Commission for
Communications Regulation

Selective Barring

Response to Further Consultation 15/125 and Final Decision

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Additional Information

Redacted Information

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1 Executive Summary

1. On 27 November 2015, ComReg published Document 15/125[1] ("**Further Consultation**") on the subject of Selective Call Barring. This followed the publication of Document 15/31[2] ("**Preliminary Consultation**") which explored selective call barring issues and was published on 27 March 2015.

2. Regulation 24 and Part A Schedule 1 to the Universal Service Regulations[3] set out requirements for all Undertakings providing publicly available telephone services or access to public communications networks. Regulation 24 and Part A, Schedule 1 (b) provides for selective barring.

3. This Response to Consultation and Decision document sets out ComReg's response to the submissions received and final position in respect of further specifying the requirements on the provision of Selective Barring.

4. Selective barring is a generic term applied to a facility which allows subscribers to select or make a choice to bar or block outgoing calls or premium rate short message service ("**SMS**") or premium rate multimedia messaging service ("**MMS**") or, where technically feasible, other kinds of similar applications of defined types or to be defined types.

5. Direct Carrier Billing ("**DCB**") by mobile network operators ("**MNOs**") is a facility whereby subscribers can charge the cost of an increasing variety of goods and services to their phone account. This system bypasses the need to use credit or debit cards in order to complete a transaction, taking advantage of the already existing billing relationship that mobile operators have with their subscribers. Such purchases via DCB offer subscribers who do not have a credit card the ability to charge for example the cost of a mobile app, movies, tolls, games, content to their phone account.

[1] ComReg Document 15/125, *"Selective Call Barring, Response to Preliminary Consultation 15/31[1] and Further Consultation"*, 27 November 2015.
[2] ComReg Document 15/31, *"Preliminary Consultation, Selective Call Barring*", 27 March 2015.
[3] European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011.

6. The key issues addressed in the Further Consultation were:

   (i) High-level call barring facilities

   Subscribers can benefit from cost control and child protection measures through high-level call barring facilities whereas providing a more granular solution may currently be prohibitively expensive for network operators. ComReg was of the preliminary view that all undertakings should provide selective call barring facilities for outgoing calls to international numbers and for all premium rate services ("**PRS**"), free of charge to their subscribers.

   (ii) Costs associated with the provision of a call barring service

   ComReg noted that for those network operators providing a call barring facility (whether that be on the request of the subscriber or implemented as a means of credit control), the service is typically provided free of charge.

   (iii) Regulatory Impact Assessment (RIA) and Draft Decision Instrument

   The Further Consultation paper included a draft RIA and a draft Decision Instrument.

7. ComReg received seven submissions to its Further Consultation from:

   - Alternative Operators in the Communications Market ("ALTO")
   - BT Ireland
   - Eircom Ltd and Meteor Mobile Communications Ltd ("eir").
   - Mobile Operators Messaging Forum ("MOMF")
   - Three Ireland (Hutchison) Ltd. and Three Services ("Three Ireland")
   - Virgin Media Ireland ("Virgin Media")
   - Vodafone.

8. The submissions received were published in February 2016 in ComReg Document 16/13[4]. We wish to thank the respondents for their submissions.

9. The key point raised by respondents was the claimed high cost of providing barring facilities compared with a claim of no established subscriber demand (or benefit to be derived from) such services.

[4] ComReg Document 16/13, *"Selective Call Barring - Responses to ComReg Consultation 15/125"*, 15 February 2016.

10. Therefore, during 2016 and 2017, while considering the responses to the Further Consultation, ComReg undertook the following:

- Issued a number of formal requests under section 13D (1) of the Communications Regulations Acts 2002 (as amended) ("**the Act**") for information to eir, Vodafone, Three Ireland and Virgin Media.
- Carried out a consumer survey[5] to establish what, if any, demand there was for a premium rate barring facility.
- Requested further information from those operators who had stated that the availability of mobile applications ("**apps**") afforded consumers with the ability to block unwanted numbers/services.
- Engaged an independent company to ascertain whether apps are available on the Irish market that are capable of blocking or restricting access to PRS (see section 3.2.1.3).

11. To ensure that any decision taken is appropriately informed, as well as considering the responses to its consultation, ComReg also considered this additional information it obtained.

Barring of International Calls

12. Having considered the information available to it, ComReg has decided not to place an obligation on operators in respect of the barring of international calls. ComReg supports the cost control objectives in providing facilities to block access to international numbers however, ComReg considers that in order to protect subscribers in respect of cost control, the initial focus should be on mobile users using non voice services. This position can be reviewed if the market changes and measures are deemed necessary. The basis for the decision is as follows;

  - ComReg's Quarterly Key Data Report ("**QKDR**")[6] - highlights that the number of subscriptions for fixed voice account for less than 25% of the total subscriptions. In addition, the number of fixed and mobile international voice call minutes has decreased from 0.53 billion in Q3 2016 to 0.51 billion in Q3 2017.
  - ComReg's consumer line statistics do not highlight any notable issues in respect of international calls from fixed or mobile devices.

[5] The full survey is published in Annex 1 of this document.
[6] ComReg Document 17/108, *"Quarterly Key Data Report Q3 2017"*, 14 December 2017.

- ComReg is mindful that in recent years the cost of calls to international numbers, based on pricing research and the availability of add-ons in the market, have decreased considerably and some call bundles may include an allowance of minutes to certain international destinations and/or offer an add-on to the core package.
- Whilst ComReg welcomes the barring facilities currently on offer by a number of operators that offer a fixed line service, it considers that mandating a barring facility for international calls is not required as a cost-control mechanism, at this time.

Premium SMS or premium MMS[7] barring facilities

13. In respect of the decision to place barring obligations for premium SMS or premium MMS on all undertakings or a subset of all undertakings, ComReg undertook further analysis, in addition to the responses received.

14. ComReg is of the view that in order to offer choice to subscribers to prevent access from their mobile to premium SMS or premium MMS that it is necessary to mandate a minimum set of barring facilities for premium SMS or premium MMS.[8] This obligation will apply to MNO's, however it does not apply to mobile virtual network operators ("**MVNO's**"). The basis for ComReg's decision is as follows:

    - A review of PRS statistics shows a significant number of consumers contacting ComReg in respect of PRS issues.[9]
    - The Eurobarometer 438 publication by the European Commission showed that mobile telephony is more important than any other communications means in the daily lives of Europeans (74% of Europeans consider mobile is more important in their daily lives v 32% fixed).[10]
    - ComReg's consumer survey[11] confirms the existence of demand for barring services and this evidence outweighs the (contrary) feedback from industry on the extent of existing demand.

[7] i.e. "Messaging and Payment Short Codes" in the ranges 53XXX to 59XXX as per ComReg Numbering Conditions of Use.
[8] For the avoidance of doubt standard SMS and standard MMS are outside the scope of this minimum set of barring facilities.
[9] ComReg 17/99 *"ComReg Consumer Line Statistics Report Q3 2017"*, 5 December 2017.
[10] http://ec.europa.eu/information_society/newsroom/image/document/2016-22/sp438_eb84_2_ecomm_summary_en_15829.pdf Page 6
[11] See Annex 1

- ComReg's independent review of the mobile apps available on the market that provide barring facilities found these apps have a limited scope in addressing cost-control.
- None of the operators who specifically cited individual apps in the responses to the Further Consultation were prepared to stand by or endorse any of them as being a suitable substitute product.
- PRS Call and SMS barring is being offered in certain European countries on an opt-out basis.[12]
- Information provided by mobile operators in respect of implementation and ongoing costs demonstrated the likely benefits to consumers from the imposition of this obligation should outweigh the costs.

DCB barring facilities

15. In respect of the placing barring obligations for DCB on all undertakings or a subset of all undertakings, ComReg is of the view that in respect of DCB due to the low usage of the facility at this time that it will not mandate the facility but continue to monitor the market and if in the future the facility is a cause of concern to subscribers this position may be reconsidered.

16. The basis for the decision to keep the issue of barring facilities for DCB under review is as follows:

    - Although one operator in respect of DCB said it would be challenging to implement, none of the responses received expressed a view that it was not technically feasible to bar DCB services. Therefore, following consultation with industry, ComReg does not have reason to believe that any technical infeasibility arises and therefore DCB barring facilities could be considered in the future.
    - ComReg's review of PRS issues being reported to ComReg's consumer line shows no evidence that consumers who use the DCB facilities where offered by their MNO are dissatisfied or have issues with the service.

17. Having considered all views, and other available information, ComReg is now issuing this Decision, that sets out ComReg's views and Decisions on the provision of barring facilities which in summary are:

[12] Cullen International *'PRS transparency and call barring'*, February 2018, for example France, Germany, Netherlands and Spain

- Barring facilities shall be provided by a "Relevant Undertaking" which is any undertaking that is a mobile network operator and which provides a publicly available Electronic Communications Service ("**ECS**") to Subscribers that enables the imposition of a charge on its Subscribers' accounts / bills for premium MMS and/or premium SMS. A Relevant Undertaking does not include a MVNO.
- In accordance with Regulation 24 of the Universal Services Regulations and the provisions of Schedule 1, Part A to those Regulations, all Relevant Undertakings shall provide barring facilities whereby Subscribers can, on request to the Relevant Undertaking, bar all premium SMS and/or premium MMS[13]. The barring facilities specified shall be provided free of charge to all Subscribers requesting them.
- Where a third party provides the facilities referred to in Section 4.1 on behalf of a Relevant Undertaking, the Relevant Undertaking shall remain liable for ensuring that the solution offered complies fully with this Decision.
- Relevant Undertakings shall inform their Subscribers of the availability of barring facilities and of the means whereby they can request such barring facilities, by way of SMS message. The means whereby a request for barring facilities may be made shall be in line with standard communication channels normally offered by the Relevant Undertaking. The SMS message shall be sent no later than 28 days after the barring facilities become available and in any event no later than 28 January 2019.
- Relevant Undertakings shall ensure that their contractual terms and conditions address the availability of barring facilities and the means whereby a request for barring facilities may be made in line with standard communication channels normally offered by the undertaking.
- Following the implementation of barring facilities referred to in Section 4.1 Relevant Undertakings shall, following a request being made by a Subscriber for all or any of those barring facilities, promptly provide the requested barring facilities to the Subscriber, and in any event no later than 14 days following the request.

18. ComReg has taken into account feedback in respect of the time for implementation of the measures and ComReg considers that it is reasonable that these barring facilities are put in place by 31 December 2018.

[13] Service providers may, if they wish, offer facilities allowing consumers to block ranges

2 Background

19. eir is currently the designated Universal Service Provider ("**USP**") for access at a fixed location[14], under this designation eir is no longer required to provide call barring facilities. Prior to this, under Decision D10/15[15], eir was required to provide call barring under the Universal Service Obligations ("**USO**") until 30 June 2016. As part of this designation, eir was required to provide selective call barring for certain number types, including national, mobile, premium rate and international numbers.

20. In March 2015, in the Preliminary Consultation, ComReg initially sought the views of stakeholders on a range of issues related to the provision of call barring facilities. Key to this Preliminary Consultation was the question of whether to extend to all undertakings the obligation to provide a call barring facility, or to require the facility to be provided only by the USP, or to remove the requirement for a call barring facility entirely.

21. Based on the submissions received to the Preliminary Consultation[16], the Further Consultation explored, in detail, the issues raised by the respondents in their submissions.

22. While considering the responses to the Further Consultation, ComReg carried out the following:

    - In March 2016, ComReg issued a formal request, under section 13D(1) of the Act, for information to eir, Three Ireland, Virgin Media and Vodafone, which included requests for:
        - the number of customer contacts to their customer service centres in 2015 (specifically regarding PRS, PRS charges, DCB),
        - the net revenues earned in 2015 by each operator in relation to each PRS number, and
        - the revenues earned in 2015 by each operator in relation to DCB.
    - In April 2016, ComReg carried out a consumer survey[17] to establish what, if any, demand there was for a premium rate barring facility.

[14] ComReg Document 16/65, "*Universal Service Requirements Provision of access at a fixed location (AFL USO)*", 29 July 2016.
[15] ComReg Document 15/144 and D08/15, *"Universal Service Obligation – Provision of Access at a Fixed Location"*, 31 December 2015.
[16] ComReg Document 15/54, "Preliminary Consultation 15/31 Selective Call Barring –Submissions Received", 16 June 2015.
[17] See Annex 1

- In June 2016, ComReg welcomed eir's confirmation that it intended to continue to provide its fixed service selective call barring facilities from 1 July 2016, even though a regulatory obligation would no longer be in force, as it provided continuity of this important service for subscribers.

- At the end of June 2016, and early July 2016, ComReg requested further information from those operators who had claimed that the availability of mobile apps gave consumers the ability to block unwanted numbers/services. The request sought information including details of the apps that were available to end users, the functionality of any such apps and whether the apps were considered advantageous by the operators for their customers.

- In September 2016, ComReg engaged an independent company to ascertain whether mobile apps were available on the Irish market that were capable of blocking or restricting access to PRS (see section 3.2.1.3).

- In November 2016, ComReg requested information under Section 13D(1) of the Act from certain MNOs in respect of:

  - the 'as-is' architecture documentation for prepaid and post-paid premium rate SMS charging service and documentation detailing the changes that would be required to enable customers to opt-out of premium SMS services via the most cost-effective channel.

  - DCB transactions and a technical explanation of how, when and under what circumstances a customer's MSISDN[18] is provided to third parties and documentation detailing the changes that would be required to enable customers to opt-out of direct to bill transactions.

- In June 2017, eir confirmed that it will continue to provide selective call barring for its fixed voice services for the time being.

[18] Mobile Station International Subscriber Directory Number (**MSISDN**) is a number used to identify a mobile phone number internationally

3 Consultation Responses, further information and analysis and ComReg's position

3.1 Further Consultation Issues

23. In the Further Consultation, ComReg noted that while the aim of providing greater cost-control facilities, and additional protection of unintended audiences against unsuitable services was agreed to be a positive one, it appeared that to extend the current barring facilities offered by many operators would require a considerable investment in legacy network equipment – notably in advance of the planned retirement date of that equipment.

24. As a result of its Preliminary Consultation, it seemed to ComReg that any decision to include the obligation to offer discrete call barring (by phone number or number range) at network level would represent a disproportionate burden on undertakings providing publicly available ECS directly to end-users.

25. While ComReg acknowledged that the implementation of more granular selective call barring facilities at network level per subscriber did not appear technically proportionate for all undertakings at this time, it expected that the issue would be revisited in the future as new networks were rolled out and as more sophisticated technological solutions become available to network providers. It also expected that those undertakings who could offer more granular call barring facilities would do so.

26. However, ComReg considered that end-users could benefit from cost-control and child protection measures through a less granular or, high level set of call barring facilities, namely the facility to select to bar international calls and PRS.

27. Having considered the responses to the Preliminary Consultation, ComReg was of the preliminary view that in order to achieve the two goals of cost control and child protection, it was necessary for undertakings to offer a service which would bar access to outgoing international calls and to PRS[19] free of charge to their subscribers. ComReg's initial view was that it was necessary to include these two call types in the call barring offering as they represented the most potential harm in terms of the possible costs that may result from their use.

[19] International calls and PRS are as per their definition in the ComReg Numbering Conditions of Use and Application Process, ComReg Document 15/136

28. ComReg did not propose to specify whether the barring facilities provided were implemented at network or handset level, or both.

29. ComReg remained of the preliminary view that the key drivers for offering a call barring facility to end users, namely cost-control and child protection, merited application of the obligations to all undertakings rather than just the USP.

30. As a result, ComReg proposed that the barring facility available to end-users should allow the barring of the entire international number range and the entire PRS range (premium rate - calls, SMS, MMS and DCB).

31. Although ComReg's preliminary view was that blocking access to international numbers on request of the end-users remained appropriate, ComReg was also mindful that, in recent years, call costs to international numbers have decreased considerably. Additionally, some call bundles may now also include an allowance of minutes to certain international destinations and furthermore for those who frequently use international numbers there are add-ons available to basic packages.

32. As a result, ComReg requested 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.

33. Figure 1 below sets out the facilities offered, as at 27 November 2015, by eir to subscribers, alongside the minimum set to be offered free of charge proposed in the Further Consultation.

Barring Type	Current eir Barring facilities	Universal Service Provider obligation (expired June 2016)	Proposed Minimum Set of Barring Facilities on all undertakings
Premium Rate Services (Voice Calls)	Y	Y	Y
Premium Rate SMS, Premium Rate MMS, DCB			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

Figure 1: Current and Proposed Barring facilities

34. From the table above, it can be seen that ComReg proposed to mandate a much-reduced minimum set of general call barring facilities but to extend the PRS selective barring services to premium SMS and premium MMS. The proposed obligations would be placed on industry as a whole rather than the USP as was previously the case.

35. As 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, ComReg's preliminary view was that there is less of a requirement to implement cost control for these number types.

36. In addition, ComReg noted the downward trend in minutes originating on fixed line networks, combined with the fact that MNOs typically offer free "on-net"[20] minutes to end-users, suggested that cost control for mobile calls was not a particular issue to the extent that a call barring service should be mandated.

37. However, ComReg was aware that a number of operators do offer a barring facility to these number types according to demand from end-users and also as a credit control facility.

38. ComReg stated that it was its expectation that these arrangements would continue as they were and that undertakings would be flexible in meeting the needs of their end-users. Therefore, ComReg was of the preliminary view that further regulatory consideration in respect of offering selective barring of calls to mobile was not necessary.

39. The USO requirement on eir to provide selective call barring facilities for outgoing calls to national, mobile, international and premium rate numbers ceased in June 2016[21]. In June 2016 and again in June 2017, eir confirmed that it intended to continue to provide these selective call barring services, even though a regulatory obligation is no longer in force. ComReg welcomes eir's confirmation as it continues to provide this important service for voice calls to end-users.

40. The Further Consultation set out ComReg's preliminary view that it was appropriate for all undertakings to begin to provide a minimum set of selective call barring facilities to their subscribers for international and PRS number ranges from 1 July 2016.

41. Further, in order that subscribers are fully informed as to the call barring facilities that they can avail of, ComReg proposed 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

[20] 'on-net' is when a call or message originates on a consumer's home operator's network and terminates to another mobile number that is on the same network.

[21] The call barring facility in respect of premium rate numbers was required to be provided free of charge to subscribers

- 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.

42. The following sections set out respondents view to the questions raised in the Further Consultation and ComReg's final views on these.

3.2 Proposed Barring facilities

43. The Further Consultation proposed that all undertakings should provide a minimum set of call barring facilities to their subscribers for international and PRS number ranges.

44. In relation to how all undertakings should provide barring facilities, ComReg posed the following question in its Further Consultation:

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.

Views of the respondents

45. ALTO noted that "*ComReg appears to assume that the International level or code Selective Call Barring exists on the Wholesale service suite provided to ALTO member companies by Eir*". It noted, however, that this was not currently the case. It submitted that international call barring should *"be made available on a standalone basis from Eir, without the need to take premium rate, or other less convenient call barring options together"*. It stated that "*in a competitive market the imposition of such regulations relating to International Call barring may be a disproportionate and out-dated imposition of regulation in the circumstances"*.

46. ALTO claimed that the Further Consultation did not provide "*proper evidence or justification"* for many of ComReg's proposals *"either based upon real consumer harm, or hard/quantitative consumer data for many of the regulatory suggestions that may be mandated*."

47. BT agreed with ComReg's aim of allowing greater cost control and implementing improved child protection facilities.

48. While eir welcomed ComReg's proposal to remove the current USO in respect of call barring, and the principle that any proposed measures would apply to all operators, it was of the view that ComReg had "*failed to establish whether there was a significant level of demand for call barring*". Further, it stated that "*the market is delivering equivalent and in many cases more effective alternatives in the case of mobile call barring*". eir made reference to the fact that there had been a decline in the demand for call barring services and suggested that this was likely to be driven by the availabillity of alternative means of controlling costs which, it stated, ComReg had failed to consider.

49. eir also maintained that the provision of premium SMS barring would involve significant development and costs as the feature would have to be designed and built for the mobile networks, stating "*ComReg would expect operators to make the heavy investment in network level bars to support a tiny and rapidly declining minority of end users that do not use a smartphone for barring premium SMS services that themselves constitute a market that is dwindling in size.*"

50. It claimed that there was a "*highly efficient market for barring apps*" that constitute an alternative source of call barring services. eir went on to state that "*the level of usage or demand for these services was not a key concern, ComReg should instead be focused on establishing whether the need for call barring was met by apps*".

51. eir concluded that the proposed regulatory imposition had not been justified and ComReg had not "*presented any market research to justify the proposal to mandate premium and international barring facilities*".

52. MOMF stated that ComReg should ascertain the level of demand for the proposed barring service. It highlighted that operators provide a number of options for child protection and its belief that "*call barring would not provide any greater cost control or benefit to consumers but put in place an unfair burden on the whole industry*" as the costs involved would be disproportionate.

53. Three Ireland agreed with ComReg's preliminary view that all undertakings should provide barring facilities for outgoing calls to international numbers and PRS as they are currently provided by eir as the USP. It noted, however, that "*Eir does not block PSMS, PMMS nor DCB*". Therefore, it stated its view that ComReg's draft decision, was in fact an extension of requirements.

54. Three Ireland confirmed that a level of barring is already available to its customers:

    a. on a subscriber level - a bar can be placed to block all calls to/from all international destinations and all calls to all premium rate numbers, and

b. on a network level - Three Ireland can also block all calls to a single number/number range/premium number and to an international destination/range (however, this prevents all subscribers from calling the barred numbers), and

c. at handset level – there are blocking capabilities and settings which allow the user to turn off data and/or remove apps downloaded on the devices so that customers can manage their costs.

55. Three Ireland noted its view that "*consumers have multiple ways of doing this [controlling their telecommunictions costs] currently without ComReg having to mandate unnecessary requirements on service providers*." Further, they maintained that it would be *"disproportionate to burden this investment on a legacy network as Three Services (formerly O2)"*.

56. Three Ireland proposed that "*ComReg require that PRS barring is made available for voice services from 1 July 2016 and that PSMS and PMMS be available when an undertaking had the capability to offer it"* and noted that this would be in line with what eir currently provides as the USP.

57. Three Ireland "*did not agree that DCB services should be included in the requirement*." It pointed out that the bill payer has to sign up to avail of DCB on their billing account and, therefore, "*the risk of bill shock does not exist*." Furthermore, Three Ireland stated that *"DCB services are provided using a data connection (circuit switch) the user can turn data services off should they want to restrict usage using the handset"*.

58. Three Ireland noted that, currently, it cannot bar access specifically to DCB services and it believes it would be technically very challenging to do so. Finally, Three Ireland questioned whether ComReg has received a significant number of complaints in relation to DCB to merit the requirement to provide a facility to block them.

59. Virgin Media was of the view that "*the benefit and practical use of call barring services has to a large extent been overtaken by greater competition and value for consumers in fixed and mobile telephony"*. It noted "*that consumers now have access to a wide array of value-based telephony packages…which include unlimited calls to the most popular international call destinations"*. Therefore, it reasoned "*that ComReg's approach to this issue is disproportionate and out-dated"*.

60. However, Virgin Media agreed with ComReg's preliminary view that in order to support implementing improved child protection facilities, all undertakings should provide barring facilities for all contact to PRS, including premium SMS/MMS and DCB when requested by an end-user.

61. Vodafone did not agree with ComReg's preliminary view that all undertakings should provide barring facilities for all outgoing calls to international numbers and all contact to PRS. While acknowledging that greater cost control and improved child protection facilities are welcome, it was of the view that there were "*already adequate measures in place regarding the use by subscribers of international calls and PRS on our network*".

62. Vodafone confirmed that its customers can currently block all outgoing international calls for both mobile and fixed, so it was of the view that "*it is not necessary for ComReg to place a regulatory obligation on undertakings for a service that Vodafone already provides*". It further claimed that there was not adequate demand from consumers and that any current demand was "*being met across industry by the services each Operator provides and not just the service offered by Eir*".

63. In relation to child protection facilities, Vodafone highlighted that there were a number of options available to prevent children accessing inappropriate content which included:

    a. the Secure Net service which offers parental control features (however, it noted that while the service was available across all mobile devices, it was not yet available for fixed services), and

    b. adult content filters which are pre-installed on Vodafone smartphones but which are not currently applied to mobile broadband devices, and

    c. the Internet Watch Foundation filter, which is a list of individual web sites that are used for distribution of child sexual abuse content, that enables a network to filter and block access to such content.

64. Vodafone stated that PRS "*are currently offered on an opt in/opt out basis in compliance with the PRS Code of Practice*" and that "*there is not a sufficient threat to the protection of children by the use of PRS services*. Finally, Vodafone noted it "*has not received a significant number of complaints regarding this issue by consumers*" which in its opinion implied that the current measures are sufficient.

3.2.1 Additional Analysis

65. In order to address issues raised by respondents to the Further Consultation and to assist ComReg in coming to its final decision, ComReg conducted further analysis and research into the market and call barring facilities available in it. The findings are set out below.

3.2.1.1. Additional Information provided by Respondents

66. ComReg issued a Section 13D(1) request for information in March 2016 to eir, Vodafone, Three Ireland and Virgin Media which included a request for the number of customer contacts to their customer service centres in 2015 specifically regarding PRS, PRS charges and DCB charges.

67. The purpose of this request was to ascertain the actual levels of complaints that were being lodged with the operators about PRS, PRS charges and DCB charges to confirm if they were indeed low-level.

68. The operators' responses, however, overwhelmingly lacked the required level of detail about the nature of the complaints made to their customer service centres. The reasons provided by the operators for the lack of information, when they responded to ComReg's request, included the fact that customer complaints about PRS, PRS charges or DCB charges were not tagged or not specifically categorised as such.

69. Therefore, the view put forward in the submissions to the Further Consultation that there is low level demand for call barring facilities, due to low levels of complaints, is not supported by figures. When asked for the evidence to back up this claim, some operators were not in a position to provide it.

70. Further, it is worth noting regarding demand, and as stated in the Further Consultation, that 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. As detailed in the Further Consultation, some operators claimed that the availability of mobile apps gave consumers the opportunity to block unwanted numbers/services:

   - eir noted that there is a wide selection of mobile phone barring applications available, for example the Mobile Guardian, the Phone Sheriff and the MacAfee Android protect service.

   - Vodafone stated that it offered a mobile application ("app") called "Safety Net" which had the capability to filter inappropriate content from Android phones and manage connections.

- Three Ireland stated that it was not possible to provide blocking of a specific number or number range at a subscriber level. It noted that this could be done at a network level which would prevent all subscribers from calling the blocked number. As a result, Three Ireland believed that it would be preferable to use subscriber-level barring through the use of facilities such as smartphone apps.

72. On foot of the responses detailed above, ComReg requested further information from eir, Vodafone and Three Ireland in June / July 2016 regarding the availability of mobile apps.

73. In its request, ComReg explained that it was in the process of exploring what apps were currently available to end users and requested that the operator provide information for each relevant app such as:

- App Name
- Description of functionality; how it functions in relation to PRS voice, SMS and MMS
- Handsets/operating system that app functions on
- Advantages and limitations of app
- If/how customers are informed of the availability of the app

74. Initially, eir confirmed in July 2016 that it had "*identified that various free apps serve individual barring requirements and if used in combination could serve a suite of barring requirements*". eir noted that, "*typically, barring apps that address multiple use cases involved a once-off charge*".

75. However, in August 2016 eir confirmed that, having reviewed a number of apps, it had found that there was "*a greater emphasis on blocking incoming calls and SMS*". eir was of the view that this suggested that "*the primary demand was for such blocking*".

76. Further, eir claimed this "*indicates that there may be very limited demand for outbound blocking given the presence of screen locks, double opt-in and a strict and well-enforced premium code of practice which already address premium services*". However, no evidence was provided to support this view.

77. Three Ireland noted that, as a service provider and not an application provider, it could only provide information as to the network block it had available on its network.

78. Three Ireland stated that there were a number of apps on the Google Play store but, as it was not the owner or creator of these apps, it could not detail the specifics regarding the functionality or specification of each regarding operating systems, limitations and advantages of these. Additionally, Three Ireland were of the opinion that the information on each app was detailed on the Google Play store which was available to all phone users and ComReg to pursue - ultimately the app creators would have to respond to the questions raised by ComReg as they were not Three Ireland's apps to detail and/or promote.

79. Moreover, Three Ireland stated that the handset manufacturers would have to detail the blocking function/features available to each of the operating systems. While Three Ireland stated that it would request the information from the manufacturers, ComReg did not receive any further details.

80. ComReg notes that Three Ireland already provides a level of blocking to its customers – on a subscriber level a bar can be placed to block all calls to/from all international destinations and all calls to all premium rate numbers. However, ComReg also notes that, when asked for further clarification on its claims that certain handsets provided blocking capabilities and settings which allow the user to turn off data and/or remove apps downloaded on the devices so that customers can manage their costs, Three Ireland did not provide such evidence.

81. Vodafone briefly outlined the functionality of some of the services offered by Vodafone.

82. Vodafone confirmed that it provides its customers with the ability to block outgoing PRS calls but not incoming PRS calls on the Vodafone network. Furthermore, it does not provide its customers with the ability to block incoming or outgoing PRS SMS. In relation to whether its customer care offers information about blocking, if a customer is querying costs of PRS voice, SMS, MMS, Vodafone stated that this would be on a case by case basis. Regarding whether it informs its customers about the ability to block outgoing PRS calls at point of sale, Vodafone confirmed that it does not do this at present.

83. To conclude, while some operators stated in their response to the Further Consultation that there were sufficient blocking options available to consumers through the existence of mobile apps, none of the operators were prepared to stand by or endorse any of those apps.

3.2.1.2. Review of PRS Consumer Line statistics by MNO

84. ComReg publishes the number of PRS issues raised to the consumer line each quarter. The most recent publication ComReg 17/99 shows a significant increase in the number of consumers contacting the consumer line in respect of PRS issues since Q3 2016.

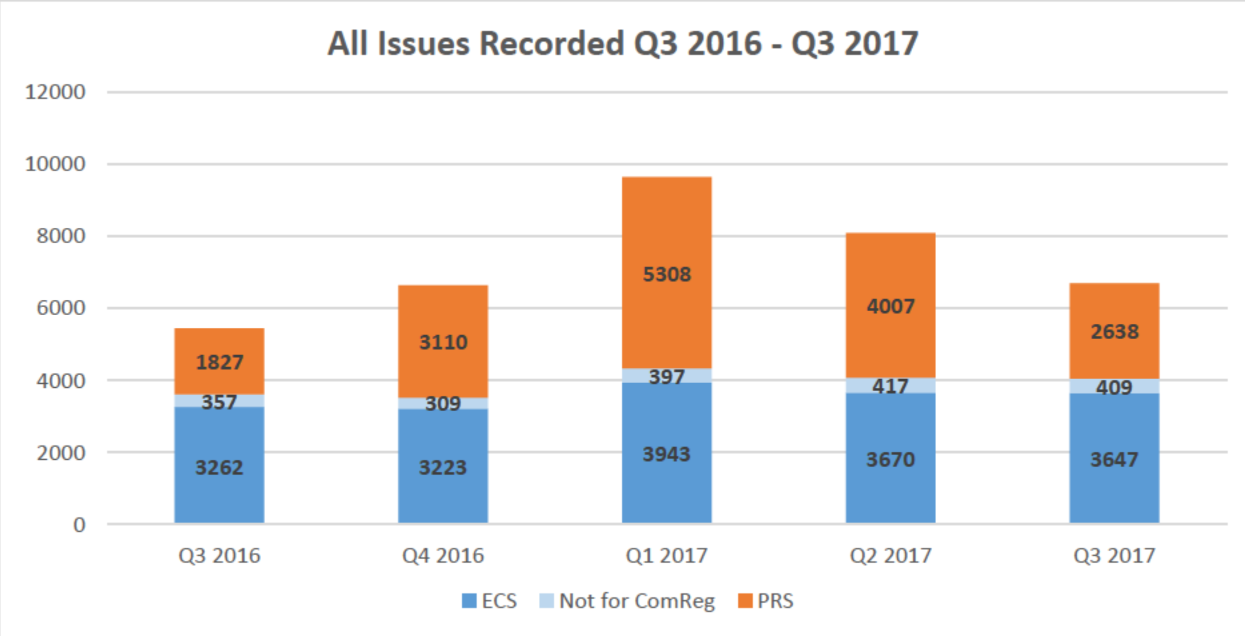

Figure 2 ComReg consumer line issues

85. Whilst we do not capture the service provider details in all cases for those where the information is available the number of PRS issues by mobile operator is as follows:

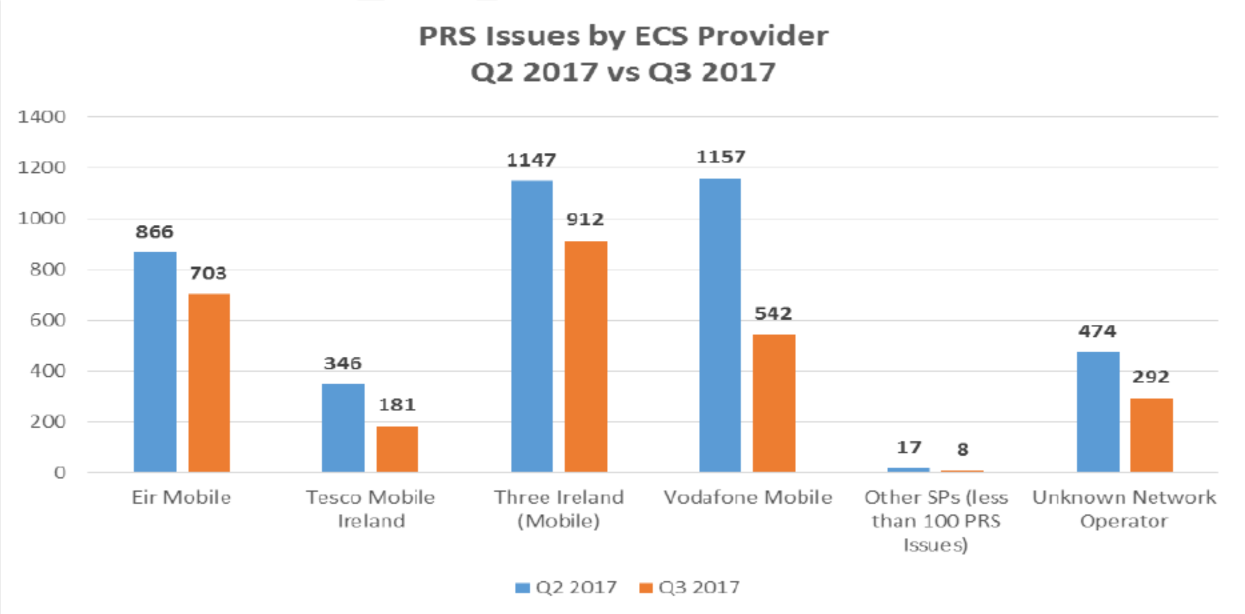

Figure 3 ComReg consumer line PRS issues by Provider

3.2.1.3. Review of Apps in the Market

86. ComReg engaged an independent company to ascertain whether mobile apps are available on the Irish market that are capable of blocking or restricting access to PRS. The study established that there was no application found that would fulfil the requirement of completely protecting from unwanted premium charges. For Android devices, a working solution to hide (not prevent) incoming SMS, and outgoing premium calls could be achieved, but for iOS devices the options were much more limited.

87. In summary the report concluded:

- It is possible to block content and block charges from premium calls on Android.
- It is possible to block content from incoming premium messages on Android, but they require manual configuration and knowledge of premium number patterns.
- There are no applications that block charges from incoming premium messages on Android.
- It is possible to block content and block charges from premium content on iOS, but it requires manual configuration and knowledge of premium number patterns.
- It is possible to block content from incoming premium messages on iOS, but it requires manual configuration.
- There are no applications that block charges from incoming premium messages on iOS.
- iOS has much fewer options for call and SMS blocking than Android due to Apple's closed development system.
- Although incoming SMS cannot be blocked on either platform, there is the option to hide the content of the messages from the end-user.
- In searching, the team did not find applications that purport to fulfil the requirements of blocking access to all premium rate services.
- The claims of different applications do not always match the actual functionality.
- There are hundreds of applications available with slightly different descriptions and claimed functionality on the Android Play Store, making consumer decisions in this area extremely difficult.
- Most of the applications do not have a specific focus on "premium" services, allowing users to block access to manually pre-set numbers only.

88. This leads ComReg to the conclusion that mobile apps are not a sufficiently stand alone, robust alternative to a barring mechanism that enables subscribers to prevent PRS so that they do not incur a charge for services they do not want.

3.2.1.4. Cullen International Benchmarking

89. Cullen International[22] published a report *'PRS transparency and call barring'* in February 2018 which explored the possibilities for end users for call barring in certain European countries namely Germany, France, Spain, Italy, Sweden, the United Kingdom, the Czech Republic and the Netherlands.

90. The report showed that there were obligations in place for operators in each of the countries, except for the UK, to offer PRS call barring. It noted that in the UK, however, barring of premium rate calls was offered by most communications providers.

91. The report also confirmed that operators in each of the countries, except for the Netherlands and the UK, had to offer PRS SMS barring of a single premium rate SMS or a range. Operators in the Netherlands have to offer barring of all premium rate SMS on an opt-out basis and, again, the UK noted that barring of all premium rate SMS is offered by most communications providers anyway.

92. ComReg notes that the Cullen International report demonstrates that operators offer a premium SMS barring facility in Europe and believe that the Irish market would benefit from these facilities.

3.2.1.5. European Commission Special Eurobarometer 438

93. In May 2016, the European Commission published new data in a Special Eurobarometer 438[23] that showed mobile telephony is by far the most important communication service in respondents' daily lives.

94. The findings of the study showed that Europeans are increasingly using internet-based communication. The main points from the study showed that:

- In their daily life, people consider that mobile telephony is more important (74% Europeans) than mobile Internet (34%), fixed telephony (32%), fixed Internet (27%) and SMS (26%),
- People prefer to communicate over a mobile phone call (nine out of ten respondents),
- Mobile internet access increased significantly with 69% of households now having at least one member with a mobile internet access, a +21 points increase over 2014 and

[22] http://www.cullen-international.com/

[23] European Commission Special Eurobarometer 438 – E-Communications and the Digital Single Market http://ec.europa.eu/information_society/newsroom/image/document/2016-22/sp438_eb84_2_ecomm_summary_en_15829.pdf

- 75% use SMS, 69% e-mails, 67% landline calls and 53% instant messaging.

3.2.1.6. ComReg's Quarterly Key Data Report ("QKDR") Q3 2017

95. ComReg's QKDR for Q3 2017 confirms that the number of fixed voice subscribers is less than 25% of the total mobile and fixed subscriptions (excluding M2M and broadband subscriptions) based on the following figures:

- At the end of September 2017 there were 5,971,752 mobile subscriptions in Ireland, including mobile broadband and Machine to Machine ('M2M') subscriptions,
- The total number of mobile subscriptions in Ireland excluding mobile broadband subscriptions (301,493) and M2M subscriptions (788,953) was 4,881,306, and
- The total number of fixed voice subscriptions for the same period was 1,474,792.

96. ComReg's QKDR for Q3 2017 also confirms that the overall call volumes[24] to fixed and mobile international is less than 13% of the total volume in minutes.

- Voice minutes for Q3 2017 totalled 4.004 billion minutes.
- Voice minutes for fixed international has decreased from 0.245 in Q3 2016 to 0.216 billion in Q3 2017.
- Voice minutes for mobile International / Roaming is showing an increase to 0.290 billion having decreased from 0.280 billion in Q3 2016 to 0.271 billion in Q3 2017.

[24] Figure 1.2.1 – Fixed and Mobile Voice Call Volumes (Minutes) ComReg 17/108

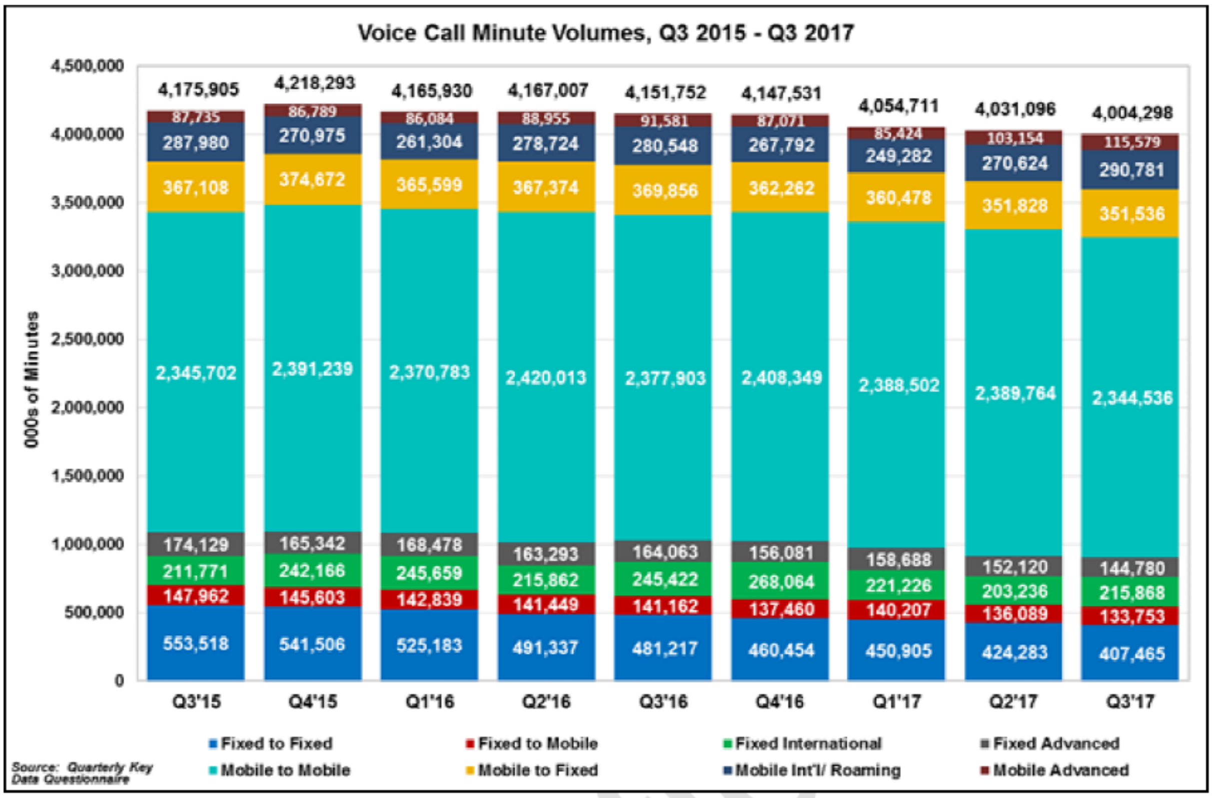

Figure 4 Voice Call Volumes

3.2.1.7. Research on smartphone usage and predictions

97. The Dublin-based research firm Statcounter[25] showed in August 2015 that Ireland had the highest penetration of phone internet users anywhere in Europe, North America or South America.

[25] http://statcounter.com/

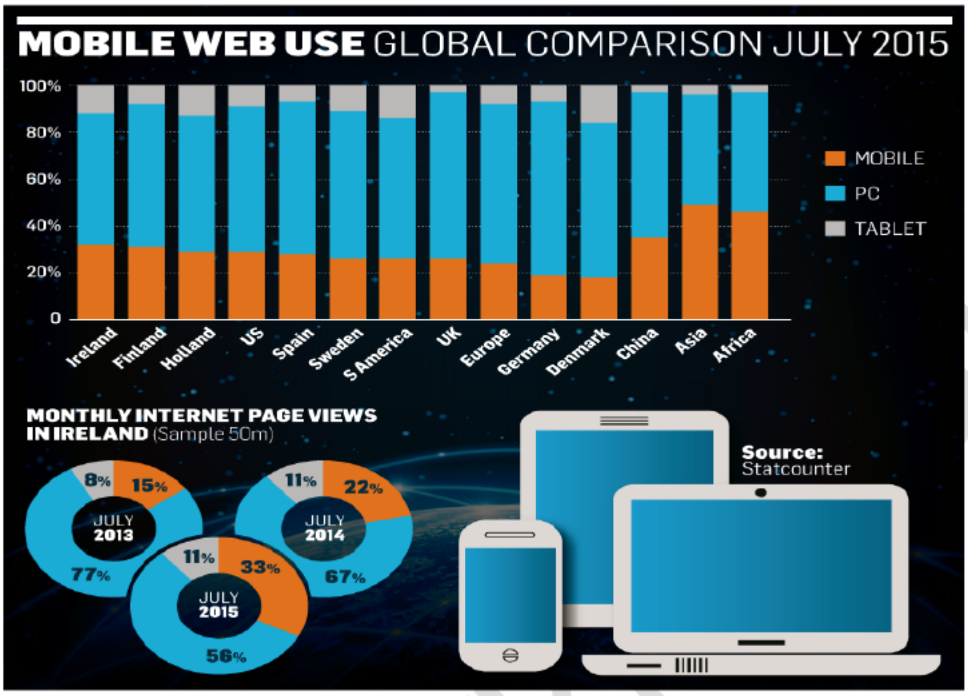

Figure 5 Mobile Phone Internet Penetration

98. According to the statistics portal, Statista[26], the number of smartphone users in Ireland is projected to continue to grow to over 4 million in 2022. For 2018, the number of smartphone users as set out in the above chart in Ireland is estimated to reach 3.6 million[27].

99. ComReg Document 17/100a[28] assess Irish mobile phone users' experience with their mobile network and handset and reported that smartphone penetration was 83% of the Irish mobile subscriber market.

100. It is also worth noting that in Q4 2017 Deloitte released their Mobile Consumer Survey that analyses the mobile usage habits of more than 1,000 Irish consumers and reported that smartphone penetration was at 90 % of the Irish mobile subscriber market[29].

101. ComReg acknowledges the fact that consumers who have smartphones also have the option of downloading apps which facilitate some barring facilities.

[26] http://www.statista.com/
[27] http://www.statista.com/statistics/494649/smartphone-users-in-ireland/
[28] ComReg document 17/100, "Mobile Consumer Experience Survey", 6 December 2017.
[29] https://www2.deloitte.com/ie/en/pages/technology-media-and-telecommunications/articles/global-mobile-consumer-survey-2017.html

3.2.1.8. Research on Demand for PRS Barring Facility

102. In April 2016, ComReg carried out a consumer survey[30] to establish what, if any, demand there was for a PRS barring facility. This survey produced the following key points:

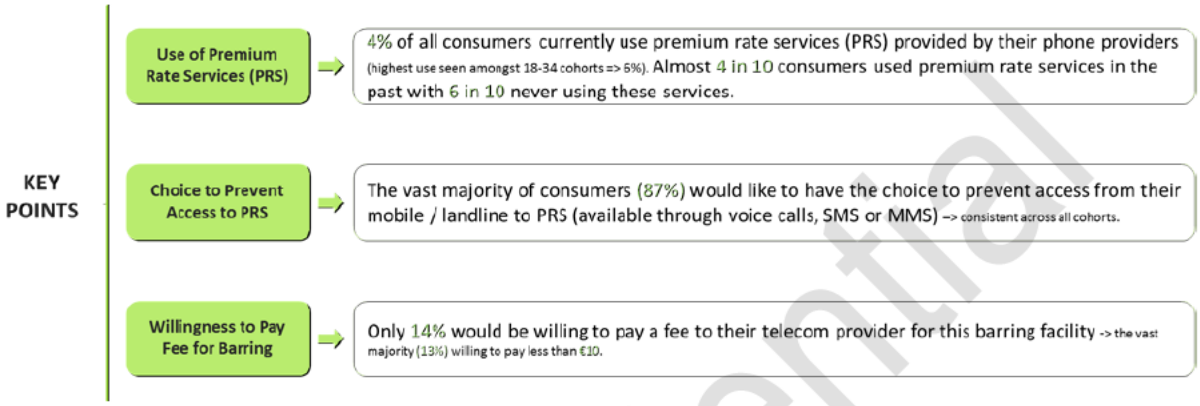

Figure 6: Summary results from April 2016 Consumer Survey

103. As can be seen from Figure 7 above, 87% of consumers would like to have the option to prevent access from their mobile or landline phone to those services. In addition, the consumer survey found that 80% of consumers would like to have the ability to block premium SMS or premium MMS - an extremely large majority, which indicates that consumers would welcome having the choice made available to them.

104. The relatively low percentage (14%) of consumers who stated that they would be willing to pay for a barring facility could be construed as meaning demand would in fact be low for such a service, however ComReg notes that in this instance, where the measure is a cost control measure, it would be counterintuitive for consumers to expect to pay in order to make a saving.

105. The proposal by ComReg in its initial views, as previously published, would allow for the provision of a call barring service which subscribers could opt into, rather than a facility which would be applied by default across a network.

3.2.1.9. Value of the PRS Market in Ireland

106. In respect of the revenue associated with the PRS market, whilst this has declined over the past 5 years it remains significant. The PRS levy that ComReg reports as part of its annual income and expenditure account shows a corresponding reduction from €882k in 2011/2012[31] to €437k in 2015/2016[32].

[30] The full survey is published in Annex 1 of this document.
[31] ComReg Document AR12, *"ComReg Annual Report 2012"*, 10 January 2014.
[32] ComReg "*Annual Report For the Period July 1, 2015*", June 30 201.6

3.2.2 ComReg's Final Position

107. To ensure that its decision is appropriately informed, as well as considering the responses to its consultation, ComReg undertook independent research, requested additional information from service providers and used the information available as set out above. ComReg's final position on call barring facilities is set out below.

Barring of International Calls

108. Having considered the information available to it ComReg has decided not to place an obligation on operators in respect of the barring of international calls. ComReg supports the cost control objectives in providing facilities to block access to international numbers however ComReg considers that in order to protect subscribers in respect of cost control the initial focus should be on mobile users using non-voice services. This position can be reviewed if the market changes and measures are deemed necessary. The basis for the decision is as follows::

- ComReg QKDR[33] - highlights that the number of subscriptions for fixed voice account for less than 25% of the total subscriptions. In addition the number of fixed and mobile international voice call minutes has decreased from 0.53 billion in Q3 2016 to 0.51 billion in Q3 2017.
- ComReg consumer line statistics do not highlight any notable issues in respect of international calls from fixed or mobile devices.
- ComReg is mindful that in recent years the cost of calls to international numbers based on pricing research and the availability of add-ons in the market, have decreased considerably and some call bundles may include an allowance of minutes to certain international destinations and/or offer an add-on to the core package.
- Whilst ComReg welcomes the barring facilities currently on offer by a number of operators that offer a fixed line service in particular eir, who has committed to continuing the facility, it considers that mandating a barring facility for international calls is not required as a cost-control mechanism, at this time.

Premium SMS or premium MMS barring facilities

109. ComReg has decided that a barring facility obligation for premium SMS or premium MMS should be implemented by Relevant Undertakings.

[33] ComReg 17/108

110. As demonstrated in the QKDR for Q3 2017, 88.5% of subscribers are customers of the 3 largest mobile networks (Vodafone 36.4%, eir 20.2%, Three Ireland 31.9%[34]) and ComReg is of the view that customers of these providers should be able to avail of a premium SMS or premium MMS barring facility.

111. In respect of the decision to place barring facility obligations for premium SMS or premium MMS on all Relevant Undertakings, ComReg undertook further analysis, in addition to the responses received.

112. ComReg is of the view that in order to offer choice to subscribers to prevent access from their mobile to premium SMS and premium MMS that it is necessary to mandate a minimum set of barring facilities for all premium SMS and premium MMS[35]. This obligation will apply to MNO's, however it does not apply to MVNO's. The basis for the decision is as follows:

- A review of PRS statistics shows a significant number of consumers contacting ComReg in respect of PRS issues.
- The Eurobarometer 438 publication by the European Commission showed that mobile telephony is more important than any other communications means in the daily lives of Europeans (74% of Europeans consider mobile is more important in their daily lives v 32% fixed) [36].
- ComReg's consumer survey[37] confirms the existence of demand for barring services and this evidence outweighs the (contrary) feedback from industry on the extent of existing demand.
- ComReg's independent review of the mobile apps available in the market that provide barring facilities found these apps have a limited scope in addressing cost-control.
- None of the operators who specifically cited individual apps in the responses to the Further Consultation were prepared to stand by or endorse any of them as being a suitable substitute product.
- PRS Call and SMS barring is being offered in certain European countries on an opt-out basis[38].
- Information provided by mobile operators in respect of implementation and ongoing costs demonstrated the likely benefits to consumers from the imposition of this obligation should outweigh the costs.

[34] See Figure Market Share – Number of Subscriptions (ex. mobile broadband and M2M)
[35] Service providers may, if they wish, offer facilities allowing consumers to block ranges
[36] http://ec.europa.eu/information_society/newsroom/image/document/2016-22/sp438_eb84_2_ecomm_summary_en_15829.pdf Page 6
[37] See Annex 1
[38] Cullen International *'PRS transparency and call barring'* in February 2018

DCB barring facilities

113. In respect of the placing of barring obligations for DCB on all undertakings or a subset of all undertakings, ComReg is of the view that in respect of DCB due to the low usage of the facility at this time that it will not mandate the facility but continue to monitor the market and if in the future the facility is a cause of concern to subscribers this position may be reconsidered.

114. The basis for the decision to keep the issue of barring facilities for DCB under review is as follows:

- Although one operator in respect of DCB said it would be challenging to implement, none of the responses received expressed a view that it was not technically feasible to bar DCB services. Following consultation with industry, ComReg does not have reason to believe that any technical infeasibility arises and therefore DCB barring facilities could be considered in the future.
- ComReg's review of PRS issues being reported to ComReg's consumer line shows no evidence that consumers who use the DCB facilities, where offered by their MNO, are dissatisfied or have issues with the service.

3.3 Implementation date

115. In the Further Consultation published in November 2015 ComReg posed the following question regarding the proposed implementation date of the minimum set of call barring services:

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.

Views of the respondents

116. BT Ireland welcomed the fact that ComReg had considered the inbound situation as it was outside of its control for the Wholesale Line Rental ("**WLR**") product (other than by customer equipment) because these calls do not terminate on its network.

117. eir did not agree that such a short delivery time was achievable and suggested that the development of SMS barring would require a lead time of at least 18 months from the date of any final decision. It further noted that, in light of the implementation of the new EU roaming regulations, resources could not be applied to developing a call barring solution for a number of months.

118. MOMF considered the implementation date of 1 July 2016 unreasonable and unrealistic.

119. Three Ireland did not agree that the implementation date of 1 July 2016 was reasonable as the barring of premium SMS or MMS, which is not currently available, would represent a significant technical challenge and a financial issue for undertakings. However, it again stated that if the minimum set of call barring services were applicable for voice services only, then 1 July 2016 would be reasonable and achievable. It proposed that the option of premium SMS or MMS could be made available when an undertaking had the capability to offer it and suggested 1 July 2017 as the date of implementation of barring premium SMS or MMS.

120. Virgin Media did not agree with the implementation date of 1 July 2016 as it believed that an implementation date of six months from the publication of ComReg's final decision was more appropriate and reasonable.

121. Vodafone did not agree that the proposed 6 month implementation date was reasonable or realistic in terms of the technical capabilities and the financial implications for operators which assumed that a Decision was likely to be reached in Q1 2016 with the implementation date being 1 July 2016. Vodafone stated that it does not currently have the technical capability to offer barring facilities for all PRS including premium SMS/MMS and DCB and to implement them would require significant technical work across the network at a huge financial cost.

ComReg's Position

122. ComReg has taken into account the timeframe that respondents estimated it would take to deliver the barring facilities. Time has elapsed and the claimed conflicting project work in respect of delivering Roaming by Q2 2017 is no longer an issue. ComReg considers it necessary that barring facilities, as detailed in the Final Decision in Section 7 of this document, are provided to MNO's subscribers. Taking into account feedback in respect of time to implement these measures, ComReg considers it reasonable that such facilities are put in place by all Relevant Undertakings by 31 December 2018.

3.4 Informing existing and new subscribers

123. In relation to informing existing and new subscribers, ComReg posed the following question in its Further Consultation:

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.

Views of the respondents

124. BT Ireland noted that it was not active in the consumer market and so could not offer an informed view for that market. However, it did not consider it necessary to specifically regulate the need to inform customers in the business market as call barring facilities were already well established on customer PBXs/Access gateways and had been widely deployed without issue.

125. eir considered it reasonable to expect service providers to advise customers of the facilities provided, in the same way that service providers advise customers of other aspects of the services that they currently provide. However, it also noted that an online keyword search would provide end users with a host of apps with far more features than a network level bar could ever deliver – proving that there was no significant barrier to customers accessing information on barring solutions, or appropriate barring solutions, without requiring an intervention by the network operator.

126. Three Ireland agreed with ComReg's preliminary view and confirmed that it currently informs its customers of the barring services available at the point of sale and upon request via customer care.

127. Virgin Media broadly agreed with ComReg's preliminary view in respect of informing existing and new subscribers.

128. Vodafone agreed that subscribers should be informed as to the availability of the facilities offered but noted that the method by which it notified its subscribers should be left to its discretion.

ComReg's Position

129. ComReg considers that communication by Relevant Undertakings, of the services they offer including barring facilities, is necessary and important so that subscribers are fully informed and can make decisions to ensure adequate child protection mechanisms and cost-control if they so require.

130. In order to fully inform subscribers of the premium SMS and premium MMS barring facilities that they can avail of, it is reasonable that the following measures are taken by all Relevant Undertakings:

- Relevant Undertakings shall inform their Subscribers of the availability of barring facilities and of the means whereby they can request such barring facilities, by way of SMS message. The means whereby a request for barring facilities may be made shall be in line with standard communication channels normally offered by the Relevant Undertaking.

- Relevant Undertakings shall ensure that their contractual terms and conditions address the availability of barring facilities and the means whereby a request for barring facilities may be made in line with standard communication channels normally offered by the undertaking.
- Relevant Undertakings shall, following a request being made by a Subscriber for all or any of those barring facilities, promptly provide the requested barring facilities to the Subscriber, and in any event no later than 14 days following the request.

3.5 Cost of and Charges for the barring facility

131. Regarding providing a call barring service free of charge, ComReg posed the following question in its Further Consultation:

> 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.

Views of the respondents

132. BT Ireland did not believe it appropriate to regulate the price for barring normal international calls as that could undermine the viability of actually providing the overall service. It stated that premium rate barring was a different matter, because of the "revenue sharing" nature of PRS and the need for customer protection. It agreed that these should be regulated in terms of the charge for barring, i.e. potentially limited to the transaction cost of applying the barring.

133. Regarding call barring for PRS, BT Ireland stated it should be up to operators whether to charge or not, but such a transaction fee should be very modest (circa less than 5 minutes of a customer services agent's time). It didn't see a need for an ongoing rental as no further work was being carried out.

134. eir referred to the fact that ComReg noted how some service providers offer call barring free of charge but noted that this was typically the case for mobile service providers and was not to say that the underlying costs were immaterial. eir again stated that there would be significant costs to mobile operators for developing premium SMS barring.

135. eir considered that a nominal charge was warranted to address the principle of economic efficiency as end users could avail of free apps that deliver this functionality. eir suggested that this would operate contrary to ComReg's obligation to promote efficient investment.

136. eir highlighted that there are substantial costs associated with the development, support and maintenance of call barring facilities, involving core network, billing and customer care systems. eir stated that *"if the change [to the obligation] is as simple as removing the charge…this could be in the region of [✂ [redacted]]".* Furthermore, eir noted the *"support costs could be in the region of [[redacted]] per annum for two barring services. The cost of implementing SMS barring for Meteor and eMobile has been estimated to be [[redacted]]".* eir therefore were of the view the cost to industry *"could easily exceed €1,000,000 with an annual cost of €500,000."*

137. Additionally, eir stated that ComReg should, at a minimum, carry out a top-level cost benefit analysis based on the estimated costs and benefits which, it said, would avoid decisions being made that are completely uninformed in respect of the level of the benefits that are expected to result, relative to the level of costs that would be imposed on industry and its customers.

138. eir welcomed ComReg's move to seek more detail on the costs associated with its proposals and stated that it trusted that ComReg would, in parallel, seek to isolate any benefits and then carry out an objective comparison of the aggregate costs and benefits that would inform its decision.

139. Three Ireland agreed that the barring facilities provided should be provided free of charge to end users. Further it stated that should eir/all wholesale providers be required to remove the wholesale costs for providing these barring services, then Three Services would agree that there should be no retail cost to the customer.

140. Three Ireland noted that eir charges a recurring wholesale fee and a set-up fee. It reasoned that operators need to cover their costs and, if wholesale providers were permitted to charge the wholesale costs, then Three Ireland did not agree that the service should be free to customers.

141. In its response to question 1 Three Ireland estimated that [✂ [redacted].

142. Virgin Media did not agree with ComReg's preliminary view that the proposed barring facility should be provided free of charge and stated that ComReg had provided no justification for requiring that these services be provided free of charge, or evidence that the charges in the market place for call barring facilities act as a deterrent to take up by consumers. Further, it asserted that information on the range of charges for call barring facilities was available to ComReg and that these charges should be assessed for actual evidence of impact on take up levels. In the absence of this assessment, Virgin Media stated that ComReg could not claim that its proposal to mandate free of charge call barring facilities was proportionate or reasonable.

143. Virgin Media conceded that it did not have details readily available of the current costs of setting up a call barring service or the associated ongoing charges that would be incurred. It noted that it proactively introduced call barring services on a commercial basis over 5 years ago at a minimal charge, largely designed to cover implementation and administrative costs.

144. Further, it reasoned that ComReg needed to justify requiring that these services should be provided free of charge and provide evidence that the charges in the market place for call barring facilities act as a deterrent to take up by consumers.

145. Vodafone did not agree that the proposed facilities should be offered free of charge. It noted that, given the financial resources that would be required to implement them, it would be prevented from investing in other key areas which could equally, or better, serve to benefit consumers than the proposed ComReg draft decision.

146. Additionally, it reasoned that it would be wholly disproportionate to expect operators to provide this service free of charge. Vodafone stated that WLR providers charged for these barring solutions and asked ComReg to confirm that, were providers to offer these services for free, this would extend to WLR providers not charging resellers.

147. Vodafone explained that there were major technical complexities involved in the set-up of the proposed barring service. Its initial estimate of [✂ [redacted]] would be subject to change as there may be significantly more work required to implement the changes which, without putting further time and resources into accessing, would be impossible to gauge.

ComReg's Position

148. In the original question there were a number of parts to the cost of barring (a) international calls (b) PRS including premium SMS, premium MMS and DCB. The Decision is now that MNO subscribers must be offered the ability to bar premium SMS, and premium MMS only, therefore the views put forward in respect of the costs of barring of calls and DCB are not considered relevant in the context of the reduced scope of the measure.

149. Regarding the case made by operators that there are substantial costs associated with the provision of barring services, in February 2016, ComReg issued a request for information to eir, Vodafone, Three Ireland and Virgin Media. This included requests for:

- the net revenues earned in 2015 by each operator in relation to each PRS number, and
- the revenues earned in 2015 by each operator in relation to DCB.

150. It is very much worth noting that, the information ComReg requested from the MNOs who responded to the consultation, demonstrates MNOs make considerable revenues. Whilst the revenue associated with the PRS market has declined over the past 5 years as evidenced by the associated decline in PRS levy receipts it remains significant.

151. ComReg received high level estimates of costs from these MNOs associated with the development of a premium SMS, premium MMS and DCB barring facility that were widely diverging and no clear picture emerged regarding an average cost.

152. [[redacted]]

153. The Relevant Undertakings that are being required to offer their customers the option to bar premium SMS and premium MMS are themselves the recipients of a revenue share of the PRS market. That is, Relevant Undertakings retain a large percentage of the charge to consumers for the premium SMS/MMS. ComReg believes that this is a major and perhaps overlooked factor in the context of considering the costs to operators of developing the facilities to offer their customers barring facilities for PRS.

154. Regarding the cost to Relevant Undertakings for the implementation of the barring facilities (as detailed in the Further Consultation), ComReg notes that two of the respondents to question 1 estimated, on a confidential basis, a significant cost to provide barring facilities and this is reflected in coming to our decisions in section 3.2. However in subsequent correspondence one of those respondents [[redacted]] which is indeed welcomed by ComReg. Another respondent (Vodafone) indicated that it is working to offer a broad range of options to facilitate customer control over services and will be including PRS in that review.

155. Subsequent to a point raised in respect of the availability of apps that deliver the barring functionality ComReg engaged an independent party to undertake research as set out in section 3.2.1.3.

156. ComReg recognises the fact that there are costs (including set up and recurring fees) associated with the provision of call barring services for fixed line providers however the Decision Instrument as set out in Section 7 excludes barring of calls and DCB and now only applies to premium SMS and premium MMS. ComReg considers the issues raised which were mainly in the context of barring voice calls are no longer relevant in view of the amended obligation as set out in the Decision Instrument.

157. ComReg agrees with the view expressed that premium rate barring in the context of costs incurred in providing the service is a different matter to call barring because of the revenue sharing nature of PRS. In barring calls to PRS providers potentially incur costs for the provision of the barring service and also reduced revenue from the reduction in revenue from PRS. However, they may also benefit from reduced subscriber contacts and complaints in respect of PRS.

158. There were a number of issues raised in respect of the provision of the barring services free of charge. However, the benefit to subscribers from the provision of barring of PRS free of charge could be substantial. Having considered the number of PRS complaints and the average price of a PRS call, ComReg believes subscribers who avail of the call barring service could benefit substantially from the service. It is probable that take-up of the barring facility would be reduced where there was a charge, (either for implementation or ongoing) for the service. In addition, if the facility was not provided free of charge the savings to subscribers from barring the service would be reduced.

159. On balance ComReg is of the view the benefit to subscribers would outweigh the cost to the Relevant Undertakings who would be required to implement the premium SMS and premium MMS facility. ComReg therefore is of the view that the provision of the services should be free of charge.

4 Regulatory Impact Assessment ("RIA")

4.1 Draft RIA

160. The draft RIA identified and described four potential regulatory options. These were as follows:

- Maintain the USO to provide existing call barring facilities
- Reduce the USO to provide a barring facility for international calls only and/or PRS
- Do not require any undertaking to offer a call barring facility
- Reduce the scope of the current obligation but extend the applicability on all undertakings

161. After outlining what each of these possibilities might entail, ComReg assessed the potential regulatory options and their respective impacts for consumers, service providers as well as competition. This included an assessment of the potential costs and benefits of each option.

162. ComReg requested opinions on its draft RIA and posed the following question in its Further Consultation:

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.

Views of the respondents

163. eir welcomed the consideration that ComReg gave to the reduction in international rates and the growing trend of international destinations being included in standard bundles. It reasoned that, in its draft RIA, ComReg rightly sought to establish the degree to which the presence of such offers reduces the demand for call barring generally but stated that this becomes a moot point if the bulk of current demand is being met by apps.

164. eir noted what it considered a dearth of quantitative analysis in the RIA. It was of the view that ComReg must be able to demonstrate that the cost to industry can be justified bearing in mind the presence of effective substitutes in the market.

165. eir made reference to ComReg's preferred option of mandating international and premium barring on all undertakings, and noted that ComReg refers to the fact that barring is being provided free of charge by many operators and therefore concludes that there would not be a significant funding issue. eir stated that this pointed to an absence of consideration of the implications of ComReg decisions for the market. By mandating that barring is provided free of charge, eir noted that barring would, henceforth, be required for regulatory reasons as opposed to market forces. eir stated that this would ultimately translate into a cost burden on the industry and higher prices for customers, the distortionary effects of which would be ever increasing as the need for barring services declines.

166. eir recommended that ComReg consult further on the Cost Benefit Analysis aspect of the RIA once it had been informed of the estimated costs that would be provided by respondents and analysed the estimated value of any benefits that it calculated.

167. Virgin Media disagreed with ComReg's draft high level assessment of the impact of the proposed regulatory options for reasons that it had previously stated.

168. Vodafone did not agree with ComReg's final assessment. It stated that ComReg should give further consideration to the demand for additional call barring services. Vodafone was of the view that the apparent demand did not justify ComReg's proposed draft decision. Vodafone requested that ComReg quantify the number of recorded complaints and whether this reflected that the measures proposed are necessary.

ComReg's Position

169. While ComReg address the respondent's views in relation to the high level assessment of the impact of the proposed regulatory options in this section, ComReg's views here should be read in conjunction with ComReg's analysis and final position on the RIA as set out in Section 6.

170. ComReg notes that based on independent research, apps currently available in the market do not address the areas of concern as set out in this Decision.

171. ComReg considers that it has taken due consideration in assessing and quantifying the potential impact on stakeholders and on competition arising from its proposals to specify requirements in respect of call barring. As set out above, having considered the information available to it ComReg has decided not to place an obligation in respect of the barring of international calls.

172. In coming to its final views ComReg has, amongst others, taken into consideration:

- Further information provided by operators on foot of information requests
- MNO consumer line statistics
- Availability of barring apps in the market
- International Benchmarking
- ComReg's Quarterly Report

173. ComReg also conducted further analysis and research including requesting detailed costings from respondents on the costs of implementing these obligations.

174. In order to determine demand for these services ComReg also conducted a survey which demonstrated large demand for PRS barring facilities.

175. On foot of the opinions expressed in relation to the Draft RIA, ComReg has produced the final RIA as set out in Section 6 to further assess the impact of the regulatory options based on the ComReg Position.

5 Draft Decision Instrument

176. Regarding its Draft Decision Instrument, ComReg posed the following question in its Further Consultation:

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

Views of the respondents

177. BT Ireland considered that "*the minimum call barring set should be reduced from four to three requirements with International-only calls removed from the mandatory category*". It stated that its experience was that customers seek premium rate barring combined with international call barring and that this had been provided for years without complaint or issue. Finally, it stated that it is "*one of the key industry protagonists seeking wholesale service features from Open Eir to meet end-user requirements*" and noted that, in ten years, it had never sought international-only call barring services.

178. eir noted ComReg's proposal that eir should 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 Decision 10/14 (ComReg Document 14/71[39]). eir considered it appropriate that it should not be subject to two sets of obligations regarding the provision of selective call barring facilities. It did not believe that that element should be addressed in the proposed Decision Instrument. It was of the view that the correct administrative process would be to amend the relevant USO Designation Decision to remove the call barring obligations at the time of any new decision that has broad application to all operators.

179. Three Ireland did not agree with ComReg's Draft Decision Instrument and again referred to the fact that the text of the Draft Decision was not consistent with ComReg's preferred Option as detailed in the RIA. Three Ireland again recommended the removal of DCB and proposed 1 July 2017 as the implementation date for the call barring proposals.

180. Virgin Media disagreed with ComReg's Draft Decision Instrument for reasons previously outlined.

[39] ComReg Document 14/71, "The Provision of Telephone Services Under the Universal Service Obligation – Access at a Fixed Location", 7 July 2014

181. Vodafone did not agree with the Draft Decision. It reasoned that the deadline for implementation was not realistic and failed to take into account the technical work required by operators to implement such changes on their network. Further, it stated that no account had been taken of the financial implications on operators and that purporting to impose an obligation, where operators must then offer that service free of change, was unreasonable and unnecessary.

ComReg's Position

182. ComReg's has addressed the specific issues raised by respondents in Section 3 and in relation to the Draft Decision Instrument throughout this Response to Consultation and Decision Document.

183. ComReg notes that eir's USO to provide call barring facilities has now expired. ComReg also notes that the final decision does not require the implementation of DCB barring facilities.

184. The Final Decision has taken into consideration the responses received and the Final Decision is now in Section 7 of this document.

6 Final RIA

6.1 Role of the RIA

185. ComReg's approach to RIA follows the RIA Guidelines[40] published in August 2007 and takes into account the "Better Regulation" programme[41] and international best practice (for example, considering developments about RIA published by the European Commission[42] and the OECD).

186. Section 13(1) of the Act requires ComReg to comply with Ministerial Policy Directions. In this regard, Ministerial Policy Direction 6 of February 2003[43] requires that, before deciding to impose regulatory obligations on undertakings, ComReg must conduct a RIA in accordance with European and international best practice and otherwise in accordance with measures that may be adopted under the "Better Regulation" programme.

187. This RIA is an overall analysis of the likely effect of proposed regulation or regulatory change. Its purpose is to help identify regulatory options, and it should establish whether the proposed regulatory approach is likely to have the desired impact in terms of promotion of the interests of consumers through ensuring that ECS providers comply with applicable regulations in respect of barring PRS.

188. Our aim in conducting this Final RIA is to ensure that all proposed measures after taking into consideration the responses received from the draft RIA and the further information received from information requests pursuant to Section 13D of the Act, further analysis work undertaken, the requirement of proportionality, and having regard to ComReg's statutory role in respect of consumer protection are considered.

189. ComReg's approach to the RIA follows five steps:

   (i) Step 1 Describe the policy issues and identify the objectives
   (ii) Step 2 Identify and describe the regulatory options
   (iii) Step 3 Determine the impacts on Stakeholders
   (iv) Step 4 Determine the impacts on Competition
   (v) Step 5 Assess the impacts and choose the best option

[40] ComReg, "Guidelines on ComReg's Approach to Regulatory Impact Assessment", ComReg Document 07/56a, 10 August 2007 (the "**RIA Guidelines**").
[41] Department of the Taoiseach, "Regulating Better", January 2004. See also "Revised RIA Guidelines: How to conduct a Regulatory Impact Analysis", June 2009, http://www.taoiseach.gov.ie/eng/Publications/Publications_2011/Revised_RIA_Guidelines_June_2009.pdf.
[42] Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, "Second strategic review of Better Regulation in the European Union", COM(2008) 32 final 30.01.2008, p. 6.
[43] Ministerial Policy Direction made by the Minister of Communications, Marine and Natural Resources on 21 February 2003.

6.2 Describe the policy issue and identify the objectives

190. ComReg has undertaken a consultation in respect of further specifying the requirements set out by Regulation 24 and Part A Schedule 1 to the Universal Service Regulations which set out requirements for all undertakings providing publicly available telephone services or access to public communications networks, as to what they are required to make available to subscribers. Regulation 24 and Part A, Schedule 1 (b) provides for selective barring.

191. Currently the call barring measures provided by eir to its fixed customers include incoming services, outgoing services, local calls only, both PRS and international, and mobile and PRS calls. These are provided on a voluntary basis by eir as its regulatory obligation expired on 30 June 2016. In addition Vodafone, Virgin Media and Magnet offer barring services to their fixed line customers. Three Ireland, eir and Vodafone also offer barring services to their mobile customers.

192. ComReg is of the view that, in order to meet the aims of child protection and cost control and to ensure that market needs are fully met, a requirement to provide a barring facility only for premium SMS and premium MMS on undertakings who offer these PRS to their subscribers should be sufficient.

193. The market needs were confirmed by the consumer survey[44] ComReg carried out in April 2016, as set out in section 3.2.1 above.

194. ComReg's principal objective when undertaking this consultation is to ensure that subscribers, particularly children are protected and that consumers can control their access to and costs of certain PRS when using their mobile devices.

6.3 Identify and describe the regulatory options

195. ComReg recognises that any regulatory measures should be kept to the minimum necessary whilst ensuring adequate cost control and child protection is available.

196. ComReg now considers there are three regulatory options available to it. The obligation on eir to provide a call barring facility which was in existence at the time of publication of the Further Consultation is no longer applicable. The options available are therefore as follows:

- **Option 1**: No intervention measures - do not require any undertaking to offer a barring facility for premium SMS and/or premium MMS to subscribers.

[44] The full survey is published in Annex 1 of this document

- **Option 2**: Require all undertakings who offer premium SMS or premium MMS to provide a barring facility for premium SMS and/or premium MMS from 31 December 2018 free of charge.

- **Option 3**: Require Relevant Undertakings to provide a barring facility for premium SMS and/or premium MMS from 31 December 2018 free of charge.

6.4 Determine the impacts on stakeholders

197. For the stakeholder analysis, there are 2 groups to consider: subscribers and industry.

Option 1: No intervention measures

198. Under this option ComReg would not require any undertaking to offer a barring facility to subscribers.

199. To maintain the status quo would mean that subscribers may not have the facility to bar premium SMS and/or premium MMS. Undertakings can offer call and PRS barring options if they so choose.

Benefits

200. Currently, undertakings offer varying levels of protection to subscribers and forbearance or maintaining the status quo could be expected to be a benefit for industry.

201. Call barring facilities are well established for business customers. These customers can continue to avail of call barring facilities offered to them.

202. Subscribers can continue to avail of calling barring options for their fixed line and mobile service where offered on a voluntary basis by their service provider. Subscribers can also use apps which facilitate some barring facilities. Existing measures such as a double opt-in for call barring, continue to provide some protection to subscribers.

203. Undertakings do not need to incur additional costs as there are no requirements in place.

Costs

204. A potential cost of not mandating a barring facility is that undertakings may have little incentive to offer the service to subscribers whilst the subscribers remain dissatisfied as they cannot bar PRS.

205. As undertakings are not obliged to provide services which allow barring of premium SMS and premium MMS if they do provide a facility subscribers may incur a charge.

206. Subscribers have limited control over their access and the cost of certain services. There is no requirement for service providers to inform subscribers of the various barring options (if any) available to them and hence subscribers may not be aware of these facilities.

207. This is unlikely to achieve the objectives of cost control and child protection, due to the inability on the part of Subscribers to bar access to potentially costly PRS. Further in the case of PRS, they can present serious harm to children who may access services intended for adult use.

208. The number of consumers who contact our consumer line with PRS issues has increased each quarter. This coupled with the fact that 80% of those surveyed (see section 3.1) would like to have the choice to bar premium SMS or premium MMS services, demonstrates that there is a need to change the status quo.

209. As previously stated the relatively low percentage (14%) of consumers who stated they would be willing to pay for a barring facility could be construed to mean demand in fact would be low for this service. However, ComReg note that in this instance as the measure is a cost control measure, it would be counterintuitive for subscribers to expect to pay for this service.

Net Welfare

210. Based on an omnibus survey undertaken by ComReg in April 2016 the vast majority of consumers (87%) would like to have the choice to prevent access from their mobile / landline to a PRS (available through voice calls, SMS or MMS).

211. The consumer welfare impact is likely to be negative where consumers are charged for PRS that they claim they did not request.

212. On the basis of the principles set out above, the consumer welfare impact, without any obligation to provide barring facilities, is likely to be negative. On the other hand, maintaining the status quo will not impact financially on undertakings.

213. On balance, complete forbearance at this time is not likely to fully meet the objectives of cost control and the protection of children.

Option 2: Require all undertakings who offer Premium SMS and/or premium MMS to provide a barring facility for these Free of Charge.

214. This option considers if it is necessary, appropriate and proportionate taking into account the requirements as set out in Regulation 24 of the Regulations, to require all undertakings who offer premium SMS or premium MMS to provide barring facilities free of charge from 31 December 2018.

Benefits

215. Under this option subscribers can benefit from cost control and child protection measures through PRS barring facilities. These facilities will be provided free-of-charge.

216. This will provide greater cost control facilities and additional protection of unintended audiences against unsuitable services for customers of all undertakings.

217. There is significant demand for barring services; the vast majority of consumers (87%) would like to have the choice to prevent access from their mobile / landline to PRS (available through voice calls, SMS or MMS), furthermore 80% of consumers would like to have the choice to prevent access to premium SMS or premium MMS. The vast majority of providers currently offer the facility to bar PRS calls.

218. Undertakings will be required to provide a facility that supports subscribers' control of expenditure and give them more confidence in their usage of communications services. ComReg wants to ensure that those end users who wish to avail of barring facilities may do so whereas those who wish to use (or continue to use) these PRS may do so without the necessity to take any action. That is the facility would be provided on an opt-in basis, the measure is not a default position. This will benefit industry and subscribers alike.

219. This better choice of services and cost control measures for subscribers would be expected to allow them to make informed decisions in respect of their use of these PRS. Consumer welfare could be expected to be enhanced by this facility.

220. Undertakings who offer subscribers these PRS services would continue to retain a portion of the revenue and pass the remainder to PRS Providers who offer the services.

221. The introduction of these barring facilities, would increase the level of choice available to subscribers. Awareness would be increased through undertakings informing customers of available facilities after they have been implemented. This should reduce any relatively low level of potential harm to undertakings and large business.

222. The number of consumer complaints in respect of PRS should decline as awareness of the ability of subscribers to avail of barring facilities free-of-charge increases. Service Providers may therefore also benefit from reduced subscriber contacts and complaints in respect of these PRS.

Costs

223. While the exercise of barring facilities may result in a decline in revenues for undertakings operating in the PRS market, the extent of any such decline will reflect only the actions of those who do not, in fact, want these PRS.

224. Based on the submissions to the Further Consultation service providers' could incur significant costs in meeting the requirements consulted on at that time. These costs relate to development and set-up costs and also ongoing annual costs. The costs were widely diverging and no clear picture emerged regarding an average cost.

225. However in subsequent correspondence one of those respondents confirmed [[redacted]] which is indeed welcomed by ComReg. Another respondent indicated that it is working to offer a broad range of options to facilitate customer control over services and will be including PRS in that review.

226. ComReg recognises the fact that there are costs associated with the provision of call barring services for fixed line providers however the Decision Instrument as set out in Section 7 excludes barring of calls and DCB and now only applies to premium SMS and premium MMS.

227. ComReg now believes that due to the reduction in the specifications first consulted on and the elapsed time in which work has commenced to offer the service to customers as part of network enhancements, the potential cost of introducing the measure should lower. Additionally it could be recouped from the premium SMS and premium MMS revenue collected by those undertakings from their customers for PRS charged to their customers' accounts.

228. ComReg does not consider the likely costs to be imposed to be disproportionate. In addition, consideration has to be given to the consumer market that would likely stand to gain by these measures.

229. In a market where the number of consumers who contact ComReg is increasing from under 3,000 in 2014/15 to 15,000 in 2016/17, the cost of not introducing barring facilities could lead to significant detriment for subscribers.

Net welfare

230. The net effect of the benefits and costs of Option 2 is likely to be positive for subscribers.

231. In respect of industry, in view of the responses received and the costs identified, and considering on the other hand the revenue earned from offering the services, the net effect of the benefit and costs should not have a material impact.

232. The combined reduction in revenue received by all the PRS Providers in the value chain would be equivalent to that not spent by subscribers by reason of their exercise of these facilities. This would result in no overall net effect.

233. What also needs to be considered is whether the implementation costs are outweighed by the additional benefits to subscribers and industry of reduced contacts in respect of subscriber complaints and queries.

234. Due to the reduction in the specifications and the elapsed time since work has commenced to offer barring facilities to customers as part of network enhancements, the implementation and ongoing costs of the introduction of this requirement is likely to be relatively low.

235. As set out above, currently ComReg has in the region of 15,000 contacts per annum in respect of PRS. As subscribers first port of call is generally their service provider, ComReg believes it reasonable to conclude that the total number of industry contacts is significantly higher. That is, it is likely that some of these contacts are resolved and that only some of these contacts eventually come through to ComReg's consumer line.

236. ComReg envisages that as a result of this obligation PRS contacts to industry would decrease. This would result in benefits to industry by virtue of reduced call centre costs. Depending on the decrease in call volumes the benefit in monetary terms of the introduction of the requirement may outweigh the cost.

237. In any case, where the benefit in monetary terms does not outweigh the costs for undertakings, the net cost is likely to be low. On the other hand the benefit which would be derived by subscribers, in particular children is likely to be substantial.

Option 3: Require Relevant Undertakings to provide a barring facility for premium SMS and/or premium MMS from 31 December 2018 Free of Charge.

238. This option considers if it is necessary, appropriate and proportionate taking into account the requirements as set out in Regulation 24 of the Regulations, to require Relevant Undertakings to provide a barring facility for premium SMS and/or premium MMS from 31 December 2018. An obligation to provide DCB barring would not be imposed.

Benefits

239. The benefits under option 3 are broadly the same as option 2 however the key differences are that, not all, but the majority of subscribers can benefit from cost control and child protection measures through premium SMS and premium MMS barring facilities. As demonstrated in the Q 3 2017 QKDR, 88.5% of subscribers are customers of the 3 largest mobile networks (Vodafone 36.4%, eir 20.2%, Three Ireland 31.9 %). These customers could avail of a barring facility where the measure is mandatory for those providers.

Costs

240. The costs for the MNO's under option 3 are the same as option 2. However the key difference is that it is not all undertakings offering premium SMS and premium MMS are required to offer the barring facility, but only Relevant Undertakings, i.e. MNO's only (currently eir, Three Ireland and Vodafone – whose subscribers in Q3 2017 accounted for nearly 89% of the market).

Net welfare

241. The net effect of the benefits and costs of Option 3 is likely to be positive for subscribers.

242. In respect of industry, in view of the responses received and the costs identified, and considering on the other hand the revenue earned from offering the services, the net effect of the benefit and costs should not have a material impact.

243. Not all undertakings offering premium SMS and premium MMS are required to offer the barring facility, but only Relevant Undertakings.

244. What also needs to be considered is whether the implementation costs are outweighed by the additional benefits to subscribers and industry of reduced contacts in respect of subscriber complaints and queries.

245. Due to the reduction in the specifications and the elapsed time since work has commenced to offer barring facilities to customers as part of network enhancements, the implementation and ongoing costs of the introduction of this requirement is likely to be relatively low.

246. Currently ComReg has in the region of 15,000 contacts per annum in respect of PRS. As subscribers first port of call is generally their service provider, ComReg believes it reasonable to conclude that the total number of industry contacts is significantly higher. That is, it is likely that some of these contacts are resolved and that only some of these contacts eventually come through to ComReg's consumer line.

247. ComReg envisages that as a result of this obligation PRS contacts to Relevant Undertakings would decrease. This would results in benefits to the MNO's by virtue of reduced call centre costs. Depending on the decrease in call volumes the benefit in monetary terms of the introduction of the requirement may outweigh the cost.

248. In any case, where the benefit in monetary terms does not outweigh the costs for undertakings, the net cost is likely to be low. On the other hand the benefit which would be derived by subscribers, in particular children is likely to be substantial.

6.5 Determine the impacts on competition

Option 1: No intervention measures

249. As subscribers continue to express dissatisfaction with charges being billed or credit reduced from their mobile accounts this may in the future impact competition as those subscribers may actively seek those undertakings who voluntarily offer a barring service.

Option 2: Require all undertakings who offer premium SMS/MMS to provide a barring facility for PRS from 31 December 2018 Free of Charge.

250. ComReg is of the view that extending the obligation to provide a barring facility for premium SMS and premium MMS to all undertakings who offer these services will not have a negative impact on competition as it will be a service that will be available to all subscribers.

251. Similar considerations may apply in the area of child protection, where subscribers may seek out only those service providers who offer barring facilities capable of protecting children from exposure to adult content.

Option 3: Require all Relevant Undertakings to provide barring facilities for premium SMS and/or MMS Free of Charge.

252. ComReg is of the view that extending the obligation to provide a barring facility for premium SMS and premium MMS to Relevant Undertakings who offer the services will not have a negative impact on competition as it will be a service that will be available to 88.5% of mobile subscribers.

253. Additionally, as the facility to bar premium SMS and premium MMS at an individual end user level will not be the default position but will be by request, it is therefore not foreseen that this will have any negative impact on competition.

254. The exclusion of MVNOs from the measure is intended to ensure that those who are, relatively speaking, likely to face a more significant financial obstacle in providing the necessary barring facilities and who may also be likely to derive less by way of revenue from the PRS industry, are not compelled to provide barring facilities. Such service providers would remain free to provide such services at their election if they so wished.

255. Additionally, MVNOs not required to provide this service may feel that they could differentiate themselves from competitors by offering these and other barring facilities whilst not being required to do so by ComReg.

6.6 Assess the impacts and choose the best option

256. In light of the above issues and impacts, ComReg is of the view that it is most appropriate that the obligation to provide a premium SMS and premium MMS barring facilities to subscribers be confined to all Relevant Undertakings as per Option 3.

257. Option 1 (no intervention measures) is the benchmark against which ComReg assesses the incremental net effects of other potential options. This option would be the lightest regulatory approach and would rely solely on service providers to ensure the PRS they offer are requested by the subscriber and also that children are protected from exposure to adult content.

258. Option 2 considers it in the public interest to introduce barring facilities to empower all subscribers to control costs and offer a mechanism for child protection. Survey data shows that consumer demand for this facility is extremely high.

259. Option 3 considers the measure on Relevant Undertakings who offer the service:

- The proposed interventions will involve varying implementation and operational costs for three service providers (Vodafone, eir, and Three Ireland) who all generate revenue from offering PRS.

- The proposed measure should result in increased customer satisfaction. As awareness of the barring facility grows, service providers can expect reduced contacts from subscribers in this respect, thus resulting in time savings for subscribers and costs and time savings for service providers.

- ComReg is of the view that the requirement is unlikely to result in a disproportionate cost burden and for the reasons set out above, the benefits to subscribers are likely to be significant. In contrast, if the requirement is not introduced no such benefits would follow and this may lead to detriment for subscribers.

260. In this light, ComReg's proposal is to adopt option 3 as it represents the more appropriate and proportionate regulatory approach.

7 Final Decision Instrument

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 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 Regulations 12 and 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 Schedule 1, Part A, 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 Documents 15/31 and 15/125 and further information provided to ComReg following request; and

v. Having regard to the analysis and reasoning set out in ComReg Document 18/09.

1.2 The provisions of the response to consultation and final decision document Document 18/09 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 Numbering Conditions of Use[45], the Communications Regulation (Premium Rate Services

[45] ComReg Document 15/136, *"Numbering Conditions of Use and Application Process"*, 22 December 2015

and Electronic Communications Infrastructure) Act 2010, and the Premium Rate Services Code of Practice[46] unless the context otherwise admits.

2.2 References to European Union legislation, to Irish primary legislation or secondary legislation and/or to the ComReg Numbering Conditions of Use or Premium Rate Services Code of Practice as appropriate, shall be construed as references to that legislation/those documents as amended or supplemented from time to time.

2.3 Words in the singular form shall be construed to include the plural and vice versa, unless the context otherwise admits or requires.

3. SCOPE AND APPLICATION

3.1 This Decision Instrument specifies minimum requirements to be implemented and complied with by Undertakings.

3.2 This Decision Instrument applies to, and is binding upon any Undertaking that is a Mobile Network Operator, providing a publicly available Electronic Communications Service to Subscribers that enables the imposition of a charge on its Subscribers' accounts/bills for premium Short Messaging Services ("SMS") or Multimedia Message Services ("MMS") i.e. "Messaging and Payment Short Codes" in the ranges 53XXX to 59XXX as per ComReg Numbering Conditions of Use, being hereinafter referred to as a "Relevant Undertaking" unless the context otherwise admits. A Relevant Undertaking does not include a Mobile Virtual Network Operator.

4. SPECIFIC REQUIREMENTS IN RELATION TO CALL BARRING SERVICES

4.1 In accordance with Regulation 24 of the Universal Services Regulations and the provisions of Schedule 1, Part A to those Regulations, all Relevant Undertakings shall provide barring facilities whereby Subscribers can, on request to the Relevant Undertaking, bar all premium SMS or MMS in the ranges 53XXX to 59XXX as per ComReg Numbering Conditions of Use. The barring facilities specified 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 a Relevant Undertaking, or where a Relevant Undertaking uses the services of a third party for the purpose of complying with any obligation imposed by this

[46] http://www.comreg.ie/_fileupload/publications/ComReg1229.pdf

Decision Instrument, the Relevant Undertaking shall remain liable for compliance with this Decision Instrument.

4.3 Relevant Undertakings shall inform their Subscribers of the availability of barring facilities and of the means whereby they can request such barring facilities, by way of SMS message ("The Information Requirement"). The means whereby a request for barring facilities may be made shall be in accordance with standard communication channels normally offered by the Relevant Undertaking. The SMS message shall be sent no later than 28 days after the barring facilities become available and in any event no later than 28 January 2019.

4.4 Relevant Undertakings shall ensure that their contractual terms and conditions address the availability of barring facilities and the means whereby a request for barring facilities may be made in accordance with standard communication channels normally offered by the Relevant Undertaking.

4.5 Following the implementation of barring facilities referred to in Section 4.1 Relevant Undertakings shall, following a request being made by a Subscriber for all or any of those barring facilities, promptly provide the requested barring facilities to the Subscriber, and in any event no later than 14 days following the request.

5. STATUTORY POWERS NOT AFFECTED

5.1 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.

6. MAINTENANCE OF OBLIGATIONS

6.1 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.

7. EFFECTIVE DATE AND DURATION

7.1 Relevant Undertakings shall comply with the provisions of this Decision Instrument (with the exception of the Information Requirement referred to in Section 4.3) by 31 December 2018.

7.2 This Decision and Decision Instrument is effective from 15 February 2018, and shall remain in full force unless otherwise amended by ComReg.

Gerry Fahy
CHAIRPERSON
THE COMMISSION FOR COMMUNICATIONS REGULATION
THE 15 DAY OF FEBRUARY 2018

Annex: 1 Consumer Survey

ComReg – Premium Rate Services
(April 2016 – Version 1.2)

For more information, contact Oisin Byrne, Managing Director
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www.ireachinsights.com

ComReg – Premium Rate Services
EXECUTIVE SUMMARY

KEY POINTS

Use of Premium Rate Services (PRS)	4% of all consumers currently use premium rate services (PRS) provided by their phone providers (highest use seen amongst 18-34 cohorts => 6%). Almost 4 in 10 consumers used premium rate services in the past with 6 in 10 never using these services.
Choice to Prevent Access to PRS	The vast majority of consumers (87%) would like to have the choice to prevent access from their mobile / landline to PRS (available through voice calls, SMS or MMS) –> consistent across all cohorts.
Willingness to Pay Fee for Barring	Only 14% would be willing to pay a fee to their telecom provider for this barring facility -> the vast majority (13%) willing to pay less than €10.

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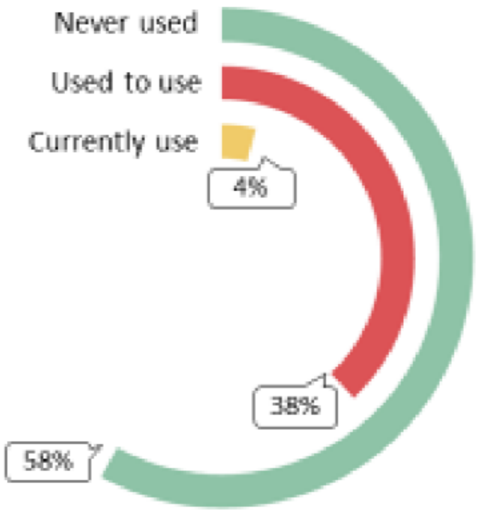
4% currently use premium rate services (PRS) provided by phone providers (highest amongst 18-34 => 6%).

Almost 4 in 10 used premium rate services in the past and nearly 6 in 10 never used these services.

Premium Rate Services



	Never used	Used to use	Currently Use
Male	60%	36%	4%
Female	55%	41%	4%
18-34	55%	39%	6%
35-54	56%	40%	4%
55+	64%	32%	4%
Dublin	63%	33%	4%
RoL	52%	45%	3%
Munster	53%	42%	5%
C/U	62%	34%	4%

Q: Do you currently, or have you ever, used a premium rate service? (Single select n=1,000)

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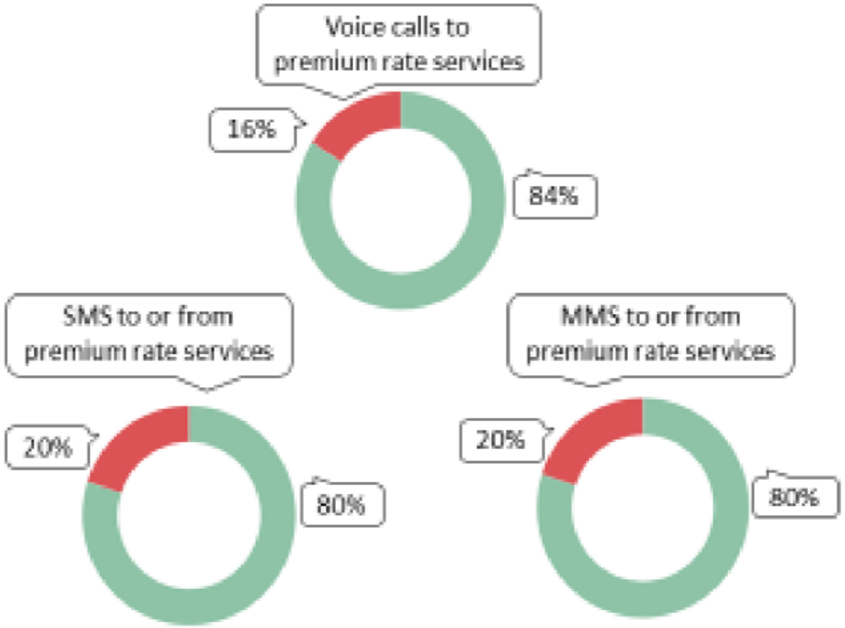
The vast majority of consumers (87%) would like to have the choice to prevent access from their mobile / landline to PRS (available through voice calls, SMS or MMS) –> this preference is consistent across all cohorts.

Choice to Prevent Access to PRS (87% any)



	Voice call		SMS		MMS		Any	
	Yes	No	Yes	No	Yes	No	Yes	No
Male	85%	15%	80%	20%	81%	19%	88%	13%
Female	83%	17%	80%	20%	79%	21%	86%	14%
18-34	78%	22%	72%	28%	71%	29%	81%	19%
35-54	87%	13%	84%	16%	84%	16%	89%	11%
55+	81%	19%	79%	21%	79%	21%	86%	14%
Dublin	82%	18%	78%	22%	79%	21%	85%	15%
RoL	80%	20%	77%	23%	81%	19%	84%	16%
Munster	89%	11%	87%	13%	84%	16%	92%	8%
C/U	81%	19%	77%	23%	75%	25%	85%	15%
Use	84%	16%	75%	25%	75%	25%	96%	4%
Used	87%	13%	82%	18%	83%	17%	90%	10%
Never	81%	19%	80%	20%	79%	21%	84%	16%

Q: Would you like to have the choice to prevent access from your mobile or landline to these type of services? (Matrix n=1,000)

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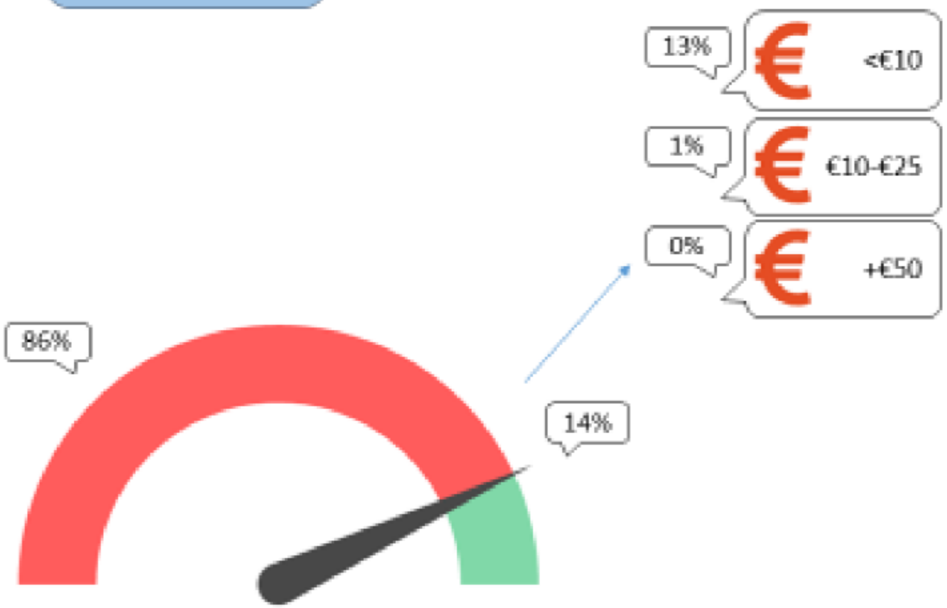
Only 14% would be willing to pay a fee to their telecom provider for this barring facility -> the vast majority (13%) likely to pay no more than €10.

Willingness to Pay Fee for Barring Facilities



	<€10	€10-€25	+€50	Yes	No
Male	13% +	1% +	+ 0%	= 14%	86%
Female	14%	1%	0%	15%	85%
18-34	13%	0%	1%	14%	86%
35-54	13%	1%	0%	14%	86%
55+	16%	0%	0%	16%	84%
Dublin	12%	1%	1%	14%	86%
RoL	14%	1%	0%	15%	85%
Munster	13%	1%	0%	14%	86%
C/U	13%	1%	0%	14%	86%
Use	26%	0%	4%	30%	70%
Used	12%	1%	0%	13%	87%
Never	13%	1%	0%	14%	86%
Would like the choice	13%	2%	0%	15%	85%
Wouldn't like the choice	12%	1%	0%	13%	87%

Q: Would you be willing to pay a fee to your telecommunications provider for the use of this barring facility? (Single select n=1,000)

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ComReg Study - Premium Rate Services
METHODOLOGY

ComReg Study Study conducted as part of the iReach Consumer Omnibus Survey	→	Consumer Research Project Conducted by iReach Market Research on behalf of ComReg
Online Survey Fieldwork undertaken between 24th March and 1st April 2016	→	Qualtrics Survey Software iReach utilises leading market research solution for all aspects of survey project management: sampling, design, data collection and tabulation
Consumer Panel Consumer Research Study conducted nationwide Sample Size = 1,000 Respondents	→	iReach Online Consumer Panel iReach uses proprietary panel across consumer groups, built on a nationally representative model

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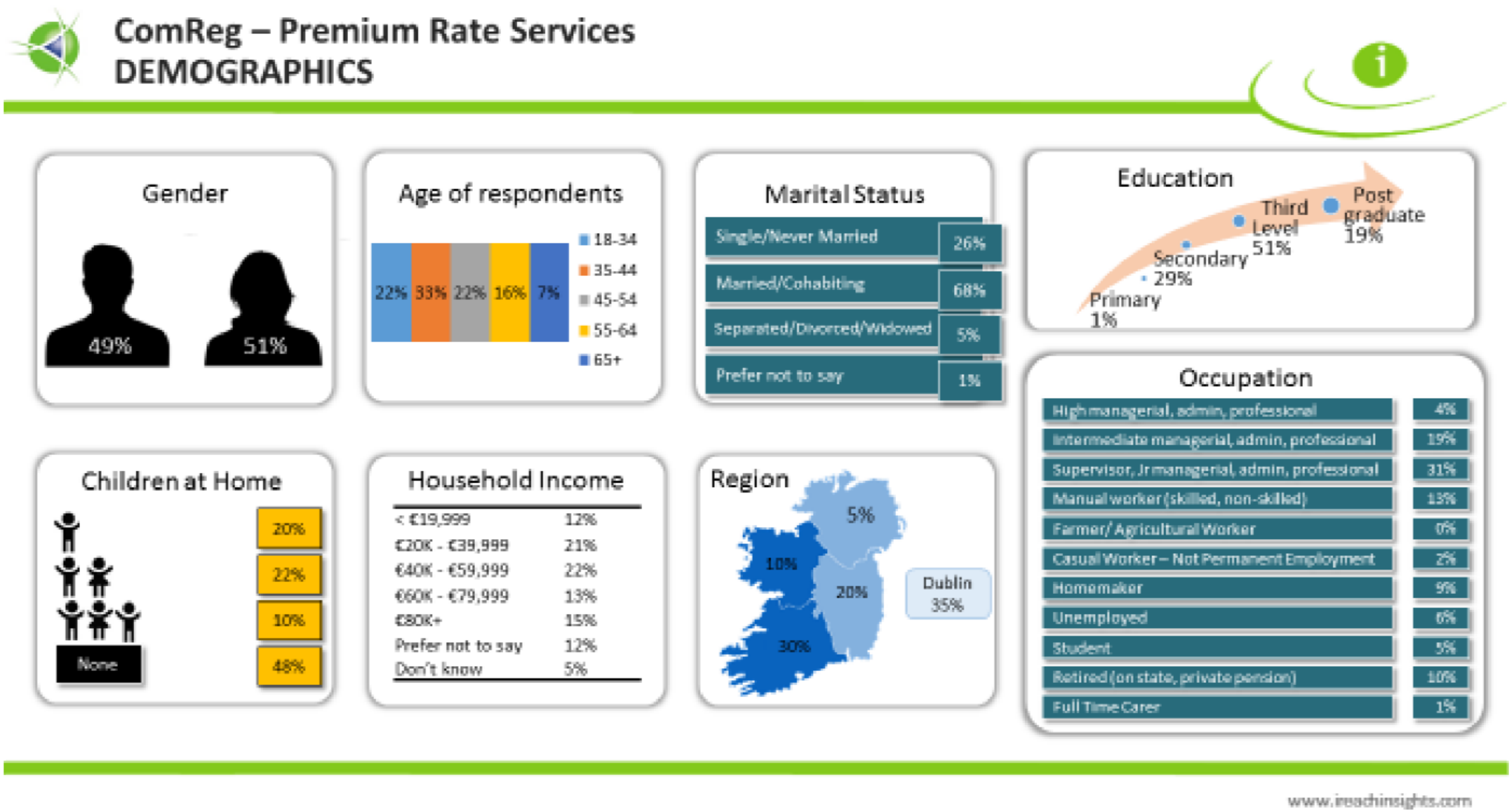

ComReg – Premium Rate Services
DEMOGRAPHICS
Gender
49%
51%
Age of respondents
22% 33% 22% 16% 7%
18-34
35-44
45-54
55-64
65+
Marital Status
Single/Never Married 26%
Married/Cohabiting 68%
Separated/Divorced/Widowed 5%
Prefer not to say 1%
Education
Primary 1%
Secondary 29%
Third Level 51%
Post graduate 19%
Children at Home
20%
22%
10%
None 48%
Household Income
< €19,999 12%
€20K - €39,999 21%
€40K - €59,999 22%
€60K - €79,999 13%
€80K+ 15%
Prefer not to say 12%
Don't know 5%
Region
5%
10%
20%
30%
Dublin 35%
Occupation
High managerial, admin, professional 4%
Intermediate managerial, admin, professional 19%
Supervisor, Jr managerial, admin, professional 31%
Manual worker (skilled, non-skilled) 13%
Farmer/ Agricultural Worker 0%
Casual Worker – Not Permanent Employment 2%
Homemaker 9%
Unemployed 6%
Student 5%
Retired (on state, private pension) 10%
Full Time Carer 1%
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Communications Regulation

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Annex: 2 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 Reg 41(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 <u>all undertakings</u> providing publicly available telephone services or access to public communications networks <u>are required to make available</u>—

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

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

[..]

(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.