Network-IE. Ltd.
- Perlico
- Strencom
- Tesco Mobile

This document summarises these responses and sets out ComReg’s decision on this issue, taken as a result of this consultation. Please note ComReg will publish all submissions with the Response to Consultation, subject to the standard confidentiality procedure

### 3 Decision Notice Issues

#### 3.1 Use of a threshold to determine obligations to supply quarterly statistical data to ComReg

As at the 30<sup>th</sup> September 2008, there were 300 authorised operators in Ireland<sup>3</sup>. ComReg currently issues statistical Data Directions to approximately 70 authorised operators every three months (equivalent to approximately 17% of authorised operators in Ireland).

To decide which operators should receive data directions, ComReg consults the Register of Authorised Undertakings. It focuses primarily on collecting data from providers of publicly available telephone, data and internet services and verifies that they are currently active and operating in Ireland by means of scrutiny of their websites and follow-up communications with the operator.

ComReg issued a consultation in October 2008<sup>4</sup> seeking feedback on a proposal to issue Quarterly Report Data Directions only to operators whose annual revenues exceeded €800,000. This proposal was made in the interest of ensuring that the burden of data collection on smaller operators is reduced.

International research indicates that while some regulators seek data from all authorised operators (for example, Spain and Denmark), others seek data only from those operators deemed “relevant for the development of the telecommunications market(s) in respect of sales and call minutes”, statistically-significant or considered as the main operators in the market (for example, the UK and Estonia).

The consultation paper posed the following question:

**Question: Do you agree or disagree with ComReg’s proposed approach to data collection? Please detail your response and, where possible, support your response with evidence.**

##### 3.1.1 Views of respondents

13 operators agreed in principle with the application of a threshold while 1 operator disagreed with the application of any threshold. The latter suggested that introducing a threshold would imply that the Irish market is reliant on a small number of large operators for telecoms services and would exclude the contribution of smaller

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<sup>3</sup> This total does not count multiple authorisations issued to single operators. In addition not all of these operators may be commercially active in the Irish market.

<sup>4</sup> Document 08/77 available online at [http://www.comreg.ie/publications/consultation\\_on\\_revision\\_to\\_processes\\_for\\_collection\\_of\\_quarterly\\_report\\_statistical\\_data.697.1.testrespond1.html](http://www.comreg.ie/publications/consultation_on_revision_to_processes_for_collection_of_quarterly_report_statistical_data.697.1.testrespond1.html)

operators. Another operator suggested that a higher threshold be set at 1% of overall electronic communications service network and service revenues, in the same way as the Italian regulator AGCOM uses a 1% threshold to impose obligations for universal service funding contributions on service providers. Some operators suggested that ComReg introduces a lower threshold in line with the postal and communications levies.

A number of operators indicated that the burden of data provision to ComReg is quite considerable, particularly in cases where an operator offers a range of products and services in the electronic communications market.

In addition, one operator suggested that a threshold based on subscribers rather than revenues be used by ComReg, as data on revenues may be commercially-sensitive or confidential. One respondent also suggested that ComReg should not consider revenues from unregulated activities, such as web-hosting.

### 3.1.2 Commission's position

In preparing for this consultation, ComReg analysed the revenues of approximately 70 operators active in the Irish electronic communications market. These operators currently provide data to ComReg. The introduction of a threshold of €300,000 would mean that approximately 20 operators would be removed from the current Quarterly Data Direction mailing, ensuring that ComReg collects data from a range of operators in the Irish market, ranging from smaller Internet Service Providers (ISPs) to large mobile and fixed network operators.

ComReg uses a threshold of €500,000 for imposition of postal and communications levies.

One respondent suggested that ComReg link the threshold for data collection to the telecommunications levy.

The introduction of a threshold of €500,000 would suggest that around 14 operators would be removed from the current Quarterly Data Direction mailing, reducing the burden on a set of operators, while also ensuring that operators would receive a single request from ComReg for information on their annual turnover, for the purposes both of calculation of the electronic communications levy and determination of receipt of Quarterly Report Data Directions.

In addition ComReg will receive a robust and comprehensive dataset to allow it to analyse and report on the electronic communications market to a sufficiently detailed level.

The introduction of a higher threshold of 1% of total electronic communications revenues would imply that only operators generating in excess of €4million per annum would be required to supply quarterly statistical data to ComReg. Analysis by ComReg of the dataset of 70 operators would suggest that approximately 10 operators would generate revenues in excess of 1% of total revenues<sup>5</sup>.

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<sup>5</sup> Both wholesale and retail revenues are included in the calculation of total electronic communications revenues.

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ComReg does not consider that a dataset of 10 operators to provide an adequate and thorough view of the Irish electronic communications market and, therefore, does not support the suggestion to introduce a higher revenue threshold. In addition, ComReg considers that the use by AGCOM of a 1% revenue threshold to impose USO funding contributions on operators cannot be directly compared with the threshold being considered by ComReg to set obligations to supply statistical data to ComReg.

ComReg also considered the use of a subscriber threshold rather than a revenue threshold. In practice, subscriber levels vary quite substantially from operator to operator and it is difficult to select an overall subscriber threshold without looking at segmenting by types of subscribers (business versus residential, narrowband internet versus broadband internet subscribers, voice subscribers versus data subscribers).

There is also a risk of double-counting or inflating subscriber numbers based on the methods in which ComReg currently collects statistical data from operators. For example, a subscriber with a voice connection and a broadband connection with the same operator is currently recorded twice in statistical returns to ComReg so that ComReg can provide separate counts of voice and broadband subscribers. On the other hand setting thresholds in different market segments, as suggested by some respondents, would be overly-complex and cumbersome to administer.

In the interests of regulatory consistency aligned with levies imposed by ComReg, and based on the fact that the introduction of a lower threshold does not significantly expand the list of operators from whom ComReg would seek statistical data, ComReg has decided to lower the proposed threshold to €500,000 per annum. The introduction of a threshold of €500,000 means that approximately 14 operators will be removed from the current Quarterly Data Direction mailing, ensuring that ComReg collects data from a range of operators in the Irish market, ranging from smaller Internet Service Providers (ISPs) to large mobile and fixed network operators, while allowing ComReg to analyse and report on the electronic communications market to a sufficiently detailed level.

One respondent suggested that the threshold be exceeded for two consecutive quarters before the requirement be applied to a specific operator. While ComReg agrees that there may be fluctuations in operator turnover and that turnover can decrease as well as increase, ComReg does not agree with this proposal as it increases the complexity of the turnover threshold. In addition ComReg will review turnover with operators on an annual basis to ensure that set of operators supplying data is accurate and up-to-date. This decision is set out in more detail in section 3.2 below.



**Decision No. 1**

**ComReg has decided to set a threshold whereby operators who generate in excess of €500,000 in retail revenues from electronic communications networks and services per annum will be obliged to provide ComReg with quarterly statistical data under the Quarterly Report Data Direction. Retail revenues will be based on gross turnover (excluding VAT and tax paid) in respect of electronic communications services and networks. The threshold of €500,000 will be reviewed by ComReg every 2 years. Therefore, the next review will be due by December 2010.**

Retail revenues solely will be used to calculate turnover. Therefore, revenues from interconnection and supply of wholesale services such as wholesale leased lines and voice termination will not be included in calculation of annual turnover.

ComReg notes the suggestion that it should exclude revenues from unregulated activities when calculating turnover. In practice, however, it may not be practicable to exclude such revenues as ComReg collects statistical data based on products and services rather than regulated activities and, while certain products and services may currently be regulated, they may also be deregulated at a future date. In addition turnover calculations for operators new to the market may be based on data provided to the Companies Registration Office, which will not distinguish between regulated and unregulated products and services.

Therefore, ComReg considers that calculation of turnover based on total retail revenues is both more practical and comprehensive.

ComReg is currently consulting the industry on data collection with regard to leased lines and corporate data services and hopes to reduce the burden of data collection in this segment, while ensuring that the data collected provides an accurate picture of market activity.

The decision taken in this Econsultation relates only to the use of a threshold for collection of data. Some respondents suggested that setting a threshold based on revenues might signal to competitors that an operator has reached a certain level of revenues. However ComReg wishes to stress that it intends to use the proposed threshold only to ensure that a Data Direction is issued to an appropriate set of operators, and we will not disclose any information on an operator's turnover in the public domain.

Any proposal by ComReg to publish disaggregated market share data, either based on revenues, volumes or subscribers will be discussed with the industry in advance of any publication.

## 3.2 Monitoring of operators

### 3.2.1 Views of respondents

The consultation indicated that if a threshold was introduced, ComReg would need some method of monitoring authorisations to ensure that new companies added to the general register are sent data directions, if their turnover is above the threshold. In addition, it is possible that an operator who is below the threshold at a certain point in time may reach or exceed that threshold at a later stage.

Four respondents stated that ongoing and regular monitoring would be essential to ensure that the threshold is robust and that ComReg recognises changes in turnover with regard to all authorised operators.

One respondent suggested that ComReg link the threshold for data collection to the telecommunications levy.

### 3.2.2 Commission's position

It is possible to obtain financial information on companies at the time of their application for an authorisation from ComReg. Therefore ComReg proposes to request data from operators seeking an authorisation from ComReg, on both their turnover in the Irish market (based on retail revenues from telecommunications networks and services in the previous financial year) and the services they are offering or intend to offer in the Irish market. Where turnover figures are not available, ComReg will seek an estimate of expected turnover for the current financial year from that operator. In addition, ComReg will supplement this information with financial information on these companies from the Companies Registration Office, where possible.

ComReg notes the suggestion to link the threshold for data collection to the telecommunications levy, and will ensure that requests for data in relation to turnover are coordinated with requests from ComReg in regard to the payment of an annual levy. This will ensure that operators do not receive multiple and overlapping requests for data from ComReg.

#### **Decision No. 2**

**ComReg will write to operators at the time of their application for an authorisation seeking information on both their turnover in the Irish market (based on retail revenues from telecommunications networks and services in the previous financial year) and the services they are offering, or intend to offer, in the Irish market. Where turnover figures are not available, ComReg will seek an estimate of expected turnover for the current financial year from the operator.**

**Decision No. 3**

**On an annual basis, ComReg will write to all authorised operators, seeking information on their turnover in the Irish market (based on retail revenues from telecommunications networks and services in the previous financial year). Where turnover figures are not available, ComReg will seek an estimate of expected turnover for the current financial year from the operator.**

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## 4 Enforcement

ComReg's legal powers to collect statistical data are set out under s 13D of the Communications Regulation Act, 2002<sup>6</sup>, and criminal (or, in the alternative, civil) proceedings may be initiated by ComReg in the case of a failure by an undertaking to comply with an information requirement made by it.

### 4.1.1 Views of respondents

One respondent to the consultation requested clarification with regard to how ComReg might deal with the issue of non-compliance.

### 4.1.2 Commission's position

ComReg does not consider the issue of compliance relevant to the issue under consultation. Nevertheless, ComReg is satisfied that should the need arise to prosecute an operator for breach of their obligations in regard to data supply, that ComReg has adequate and clear powers in this regard.

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<sup>6</sup> As inserted by s 6 of the Communications Regulation (Amendment) Act, 2007.