



Commission for
Communications Regulation

Selective Call Barring

Response to Preliminary Consultation 15/31 and Further Consultation

Response to Preliminary Consultation and Further Consultation

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Submissions to ComReg 15/125

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Please note ComReg will publish all respondents' submissions with the Response to this Consultation, subject to the provisions of ComReg's guidelines on the treatment of confidential information – ComReg 05/24.

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1. Introduction

1. On the 27 March 2015, ComReg published a Preliminary Consultation on the subject of Selective Call Barring (ComReg 15/31)¹. The purpose of this Preliminary Consultation was to explore whether or not call barring facilities continue to be appropriate and if so, whether or not it is appropriate that all undertakings, and not just the Universal Service Provider (“USP”), should be required to provide the facility to end-users.
2. ComReg received six submissions to the Preliminary Consultation. These submissions were published as ComReg document 15/54².
3. The submissions were received from:
 - BT Ireland;
 - Eircom Ltd (“Eir”)/Meteor³;
 - Three Ireland;
 - Virgin Media (formerly UPC)⁴;
 - Vodafone Ireland; and
 - Zamano.
4. This Response to Preliminary Consultation sets out ComReg’s preliminary view on the provision of Selective Call Barring facilities following consideration of the submissions received.
5. ComReg is now issuing a further consultation and has therefore included in this document additional consultation questions which ComReg is seeking more detailed information on, in particular, regarding any costs associated with the selective call barring facilities which at a minimum may include a facility to enable end-users to select barring outgoing calls to international numbers and to select barring all contact (inbound and outbound) with premium rate services (“PRS”), including Short Message Service (“SMS”), Multimedia Messaging Service (“MMS”) and Direct Carrier Billing (“DCB”), free of charge.

¹http://www.comreg.ie/publications/preliminary_consultation_-_selective_call_barring.583.104804.p.html

² <http://www.comreg.ie/fileupload/publications/ComReg1554.pdf>

³ Eircom Ltd rebranded as Eir 16/09/2015.

⁴ UPC Ireland rebranded as Virgin Media 5/10/2015.

2. Background

6. Eircom Limited (“Eir”) is currently the designated Universal Service Provider⁵ for access at a fixed location (“AFL”) and is required to provide selective call barring for certain number types, including national, mobile, premium rate and international numbers. Eir’s current designation expires on 31 December 2015.
7. It should be noted that ComReg published a consultation on 23 November 2015 on the potential extension of Eir’s designation as the USP. Under ComReg’s proposal, Eir’s designation as the USP would be extended for the period 1 January 2016 to 30 June 2016. If ComReg adopts this proposal, it will have implications for Eir’s current obligations to provide call barring facilities. In this regard, ComReg is proposing that Eir would continue to provide the call barring facilities that it currently does as the USP until the period of the proposed extension of its designation as USP expires on 30 June 2016. ComReg further proposes that thereafter, from 1 July 2016, Eir would not have a Universal Service Obligation (“USO”) for call barring, but the same obligation to provide such facilities as ComReg is proposing for all other undertakings in this consultation document.
8. Some undertakings offer similar selective call barring facilities, voluntarily and without being obliged to do so by ComReg, for example some undertakings may block access to PRS by default, requiring that an end-user contact the undertaking to request that the block is removed if they wish to access this service type.
9. However, presently, call barring facilities are only guaranteed to be made available to subscribers of the USP and in some cases their usage attracts a cost to the end-user. ComReg is seeking to ensure that all subscribers, not just customers of the USP, should be provided with at least a minimum standard range of call barring facilities. ComReg’s proposal is based on provisions in the Universal Service Regulations (“USRs”) which state that ComReg may specify additional facilities that must be provided by all undertakings providing publicly available telephone services or access to electronic communications services. One aspect of the additional facilities that may be specified is selective call barring facilities.
10. ComReg initially consulted on whether or not the obligation to provide additional forms of call barring should offer greater granularity of barring types and if it should be extended to all undertakings, whilst being cognisant that any measures introduced would need to be proportionate, technically and economically feasible and must not negatively impact on competition in the electronic communications market.

⁵ <http://www.comreg.ie/fileupload/publications/ComReg1471.pdf>

11. ComReg issued a preliminary consultation so as to better inform ComReg's proposals in respect of selective call barring.
12. This preliminary consultation was issued as ComReg document 15/31 and six responses were received⁶. The questions posed in the preliminary consultation are available in Annex 2.
13. The key areas explored were:
 - a. Whether there is a continued consumer need to ensure call barring facilities are available,
 - b. Whether all undertakings, not solely the USP, should be required to provide extended facilities to their subscribers allowing them to selectively bar a range of calls or SMS, including for example:
 - (i). Calls to mobile numbers,
 - (ii). Calls to national numbers,
 - (iii). Calls to international destinations,
 - (iv). Calls to premium rate numbers, including:
 - (a). Calls to all premium rate number ranges, and/or
 - (b). Calls to the discrete premium rate number ranges set aside for adult services.
 - (v). Sending or receiving premium rate SMS or MMS,
 - (vi). Other kinds of similar applications (e.g. Direct Carrier Billing "DCB" or VOIP),
 - (vii). Defined (i.e. specified) types/ranges of numbers, or
 - (viii). All or any of the above.
 - c. Whether ComReg should require undertakings to provide all or any of these facilities free of charge or whether it is reasonable and proportionate for undertakings to charge consumers (initial charge and/or recurring charge), who may avail of these facilities and services.

⁶ Submissions received were published as ComReg 15/54: <http://www.comreg.ie/fileupload/publications/ComReg1554.pdf>

14. ComReg has considered the responses received to the preliminary consultation and ComReg is of the preliminary view that the ability of end-users to optionally bar certain types of services, which have the potential to expose them to “bill shock” and/or present an issue in respect of access by children, is necessary and as such the possibility to bar certain services should not just be retained as a Universal Service Obligation but should also be extended to all service providers so that all end-users can equally avail of this protection.
15. It is apparent from the submissions to the call for input that it may not be currently technically feasible for many service providers to implement facilities for end-users to select to bar more granular number ranges. As such, ComReg is now proposing that the minimum barring facilities are set at a higher level, by service or call type. This would still allow those providers who can and who wish to offer more granular call barring facilities to do so.
16. In considering types of calls and services for which call barring facilities should be provided, ComReg notes that typically PRS and international calls are not included in call bundles and, therefore, ComReg is of the preliminary view that all undertakings should provide selective call barring facilities for outgoing calls to international numbers and for all PRS, free of charge, to their subscribers.
17. ComReg invites stakeholders to submit their views, and having considered the responses, ComReg will issue its Decision on this matter.

3. Preliminary Consultation Issues

3.1 Provision of call barring facilities in general

ComReg's preliminary view

19. ComReg's initial view, as outlined in the Preliminary Consultation paper, was that in a fully functioning market, measures to allow end-users to control their costs should be available and, therefore, it follows that if any of these measures are not currently available to end-users then ComReg should consider requiring undertakings to make them available.
20. It was also ComReg's initial view that end-users of telephony services should be able to decide, either for themselves or for their children, that access to certain number ranges, for example the 1598 or 1599 access codes and 58XXX and 59XXX short codes can be blocked/restricted.
21. To fully explore the possibility of mandating these measures including the economic and technical feasibility of what it would entail, ComReg posed the following questions:

- Q. 1 Do you agree with ComReg's preliminary position that consumers should be able to avail of facilities that allow them to adequately control their telecommunication costs? Please give reasons to support your view.
- Q. 2 Do you agree with ComReg's preliminary position that consumers should be able to control their (or their children's) access to certain types of numbers? Please give reasons to support your view.

Views of respondents

22. There was broad agreement with ComReg's preliminary view regarding the necessity of cost control and control of access measures, although some respondents pointed out that the level of control granted to end-users must be balanced with the ability of the network providers to provide this capability.
23. Eir stated that it is necessary for ComReg to establish whether there is a significant level of un-served demand for the barring services that are being considered and only then would it be possible to determine if it would be proportionate to require operators to provide these services. Eir also stated that as a result of the updated obligations for PRS, which have been put in place by ComReg, there is now a reduced need for premium service barring. Additionally, it stated that content services are migrating from traditional premium SMS and MMS services to Over the Top ("OTT") applications.

24. Some respondents also noted that there are alternative ways in which this control can be applied by end-users, for example through the use of “apps” on smartphones and device-level barring on fixed devices. It was noted that device-level barring can be very effective in barring access where required.
25. Eir also stated that access to selective services can no longer be fully controlled through the activation of barring facilities on the access network as the data layer, which is typically provided as part of a voice package, enables OTT access to each of the service types identified by ComReg.
26. Three Ireland stated that it had previously invested in a product called “Kidsafe” to provide parents with the ability to control their children’s access to any un-approved services, including the ability to block access to PRS. However, due to a lack of demand the service was dropped by Three Ireland.
27. Vodafone Ireland stated that they currently offer a mobile application (“app”) called “Safety Net” which has the capability to filter inappropriate content from Android phones and manage connections. Calls and messages can be blocked from specific contacts as well as disabling the use of phone features such as the camera or the Internet application. They also offer call barring facilities to their landline customers which provides the ability to block access to mobile calls, premium rate calls, international calls, all outbound calls and all inbound calls.
28. Zamano responded stating that they do not see a requirement for a barring service as the number of recorded complaints to ComReg do not reflect a need for consumer protection.

ComReg’s response to preliminary consultation issues

29. ComReg welcomes the general support of its goal to ensure that end-users have the ability to control their costs and control their (or their children’s) access to certain number types. ComReg is mindful that while there are many apps that allow for control of costs, these can be handset-specific and, therefore, relying only on those measures in the market alone will not guarantee selective call barring for all end users of all technology types.
30. However, as ComReg must ensure that any measures are proportionate, it would wish to avoid unnecessary mandating of obligations on undertakings.
31. ComReg also notes that in relation to the assertion that there is no demand for barring services, any service would be offered purely on an opt-in basis which means that end-users could choose to select the barring facility if they believed it to be of use to them. On that basis, the level of demand would match the level of consumer choice afforded by such a service being mandated by ComReg.

32. ComReg notes that currently over 43,000 subscribers avail of call barring facilities provided by Eir, as the USP, and that in some cases Eir charges for such facilities. ComReg notes that over 23,000 subscribers avail of the free call barring facility for PRS provided by Eir. This number of subscribers is substantially higher than those availing of any other call barring facility offered by Eir. In some cases, other call barring facilities offered by Eir have a charge associated with them.
33. Having considered the responses to the preliminary consultation, ComReg remains of the preliminary view that selective call barring facilities are beneficial to end-users and that at least certain minimum facilities should be provided by all undertakings. ComReg is also of the preliminary view that the cost of a call barring service to subscribers, if any, impacts subscribers' demand for the service. This is addressed in Section 4.

3.2 Range of potential call barring facilities

ComReg's preliminary view

34. ComReg was of the preliminary view that, in order to facilitate a request from a consumer to bar access to certain categories of numbers (e.g. numbers intended for adult use) without necessarily barring access to all PRS, would require undertakings to bar access to:
- a. Discrete number ranges within the full block of premium rate numbers or premium rate SMS/MMS ranges, and
 - b. Specified services if they are charged via Direct Carrier Billing ("DCB")⁷
35. ComReg's preliminary view was that the range of potential facilities and services that ComReg, therefore, considered may be necessary to allow consumers to fully control both their costs and their access to certain categories of services include:
- a. Call barring for certain types of outgoing voice calls, for example:
 - (i) Calls to mobile numbers
 - (ii) Calls to national numbers
 - (iii) Calls to International destinations
 - (iv) Calls to premium rate numbers, including:
 - a. Calls to all premium rate number ranges, and/or

⁷ Direct Carrier Billing is the facilitation of purchases through the use of the end users mobile bill

- b. Calls to the discrete premium rate number ranges set aside for adult services.
 - (v) All or any of the above
- b. Barring access to “non-voice” PRS (i.e. all types of PRS that do not require the consumers to make a call to a premium rate number) which would be addressed by barring outgoing voice calls, as set out above. If a consumer wished to bar access to non-voice PRS, this could potentially include:
 - (i). Barring the consumer’s access to premium SMS or premium MMS (“PSMS” or “PMMS”), including:
 - a. The sending **or receipt** of all PSMS or PMMS (on the basis that many PRS charge consumers for receiving a PSMS rather than for sending an SMS to a premium rate shortcode), and/or
 - b. The sending or receipt of PSMS or PMMS to/from discrete shortcode number ranges that are set aside for adult services, such as gambling or Sexual Entertainment Services (“SES”)
 - (ii). Barring the consumer’s access to direct-carrier-billing⁸ (“DCB”) charges, which are used by mobile network operators to charge consumers for PRS in a similar manner to charges imposed through the use of PSMS, including:
 - a. Barring access to all services charged through DCB, and/or
 - b. Barring access to a discrete category of services, e.g. SES, which are charged through DCB.

36. ComReg posed the following question in its Preliminary Consultation:

Q. 3 Do you agree with ComReg’s initial assessment of the range of facilities that could be necessary to allow consumers to fully control their costs and access to certain number ranges (for example number ranges using the 1598 and 1599 access codes)? Please give reasons to support your view.

⁸ Direct Carrier Billing, sometimes referred to as “charge-to-mobile” (“C2M”), applies a charge for a PRS directly to the users account, without the use of a PSMS and, as such, can reasonably be considered to be “kinds of similar applications of defined types” and within the scope of the cost control measures envisaged in the Universal Services Regulations.

Views of respondents

37. BT Ireland commented that for fixed line services, whilst the possibility of offering a full range of selective barring facilities would be positive, this may not be possible with many current generation telephony switches which do not support discrete number barring.
38. Of the other respondents, most believe that blocking access to certain more specific number ranges is unnecessary and in the case of Eir and Zamano they are of the view that the current age verification processes that are in place offer sufficient protection against non-intentional access of adult number ranges.
39. Three Ireland suggested that in relation to PRS, ComReg should include age verification processes in any further consultations that might be undertaken along with a consultation on the introduction of a Content Classification framework.
40. Virgin Media stated that national fixed, international and mobile blocking has little use in cost control as many telecoms packages offered include unlimited numbers of calls.
41. Zamano stated that existing protections, via the ComReg Code of Practice for PRS and the Consumer Rights Directive, offer protection to consumers prior to charges being applied to their phone. They also pointed out that DCB is a new and growing area and a barring facility, such as the one proposed, would only serve to stifle the growth that is currently underway.

ComReg's response to preliminary consultation issues

42. ComReg understands that while many undertakings do provide certain call barring facilities to end-users, there may be challenges for undertakings to provide an extended range of call barring to specific or discrete number ranges as there may currently be restrictions on the capabilities of some current generation network equipment.
43. ComReg also acknowledges that while age verification controls must be in place for adult PRS, additional means of protection of children from accessing unsuitable content is always to be welcomed. This benefit of additional control by subscribers is also evidenced by a recent case whereby age verification controls for a particular adult PRS were not in place in the evenings and on the weekends. A selective barring facility would act as a good support in situations such as this and ComReg would expect that in the future, when network equipment is being replaced, selective barring of specific number ranges would be technically feasible.
44. In respect of Three Ireland's views regarding consultation on additional PRS aspects, ComReg notes that this consultation and associated proposals relate to measures in respect of the USRs and not in respect of the PRS regulatory regime.

45. In relation to Zamano's point, ComReg notes that the number of subscribers currently availing of PRS call barring facilities for fixed services indicates that consumers continue to value the facility, even in the context of the current PRS regulatory regime, as they wish to prevent issues with access and costs arising.
46. Having considered the responses to the preliminary consultation, ComReg remains of the preliminary view that selective call barring facilities are beneficial to end-users. However, ComReg is also of the preliminary view that it may not be proportionate to oblige all undertakings to provide selective call barring for discrete number ranges at this time.

3.3 Availability of Selective Call Barring facilities

47. ComReg understands that some undertakings that provide retail telephony services may offer the same, or similar, selective call barring facilities that the USP is currently obliged to provide, namely, facilities to bar certain number ranges, and/or the facility to bar outgoing calls to premium rate numbers provided free of cost. In addition, it may be possible for consumers to implement additional cost control measures, for example by adjusting the settings on their handsets in order to bar incoming calls while roaming abroad.
48. However, ComReg framed its consultation questions with reference to the total range of facilities, as set out above, that it assessed which may be appropriate to allow consumers to fully control their access and costs.
49. ComReg sought submissions to determine the extent of the call barring facilities that are currently available to consumers and any cost associated with such.

3.4 Outgoing Voice Calls

50. While the USP is required to provide call barring facilities in respect of premium rate numbers free of charge, ComReg understands that the USP charges its subscribers, both an initial setup and subsequent recurring fee, to avail of the other the additional call barring facilities that it is required to make available⁹.
51. ComReg has concerns that if such charges were considered to be set too high, the effect would be to deter consumers from availing of the associated facilities. In other words, the cost of availing of the facility could be perceived as being greater than the costs it is intended to control. As such, ComReg sought submissions on the range of charges that a consumer is currently required to pay in order to avail of any of the call barring facilities that are available.

⁹ The Universal Service Obligation designation does not require the Universal Service Provider to provide these additional call barring facilities free of charge.

52. Finally, in respect of outgoing calls, ComReg was interested in any submissions that would indicate why an undertaking, which does not currently provide call barring facilities for outgoing calls to mobile numbers, national numbers, International destinations, premium rate numbers or any other discrete number range, would be deterred from doing so. ComReg posed the following question:

- Q. 4 (a) Does the telecommunications services provider (i.e. undertaking) to which you are subscribed provide facilities to bar outgoing calls to all or any of the following: mobile numbers, national numbers, International destinations, premium rate numbers or any other discrete number range? Please specify which, if any, of these call barring services that you avail of.
OR
- (b) As an undertaking do you provide facilities to bar outgoing calls to all or any of the following: mobile numbers, national numbers, International destinations, premium rate numbers or any other discrete number range? Please specify which, if any, of these call barring services that consumers may avail of.

Views of respondents regarding availability

53. Eir, Virgin Media and Vodafone Ireland stated that they offer a suite of barring facilities including mobile, international and PRS ranges but that they do not offer selective barring for discrete number ranges.
54. Eir stated that ComReg must do further market research to establish what the demand is for network-level barring of number ranges. ComReg queried this further with Eir and it advised that the challenge to provide additional blocking is the use of current generation switches in the network which do not have the capacity for the provision of additional barring services. Similarly, BT Ireland responded that they provide certain types of call barring facilities (to mobile, international and PRS numbers) but do not provide barring services to discrete ranges.
55. Three Ireland also provide blocking of international and PRS numbers at a subscriber level which allows a subscriber to block all calls to and from international destinations and all calls to premium rate numbers. However, they claim that it is not possible to provide blocking of a specific number or number range at a subscriber level. They claim that this can be done at a network level which would prevent all subscribers from calling the blocked number. As a result, Three Ireland believe that it would be preferable to use subscriber-level barring through the use of facilities such as smartphone apps.

56. Vodafone Ireland offer services such as the “Vodafone Safety Net” which is a blocking and filtering app for Android smartphones and some call barring facilities (but not discrete range barring) to their fixed customers.
57. Meteor and eMobile subscribers have the option of barring voice calls to premium and international numbers.

Views of respondents regarding charges

58. ComReg also posed the following question in relation to costs in its preliminary consultation:

Q. 5 Is there a charge to availing of any of these facilities? If so please specify what these charge are, to include details of any initial/setup charges and any subsequent recurring charges.

59. Fixed line service providers Eir, Virgin Media and Vodafone Ireland indicated that they charge a fee for the use of most of their call barring facilities. However, Meteor, eMobile and Three Ireland state that they do not currently charge end-users for availing of the facilities.

Views of respondents regarding facilities available on handsets

60. ComReg posed the following question in respect of call barring facilities available to end-users on their handsets:

Q. 6 Are you aware of any third-party solutions, such as handset settings or apps that would allow consumers to bar outgoing calls to all or any of the following: mobile numbers, national numbers, International destinations, premium rate numbers or any other discrete number range? Please provide details of any such solutions.

61. A number of possible solutions were proposed by the respondents, in particular in relation to smartphones, where there are a range of applications that can be downloaded to the phone which will restrict access to various number ranges.
62. Vodafone Ireland stated that it offers a service to end users called “Vodafone Protect” which includes, amongst other things, the ability to filter calls and SMS. It is also possible to block certain incoming calls and SMS using this service.

63. Eir noted that there is a wide selection of mobile phone barring applications available, for example the Mobile Guardian¹⁰, the Phone Sheriff¹¹ and the McAfee Android protect¹² service. They additionally noted that these services extend beyond traditional barring facilities by addressing OTT services.

Views of respondents in respect of any issues in making facilities available

64. ComReg posed the following question in respect of making facilities available:

Q. 7 If, as an undertaking, you do not currently offer facilities that would allow subscribers to bar outgoing calls to all or any of the following: mobile numbers, national numbers, International destinations, premium rate numbers, or any other discrete number range are there any impediments either financial or technical for instance, to making these facilities available? Please provide details to support your answer to include details of any investment costs that would be required to make such facilities available and how such costs might be recovered/offset.

65. BT Ireland noted that while standard call barring facilities are currently available to end users, the ability to bar calls to discrete numbers and number blocks is a potential challenge for them.

66. Eir noted that they currently offer a full suite of call barring facilities to their end users but that, from a network equipment perspective, all available call barring categories are now in use, which means that if the current suite were to be extended to allow for more discrete call barring, they would be required to accelerate the replacement of elements of the existing network for a substantial investment. They also noted that the barring of premium SMS has historically proven infeasible for all mobile operators due to the limitation on SMS vendor solutions which were initially developed in the context of SMS being a peripheral feature.

67. Virgin Media, whilst offering a standard call barring service, does not currently offer call barring to discrete number ranges.

¹⁰ <https://www.mobileguardian.com/>

¹¹ <http://www.phonesheriff.com/>

¹² <http://home.mcafee.com/store/package/detail.aspx?pkgid=388>

ComReg's response to preliminary consultation issues

68. ComReg acknowledges that while there currently are a number of call barring facilities available to end-users of the respondents, selective call barring facilities for more discrete number ranges present a technical challenge to current generation telephony networks. It is understood that in order to overcome this obstacle an overhaul of the existing networks would be in some part required with a number of current, perfectly serviceable switches being swapped out for newer generation equipment to accommodate the requirement to selectively block discrete number ranges.
69. ComReg appreciates that the upgrading of a network is a significant event which requires much planning, investment and time to achieve. Additionally, many network providers would have plans in place for an organised migration to the next generation of network equipment over the course of the next few years and it would not be reasonable to expect that this programme be accelerated purely to support the full implementation of selective call barring. As such, it would be considered disproportionate to impose the obligation of discrete call barring on undertakings currently, however, with the evolution of networks, this may become more appropriate.
70. ComReg also notes that while there are a number of different solutions available to end-users, they are typically dependent on the user having a smartphone and are dependent either on the operating system used by the phone (i.e. Android or iOS) or the phone type itself. It is also not clear to what extent these applications are monitored and tested for suitability as a barring facility and, as such, it is outside of the scope of ComReg to ensure that the apps deliver the barring service in the way that is claimed. Whilst there are solutions available to end-users, it is not possible to gauge the current level of demand for these services as it is not apparent if the services that are currently offered by undertakings are being advertised to end-users at the point of sale or simply being used by certain subscribers as a cost control or protection measure for certain end users.
71. Finally, ComReg notes that where charges were applied by service providers, a set-up or administrative fee was charged initially with an ongoing monthly fee applied after that.

3.5 Access to Premium SMS/MMS and DCB

72. Common practice in the PRS industry is to effect a charge on consumers that have given their informed consent to a PRS by way of “reverse billed PSMS”. In this case, consumers are charged for receiving an SMS from a premium rate shortcode rather than for sending an SMS to a premium rate shortcode, but this charge can only be applied if the consumer gives informed consent for the service. It should, therefore, be noted that in order to effectively control their costs, subscribers to mobile networks who wish to block access to all PRS not solely outgoing voice calls to premium rate numbers may also wish to avail of a facility to bar sending and receiving PSMS/PMMS.
73. ComReg is also mindful of relatively recent technological developments which allow consumers to charge the cost of a PRS to their mobile phone account through the use of DCB.
74. In accordance with its preliminary position that consumers should be able to effectively control their costs how and when they wish, ComReg, therefore, sought submissions on whether mobile network operators (“MNOs”) should make barring facilities available to their subscribers for:
- a. Incoming PSMS/PMMS,
 - b. Outgoing PSMS/PMMS, and
 - c. PRS provided by DCB.

Views of respondents in relation to barring

75. ComReg posed the following question in its preliminary consultation:

Q. 8 Should MNOs provide facilities that would allow consumers to bar access to all PRS, including those provided by PSMS/PMMS and DCB? Please give reasons to support your view.

76. Three Ireland responded that it is possible to block access to a single PRS number for all end-users, as has been done in the past due to fraud or at the request of ComReg. Virgin Media agreed that, given the nature and content of some types of PRS, it is desirable that end-users should be able to control access.
77. Zamano stated that the 50xxx and 51xxx ranges would need to be exempt from any barring facility as these ranges are used for marketing. Eir once again raised the issue that proportionality is an issue and that demand for the barring of these services should be established before any rule is introduced.

Views of respondents in respect of handset solutions

78. ComReg posed the following question in its preliminary consultation.

Q. 9 Are you aware of any third-party solutions, such as handset settings or apps that would allow consumers to bar access to all PRS, including those provided by PSMS/PMMS and DCB? Please provide details of any such solutions.

79. BT Ireland do not offer a mobile service and so did not comment on this question. Eir referred to their response to question six which outlined a selection of apps (e.g. the Phone Sheriff and Mobile Guardian applications) which would be suitable for barring access to all PRS.

80. Three Ireland stated that further research would be necessary into what types of services and applications are available to end-users. They aim to gain information from their manufacturers regarding handset settings and intend to engage with their products team to understand if any apps are available and suitable. Both Virgin Media and Vodafone Ireland chose not to comment and Zamano stated that Android smartphones prompt the end-user when they text a PRS.

Views of respondents in respect of making facilities available

81. ComReg posed the following question in its preliminary consultation:

Q. 10 If, as an undertaking, you do not currently offer facilities that would allow subscribers to bar access to all PRS, including those provided by PSMS/PMMS and DCB, are there any impediments to making these facilities available? Please provide details to support your answer to include verified details of any investment costs that would be required to make such facilities available and how such costs might be recovered/offset.

82. BT Ireland stated that the limitation to providing these facilities lies in the inability to bar a discrete number or number block which means that barring of PSMS or PMMS services would not be possible. Eir stated that they do not offer DCB services and also referred to their previous point that it is not currently economically feasible for them to provide barring facilities for PSMS services. Three Ireland and Zamano stated that the question did not apply to them and Virgin Media and Vodafone Ireland chose not to comment.

Views of respondents in respect of costs

83. ComReg posed the following question in its preliminary consultation:

Q. 11 For undertakings that already offer these facilities, please provide details of the actual cost to you in providing this service

84. No respondent was in a position to provide the actual cost to them to provide their current call barring facility. Eir restated that they do not currently offer DCB facilities to their end users. Three Ireland have commenced an internal investigation into the costs associated with the facilitation of the barring services that they offer.

ComReg's response to preliminary consultation issues

85. ComReg acknowledges that due to the nature of certain PRS it would be desirable that access could be blocked as required, for example to prevent children from accessing services of an adult nature. However, ComReg has considered the previous responses which outlined the technical challenges in providing discrete call barring services and technical issues which can only be resolved through a costly upgrade of certain elements of the network. It appears that it would be necessary to establish if imposing this as an obligation on undertakings would be proportionate. ComReg also understands that the barring of PSMS at network level by a subscriber would be economically infeasible at this time.

86. In this context, ComReg agrees that further research is required to establish the extent to which third party solutions such as those identified by the respondents would provide a suitable call barring option for end users. However, it would appear from the initial examination that the products identified by the respondents as being suitable for call barring (e.g. the Phone Sheriff and the Mobile Guardian) would also be suitable for barring access to PSMS/PMMS.

87. ComReg notes that undertakings stated that they required additional time to establish the true cost of the provision of these services and so has decided to request this information again, as part of the further consultation, in order to inform our decision making.

88. ComReg also notes Zamano's point regarding the 50xxx and 51xxx number ranges, however the basis for this consultation is in the Universal Services Regulations as opposed to the PRS Code of Practice and as such, while we appreciate that these ranges are differently assigned, this is a matter of call barring services across the entire range of PRS services, irrespective of their particular use.¹³

¹³ Additionally, ComReg notes that all mobile numbers are opted-out of marketing services by default unless consent has been given to the receipt of such communication in accordance with the Privacy and Electronic communications Regulations 2011

3.6 Consumer protection measures

89. ComReg is cognisant that some consumers may wish to block access to certain categories of PRS, without necessarily blocking access to all PRS. For example, some consumers may wish to block access to 1598 and 1599 number ranges, while still continuing to pay for other PRS such as TV voting or entering competitions. As such, the consumer's concern is not the cost but rather the nature/content of the PRS. The consumer's concern regarding the content of PRS may also extend to their children, who may, without adequate access control mechanisms, access content not suitable for minors.
90. In a similar manner, it would seem to ComReg to be desirable that consumers would be able to ensure that they can register a vote on a TV programme by sending an SMS to a 57XXX premium rate shortcode but not be able to access adult-related content, which imposes a charge on the consumer through their sending or receiving a PSMS from the discrete 58XXX and 59XXX ranges.
91. In the case of adult content that may be provided by DCB, it appears that the MNOs have a responsibility to ensure:
- a. That such PRS are distinguishable from other categories of PRS in order that children cannot access them (so as to ensure compliance with the relevant provisions of the PRS Code of Practice), or
 - b. At a minimum, and to use a "less precise" solution, consumers must be able to bar access to all PRS provided by DCB.

Views of respondents in respect of certain fixed PRS ranges

92. ComReg posed the following question in its preliminary consultation:

Q. 12 Should undertakings provide facilities that would allow consumers to bar outgoing calls to discrete premium rate number ranges, for example the 1599 range set aside solely for adult services of a sexual nature? Please give reasons to support your view.

93. BT Ireland responded that whilst call barring is offered to particular number categories, it may not be economically viable to provide discrete barring on the current platforms. Eir restated that the 1598 and 1599 voice ranges, along with the 58xxx and 59xxx SMS ranges, operate behind robust access controls with credit card age verification and PIN controlled access being used to give end-users full control over the access to these services. They believe that these controls offer sufficient protection for these number ranges.

94. Three Ireland reiterated that barring is possible to all calls or texts to a single number range for all subscribers. Virgin Media agreed that the facility should be provided, however, applying the facility to discrete number ranges would need to be assessed for proportionality against the cost of implementation.
95. Zamano stated that current age verification rules offer an adequate facility to the consumer along with the ComReg PRS Code of Practice and the Consumer Rights Directive.

Views of respondents in respect of certain mobile PRS ranges

96. ComReg posed the following question in its preliminary consultation:

Q. 13 Should MNOs provide facilities that would allow consumers to bar access to PRS that are provided over discrete premium rate shortcode ranges, for example the 59XXX range set aside solely for adult services of a sexual nature? Please give reasons to support your view.

97. As BT Ireland do not provide mobile services, they chose not to respond to this question.
98. Three Ireland stated that they believe ComReg should extend the scope of the consultation so as to comprehensively address adult services, to ensure appropriate access to same and to introduce a content classification framework.
99. Virgin Media stated that the application to discrete premium rate short codes would need to be assessed for proportionality against the cost of implementation although they do not have access to these costs at this time.
100. Zamano stated that they believe the current verification system to be adequate.

Views of respondents in respect of handset facilities for barring of PRS ranges

101. ComReg posed the following question in its preliminary consultation:

Q. 14 Are you aware of any third-party solutions, such as handset settings or apps that would allow consumers to bar access to certain categories of PRS, regardless of whether these PRS are accessed by placing an outgoing call or provided by PSMS/PMMS and DCB? Please provide details of any such solutions.

102. BT Ireland restated that, for the business end-user, there are typically PBX or private networks in place which allow control of access to any or all service types. As they do not provide a mobile service, they did not comment on this aspect of the question.
103. Eir believe that the applications they identified in their response to question 6 for example the Mobile Guardian¹⁴, the Phone Sheriff¹⁵ and the MacAfee Android protect¹⁶ service, would be applicable in this instance also and would be effective at barring access to certain categories of PRS.
104. Three Ireland restated that they believe further research is required into what third-party solutions are available and what capabilities they might have.
105. Virgin Media opted not to comment on this question and Zamano stated that Android phones will prompt you when you attempt to text a PRS.

Views of respondents in respect of making facilities for barring of PRS ranges available

106. ComReg posed the following question in its preliminary consultation:

Q. 15 If, as an undertaking, you do not currently offer facilities that would allow subscribers to bar access to certain categories of PRS, on the basis that they are provided on discrete premium rate number and/or premium rate shortcode ranges and/or by DCB, are there any impediments to making these facilities available to consumers? Please provide details to support your answer to include verified details of any investment costs that would be required to make such facilities available and how such costs might be recovered/offset.

107. BT Ireland stated that discrete barring of numbers and number blocks cannot be viably provided on the existing legacy switches. Eir also restated that, as all available barring categories on their network equipment is now in use, they would be obliged to upgrade their network equipment in order to facilitate barring of certain categories of PRS.

¹⁴ <https://www.mobileguardian.com/>

¹⁵ <http://www.phonesheriff.com/>

¹⁶ <http://home.mcafee.com/store/package/detail.aspx?pkgid=388>

108. Three Ireland stated that the question is not applicable to them and Virgin Media noted that they have proactively introduced call barring services on a commercial basis for premium calls although this service does not cater for discrete number ranges. They also stated that applying this level of barring would need to be assessed for proportionality against the cost of implementation. They added that if the service were to be mandated, it should only be done so on the basis that operators can set commercial charges for end-users of the service. To do so otherwise would not be consistent with ComReg's objective of encouraging efficient investment in infrastructure and promotion of innovation.

Views of respondents in respect of costs regarding PRS ranges

109. ComReg posed the following question in its preliminary consultation:

Q. 16 For undertakings that already offer these facilities, please provide details of the actual cost to you in providing this service.

110. Details of actual costs for providing this service were not available from the respondents although Three Ireland stated that it has commenced a complex review of the costs that may be incurred. Details of these costs may be available should there be a subsequent consultation issued.

ComReg's response to preliminary consultation issues

111. As was discussed in ComReg's previous responses although the provision of discrete barring services – particularly for those services which are for adults only – is highly desirable, the economic feasibility of providing such services would need to be established before the imposition of any obligations.

112. If it is the case, as is asserted by the respondents, a number of times in their responses, that the cost to undertakings would be significant as a result of current technical restrictions then it would likely not be proportionate for ComReg to mandate the provision of discrete call barring facilities on all undertakings at this time. Instead, the possibility of other third party applications and services such as those identified by the respondents would need to be researched and examined for their suitability as an alternative means of providing protection and control in respect of PSMS.

113. Although specific costs to undertakings were not provided, ComReg understands that the costs involved are likely to be significant, to the extent that they would be prohibitive for the purposes of purely providing extended call barring facilities.

4. Further Consultation issues

4.1 Call Barring facilities

114. While the aim of providing greater cost control facilities, and additional protection of unintended audiences against unsuitable services is agreed to be a positive one, it would appear that to extend the current call barring facilities offered by many undertakings would require a considerable investment in legacy network equipment – considerably in advance of the planned retirement date of that equipment.
115. As a result of this preliminary consultation, it would appear that any decision to include the obligation to offer discrete call barring at network level to end-users would represent a disproportionate burden on undertakings providing publicly available electronic communications services directly to end-users.
116. However, the point remains that end-users can benefit from cost control and child protection measures through a less granular or high level set of call barring facilities, namely the facility to bar international calls and PRS.
117. Therefore, having considered the responses to the preliminary consultation, ComReg is of the preliminary view that all undertakings providing publicly available electronic communications services directly to end-users should be obliged to provide at a minimum, the facility to bar international calls and PRS free of charge to its subscribers.
118. While ComReg acknowledges that the implementation of more granular selective call barring facilities at network level per subscriber does not appear technically proportionate for all undertakings at this time, it is expected that the issue will be revisited in the future as newer generation networks are rolled out and as more sophisticated technological solutions are available to network providers. It is also expected that those undertakings who can offer more granular call barring facilities will do so.
119. However, ComReg remains of the preliminary view that the key drivers for offering a call barring facility to end users, namely a cost control facility and child protection mechanism, merit application of the obligations to all undertakings rather than just the Universal Service Provider.
120. To this end, ComReg is now consulting on the proposal that all undertakings should provide certain call barring facilities to their subscribers.

121. ComReg is of the preliminary view that in order to achieve the two goals of cost control and child protection, it is necessary for undertakings to offer a service which will bar access to outgoing international calls and to PRS¹⁷. ComReg's initial view is that it is necessary to include these two call types in the call barring offering as they represent the most potential harm in terms of the possible costs that may result from use of them and also, in the case of PRS, they represent the most potential harm to children as a result of accessing services intended for adult use.
122. ComReg is not proposing to specify whether the facilities provided are at network or handset level, or both.
123. To be clear, ComReg understands from respondents that whilst it is possible to block entire number ranges (for example, the international range of numbers which begin with "00..."), it is not possible to provide a more granular barring facility (for example barring access to just UK numbers which would begin "00 44..."). Additionally, in the case of PRS, it is possible to block the entire range but not subsets of the range (i.e. it is possible to block all PRS numbers which begin "15..." but not solely the adult ranges which begin "1598.... and 1599...."). As a result, we are proposing that the barring facility should involve the barring of the entire international range and the entire PRS range and DCB. However, it is important to note that ComReg would support and encourage more granular barring facilities with these two ranges where an undertaking has the capability to offer it.
124. Although ComReg's preliminary view is that blocking access to international numbers on request of the end-users remains appropriate, ComReg is also mindful that in recent years call costs to international numbers have decreased considerably, as can be seen from the indicative charges shown in Table 1 below. Additionally, some call bundles may now also include an allowance of minutes to certain international destinations.
125. As a result, ComReg requests stakeholders to provide particular reasons as to why international calls could be excluded or why they should be included in the facilities to be made available.

¹⁷ International calls and PRS are as per their definition in the ComReg Numbering Conventions, ComReg Document 11/17 – National Numbering Conventions v7.0
www.comreg.ie/fileupload/publications/ComReg1117.pdf

	UK - Landline	UK – Mobile	Spain – Landline	Spain – Mobile	USA - Landline	USA - Mobile
Eir	15.61c	23.0c	39.36c	23.0c	19.36c	169.0c
Meteor¹⁸	25.0c	43.0c	33.0c	46.0c	46.0c	46.0c
Sky Ireland¹⁹	15.70c	Not Specified	39.40c	Not Specified	19.40c	Not Specified
Three Ireland²⁰	44.72c		44.72c		35.58c	
Virgin Media²¹	25.0c	30.0c	35.0c	Not Specified	230.0c	Not Specified
Vodafone Fixed	12.0c	29.0c	30.0c	40.0c	12.0c	12.0c
Vodafone Mobile	15.0c	30.0c	15.0c	30.0c	15.0c	15.0c

Table 1: Current International call charges in EU cent

126. Note that in the table above, unless otherwise noted, the calls are out of bundle charges, at a daytime rate where relevant, to landline numbers in each country and inclusive of VAT (Note that charges listed above are correct as of 17/11/15).

127. ComReg had initially considered the possibility of mandating that undertakings should apply the barring facility by default as is the position in Italy where certain PRS are automatically blocked for all fixed telephony end users with an opt in option for end users who are willing to activate the service²². However, ComReg is of the preliminary view that this would be an inappropriate response as many subscribers may not wish to activate call barring for their service.

128. The current facilities offered by Eir to subscribers are set out, alongside ComReg's proposed minimum set to be offered free of charge, in Table 2 below:

¹⁸ Meteor charges vary depending on the price plan, charges in table 1 refer to Bill Pay Connect per minute

¹⁹ Sky calls are all subject to a connection fee of 9.70c except for calls to inclusive countries for Sky Talk Anytime customers

²⁰ Three charges vary depending on the price plan, charges in table 1 refer to Bill Pay per minute. Note calls made within EU are subject to a minimum call charge of 30 seconds, per second billing applies afterwards. Per minute billing applies to all international calls and roaming calls made and received outside of EU

²¹ Virgin Media calls are subject to a call set-up charge/minimum call charge of 15c

²² Cullen International – PRS Transparency and Call Barring July 28, 2015

Barring Type	Current eir Barring facilities	Universal Service Provider obligation	Proposed Minimum Set of Barring Facilities on all undertakings
Premium Rate Services	Y	Y	Y
International Direct Dial (ISD)	Y	Y	Y
Premium Rate Service (PRS) +International Direct Dial (ISD)	Y	Y(but not necessarily together)	Y
Premium Rate Service (PRS) +International Direct Dial (ISD) + Cross Channel (XCH – legacy category)	Y	Y (but not necessarily together)	Y
Premium Rate Service (PRS) + Mobile	Y	Y(but not necessarily together)	N
Inland Trunk – National Calls (STD)	Y	Y	N
Temporary Off Service	Y	N	N
Outward Service Barred	Y	N	N
Inward Service Barred	Y	N	N
Premium Rate Service (PRS) +International Direct Dial (ISD) + Cross Channel (XCH) + Inland Trunk – National Calls (STD)	Y	N	N

Table 2: Current and Proposed Barring facilities

Key: outgoing calls to national, mobile, international and premium rate numbers

129. From the table above, it can be seen that ComReg is proposing to mandate a much-reduced minimum set of call barring facilities whilst allowing undertakings to provide additional call barring services to their subscribers, such as the services outlined above, according to their capabilities and demand from end-users for particular barring services. ComReg's preliminary view is that call bundles typically include a certain number of minutes of calls which can be used to call a range of number types, including local, national and mobile calls and, as such, there is less of a requirement to implement cost control for these number types.

130. In addition, as reported by ComReg in the recent quarterly report²³, mobile originating voice minutes accounted for 73.3% of all voice minutes in Q2 2015 (compared to 70.8% in Q2 2014) while traffic originating on fixed line networks accounted for the remaining 26.7% of all voice minutes (compared to 29.2% in Q2 2014). Note also that, as of Q2 2015, 75.8% of all mobile voice minutes were classified as mobile-to-mobile (on-net and off-net). This downward trend in minutes originating on fixed line networks, combined with the fact that MNOs typically offer free “on-net” minutes to end-users, suggests that cost control for mobile calls is not a particular issue to the extent that a call barring service should be proposed at this time.
131. Nonetheless, ComReg is aware that a number of service providers do implement a barring facility to these number types according to demand from end-users and also as a credit control facility. It is ComReg’s expectation that these arrangements would continue as they are and that service providers would be flexible in meeting the needs of their end-users. Therefore, ComReg is of the preliminary view that further regulatory consideration in respect of call barring of mobile calls is not necessary at this time.
132. The current universal service obligation on Eir to provide call barring facilities to end-users expires at the end of December 2015. ComReg is currently consulting to extend this obligation for a limited time period.
133. However, ComReg is of the preliminary view that it is appropriate for all undertakings to begin to provide a minimum set of call barring facilities to their subscribers for international and PRS number ranges from 1 July 2016.
134. In order for subscribers to be fully informed as to the facilities that they can avail of in respect of call barring, ComReg is proposing the following measures in respect of communication with subscribers:-
- Existing subscribers should be informed by their service provider of all of the call barring facilities available and any relevant charges, if they are not to be provided free of a charge, and
 - New subscribers should be provided with information in their terms and conditions regarding all of the call barring facilities available and any relevant charges, if they are not required to be provided free of charge.

²³ Data as of Q2 2015: http://www.comreg.ie/_fileupload/publications/ComReg15102.pdf

- Q. 1 Do you agree with ComReg's preliminary view that in order to support the aims of allowing greater cost control and implementing improved child protection facilities, all undertakings should provide barring facilities for:
- (a) Outgoing calls to international numbers, and
 - (b) All contact with PRS, including PSMS, PMMS and DCB
- when requested by an end-user? Please provide reasons to support your view.
- Q. 2 Do you agree that the implementation date of 1 July 2016 of the minimum set of call barring services is reasonable? If not, please give detailed reasons as to why it would not be possible to meet this date and an estimated timeline for implementation.
- Q. 3 Do you agree with ComReg's preliminary view in respect of informing existing and new subscribers? Please provide reasons to support your view.

4.2 Costs associated with the provision of a call barring service

135. ComReg is aware that of those currently providing some form of call barring facility, some providers charge end-users for availing of the service (typically an administrative set-up fee and an ongoing monthly fee after that) but other service providers do not charge. ComReg is also aware that in certain instances, where the service provider has opted to implement a barring service as a means of credit control, they have done so free of charge to the end-user to their own benefit. ComReg had previously asked in the preliminary consultation for an outline of the costs associated with providing a call barring service but did not receive any information in the responses.
136. It is, therefore, ComReg's preliminary view that in the absence of supporting evidence for the cost to an undertaking of providing a minimum set of call barring services, that the minimum set should be provided free of charge to the end user as it cannot justifiably be regarded as being costly.

- Q. 4 Do you agree that the proposed barring facility for:
- (a) international calls and
 - (b) all PRS including PSMS, PMMS and DCB
- should be provided free of charge to the end-user? Please provide reasons to support your view.

Q. 5 If, as an undertaking, you do not agree that these facilities should be provided free of charge to the end-user, please provide reasons why, including detailed costs of the set-up of a barring service and associated ongoing charges that would be incurred by you in the provision of the service.

4.3 Regulatory Impact Assessment and Draft Decision Instrument

137. Also included in this Response to Preliminary Consultation and Further Consultation are a Draft Regulatory Impact Assessment and a Draft Decision Instrument.

Q. 6 Do you agree or disagree with ComReg's draft high level assessment of the impact of the proposed regulatory options as set out in Section 6? Are there any other factors that you consider to be relevant that ComReg should consider in completing its RIA? Please give reasons to support your view.

Q. 7 Do you agree with the Draft Decision Instrument in Section 7? Please give reasons to support your view.

5. Submitting Comments

138. ComReg welcomes all written responses from stakeholders by 13 January 2016, however, it will make the task of analysing responses easier if comments are referenced to the relevant question numbers from this document. In all cases, please provide reasons in support of your views.
139. ComReg will, in the interests of openness and transparency, publish all non-confidential inputs received and would, therefore, request that electronic submissions be made in an unprotected format so that they can be published electronically. Submissions will be published, subject to the provisions of ComReg's Guidelines on the Treatment of Confidential Information (see ComReg Document No. 05/24²⁴). Any confidential material should be clearly identified and placed in a separate Annex to the stakeholder's response.
140. Responses must be submitted in written form (post or email) to the following recipient, clearly marked "**Submissions to ComReg 15/125**":

Colman Mc Evoy

The Commission for Communications Regulation

Irish Life Centre

Abbey Street

Freepost

Dublin 1

Ireland

D01 W2H4

Phone: +353-1-8049600

Email: retailconsult@comreg.ie

141. Responses must be received by ComReg not later than 5pm on 13 January, 2016.

²⁴ Document 05/24 <http://www.comreg.ie/fileupload/publications/ComReg0524.pdf>

6. Draft Regulatory Impact Assessment (“RIA”)

6.1 Role of the RIA

142. 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.
143. The Commission’s approach to RIA is set out in the Guidelines published in August 2007, ComReg Document No. 07/56 and 07/56a. In conducting this RIA, the Commission takes account of the RIA Guidelines²⁵ adopted under the Government’s Better Regulation programme.
144. Section 13 (1) of the Communications Regulation Act 2002, as amended, requires the Commission to comply with certain Ministerial Policy Directions. Policy Direction 6 of February 2003 requires that before deciding to impose regulatory obligations on undertakings the Commission 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, the Commission also has regard to 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.
145. In conducting RIA, the Commission takes into account the six principles of Better Regulation. These are:
1. Necessity
 2. Effectiveness
 3. Proportionality
 4. Transparency

²⁵http://www.taoiseach.gov.ie/eng/Publications/Publications_Archive/Publications_2011/?pageNumber=2

5. Accountability

6. Consistency

146. 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 a relatively low impact, the Commission 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.
147. 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
148. 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.

6.2 Identify the policy issue and identify the objectives

149. The Call Barring measures to be delivered by Eir as the Universal Service Provider, expire at the end of December 2015.
150. Currently the call barring measures provided by Eir include incoming services, outgoing services, local calls only, both PRS and international, and mobile and PRS calls.

151. ComReg is of the preliminary view that in order to more accurately reflect the needs of the market, and to meet the aims of child protection and cost control a requirement to provide a barring facility for International calls and for PRS should be sufficient.
152. As current product offerings generally do not differentiate between national and local calls, and these are typically included in bundled offerings they do not represent a cost control issue. In order also for these market needs to be fully met, it is ComReg's preliminary view that it is appropriate that the obligation to bar international calls and PRS is extended to all undertakings, as per the Universal Services Regulations, providing publicly available electronic communications services directly to end-users.
153. However, although the preliminary view is that it would support cost control objectives to block access to international numbers, ComReg is also mindful that, in recent years, call costs to international numbers have decreased considerably. Additionally, some call bundles may include an allowance of minutes to certain international destinations and/or offer an add-on to the core bundle. As a result, ComReg has requested opinions from all stakeholders, as part of the further Consultation, whether a barring facility for international numbers would be of benefit to end users.

6.3 Identify and describe the regulatory options

154. There are four options available to ComReg at this time.

- Option 1: Maintain the current Universal Service Obligation on Eir to provide existing call barring facilities to end-users, or
- Option 2: Reduce the current Universal Service Obligation on Eir to provide a barring facility for only international calls and/or PRS, but at no cost, or
- Option 3: Do not require any undertaking to offer a call barring facility to end-users.
- Option 4: Reduce the scope of the current obligations but extend applicability on all undertakings such that they must provide a barring facility for international calls and PRS from 1 July 2016 to all undertakings at no cost to end-users.

6.4 Determine the impacts on stakeholders

155. Option 1: Maintain the current universal service obligation on Eir to provide a call barring facility to end-users from 1 January 2016

	Impact on industry	Impact on Consumers
Cost	As option 1 represents a continuation of the current situation, this option represents no additional cost to industry.	It is not expected that this option would have any additional cost impact on consumers.
Benefit	There is no requirement for industry to make any changes to their networks or to the contracts they offer their end-users.	End users that currently avail of the barring service will continue to receive that service and those end users that wish to avail of a barring facility at a future point from Eir may do so.
Disadvantage	Only Eir is obliged to offer call barring services, however some undertakings already provide some such facilities voluntarily.	Only subscribers to Eir would be guaranteed call barring services.

156. Option 2: Reduce the current Universal Service Obligation on Eir to only provide a barring facility for international calls and PRS from 1 January 2016, but to provide both at no cost.

	Impact on industry	Impact on Consumers
Cost	Currently call barring for international is not provided free of charge so this would provide a loss of revenue for Eir. The cost has not been established at this stage but ComReg is seeking input on this during this consultation.	This option would mean that there is no cost of barring PRS and international calls. Additionally, end-users who currently avail of call barring would benefit from the removal of charges and other end-users who find the current costs prohibitive may now avail of call barring. There will also be a cost to end-users who currently avail of the additional barring facilities (such as barring of incoming or local calls) in having this facility removed.
Benefit	<p>This will reduce the regulatory burden on Eir as reducing the requirement to just international calls and PRS represents a significant deregulation.</p> <p>Reducing the requirement on Eir allows them to simplify their product offering – whilst also allowing for them to increase the barring facility according to market demands.</p>	With the dual goals of child protection and cost control this option will continue to meet the needs of end-users.
Disadvantage	Only Eir is obliged to offer call barring services, however some undertakings already provide some such facilities voluntarily.	Only subscribers to Eir would be guaranteed call barring services.

157. Option 3: Do not require any undertaking to offer a call barring facility to end-users from 1 January 2016

Impact on industry		Impact on Consumers
Cost	There is a possibility that this option will represent minor savings for Eir, although these would not be large enough to have a significant impact. It is possible also that any savings made might be outweighed by the loss in revenue resulting from not providing the service.	In the event that barring facilities are entirely left to market forces, end-users may be obliged to spend money on costly alternative barring facilities to meet their needs.
Benefit	There is no significant benefit to industry in adopting this option.	There is no benefit to end-users in adopting this option
Disadvantage		This option represents a decrease in the level of regulatory protection offered to consumers and therefore would be a negative benefit.

158. Option 4: Reduce the obligation but extend that reduced obligation to provide a barring facility for international calls and PRS from 1 July 2016 to all undertakings, at no cost to consumers.

Impact on industry		Impact on Consumers
Cost	Call barring is a service that is largely already being provided by most undertakings, including by some at no cost to the end-user, and, therefore, should not represent a significant funding issue for undertakings, particularly as the requirement is just to provide barring to international calls and PRS as opposed to a full suite of barring services.	It is expected that as some undertakings provide barring facilities free of charge to end-users then it should be possible for all to do so.

Impact on industry		Impact on Consumers
Benefit	Undertakings will be in a position to provide a facility that supports end-users in gaining further control and which gives them more confidence in their usage of communications services.	Consumers can be confident that the possibility of 'bill-shock' is significantly reduced and also that their children are further protected from the possibility of accessing adult services and that they have increased control over their overall communications usage if the service is provided free of charge.

159. Should ComReg not require all undertakings to provide these measures, it could create detriment for those end-users who wish to employ cost control measures for their communications or wish to prevent a child from accessing services intended for adults.
160. According to the ComReg quarterly report²⁶, the fixed retail market share for Eir is 47.5%. Therefore, by not extending the obligation to provide a barring facility to all undertakings, a significant majority of end-users are left without any certainty of the possibility to avail of these services. Although many undertakings do provide some form of barring facility, there is no reassurance that this service will be continued and end-users with undertakings who do not provide the service are disadvantaged.
161. In respect of any cost impact on undertakings, ComReg notes that in the preliminary consultation the respondents were not in a position to provide information on the costs to them of providing call barring facilities. ComReg also notes that in certain instances, a call barring facility is provided by undertakings free of charge to end-users as a credit control mechanism to the benefit of that undertaking. As a result, ComReg believes that the service should be provided free of charge to all end-users but is requesting again input from undertakings regarding the exact costs to them in providing these call barring facilities. This input is requested through our further consultation, with Question 5 stating:

²⁶ ComReg quarterly report Q2 2015: http://www.comreg.ie/_fileupload/publications/ComReg15102.pdf

“If, as an undertaking, you do not agree that this facility should be provided free of charge to the end-user, please provide reasons why, including detailed costs of the set-up of a barring service and associated ongoing charges that would be incurred by you in the provision of the service.”

162. ComReg would encourage all undertakings to respond to this consultation outlining the cost to them in providing this service.

6.5 Determine the impacts on competition

163. ComReg is of the view that extending the obligation to provide a call barring facility to all undertakings will not have a negative impact on competition as it will be a service that will be available to all end-users regardless of their service provider.
164. Additionally, most undertakings already provide a call barring facility to their end-users, and in many cases this is provided at no cost to the end-user. Therefore, it is not foreseen that this will have any negative impact on competition. On the contrary, undertakings may feel that they could differentiate themselves from competitors by offering extended call barring facilities in addition to those required by ComReg.

6.6 Assess the impacts and choose the best option

165. In light of the above issues and impacts, ComReg is of the view that it is most appropriate that the obligation to provide a call barring service to end-users be extended to all undertakings providing publicly available electronic communications services directly to end-users.

7. Draft Decision Instrument

1. STATUTORY FUNCTIONS AND POWERS GIVING RISE TO DECISION

1.1 This Decision and Decision Instrument, made by the Commission for Communications Regulation (“ComReg”), established under Section 6 of the Communications Regulation Act, 2002 (as amended), relates to the provision of call barring services and is made:

- i. Having regard to ComReg’s functions and objectives as set out in Sections 10 and 12 of the Communications Regulation Act, 2002 (as amended) and in Regulation 16 of the European Communities (Electronic Communications Networks and Services) (Framework) Regulations, 2011 (“the Framework Regulations”);
- ii. Having, where appropriate, complied with the policy directions made by the Minister for Communications, Marine and Natural Resources under Section 13 of the Communications Regulation Act, 2002 (as amended);
- iii. Pursuant to ComReg’s functions and powers under Regulation 24 and Part A, Schedule 1 of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations, 2011 (“the Universal Service Regulations”);
- iv. Having taken account of the representations of interested parties submitted in response to ComReg Document No. 15/31; and
- v. Having regard to the analysis and reasoning set out in ComReg Document 15/125.

1.2 The provisions of the response to consultation and final decision document entitled [ComReg Document No. [-]] shall, where appropriate, be construed together with this Decision Instrument.

2. DEFINITIONS

2.1 In this Decision Instrument, terms used are as defined in the Framework Regulations, the Universal Service Regulations, the ComReg National Numbering Conventions,²⁷ the Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act 2010, and the Premium Rate Services Code of Practice,²⁸ unless the context otherwise admits.

²⁷ https://www.comreg.ie/_fileupload/publications/ComReg1117.pdf

²⁸ http://www.comreg.ie/_fileupload/publications/ComReg1229.pdf

3. SCOPE AND APPLICATION

- 3.1 This Decision Instrument applies to, and is binding upon all Undertakings providing a publicly available telephone service (such Undertakings are hereinafter referred to as an “Undertaking”, unless the context otherwise admits).
- 3.2 Undertakings shall comply with the provisions of this Decision Instrument by 1 July 2016.

4. SPECIFIC REQUIREMENTS IN RELATION TO CALL BARRING SERVICES

- 4.1 In accordance with Regulation 24 of the Universal Services Regulations, all Undertakings shall:
- 4.1.1 provide barring facilities whereby subscribers can, on request to the Undertaking bar the following:
- (a) all outgoing calls to international numbers; and/or
 - (b) all premium rate services, including premium Short Messaging Service (SMS) Multi Media Messaging Service (MMS), Direct Carrier Billing (“DCB”); and
- 4.1.2 the barring facilities specified in 4.1.1 shall be provided free of charge to all subscribers requesting them.
- 4.2 Where a third party provides the facilities referred to in section 4.1 on behalf of an Undertaking, the Undertaking shall remain liable in all respects for ensuring that the facilities comply fully with this Decision Instrument.
- 4.3 Undertakings shall inform their subscribers of the availability of the facilities referred to in section 4.1 by no later than 1 July 2016.

5. PROVISIONS SPECIFIC TO EIRCOM LIMITED (“EIR”)

- 5.1 Notwithstanding the provisions of this Decision Instrument, Eir shall continue to comply with all of the obligations in relation to call barring facilities that currently apply to it and which are set out in ComReg Document No. 14/71 entitled: *“The provision of telephony services under the Universal Service Obligation - Access at a Fixed Location”* (“Decision D10/14”) until 30 June 2016, whereupon those obligations shall cease to have effect. From 1 July 2016, Eir shall comply with this Decision Instrument.

6. STATUTORY POWERS NOT AFFECTED

- 6.1 Nothing in this Decision Instrument shall operate to limit ComReg in the exercise and performance of its statutory powers or duties conferred on it under any primary or secondary legislation (in force prior to or after the Effective Date of this Decision Instrument) from time to time.

7. MAINTENANCE OF OBLIGATIONS

- 7.1 If any section, clause or provision or portion thereof contained in this Decision Instrument 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 Decision Instrument and rendered ineffective so far as possible without modifying the remaining section(s), clause(s) or provisions or portion thereof of this Decision Instrument, and shall not in any way affect the validity or enforcement of this Decision Instrument or other Decision Instruments.

8. EFFECTIVE DATE AND DURATION

- 8.1 This Decision and Decision Instrument is effective from the date of its publication, and shall remain in full force unless otherwise amended by ComReg.

JEREMY GODFREY
CHAIRPERSON
THE COMMISSION FOR COMMUNICATIONS REGULATION
THE [-] DAY OF [-] 2016

Annex: 1 Legal Basis

The Communications Regulation Act 2002 (as amended)

Objectives of the Commission

12.—(1) *The objectives of the Commission in exercising its functions shall be as follows—*

(a) in relation to the provision of electronic communications networks, electronic communications services and associated facilities—

(i) to promote competition,

(ii) to contribute to the development of the internal market, and

(iii) to promote the interests of consumers within the Community,

[..]

(2) In relation to the objectives referred to in subsection (1)(a), the Commission shall take all reasonable measures which are aimed at achieving those objectives, including—

(a) in so far as the promotion of competition is concerned—

(i) ensuring that consumers, including disabled consumers, derive maximum benefit in terms of choice, price and quality,

(ii) ensuring that there is no distortion or restriction of competition in the electronic communications sector,

(iii) encouraging efficient investment in infrastructure and promoting innovation, and

(iv) encouraging efficient use and ensuring the effective management of radio frequencies and numbering resources,

(b) in so far as contributing to the development of the internal market is concerned—

(i) removing remaining obstacles to the provision of electronic communications networks, electronic communications services and associated facilities at Community level,

(ii) encouraging the establishment and development of trans-European networks and the interoperability of transnational services and end-to-end connectivity,

[(iii) Revoked by the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011 reg41(1)]

(iv) cooperating with electronic communications national regulatory authorities in other Member States of the Community and with the Commission of the Community in a transparent manner to ensure the development of consistent regulatory practice and the consistent application of Community law in this field, and

(c) in so far as promotion of the interests of consumers within the Community is concerned—

(i) ensuring that all consumers have access to a universal service,

(ii) ensuring a high level of protection for consumers in their dealings with suppliers, in particular by ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved,

(iii) contributing to ensuring a high level of protection of personal data and privacy,

(iv) promoting the provision of clear information, in particular requiring transparency of tariffs and conditions for using publicly available electronic communications services,

(v) encouraging access to the internet at reasonable cost to consumers,

(vi) addressing the needs of specific social groups, in particular disabled consumers, and

(vii) ensuring that the integrity and security of public communications networks are maintained.

[..]

(3) In carrying out its functions, the Commission shall seek to ensure that measures taken by it are proportionate having regard to the objectives set out in this section.

(5) In carrying out its functions, the Commission shall have regard to international developments with regard to electronic communications networks and electronic communications services, associated facilities, postal services, the radio frequency spectrum and numbering.

(6) The Commission shall take the utmost account of the desirability that the exercise of its functions aimed at achieving the objectives referred to in subsection (1)(a) does not result in discrimination in favour of or against particular types of technology for the transmission of electronic communications services.

Universal Service Regulations (S.I. No. 337 of 2011)

Control of expenditure

[..}

9. (2) A designated undertaking shall, for the purpose of ensuring that subscribers can monitor and control expenditure and avoid unwarranted disconnection of service, provide the specific facilities and services set out in Schedule 1, Part A.

[..]

Provision of additional facilities

24. (1) Without prejudice to Regulation 9(2) and subject to paragraph (3), the Regulator may specify that all undertakings providing publicly available telephone services or access to public communications networks are required to make available—

(a) all or part of the additional facilities listed in Schedule 1, Part B, subject to technical feasibility and economic viability, and

(b) all or part of the additional facilities and services listed in Schedule 1, Part A.

[..]

(3) Where an undertaking referred to in paragraph (1) considers that it is not technically feasible or economically viable to provide all or part of the additional facilities listed in Schedule 1, Part B, it shall notify the Regulator of the fact and give reasons including all relevant information in support of its views.

[..]

SCHEDULE 1

DESCRIPTION OF FACILITIES AND SERVICES REFERRED TO IN REGULATIONS 9 AND 24

Regulations 9(2) and 24

Part A: Facilities and services referred to in Regulation 9:

[..]

(b) Selective barring for outgoing calls or premium SMS or MMS or, where technically feasible, other kinds of similar applications, free of charge.

i.e. the facility whereby a subscriber can, on request to the designated undertaking that provides telephone services, bar outgoing calls or premium SMS or MMS or other kinds of similar applications of defined types or to defined types of numbers free of charge.

Annex: 2 Preliminary Consultation Questions

- Q. 1 Do you agree with ComReg's preliminary position that consumers should be able to avail of facilities that allow them to adequately control their telecommunication costs? Please give reasons to support your view.
- Q. 2 Do you agree with ComReg's preliminary position that consumers should be able to control their (or their children's) access to certain types of numbers? Please give reasons to support your view.
- Q. 3 Do you agree with ComReg's initial assessment of the range of facilities that could be necessary to allow consumers to fully control their costs and access to certain number ranges (for example number ranges using the 1598 and 1599 access codes)? Please give reasons to support your view.
- Q. 4 (a) Does the telecommunications services provider (i.e. undertaking) to which you are subscribed provide facilities to bar outgoing calls to all or any of the following: mobile numbers, national numbers, International destinations, premium rate numbers or any other discrete number range? Please specify which, if any, of these call barring services that you avail of, or
- (b) As an undertaking do you provide facilities to bar outgoing calls to all or any of the following: mobile numbers, national numbers, International destinations, premium rate numbers or any other discrete number range? Please specify which, if any, of these call barring services that consumers may avail of.
- Q. 5 Is there a charge to availing of any of these facilities? If so please specify what these charges are, to include details of any initial/setup charges and any subsequent recurring charges.
- Q. 6 Are you aware of any third-party solutions, such as handset settings or apps that would allow consumers to bar outgoing calls to all or any of the following: mobile numbers, national numbers, International destinations, premium rate numbers or any other discrete number range? Please provide details of any such solutions.
- Q. 7 If, as an undertaking, you do not currently offer facilities that would allow subscribers to bar outgoing calls to all or any of the following: mobile numbers, national numbers, International destinations, premium rate

numbers, or any other discrete number range are there any impediments either financial or technical for instance, to making these facilities available? Please provide details to support your answer to include details of any investment costs that would be required to make such facilities available and how such costs might be recovered/offset.

- Q. 8 Should MNOs provide facilities that would allow consumers to bar access to all PRS, including those provided by PSMS/PMMS and DCB? Please give reasons to support your view.
- Q. 9 Are you aware of any third-party solutions, such as handset settings or apps that would allow consumers to bar access to all PRS, including those provided by PSMS/PMMS and DCB? Please provide details of any such solutions.
- Q. 10 If, as an undertaking, you do not currently offer facilities that would allow subscribers to bar access to all PRS, including those provided by PSMS/PMMS and DCB, are there any impediments to making these facilities available? Please provide details to support your answer to include verified details of any investment costs that would be required to make such facilities available and how such costs might be recovered/offset.
- Q. 11 For undertakings that already offer these facilities, please provide details of the actual cost to you in providing this service
- Q. 12 Should undertakings provide facilities that would allow consumers to bar outgoing calls to discrete premium rate number ranges, for example the 1599 range set aside solely for adult services of a sexual nature? Please give reasons to support your view.
- Q. 13 Should MNOs provide facilities that would allow consumers to bar access to PRS that are provided over to discrete premium rate shortcode ranges, for example the 59XXX range set aside solely for adult services of a sexual nature? Please give reasons to support your view.
- Q. 14 Are you aware of any third-party solutions, such as handset settings or apps that would allow consumers to bar access to certain categories of PRS, regardless of whether these PRS are accessed by placing an outgoing call or provided by PSMS/PMMS and DCB? Please provide details of any such solutions.
- Q. 15 If, as an undertaking, you do not currently offer facilities that would allow subscribers to bar access to certain categories of PRS, on the basis that they are provided on discrete premium rate number and/or premium rate

shortcode ranges and/or by DCB, are there any impediments to making these facilities available to consumers? Please provide details to support your answer to include verified details of any investment costs that would be required to make such facilities available and how such costs might be recovered/offset.

Q. 16 For undertakings that already offer these facilities, please provide details of the actual cost to you in providing this service.

Annex: 3 Further Consultation Questions

- Q. 1 Do you agree with ComReg's preliminary view that in order to support the aims of allowing greater cost control and implementing improved child protection facilities, all undertakings should provide barring facilities for:
- (a) Outgoing calls to international numbers, and
 - (b) All contact to PRS, including PSMS, PMMS and DCB
- when requested by an end-user? Please provide reasons to support your view.
- Q. 2 Do you agree that the implementation date of 1 July 2016 of the minimum set of call barring services is reasonable? If not, please give detailed reasons as to why it would not be possible to meet this date and an estimated timeline for implementation.
- Q. 3 Do you agree with ComReg's preliminary view in respect of informing existing and new subscribers? Please provide reasons to support your view.
- Q. 4 Do you agree that the proposed barring facility for:
- (a) international calls, and
 - (b) all PRS including PSMS, PMMS and DCB
- should be provided free of charge to the end-user? Please provide reasons to support your view.
- Q. 5 If, as an undertaking, you do not agree that these facilities should be provided free of charge to the end-user, please provide reasons why, including detailed costs of the set-up of a barring service and associated ongoing charges that would be incurred by you in the provision of the service.
- Q. 6 Do you agree or disagree with ComReg's draft high level assessment of the impact of the proposed regulatory options as set out in Section 6? Are there any other factors that you consider to be relevant that ComReg should consider in completing its RIA? Please give reasons to support your view.
- Q7 Do you agree with the Draft Decision Instrument in Section 7? Please give reasons to support your view.