



Commission for
Communications Regulation

Universal Service Obligation - Measures for disabled end-users; Terminal Equipment

Response to Consultation and Decision

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An Coimisiún um Rialáil Cumarsáide

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1 Executive Summary

- 1 The Commission for Communications Regulation (“ComReg”) previously designated Eircom Group (“Eir”) as the Universal Service Provider (“USP”), responsible for providing the Universal Service Obligations (“USO”) regarding the specific measures for disabled end-users, in accordance with Regulation 6 of the Universal Service Regulations (“USR”).¹
- 2 In accordance with Regulation 6 and 7 and ComReg Decision 09/14², Eir is currently the only undertaking obliged to provide terminal equipment to meet the needs of certain disabled end-users for the purpose of facilitating access at a fixed location (Regulation 3). These disabled end-users are as follows:-
 - users who are hearing-impaired
 - users with limited dexterity or mobility
 - users with restricted vision
- 3 On 12 June 2015, ComReg issued a consultation (ComReg Document 15/52, Universal Service Obligation – Measures for disabled end-users - Terminal Equipment) in which it proposed that Eir, in accordance with Regulation 6 and 7 of the USR, should continue to be designated to provide terminal equipment for users of access and services at fixed location, until the end of December 2015.
- 4 ComReg invited all stakeholders to respond to Consultation 15/52 and responses were received from:
 - DeafHear
 - Eir
- 5 ComReg considered both DeafHear’s and Eir’s views and, on 8 July 2015, issued a response to consultation, a decision and a further consultation. The Decision was that the existing measures should remain in place until 31 December 2015. The further consultation considered whether Eir should continue to be obliged to provide terminal equipment to meet needs of specified disabled end-users at a fixed location, for the period post 31 December 2015 (ComReg 15/68). ComReg invited all stakeholders to submit their final views on this matter.
- 6 ComReg received one response to this consultation which came from Eir.

¹ S.I. No. 337/2011 - European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011, 6. Measures for disabled end-users

² ComReg Document 14/70 - Universal Service Obligation – Measures for Disabled End-Users – July 2014

- 7 ComReg has considered this response and is now issuing its Response to Consultation and decision regarding the post 31 December 2015 period.
- 8 ComReg's decision is not to oblige Eir, or any undertaking, to provide terminal equipment to meet needs of specified disabled end-users for the period post 31 December 2015.
- 9 However, ComReg will continue to monitor the general availability of terminal equipment which allows access by disabled end-users to electronic communications services at a fixed location, particularly in light of new networks and technologies.

2 Background

- 10 ComReg's Forum on Electronic Communications Services for People with Disabilities ("The Forum") was established in 2006 to further ComReg's statutory objectives to promote competition and to promote the interests of users. To date, the Forum has worked in a collaborative manner to progress and implement measures both on a voluntary basis and in accordance with Regulation 17 of the USR.
- 11 As noted in ComReg Consultation 15/52, at a meeting of the Forum in September 2014, a preliminary discussion took place on the specific measures for disabled end-users provided by Eir as the USP, including terminal equipment and its take-up.
- 12 During the meeting there was an initial discussion regarding the continued need for Eir to supply specialised terminal equipment for fixed voice services however, no preliminary view was formed. It was noted that the necessary terminal equipment (handsets) are sold to consumers and, therefore, they are offered commercially by Eir. Also, Eir stated that it would likely continue to sell accessible phones to meet consumers' needs, even absent a designation. Details of take-up were also presented by Eir and this presentation was subsequently published by ComReg³.
- 13 On 8 July 2015, ComReg issued a response to its Consultation 15/52, a Decision and a Further Consultation on whether Eir should continue to be obliged to provide terminal equipment to meet needs of specified disabled end-users for the period post 31 December 2015 (ComReg Document 15/68). ComReg's preliminary view was that the obligation was no longer required to be mandated post 31 December 2015 and ComReg sought stakeholder's views on this preliminary view.
- 14 ComReg invited all stakeholders to submit responses to the further consultation by 8 September 2015.
- 15 On 10 August, ComReg published further information on the usage and take-up of measures for disabled end-users including specialised terminal equipment⁴.
- 16 On 8 September, ComReg received a response to the Further Consultation 15/68 from Eir which was the sole response received to the further consultation.

³ <http://www.comreg.ie/fileupload/publications/ComReg1454a.pdf>

⁴ <http://www.comreg.ie/fileupload/publications/ComReg1590.pdf>

3 Respondents views and ComReg's Position

3.1 Requirement on Eircom Group to provide specific measures in relation disabled end-users - Terminal Equipment

- 17 ComReg's preliminary view, as set out in ComReg 15/68, was that the obligation to continue to provide specialised terminal equipment is no longer required to be mandated post 31 December 2015 and ComReg sought the final views of stakeholders on this preliminary view.
- 18 In addition, during the consultation period ComReg stated that it would continue to monitor the sales channels available and used by end-users to purchase necessary specialised terminal equipment.

Question 1

- 19 ComReg asked the following question in relation to the measures being proposed:

Do you agree with ComReg's preliminary view that the obligation, to continue to provide specialised terminal equipment should not be extended post 31 December 2015? Please provide detailed reasons and supporting evidence for your view.

Respondent's views

- 20 Eir stated that it *"strongly agrees with ComReg's preliminary view that the obligation to continue to provide specialised terminal equipment should not be re-designated."*
- 21 Eir further stated in its response:

“As highlighted in our response to ComReg 14/54 there is a rapidly growing population aged 65 years and over which represents a substantial market of over half a million people⁵, which according to Age Action is expected to double in size over the next two decades⁶. We suggested that such a market, given its size and potential, is likely to be well served in the absence of any USO that addresses terminal equipment.”

22 Additionally, Eir noted:

“...equipment supporting all of the features set out in the USO Decision including a visual alert in the form of a flashing light, are very affordably available on multiple devices from various retail channels such as Currys, Harvey Norman, Power City, Argos and Amazon, on-line and from high streets and retail centres nationwide.”

23 Finally, Eir confirmed that it *“believes that there is no market failure regarding the supply of specialised terminal equipment and there is no justification for ComReg to impose a USO in respect of specialised terminal equipment.”*

ComReg’s position

24 ComReg is cognisant of how important access to specialised terminal equipment is to those end-users who require it. However, evidence has not been provided of any potential detriment to end-users, in respect of access at a fixed location if Eir is no longer obliged as part of the USO to provide specialised terminal equipment.

25 Furthermore, ComReg has monitored the availability of the products currently sold by Eir to meet this obligation⁷ and can confirm that this equipment necessary for access and services at a fixed location continues to be commercially available from a number of retail channels, in addition to online channels, at a cost that is in line with the Eir products offered.

26 Therefore, to continue to require Eir to provide the equipment is unnecessary given that market forces provide reasonable access to the equipment.

27 ComReg has decided that, in light of the above and in light of ComReg’s objectives, it is not appropriate to designate Eir, or any undertaking, to provide terminal equipment for fixed location access and services, post 31 December 2015.

⁵ Source CSO -

http://www.cso.ie/en/media/csoie/census/documents/census2011profile2/Profile2_Older_and_Younger_Entire_Document.pdf

⁶ http://www.comreg.ie/_fileupload/publications/ComReg1452s.pdf

⁷ Products sold by Eir include eir 9000 Cordless Phone and eir 9000B Cordless Phone

28 However, ComReg will continue to monitor the general availability of terminal equipment which allows access by disabled end-users to electronic communications services at a fixed location, particularly in light of new networks and technologies.

4 Final Regulatory Impact Assessment

4.1 Role of the RIA

- 29 A RIA is an analysis of the likely effect of a proposed new regulation or regulatory change. The RIA should help identify regulatory options and should establish whether or not a proposed regulation is likely to have the desired impact. The RIA should also, in certain cases, suggest whether regulation is or is not appropriate. The RIA is a structured approach to the development of policy, and analyses the impact of regulatory options on different stakeholders.
- 30 ComReg's approach to RIA is set out in the Guidelines published in August 2007, Commission Document No. 07/56 & 07/56a. In conducting this RIA, the Commission takes account of the RIA Guidelines,⁸ adopted under the Government's *Better Regulation* programme.
- 31 Section 13 (1) of the Communications Regulation Act 2002, as amended, requires ComReg to comply with certain Ministerial Policy Directions. Policy Direction 6 of February 2003 requires that before deciding to impose regulatory obligations on undertakings ComReg must conduct a RIA in accordance with European and International best practice, and otherwise in accordance with measures that may be adopted under the Government's *Better Regulation* programme. In conducting the RIA, ComReg also has regard for the fact that regulation, by way of issuing decisions (e.g. imposing obligations or specifying requirements), can be quite different to regulation that arises by the enactment of primary or secondary legislation.
- 32 In conducting a RIA, ComReg takes into account the six principles of *Better Regulation*. These are:
1. Necessity.
 2. Effectiveness.
 3. Proportionality.
 4. Transparency.
 5. Accountability.
 6. Consistency.

⁸ See: http://www.taoiseach.gov.ie/eng/Publications/Publications_2011/Revised_RIA_Guidelines_June_2009.pdf

- 33 To ensure that a RIA is proportionate and not overly burdensome, a common sense approach is taken. As decisions are likely to vary in terms of their impact, and if after initial investigation a decision appears to have relatively low impact, ComReg would expect to carry out a less exhaustive RIA. 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. This approach will be adopted when necessary.
- 34 ComReg's RIA Guidelines set out, amongst other things, the circumstances in which ComReg considers that a RIA might be appropriate. In summary, ComReg will generally conduct a RIA in any process that might result in the imposition of a regulatory obligation (or the amendment of an existing regulatory obligation to a significant degree), or which might otherwise significantly impact on any relevant market or on any stakeholders or consumers.
- 35 As set out in ComReg's RIA Guidelines, there are five steps to this RIA. These steps are:
- Step 1: Identify the policy issue and identify the objectives;
 - Step 2: Identify and describe the regulatory options;
 - Step 3: Determine the impacts on stakeholders;
 - Step 4: Determine the impacts on competition; and
 - Step 5: Assess the impacts and choose the best option.

4.2 Identify the policy issue and identify the objectives

- 36 The measures specified in respect of disabled end-users to be delivered by the USP, Eir, contained in D03/15, expire at the end of December 2015.
- 37 These measures are specific to the provision of specialised terminal equipment by Eir in respect of access of a fixed location.
- 38 ComReg had previously noted that it was monitoring the necessity for this obligation and was concerned that if the obligation were removed, there may be detriment to disabled end-users who wish to purchase specialised terminal equipment.
- 39 Subsequently, ComReg monitored other channels available to purchase the necessary equipment and consulted further in respect of not continuing the obligation post 31 December 2015.

4.3 Identify and describe the regulatory options

40 There were two options considered by ComReg.

- Option 1: To decide not to require Eir, or any undertaking, to supply specialised terminal equipment for disabled end-users from 1 January 2016.
- Option 2: To decide to require Eir, or another undertaking(s), pursuant to Regulations 6 and 7 of the Regulations to provide specialised terminal equipment for disabled end-users from 1 January 2016.

4.4 Determine the impacts on stakeholders

41 Option 1: Should ComReg not require any undertaking to provide specialised terminal equipment, ComReg considers that the risk that disabled end-users may not be able to source equipment to meet their needs does not arise at this time.

42 Option 2: Should ComReg require Eir, or other undertakings, to provide specialised terminal equipment post 31 December 2015 it appears that, given the current market situation and provision of equipment by other third parties, the obligation is outdated and unnecessary at this time. For Eir, any cost of providing the terminal equipment is recouped in the price of the handsets sold to consumers. However, ComReg's research indicated the handsets that Eir is required to provide are widely available from retail stores and online retail sites. Also, Eir has advised in its responses that it intends to continue to make the equipment available for retail sale. As such, no detriment should be experienced by end users should they wish to purchase specialised terminal equipment.

4.5 Determine the impacts on competition

43 ComReg is of the view that the obligation on Eir to provide specialised terminal equipment should be removed as the market is providing end-users with access to the specialised equipment. ComReg is of the view that this obligation, or its removal, has no particular impact on competition.

4.6 Assess the impacts and choose the best option

44 In light of the above, and the research by ComReg of the necessity for this obligation, ComReg is of the view that it is most appropriate that the obligation is allowed to lapse after 31 December 2015. Therefore, ComReg is of the view that Option 1 is the appropriate choice.

5 ComReg's decision

- 45 ComReg's decision is not to designate Eir, or any other undertaking, as the USP, at this time, to provide specialised terminal equipment for disabled end-users for the period post 31 December 2015.
- 46 The decision relates to the provision of specific measures for disabled users as set out in Annex 1.
- 47 The decision takes regard of the following:
- i. Sections 10 and 12 of the Communications Regulation Act 2002, and
 - ii. Functions and powers conferred upon ComReg under and by virtue of Regulation 7(1) of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011 ("the Regulations"), and
 - iii. Regulations 6 and 8 of the Regulations, and
 - iv. ComReg Decision Document No. 14/52 (D04/14), and
 - v. Representations of interested parties included in ComReg Document No. 14/70⁹, and
 - vi. Representations of interested parties submitted in response to ComReg Document No. 15/52¹⁰, and
 - vii. Having regard to the analysis and reasoning set out in ComReg Document No. 15/68.
- 48 All other obligations imposed on the USP by ComReg in relation to its universal service obligations, which were immediately in force prior to the effective date of this decision, shall continue to have full force and effect.
- 49 ComReg will continue to monitor the appropriateness of this decision.

⁹ The respondents to ComReg 14/70 were NCBI and Eir

¹⁰ The respondents to ComReg 15/52 were DeafHear and Eir

50 This decision is effective immediately and shall remain in full force unless otherwise amended by ComReg. Undertakings to which this decision applies¹¹ must comply with ComReg Decision 03/15 (as outlined in ComReg Document 15/68) and these measures from 1 January 2016.

¹¹ In this instance, the Undertaking (as referred to in ComReg Document 15/68, Decision No. 03/15) is Eir Ltd.

Annex 1: Specialised Terminal Equipment for Disabled End-Users

51 ComReg Decision 09/14¹² designated Eir to provide the following specialised terminal equipment so that disabled end-users can enjoy accessibility to and affordability of other universal services:

For users who are hearing-impaired

- Inductive couplers which allow users with a hearing aid set to connect the set to their telephone in order to allow them to hear incoming speech clearly.
- Amplifier phones which allow the user to increase the volume of incoming speech.
- Teleflash Visual Alert which shows a flashing light, or makes a loud noise when the telephone rings.

For users with limited dexterity or mobility

- Push button telephone sets with speed and automatic redial buttons allowing pre-programmed telephone numbers (typically the most called numbers) or last called telephone numbers to be dialled without having to re-enter the telephone number.
- Hands free/loudspeaker phones means that the handset does not need to be used at all.

For users with restricted vision

- Restricted vision telephones which can help people with restricted vision to find other numbers more easily.

Geographically Averaged Pricing is to be applied to equipment supplied above.

The obligation is in place until 31 December 2015.

¹² ComReg Document 14/70 - Universal Service Obligation – Measures for Disabled End-Users – July 2014