



Commission for  
**Communications Regulation**

Corporate

## **Strategy Statement (2003-2005)**

<b>Document No:</b>	<b>03/59</b>
<b>Date:</b>	<b>30 May 2003</b>

## Contents

1	Foreword.....	3
2	Introduction .....	5
3	Legislative Framework & Ministerial Direction .....	7
3.1	LEGISLATIVE FRAMEWORK .....	7
3.2	MINISTERIAL DIRECTION .....	8
4	Environmental Analysis .....	9
4.1	ELECTRONIC COMMUNICATIONS .....	9
4.1.1	<i>Infrastructure Competition</i> .....	9
4.1.2	<i>Access Based Competition</i> .....	12
4.1.3	<i>Services</i> .....	13
4.1.4	<i>Users</i> .....	13
4.1.5	<i>Innovation</i> .....	14
4.1.6	<i>Strategic Choices</i> .....	14
4.2	POSTAL SERVICES .....	16
4.2.1	<i>Quality of Service</i> .....	16
4.2.2	<i>Postal Market Liberalisation</i> .....	17
5	ComReg Objectives and Strategies.....	19
5.1	MISSION STATEMENT & CORE VALUES.....	19
5.2	OBJECTIVES .....	19
5.2.1	<i>Electronic Communications Services</i> .....	19
5.2.2	<i>Objectives for the postal sector</i> .....	21
5.3	STRATEGIES .....	22
5.3.1	<i>Provision of electronic Communications networks</i> .....	23
5.3.2	<i>Efficient management of the radio frequency spectrum and numbers from the national numbering scheme</i> .....	24
5.3.3	<i>Development of the postal sector and in particular the availability of a universal postal service</i> .....	25
6	Centre of Excellence .....	27
6.1	EMPLOYER OF CHOICE .....	27
6.2	PERFORMANCE MANAGEMENT .....	27
6.3	PROJECT MANAGEMENT .....	28
6.4	COMMISSIONER ROLES .....	28
7	The Cost of Regulation .....	29
8	External Interactions.....	31
8.1	GOVERNMENT & INTERNATIONAL AGENCIES .....	31
8.2	REPRESENTATIVE GROUPS .....	31
8.3	CONSUMERS.....	31
9	Service Delivery .....	32
9.1	FREEDOM OF INFORMATION .....	32
	Annex I: Organisational Structure.....	34

Annex II: ComReg stakeholders .....	35
Annex III Typical Market Operators.....	36
Annex IV: Legislative Framework.....	37
Annex V: Ministerial Direction .....	39
Annex VI: The Evolution of the Irish Telecommunications market since liberalisation .....	42
Annex VII: Respondents to Strategy Statement consultation .....	50

## **1 Foreword**

The Commission for Communications Regulation is pleased to present its strategy statement which had been amended following consultation. A list of those who responded is included in Annex VII.

Respondents comments were varied but a number of particular issues emerged across a number of responses. Many respondents drew attention to key issues which they consider require more immediate attention such as the promotion of competition in the access network, the development of broadband and enforcement of regulatory obligations. The Commission has noted these points, most of which are covered by the 2003 strategic targets and work programme available on the ComReg website ([www.comreg.ie](http://www.comreg.ie)).

An Post put forward the view that ComReg should produce separate Strategy Statements for the Telecommunications, Radio Frequency Spectrum and Postal sectors. The statutory requirement is to adopt a single Strategy Statement, distinguishing between functions in relation to electronic communications, management of radio frequency spectrum and postal services. Where appropriate the text has been presented so that it is clear whether the section refers to specific sectors of the communications markets or to issues which inform all aspects of ComReg's work. ComReg wants to emphasise that electronic communications and postal services are both of great importance for the economic and social cohesion of the Country, and an essential instrument of communication and trade.

Many respondents believed more information should be included on the organisational structure of ComReg and particularly the roles of Commissioners. The roles of the Commissioners are now covered in this Strategy Statement and ComReg's website gives information on the organisational structure and responsibilities of ComReg divisions.

Some respondents raised a question as to how the Commission intended deploying its resources and how it would achieve the strategies listed in Section 5 of the Strategy Statement. The Commission have therefore expanded further on the strategies listed in section 5, and insofar as possible detailed the steps the Commission will take to achieve the strategies listed.

In this context, as can be seen from both the work programme and the outline of the strategic approach of the office, ComReg places considerable emphasis on creating the competitive environment which will support the continued roll-out of broadband to both businesses and consumers at affordable prices. The fact that over 50% of lines in Ireland can potentially avail of DSL, the recent if belated launch of a competitive DSL offering, the impending provision of FRIACO, the upcoming availability of 3G services and other initiatives will contribute to both enhancing Ireland's capacity to remaining a key location for knowledge based activities as well as providing consumers with a further choices of services and capabilities.

Enhancing the focus on the demand side of Broadband will also play a pivotal roll both changing the growing number of broadband enabled customers into users of the technology. This in turn will support further investment in the sector and lead to the increasing provision of products such as vDSL and other new and innovative technologies and services that will be necessary to the achievement of broadly based deployment.

The Commission wishes to emphasise that in developing strategies for regulating the Communications sector, the Commission must take account of economic cycles and the need to proactively respond to issues in the marketplace which ensure, as far as possible, that there is a sustainable industry capable of delivering innovative services, alternative technologies and ultimately effective choice to end users.

The Commission would like to thank all those who responded to the consultation and looks forward implementing the strategy statement with the active support of all stakeholders in the communications sector.

Etain Doyle,  
Chairperson

John Doherty,  
Commissioner

Isolde Goggin,  
Commissioner

## 2 Introduction

The Commission for Communications Regulation [known as ComReg] was established on the 1st December 2002 under the Communications Regulation Act 2002. The Commission acquired most of the functions of the Office of Director of Telecommunications Regulation.

The Commission is designated, under S10(4) of the Communications Regulation Act 2002, as the National Regulatory Authority for the Communications market, which means that it is responsible in particular for the implementation of the EU programme of Communications liberalisation in Ireland.

ComReg has a range of obligations set out in both European and Irish legislation. In terms of electronic communication services ComReg is obliged to promote competition in the provision of such services; to contribute to the development of the internal market and to promote the interests of citizens. Additionally, ComReg has obligations in the management of radio frequencies for electronic communications services which obliges ComReg to allocate spectrum on an objective, transparent, non-discriminatory and proportionate basis. ComReg is also obliged to promote the harmonisation of radio frequencies<sup>1</sup>. The key objectives for the Postal Sector is to promote the development of the sector particularly the availability of a Universal Postal Service within, to and from the state at an affordable price for the benefit of all users. While there is no explicit objective to promote competition in the postal sector, the goal of the postal directive is to increase competition.

The functions of the office, as detailed under S.10 of the Communications Regulation Act 2002 are:

- to ensure compliance by undertakings with obligations in relation to the supply of and access to electronic Communications services, electronic Communications networks and associated facilities and the transmission of such services on such networks
- to manage the radio frequency spectrum and the national numbering resource
- to ensure compliance by providers of postal services with obligations in relation to the provision of postal services
- to investigate complaints from undertakings and consumers regarding the supply of and access to electronic Communications services, electronic Communications networks and associated facilities and the transmission of such services on such networks

---

<sup>1</sup> Art 8, Art 9 Framework directive

- to ensure compliance, as appropriate, by persons in relation to the placing on the market of communication equipment and the placing on the market and putting into service of radio equipment<sup>2</sup>

ComReg is the National Regulatory Authority (NRA) and plays a key role in the implementation of electronic communication EU directives which are to be transposed nationally in July 2003. A full review of the legislative framework for the Commission is included in Annex IV of this document.

This Strategy Statement is prepared in accordance with S.31 of the Communications Regulation Act, which requires ComReg to adopt, within six months of the establishment date a Strategy Statement which reflects its functions in relation to electronic communications, Postal Regulation and the management of the radio spectrum, and also takes into account the statutory objectives and Ministerial Directions. The statutory period of the Statement is two years, however ComReg will continue to review its strategy in line with developments in the Communications sectors generally.

The Strategy Statement is not a work programme, however, the Commission's work programme will flow from, and be informed by, the Strategy Statement. Terms such as 'now', 'currently', 'at present', 'to date, etc.', in this statement refer to conditions at publication date.

---

<sup>2</sup> S.10, Communication Regulation Act 2002

### **3 Legislative Framework & Ministerial Direction**

International reform the Telecommunications industry had its origins in North America in the 1960s and 1970s. Increasingly, Governments had come to view telecommunications not only as a service to provide to its citizens, but as an economic resource which could be developed and exploited. Notwithstanding the recent difficulties in the industry this view has, if anything, been reinforced in recent years with the emergence of the internet and other Communications technologies.

The broad thrust of this international reform movement, in which the EU and therefore Ireland is fully engaged, is to bring to bear market forces on the industry to drive efficiency, stimulate innovation and provide end users with choice. The tools used have been the mandatory opening of incumbent networks to competition and allowing alternative infrastructure provision allied to a degree of social protection (for example the USO).

#### **3.1 Legislative Framework**

The laws and regulations governing the Communications sector are many and diverse with some of them dating back to the 19<sup>th</sup> Century. In recent years, the EU has been at the forefront in this area in seeking to liberalise the sector and promote competition through the introduction of a range of Directives. The Irish Government, in recognition of the importance of the sector and the need to update legislation to reflect changes in the dynamics of the market with increasing trend towards convergence, introduced The Communications Regulation Act of 2002. This established ComReg as the national regulatory authority. The Commission under this legislation is responsible for the Regulation of the fixed and mobile telecommunication sector, Spectrum and its rights of use, Broadcasting distribution and the Postal Sector.

The independence of ComReg is subject to the provisions of the 2002 Act, which provides for Ministerial Directions that must be taken into account by ComReg, except in respect of decisions affecting individual licensees (or holders of authorisations) and in respect of specific responsibilities assigned to NRAs under the EU Directives (e.g. designation of Significant Market Power, remedies )

The law in relation to broadcasting is contained principally in the Wireless Telegraphy Act 1926, the Broadcasting Authority Act, 1960, the Broadcasting Act, 1988, the Broadcasting Act 1990, and the Broadcasting Act 2001, and statutory instruments made under these Acts.

A more comprehensive listing of the various legislations, directives and SIs are contained in Annex IV of this document.

As much of the impetus for the liberalisation of the electronic Communications sector has over the years come from the institutions of the EU, the State has transposed the relevant Directives adopted at EU level. The new EU Regulatory Electronic Communications package consists of five Directives and one Decision.



These are the Framework Directive (2002/21/EC), the Authorisation Directive (2002/20/EC), the Universal Service Directive (2002/22/EC), the Access and Interconnection Directive (2002/19/EC), the Data Protection Directive (2002/58/EC), which has been delayed, and Decision No 676/2002/EC on a regulatory framework for radio spectrum policy in the European Community.

The new EU Regulatory framework will change the way the electronic Communications sector is regulated across the EU. National Regulatory Authorities are required under the new regulations to use competition law principles to apply ex-ante remedies to address market failure. There is also increasing emphasis on consistency in the application of sector-specific Regulation across the EU.

The main provisions relating to Regulation of the postal sector are set out in the European Communities (Postal Services) Regulations, 2002 (S.I.616 of 2002), which transposes the European Communities' Postal Directive, Directive 97/67/EC, as amended by Directive 2002/39/EC.

### **3.2 Ministerial Direction**

The Ministerial Direction (issued by the Minister for Communications Marine & Natural Resources in accordance with S13 of the Communications Regulation Act, 2002) published in February 2003, directs ComReg to have regard to the programme for Government in carrying out its functions. Specifically, the Direction covers a wide area including Directions in relation to access to internet at flat-rate charges, Broadband, industry sustainability and the cost of Regulation. The Direction also covers Regulatory forbearance and recommends the use of Regulatory Impact Assessments in advance of regulatory decisions. The full text of the Ministerial Direction text is detailed in Annex V of this document.

The strategies outlined in the following sections have been drafted to incorporate the Ministerial Direction.

## 4 Environmental Analysis

### 4.1 Electronic Communications

A nation's prosperity depends on the competitiveness of key sectors in its economy. The Communications sector is one such sector of critical importance to all businesses in terms of conventional voice and data services, but also as an essential enabler of e-business. Its capacity to enlarge markets and reduce costs of service delivery, must become the norm for all Irish business. The sector is also key as citizens' lives are increasingly influenced by developments in communications. The sector not only encompasses voice and mobile telephony but high-speed data products, delivered over wire or through wireless means, which access the internet and allow businesses and home users to access services on-line.

ComReg, as Regulator, has specific objectives as a facilitator of competition in the sector and promoter of efficiency and innovation which supports competitively priced products to end-users.

#### 4.1.1 *Infrastructure Competition*

In Ireland there had been significant investment in the Telecom infrastructure in particular in the 1980's, although for much of the 1990's Telecom Eireann had concentrated on debt reduction. There was little investment in the cable networks, which until 1999 had been majority-owned by Telecom Eireann (now eircom), and infrastructure liberalisation took place only in mid 1997, with full liberalisation towards the end of 1998. In many EU countries there had been substantial investment in telecommunications /cable networks throughout the 1990s, which slowed substantially in 2000/1. Thus Ireland's full scale race for infrastructure development started from a more limited base, and was squeezed into a shorter period - from the end of the 1990s to late 2000.

While private sector investment has slowed with the downturn in the international economy and the telecoms sector in particular, Government funding has continued, notably the development of Metropolitan Area Networks which has been undertaken to stimulate further development of the Communications infrastructure. Following liberalisation, it took some time to establish ways of dealing with planning issues, and the development of fixed infrastructure still reflects the relative speed of local authorities in responding to the issues of infrastructure roll-out. Also, the mobile operators faced considerable difficulties in infrastructure roll-out, but the costs are not as high and much of the investment took place when investment funding was easier than it is now. There are three GSM networks. One of the three new 3G networks is currently being rolled out with the other two to follow in 2003. ComReg's firm policy in respect of the fulfillment of licence terms has been important in ensuring roll-out both in this sector and in digital networks for cable/MMDS Broadcasting distribution<sup>3</sup>.

---

<sup>3</sup> For more information on roll out of Digital networks see ODTR 01/84

In examining the level of infrastructure investment, it is important to note a number of constraints on investment, particularly in a sector which is typified by high initial capital investments. The costs associated with infrastructure roll-out are high, planning difficulties and the short pay back periods demanded by investors are a challenge to the sector as end users demand more capacity for their data needs. Ireland has an incumbent fixed network with some significant inefficiencies providing basic service to 85%<sup>4</sup> of households, and to all businesses. Some 50% of its lines have been upgraded for Digital Subscriber Lines (DSL), as part of a plan announced last year to upgrade 1 million of the total of 1.6m lines. The EU average is over 70%, so Ireland is finally making substantial progress towards closing the gap on this benchmark.

Dublin is served by several competing metropolitan rings, and licensed operators also have some other fixed networks regionally, both fibre and wireless, but depend on the eircom network for almost all residential last mile services, and a very significant part of business services where they do not have their own network. Internationally, Ireland is well connected, with several commercial cables as well as the Government funded Global Crossing link.

Leased line services appropriate to the major corporates have improved in recent years and are available in many parts of the country on a competitive basis<sup>5</sup>. The OECD in its recent report on Broadband<sup>6</sup>, recognises the importance of not only competing operators but competing technologies in the development of Broadband. As noted above, DSL roll-out has developed rapidly in the last year. Unlike many other countries, we do not have significant alternative infrastructure competition. In Ireland, the lack of investment in the cable network has prohibited the widescale launch of competing voice and data products by cable companies. The lack of a competitive spur to incumbent operators to roll out Broadband services is a consequence of this limited infrastructure competition.

In Ireland, despite being among the first to license Fixed Wireless Technologies (FWA), the technology did not prove to be an effective competitor to fixed technologies. (W-LAN operators are expanding, but are small scale.) In Denmark, there was little or no interest in promoting broadband products like DSL, until the incumbent became concerned that a Fixed Wireless operator would ‘steal’ the market. It rapidly built out DSL in all its switches and provided service by agreement to Other Licensed Operators (OLOs). While the threat of FWA did not materialise, Teledenmark, the Danish fixed line incumbent, was already fully committed before this became clear. Likewise in the UK, Telewest and ntl, both cable network operators, had a significant number of cable modem subscribers when British Telecom decided last year on a new low price DSL offering with no connection charge which has contributed to the increased take-up of broadband to over 1 million subscribers in the UK.

---

<sup>4</sup> ITU statistics, 2001

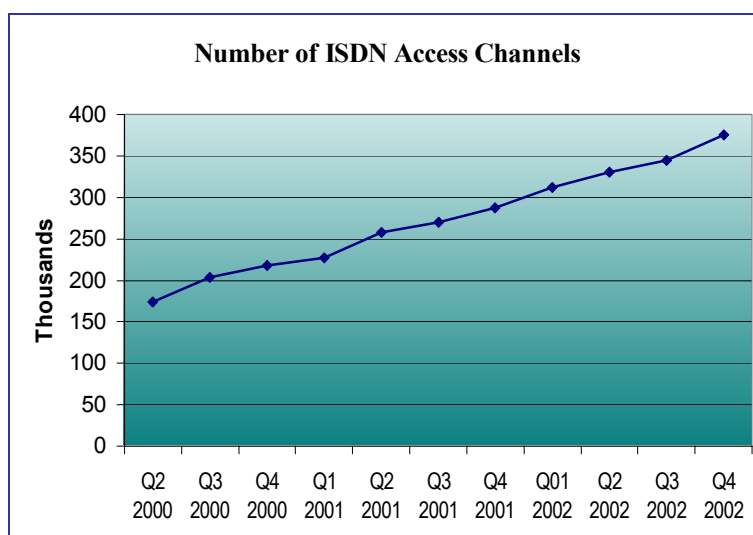
<sup>5</sup> see Quarterly report Comreg 03/29

<sup>6</sup> OECD. The development of broadband access in OECD countries, 2001 – Broadband in this context refers in particular to capacity in the DSL and cable modem range rather than major leased line circuits.

These international examples are also useful illustrations of a more general point – that regulatory actions are only one influence among many more powerful ones on market development and do not of themselves determine market success.

The gap between Ireland and the leaders in respect of DSL take-up is still very large. There has been uncertainty, among some operators, about demand for these broadband products in Ireland and therefore a desire not to invest in infrastructure and a desire not to cannibalise revenues particularly in relation to Integrated Services Digital Network, commonly called ISDN, which expanded on a widespread basis in Ireland only at the end of the 1990's. The growth of ISDN services indicated that there is demand which at competitive prices, should translate into DSL orders. The growing demand for increased capacity and higher speed services has only been satisfied with leased lines or ISDN. The chart below shows the growth of ISDN in recent years<sup>7</sup>.

**Figure 4.1 Growth of ISDN**



Prices have finally come down significantly and early indications are that there has been an increase in demand. There are other factors to consider when examining the take-up of Broadband, including the need to stimulate demand for Broadband services. While large Corporates are served mainly by leased lines, DSL is a service more specifically aimed at SMEs and the residential sector. The small scale of SME's (90% have 10 employees or less) and the fact that many do not have a specialised IT or communications manager presents particular challenges for demand stimulation which need to be met. However it can be seen that other countries in the OECD have addressed these issues and have benefited from the spur of competing operators and competing technologies.

<sup>7</sup> The figure for total ISDN access channels includes basic rate, fractional rate, and primary rate ISDN and is expressed in basic rate equivalents.

Ireland is a leader in terms of mobile adoption and is now among the leaders in 3G deployment and has 3 GSM networks, two of which are upgraded to 2.5G and the third indicating it intends to do so. With 3 million subscribers (79% penetration), the second highest usage of SMS worldwide, and small but growing mobile data services, the key issue for users is mobile costs, reflecting the limited level of competition with two operators accounting for 96% of the market.

As noted above, cable networks in Ireland are largely for TV services only. NTL and Chorus between them operate the vast bulk of the cable and MMDS networks. These are now largely digitalised (programme under licences issued in 1999 to be completed in 2004) and have approx 66,000 digital subscribers. The upgrade to digital, as well as other capital investments have significantly improved network quality for TV reception on cable and MMDS. The satellite service, BskyB has approx 270,000 subscribers, all digital in Ireland. Overall, approx 26% of total TV (subscribers) households are on digital service.

Access to the fixed incumbent networks is one of the keys to the development of competition in the electronic communications sector. The interconnect rates set by ComReg use LRIC methodologies which assume ‘efficient’ operator inputs to assess the cost of interconnect. In Ireland the interconnect rates are among the lowest in Europe. Likewise the cost of terminating traffic on mobile networks is key to a competitive electronic communications sector and the rates applicable in Ireland are also among the lowest in Europe.

#### *4.1.2 Access Based Competition*

In terms of access competition one of the key enablers of competition is the unbundling of the local loop (LLU). The EU mandated this service at the beginning of 2001, at a time when unfortunately there was already a sharp fall off in the number of access seekers in Ireland, reflecting reduced investor confidence in telecoms generally. Germany had introduced LLU in 1998, and was already well underway when the market became more difficult. Ireland did not benefit from the advantage of early establishment of LLU. It has proved slow and difficult to get adequately competitive terms for DSL services from the incumbent.

As noted above, the roll-out of DSL is finally rising significantly and take-up of Broadband has been slow in Ireland, but the recent reductions in DSL pricing should accelerate the take-up of Broadband services. We have seen initial signs of upturn in demand which parallels responses in the leading countries in Western Europe. It is clear that competition has been very important throughout the EU in spurring DSL competition.

MVNOs are not present in Ireland, but can be established on the ‘3’ network, licensed for 3G, in accordance with its licence conditions.

#### *4.1.3 Services*

ComReg has sought to ensure that OLOs have the wholesale services they request and need – interconnect, leased lines, Carrier PreSelect, Flat Rate Interconnect, etc., underpinned by service level agreements at appropriate prices. Requirements are constantly evolving and new products or reviews of existing products are constantly required. Wholesale prices have been generally determined by reference to the costs of providing these services. ComReg believes that allowable costs should be those forward looking costs that would be incurred by an efficient operator which is the approach also recommended by the European Commission.

As noted above, infrastructure competition gives the prospect of more sustainable competition and innovation into the long term, and key products such as partial private circuits are being designed and implemented, as well as new FWA technologies and Mobile initiatives. For the present, however, competitive fixed infrastructure roll-out is limited by capital constraints and there is a greater concentration on services competition.

Profiles of typical operators in the Irish Communications sector are summarised in Annex III of this document.

#### *4.1.4 Users*

The core concept in regulation is that competitive markets best serve users through competitive price, choice and quality services. ComReg has used its Regulatory functions to promote this concept through its strategies. ComReg has determined eircom prices in markets where it is dominant at both retail and wholesale levels although the objectives and means of price setting in these areas differ. Retail prices in certain markets where eircom is dominant have been determined by means of a price cap whereby a basket of eircom products were required to be reduced each year by reference to a CPI (Consumer Price Index) – X % formula. The objectives of the price cap are the protection of users from excessive pricing by eircom and the encouragement of eircom to reduce its inherited inefficiencies.

In relation to service quality, ComReg's central Regulatory concept is to make the operators more responsible for delivering quality with public codes of conduct, complaints procedures, technical audits of network quality and enforcement of appropriate licence conditions. A further initiative is the Measuring Licensed Operator Performance (MLOP) initiative which involves the publication of detailed performance statistics on how Telecommunications operators perform against a set of defined parameters which include order, fault and complaint management. The principal benefit of such a programme to consumers is the availability of clear indicators of quality of service performance that can assist them in making an informed choice in the market.

ComReg continues to inform the consumer through market data and more specifically consumer information leaflets on various issues current in the Irish Communications market.

#### 4.1.5 Innovation

It is a stated objective of ComReg to, where possible, facilitate innovation in the Communications sector<sup>8</sup>. It is important to note that innovation is not only product innovation but process and management innovation which delivers productivity gains to enterprises<sup>9</sup>. ComReg recognises in developing its approach that the current economic cycle poses some constraints on investment in new networks and services and the climate is difficult not only for operators but also for those developing applications and technological innovations which we hope to benefit from in coming years. ComReg has developed a strategy for the management of the radio spectrum<sup>10</sup> which supports policies for innovation and for an active role for Ireland in terms of international co-operation and will continue to act as facilitator for new innovations through its forward looking programme. It is also important that Ireland plays a greater role not only in importing but also in developing technology suited to its market of widely dispersed populations, rather than concentrate on the large scale ‘incumbent’ type solutions. More recently, ComReg has introduced innovative per-site licences to accelerate the rollout of such wireless services. ComReg has also been active in promoting Wireless LAN technology which allows high speed internet access at fixed locations, enabling increased power limits in specific bands to increase the reliability of these services.

#### 4.1.6 Strategic Choices

It should be recognised that ComReg operates within a very dynamic Communications sector and operates in an environment where there are a broad church of stakeholders and in many cases there are competing pressures on our strategy. The policies of the regulator should reflect the economic cycle and should take account of the level of competition in a market, typically the market shares and market concentration.

ComReg has therefore developed a matrix of possible future scenarios for Communications. Each scenario is defined by the level of economic growth in the Irish economy and level of competition evident in the Communications sector.

Figure 4.2 is an illustrative diagram of four scenarios reflecting both high and low economic activity and levels of competition.

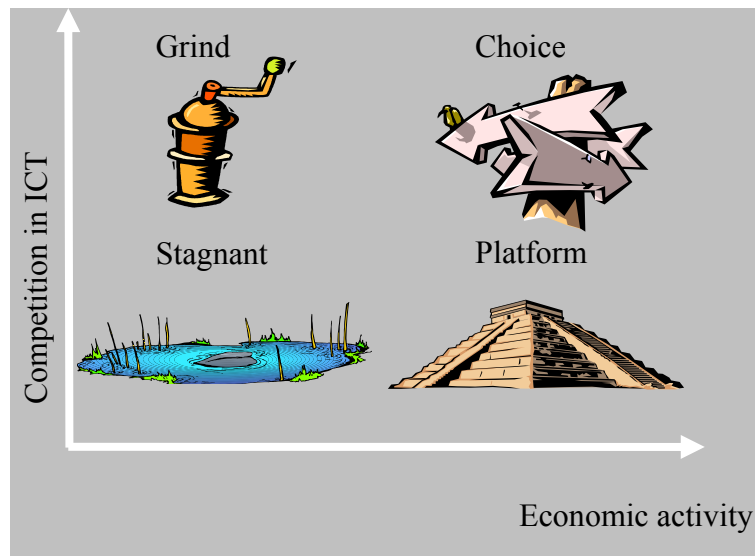
---

<sup>8</sup> Art 8.2 Framework directive

<sup>9</sup> Porter ME (2001) Competition and Antitrust: Towards a productivity-based approach to evaluating mergers and joint-ventures

<sup>10</sup> Strategic Management of Radio Spectrum in Ireland (02/43) [www.comreg.ie](http://www.comreg.ie)

Figure 4.2 Strategic Choices



The current state of both the sector in terms of competition levels and the economy would suggest that Ireland is ‘grinding’ but could, if economic circumstances improved, move into either a ‘choice’ scenario or a ‘platform’ scenario. The latter scenario would assume growing demand for communications services – delivered, however, by an industry segmented into different market sectors (e.g. fixed, mobile and broadcasting distribution). Each sector would be dominated by a single operator or a small number of large operators, with little cross-platform competition. In this scenario, convergence amongst these sectors would be slow to develop. There would be little incentive to innovate as incumbent operators gained market share within their own sectors and little incentive to compete across platforms for the same reason.

A further concern of a ‘platform’<sup>11</sup> scenario developing is the current inefficiency levels of the fixed incumbent. Under the ‘platform’ scenario there would be little incentive to be more efficient. Any level of inefficiency in a sector is eventually passed on to consumers, either directly through higher retail costs, or indirectly via the industry through higher wholesale costs.

The ‘choice’ scenario would see a level of competition that forced operators to compete across all platforms and innovate. It would be a scenario characterised by new entrants attracted by increased demand and profitable business plans. As new entrants compete away the “rents” (supracompetitive profits or inefficiencies) that characterise uncompetitive industries, both incumbents and new entrants would be forced to innovate in order to expand demand for existing services and to create new

<sup>11</sup> Platform refers to a scenario with an overwhelmingly dominant player in each of the subsectors nationally or regionally, for example in fixed and broadcasting distribution and a duopoly in mobile. In this scenario none of these key players would show much interest in providing competition in other subsectors, and their existing platforms capabilities and costs would remain substantially unthreatened



ones. It's ComReg's view that competition levels need to ensure there is an incentive to innovate in line with the objectives set for ComReg under the new EU Regulatory Framework.

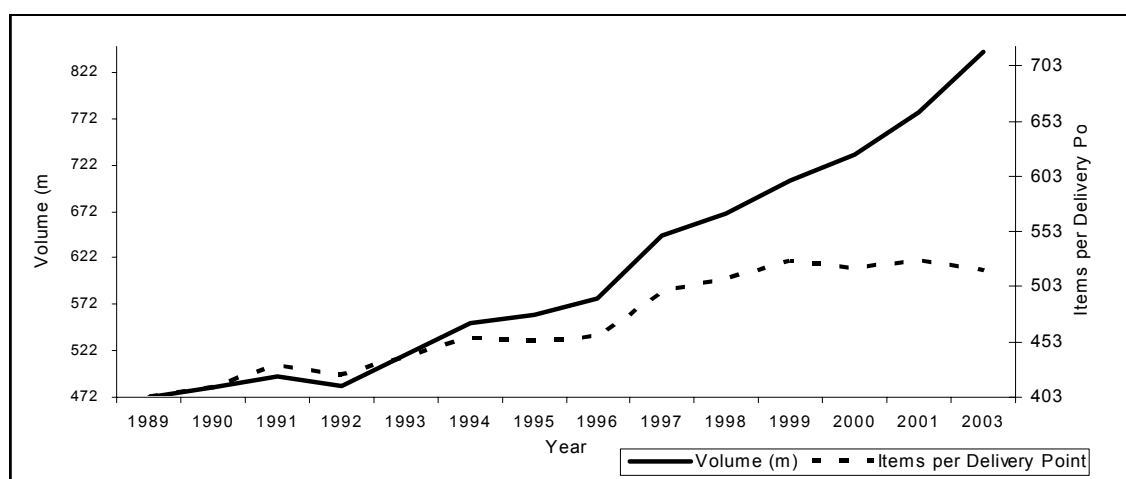
ComReg's strategies therefore, outlined in section 5, aim, within the economic and legal constraints applicable in the period, to move the Irish communications sector towards a 'choice' scenario. ComReg's strategies reflect the need to promote alternative technologies and products, and, where appropriate promote infrastructure roll-out. The strategies focus on enhancing and promoting the benefits of competition through Carrier Pre-Select, efficient interconnect and compliance with the regulatory frameworks. Moreover, the strategic aim is to have informed users with reliable information on pricing and quality of services in the market.

## 4.2 Postal Services

During the 1990s there was a very significant increase in the number of postal items delivered to each home or business premises in Ireland and, combined with benign national wage agreements, this enabled postal prices to be reduced in real terms. The trends over the last 3-4 years have been more adverse with remuneration under national wage agreements increasing in real terms and a slackening in demand, although the decline in volumes experienced in other countries has not manifested itself.

Figure 4.3 illustrates the business volume trends, based on figures published in An Post's annual reports. The number of items delivered per delivery point is very important as the marginal cost of delivering extra items is low, but a reduction in the number of items delivered to each point can have a significant impact on unit costs.

**Figure 4.3 Trends in An Post Delivery Volumes: 1989 - 2003**



### 4.2.1 Quality of Service

There is a legislative requirement that the Universal Service Provider should offer at least one collection and one delivery on every working day. ComReg is required to

monitor the proportion of *single piece priority mail*<sup>12</sup> delivered on the next working day after posting, and to set a target for such deliveries – 92% in 2002, 94% in 2003. ComReg has contracted with TNS MRBI Ltd to measure this performance in accordance with the mandatory European Standard<sup>13</sup>. This survey commenced on 1 January 2003 and it is intended to issue quarterly reports on the findings. The survey for the first quarter of 2003 has just been completed.<sup>14</sup>

An Post's internal target, prior to 2002, was 90%. Performance was measured using a monitoring system that surveyed *bulk mail*<sup>15</sup> as well as *single piece priority mail*. The quality of service standard achieved over the last few years has fallen short of this target, although An Post expect to report a 90% achievement when the results for 2002 are published. Table 4.1 shows the statistics for next day delivery of letter post as reported in An Post's Annual Reports.

**Table 4.1 Quality of Letter Post Service reported by An Post**

Year	Quality of Service
1997	83%
1998	85%
1999	87%
2000	88%
2001	87%

The issue for both Operators and Regulators is to balance the commitment in European and National legislation to maintain next day delivery as a feature of the guaranteed Universal Postal Service, or to find out if customers would prefer to see a cheaper service with extended delivery times.

#### 4.2.2 Postal Market Liberalisation

It is important to note that the "Postal Sector" includes many stakeholders other than An Post. It includes companies that offer courier and express delivery services in competition with An Post. Other companies complement the basic service provided by An Post by offering printing and other mail preparation services.

The Courier, express and other "value added" postal services are currently fully open to competition. The services offered are a mix of both direct and indirect competition to similar offerings from An Post. Companies operating in this part of the postal sector include DHL, Fedex, Hays DX, Interlink, Securicor, TNT, UPS.

<sup>12</sup> i.e. ordinary mail prepaid at the full postage rate by private individuals and business customers using either postage stamps or franking machine impressions.

<sup>13</sup> I.S. EN 13850: 2002, 'Postal Services – Quality of Service – Measurement of transit time of end-to-end services for single piece priority mail and first class mail'.

<sup>14</sup> See ComReg document 03/58

<sup>15</sup> Mail produced under industrialised conditions and posted in a quantity of 2000 or more, e.g. bank statements, utility bills.

The core traditional postal services up to 100g are still currently reserved to An Post, the Universal Service Provider. In January 2006 this will be reduced to 50g with full opening of the market scheduled for January 2009. The market for outgoing cross-border mail will be fully opened from 1 January 2004.

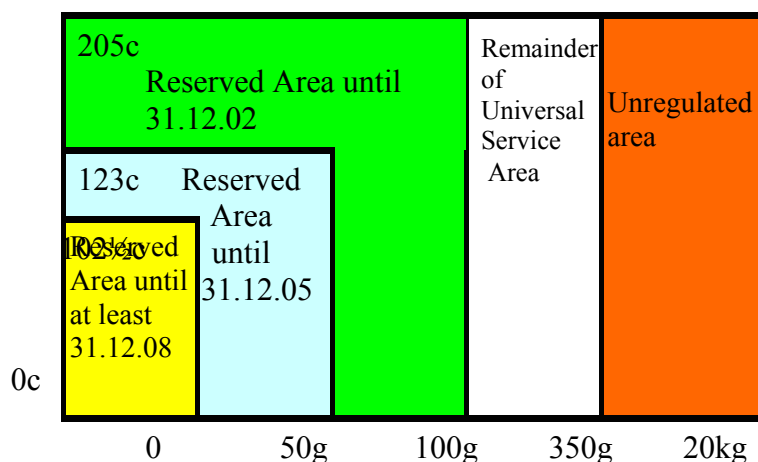
In terms of number of items, the percentage of An Post’s business that is exposed to competition is relatively small, currently 8% domestic, 17% outgoing cross-border. In terms of revenue exposure the figures are somewhat higher, 20% domestic and 50% outgoing cross-border – see Table 4.2

**Table 4.2 Percentage of business exposed to competition on basis of weight and price limits**

		Volume	Revenue
Domestic Mail	Up to 31 December 2002	2%	9%
	From 1 January 2003	8%	20%
	From 1 January 2006	11%	23%
Outgoing Cross-Border Mail	Up to 31 December 2002	12%	44%
	<b>During 2003</b>	17%	50%

The market opening programme is shown in Figure 4.4.

**Figure 4.4 Interrelationship between Universal, Reserved and Unregulated Postal Services**



## **5 ComReg Objectives and Strategies**

### **5.1 Mission Statement & Core Values**

ComReg's mission statement takes into account National and European objectives and is as follows,

“The purpose of the Commission for Communications Regulation is to regulate with integrity, impartiality and expertise to facilitate rapid development of a competitive leading edge Telecommunications sector, that provides the best in price, choice and quality to the end user, attracts business investment and supports ongoing social and economic growth, and to work with the same focus on providing for users within the framework set for Postal Regulation.”

This mission is underpinned by adherence to four core values:

- Integrity
- Professionalism
- Impartiality
- Effectiveness

In carrying out its functions, ComReg will seek to ensure that measures taken by it are both proportionate and transparent, having regard both to the objectives set out in this document; the relevant policy statements, published by or on behalf of the Government or a Minister of the Government and the Ministerial Direction specifically on regulation only where necessary.

ComReg will also have regard for international developments within the electronic Communications networks and electronic Communications services, associated facilities, postal services, the radio frequency spectrum and numbering in any decisions it takes. ComReg will continue to ensure that in carrying out its functions and in the process of achieving the key aforementioned objectives, it does not result in discrimination in favour of or against particular types of technology for the transmission of electronic Communications services.

### **5.2 Objectives**

#### *5.2.1 Electronic Communications Services*

The key objectives of ComReg are set out in S.12 of the Communications Regulation Act 2002.

In relation to the provision of electronic communications networks, electronic Communications services and associated facilities -

- to promote competition,
- to contribute to the development of the internal market,
- to promote the interests of users within the Community,

In relation to radio frequency spectrum, to ensure the efficient management and use of the radio frequency spectrum and numbers from the national numbering scheme in the State in accordance with a direction under *section 13* of the Communications Regulation Act.

In so far as the promotion of competition under electronic communication networks and services is concerned this covers a range of objectives and goals with the primary aim of ensuring that end-users can benefit from choice, competitively priced services at a high and predictable level of quality in line with Ireland's objective to becoming a leading centre for the Information Technology Age. This includes:

- ensuring that users, including disabled users, have ease of access, choice and high quality of service,
- ensuring that there is no distortion or restriction of competition irrespective of platform in the electronic Communications sector,
- encouraging and facilitating the efficient investment in infrastructure and promoting innovation, and
- encouraging the efficient use and effective management of radio frequencies and numbering resources.

In seeking to contribute to the development of the internal market, the focus will be on:

- removing remaining obstacles to the provision of electronic Communications networks, electronic Communications services and associated facilities at Community level,
- encouraging the establishment and development of trans-European networks and the interoperability of translational services and end-to-end connectivity,
- ensuring that, in similar circumstances, there is no discrimination in the treatment of undertakings providing electronic Communications networks and services and associated facilities, and

- co-operating with Electronic Communications National Regulatory Authorities in other Member States of the Community and with the European Commission in a transparent manner to ensure the development of consistent regulatory practice and the consistent application of Community law in this field

The promotion of the interests of users within the Community will include:

- ensuring that all users have access to a universal service,
- 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,
- contributing to ensuring a high level of protection of personal data and privacy in line with both National and EU Data protection laws,
- ensuring that consumers are fully informed to make the appropriate choices through the provision of clear information, in particularly in the context of the transparency of tariffs and the conditions for using publicly available electronic Communications services,
- encouraging access to the Internet at reasonable cost to users and by ensuring that the obligations for functional internet access are provided for through the Universal Service Obligation,
- addressing the needs of specific social groups, in particular disabled users, and
- ensuring that the integrity, resilience and security of public Communications networks are maintained.

The objectives listed above are consistent with the objectives stated in Article 8 of the Framework Directive which forms part of the new EU Regulatory package.

### *5.2.2 Objectives for the postal sector.*

The statutory objective is to promote the development of the postal sector and in particular the availability of a universal postal service within, to and from the State at an affordable price for the benefit of all users. As noted in section 4.2.2 there are many stakeholders other than An Post in the postal sector and ComReg has the statutory objective to promote the development of the sector as a whole.

With regard to the universal service it should be noted that it is the availability of the universal service, not the viability of the designated universal service provider, that ComReg must secure. In this context it should be noted that the universal postal service in respect of postal parcels from Britain, France, Germany and the USA are no longer provided by An Post, but by other postal service providers.

In ComReg's view the availability of competing postal services, as envisaged in European and national Legislation, is the best way of ensuring that the universal service provided by An Post is fully reflective of customer needs.

### **5.3 Strategies**

ComReg has through its work with its various stakeholders, consumers, the industry and Government, developed strategies which meet the statutory objectives as listed above. The organisational strategies have been researched and developed and yet have sufficient flexibility to meet the regulatory demands of a highly dynamic Communications sector at this time.

ComReg, in developing its strategies has also taken account of the Ministerial Direction in relation to the Communications objectives.

ComReg will continue to ensure best practice in regulatory processes and will carry out Regulatory Impact Assessments in line with the Ministerial Direction, which directs ComReg to follow best international and European practice and to reflect developments emerging in this area from national sources such as the Department of the Taoiseach's Group on Better Regulation. Following the Ministerial Direction ComReg created a project team to examine best practices and developed a draft template for Regulatory Impact Assessments (RIA). The team are currently piloting RIA's with a number of projects and will report to the Commission this summer on how best to implement the Ministerial Direction.

ComReg will also:

- ensure that the availability and the extent of usage of regulatory tools and Communications products are benchmarked against other selected OECD countries and communicated promptly to ensure informed decision making,
- continue to enhance and develop best practice in the monitoring, processing and enforcement of obligations, dispute resolution and/or complaint handling, and
- develop further the forward-looking programme to include enhanced interactions with industry, internal presentations from key informed sources and the publication of briefing notes on key issues for the future of the Irish ICT sector.

Specific strategies are summarised under the following headings:

- strategies related to the provision of electronic Communications networks and services and associated facilities,
- strategies related to the efficient management of the radio frequency spectrum and numbers from the national numbering scheme, and
- strategies to promote the development of the postal sector in particular the availability of a USO service

Where appropriate the strategies reflect the Ministerial Direction as detailed in Annex V of this document

### *5.3.1 Provision of electronic Communications networks*

#### *5.3.1.1 Promotion of Competition*

ComReg will promote infrastructure-based competition through active promotion, facilitation and stimulation of innovation, convergence and new access technologies.

ComReg will develop and deploy strategies which will reflect rapid technological changes in the electronic Communications sector and facilitate, promote and stimulate innovation and the provision of new access technologies on spectrum. ComReg will allocate resources to monitor developments in the communications sector and will interact with operators to ensure the regulatory impacts of technology changes are communicated.

Specifically, ComReg will introduce Mobile Number Portability and facilitate the roll out of 3G services, facilitate infrastructure sharing, and where appropriate, work with government and the industry to ensure the early introduction of co-location facilities for regional Metropolitan Area Networks.

ComReg will ensure user choice among platforms and operators in the TV distribution market, including providing for future digitalisation.

ComReg will promote access-based competition by providing the market with prompt, transparent network interconnection costings, using best practice methodologies, for both mobile and fixed markets.

ComReg will specifically promote, enhance and enforce the provision of indirect access including the current Carrier PreSelect (CPS) products and processes representing a key indicator of competitive activity in the market. ComReg will also allocate resources to promote, enhance and enforce the provision of wholesale products and processes with the aim of sustaining and promoting competition.



In line with the Ministerial Direction, ComReg will develop strategies to address market or operator failure in line with the promotion of competition and industry sustainability.

Finally, ComReg will ensure all initial market reviews are completed promptly following the adoption of the new Regulatory Framework and will follow the consultation obligations on Significant Market Power designation to ensure consistent application of regulatory measures with other National Regulatory Authorities (NRA's) and the European Commission.

#### 5.3.1.2 Promote the interests of consumers

ComReg will promote the interests of consumers by ensuring there is sufficient data available to the market on costing, pricing and quality of service on all sectors under ComReg's remit. ComReg will also promote the use of operator's code of practice as the primary mechanism to resolve consumer issues. ComReg will also ensure compliance with the Price Cap and price notifications for SMP operators and will develop strategies to promote consumer liaison, complaints policies and an information strategy for consumers including a review of the Measuring Licensing Operator Performance (MLOP) process.

ComReg have in the past few years built up considerable expertise in this area and will continue to devote the appropriate resources to ensure the objectives above are achieved.

ComReg will also promote the introduction of Flat Rate Internet Access as outlined in the Ministerial Direction.

#### 5.3.1.3 Contributing to the development of the internal market

ComReg will continue to actively participate in the Independent Regulators Group and the new advisory groups established under the new Regulatory Framework. ComReg will continue to actively co-operate with other NRAs, the Competition Authority and the European Commission to contribute towards the enhancement of the European Internal Market.

ComReg has ensured these strategies are aligned with the Ministerial Direction on consistency between member states.

#### 5.3.2 *Efficient management of the radio frequency spectrum and numbers from the national numbering scheme*

ComReg will ensure implementation of best practice in spectrum strategy and compliance with spectrum usage and obligations and ensure best in class/innovative development of existing numbering frameworks to provide for new services and better serve existing ones.

ComReg will ensure in implementing its spectrum strategy that the interests of all users of radio spectrum are taken into account.

In doing so ComReg will:

- Provide a clear, well-balanced strategy to maximise the impact that the use of the radio spectrum has on economic and social development, particularly in assisting in dealing with the national infrastructure deficit;
- Ensure that spectrum is managed in a flexible, transparent way, with ever faster decision making and provision so that the challenges of convergence, increased mobility and ubiquity of services can be met effectively;
- Meet the desire of users to have publicly available a radio spectrum strategy that:
  - is informed by and informs spectrum management decisions at a European and International level;
  - takes due account of likely future developments in communications and other spectrum using sectors;
  - takes account of the requirements of Irish users and broader national objectives;
  - provides users with information to make appropriate investment decisions.

### *5.3.3 Development of the postal sector and in particular the availability of a universal postal service*

ComReg will use its powers and functions to ensure the continued development of the Postal sector for the benefit of all stakeholders. Particular attention will be paid to the Universal Service, including USO obligations, quality of service monitoring and compliance on costing and pricing workstreams taking into account the provisions of the Ministerial Direction.

ComReg will put in place procedures to ensure that the reservation of particular postal services to An Post is respected, while facilitating the provision of innovative and competing services where permitted by legislation. Also ComReg will ensure that simple authorisation procedures for large scale providers of postal services are implemented by 1 January 2004 as provided for by legislation, including an appropriate fee structure having regard to the Ministerial Direction which requires ComReg to ensure that its costs are minimised. In exercising its functions ComReg will have regard for the principles of Competition Law.

The strategies above are in line with the Ministerial Direction on postal services and USO obligations.

## **6 Centre of Excellence**

### **6.1 Employer of choice**

ComReg recognises that human resource development is a key element in our success and appreciates that excellent performance will only be achieved through continuing commitment and investment in our people. ComReg will ensure the continued development of a knowledge-sharing culture, which provides the platform for mature prioritisation and decision-making, and the ongoing investment in a highly motivated team which has clarity of purpose, with clearly defined goals and objectives, and a focus on timely delivery.

While we have always been committed to developing and implementing innovative Human Resources (HR) strategies and policies, we were particularly pleased to receive two major HR Awards in 2002 – the Excellence Through People Award and the Irish Institute and Training and Development (IITD) Award. These Awards provided us with the opportunity to benchmark our HR function with other organisations and to obtain independent recognition of best practice HR standards. ComReg aims to maintain these high standards and ensure that we are perceived as an employer of choice.

ComReg further considers that team-working and interdependability must be continuously reinforced as part of our culture, through our focused program of staff development and the integration of all performance management initiatives. This will enhance the cross-functional competencies necessary for the complex environment in which we operate.

### **6.2 Performance Management**

ComReg aims to create a high performance, team-based culture where there is a realisation that performance makes a difference, both professionally and personally. While the primary objective of ComReg's performance management process is to maintain and improve effectiveness, the process is also used to clarify staff expectations; provide feedback to staff on performance against goals; facilitate vertical communication between managers and staff; inform decisions on remuneration levels; identify staff development requirements and inform selection decisions.

There are three elements in ComReg's performance management process - performance planning (goal setting and contracting for leadership style), day-to-day coaching (goal implementation using the agreed leadership style) and performance evaluation (evaluating the staff member's goal accomplishment and use of the appropriate leadership style). ComReg's human resources philosophy is that our effective performance management process makes a significant contribution to achieving our business objectives and desired culture.

The performance management system is underpinned by our important project management toolkit which facilitates the planning and implementation of all our projects. In addition, our comprehensive development programme supports staff in the performance management and project management processes. In addition, our comprehensive development programme supports staff in the ongoing enhancement of market knowledge and the development of expertise on key issues.

### **6.3 Project Management**

ComReg recognises that in regulating such diverse markets with diverse issues, to ensure delivery of prompt regulatory decisions, a culture of project management exists in the organisation. ComReg considers all of its activities to be project based and has a sophisticated project toolkit, developed in conjunction with the IMI, which has been rolled out over the past year and is used with all projects. Projects are initiated by a project leader and project sponsor and project members are selected on the basis of required skills and are generally drawn from across all divisions of ComReg. All major projects are approved by the Management Policy Committee of ComReg, which consists of the Commissioners and Heads of Divisions. All ComReg staff are trained in the use of the project toolkit and projects are monitored via ComReg's intranet.

### **6.4 Commissioner Roles**

Following the establishment of ComReg and the appointment of the Commissioners, a review was undertaken to agree the optimal structure for the Commission which reflects the additional responsibilities under the Communications Regulation Act, 2002 and the new Regulatory framework.

The primary role of Commission members – acting as a team and with the Management Policy Committee - is to develop strategy and high-level objectives; formulate policy; make decisions on key issues; approve major projects/proposals and monitor progress on ComReg's work programme. The Commissioners have an active role in all the Commission's work. In addition to their collegiate responsibility for the organisation as a whole, three individual roles have been identified which fit the diversity of the issues covered by the statutory objectives and strategies, as outlined in Section 5. The Commissioners have matrix responsibilities which are listed under the following titles:

- ***Integration (Etain Doyle)*** – includes internal co-ordination and integration of strategies and resources; the maintenance and development of key external relationships, both international and domestic, and the external communication of the Commission
- ***Programme Development (Isolde Goggin)*** – includes facilitating the development and selection of policy options to achieve strategic objectives
- ***Implementation (John Doherty)*** – includes ensuring that strategies and projects are aligned, integrated and implemented in a manner consistent with overall organisational strategies and objectives

## 7 The Cost of Regulation

In November 2002 ODTR published a high level comparison of its staffing levels against a number of other European NRA's. The comparison illustrated that when account is taken of the entire range of functions delegated to ODTR/ComReg a like for like comparison must in the case of several countries include a number of Regulatory agencies. For example, in the UK, Regulation of the Telecoms industry is carried out by the Office of Telecommunications (OfTel); radio spectrum management, licensing and enforcement is carried out by the Radiocommunications Agency (RA); the UK postal industry is regulated by Postcomm (which has been charged with introducing competition into the market) while the function of Postwatch is to protect, promote and develop the interests of all customers of postal services in the U.K. Additionally, some ODTR functions in relation to broadcasting are performed in the UK by the Independent Television Commission (ITC).

**Table 7.1 Cost of Regulation**

Country	Regulatory Authority	Headcount	Annual Cost €m
<b>IRELAND</b>	<b>ComReg</b>	<b>117</b>	<b>18</b>
<b>BRITAIN</b>	<b>OfTel (Telecom)</b>	<b>238</b>	<b>14</b>
	<b>RA (Spectrum)</b>	<b>573</b>	<b>107</b>
	<b>Postcomm (Posts)</b>	<b>29</b>	<b>9</b>
	<b>Combined</b>	<b>840</b>	<b>130</b>
<b>DENMARK</b>		<b>160</b>	<b>30</b>
<b>NETHERLANDS</b>	<b>OPTA (Telecomms &amp; Post)</b>	<b>118</b>	<b>14</b>
	<b>(Spectrum)</b>	<b>325</b>	<b>28</b>
	<b>Combined</b>	<b>443</b>	<b>42</b>
<b>FINLAND</b>		<b>220</b>	<b>25</b>
<b>BELGIUM</b>	<b>BIPT</b>	<b>193</b>	<b>28</b>
<b>NORWAY</b>		<b>180</b>	<b>23</b>

ComReg believes that the table provides strong evidence that the office provides good value to the industry in Ireland. However it is not complacent and fully recognises the need to keep costs to the minimum necessary to exercise its statutory responsibilities.

## **8 External Interactions**

ComReg will continue to identify key priorities and relevant areas for public consultation and will interact with industry and consumer interests.

### **8.1 Government & International agencies**

In the critical area of the transposition of the new Regulatory Directives covering electronic communications networks and services, ComReg will work closely with the Department of Communications Marine & Natural Resources to facilitate their timely introduction. ComReg will also continue to work effectively through both the Independent Regulators group and the European Regulators Group to ensure that the effective communication of issues internally and prompt communication of ComReg position to other European NRAs.

ComReg will continue its informed and effective participation in international organisations including developing positions on radio spectrum issues for the World Radiocommunication Conference 2003 (WRC 03) and the planning of digital broadcasting at the Regional Radiocommunication Conferences (RRC) in 2004 and 2005 or 2006 (the date for the second RRC has yet to be decided). ComReg will maintain a strategy of active engagement with international institutions, including CEPT, EU and national institutions to ensure the effective and timely communication of ComReg's strategy.

In compliance with its statutory obligations ComReg will keep abreast of international developments by liaising with the National Regulatory Authorities for the postal sector in other EU member states, the relevant departments of the European Commission, and by fully participating in the work of CERP (Conference of European Postal Regulators).

ComReg will continue to work closely with the Competition Authority in line with the agreement signed under the auspices of the Competition Act. ComReg will continue to provide input into the debate on Better Regulation as a member of the Department of the Taoiseach's Group on Better Regulation. As part of this process ComReg will review its practices on the formulation of Regulatory Impact Assessments in line with developments from this group.

### **8.2 Representative groups**

ComReg will maintain its links industry representative groups and agencies and will interact on key priorities.

### **8.3 Consumers**

ComReg will maintain its links consumer organisations and representative groups of users of electronic communication services and of postal services. ComReg will ensure it interacts on key priorities and where applicable consultations.



## 9 Service Delivery

The delivery of prompt and transparent services and decisions making to our stakeholders is a key underlying tenet of ComReg's approach. ComReg will continue in the context of the fast moving and dynamic Electronic Communications Sector to seek to develop and enhance its processes to ensure that it is fully informed and able to take such decisions as are necessary in a reasonable, proportionate and timely way

Consultations will always take place prior to the implementation of relevant measures on the basis of a published consultation document. Prior to a formal consultation, preliminary discussions may take place with affected entities and representative groups or associations. Such discussions are not intended to be substitutes for wider consultation but may be used by ComReg to inform the process of drawing up a draft measure. In addition ComReg may invite submissions on the basis of a general discussion document and not on specific draft measures. This again would precede a consultation on specific draft measures.

All current consultations are accessible on ComReg's website. E-mail notifications will also be sent to parties who register with ComReg to be notified of new publications. Hard copies of all consultation documents will also be available on request. A Notice will be placed in *Iris Oifigiul* announcing the availability of the document and the closing date for submissions. Where appropriate, notice will also be placed in at least one national newspaper. Most consultation papers will be accompanied by a press release and media coverage which, while outside the control of ComReg, may also alert potential respondents to the consultation.

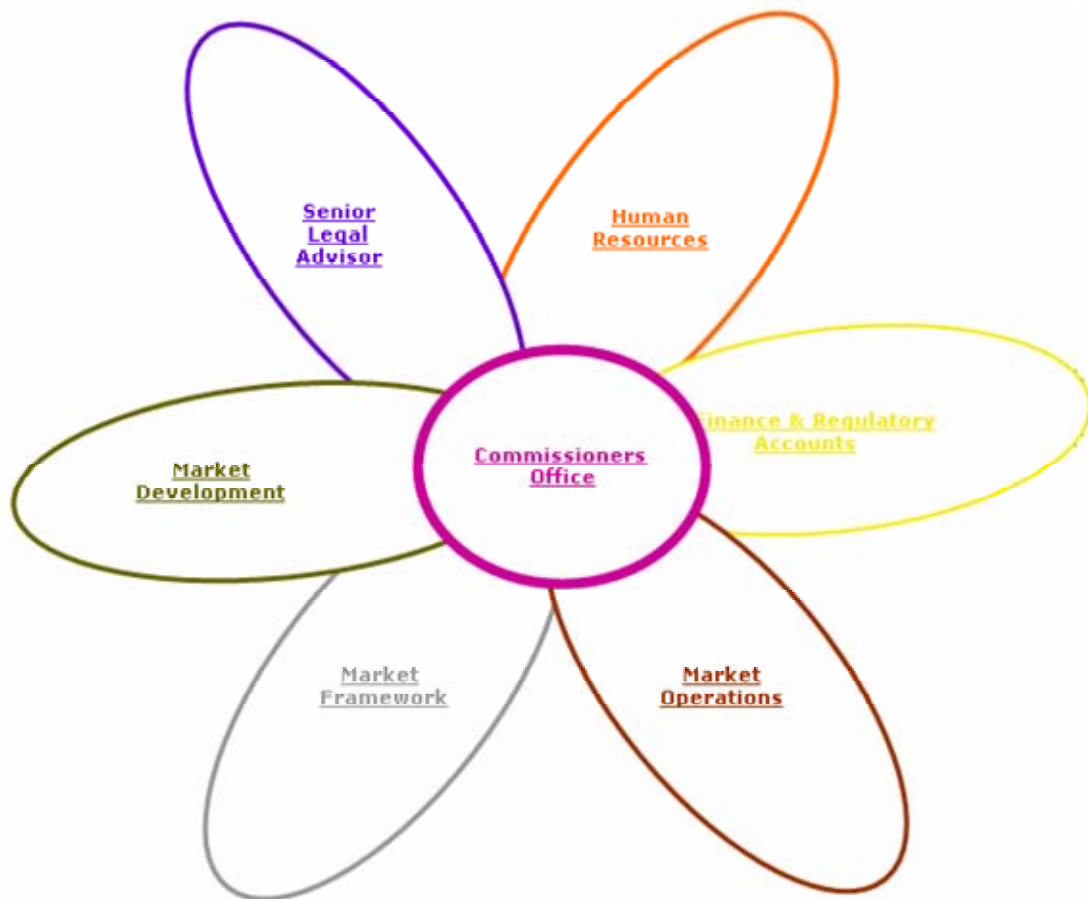
### 9.1 Freedom of Information

ComReg has been under the remit of Freedom of Information legislation since October 2000. The legislation asserts the right of members of the public to obtain access to information held by ComReg to the greatest extent possible consistent with the public interest and the right to privacy. ComReg's position in relation to the provision of information is one of transparency and openness with regard to the operations of the office and, since coming under the remit of the FOI legislation, the Commission has released information in 63% of requests received.

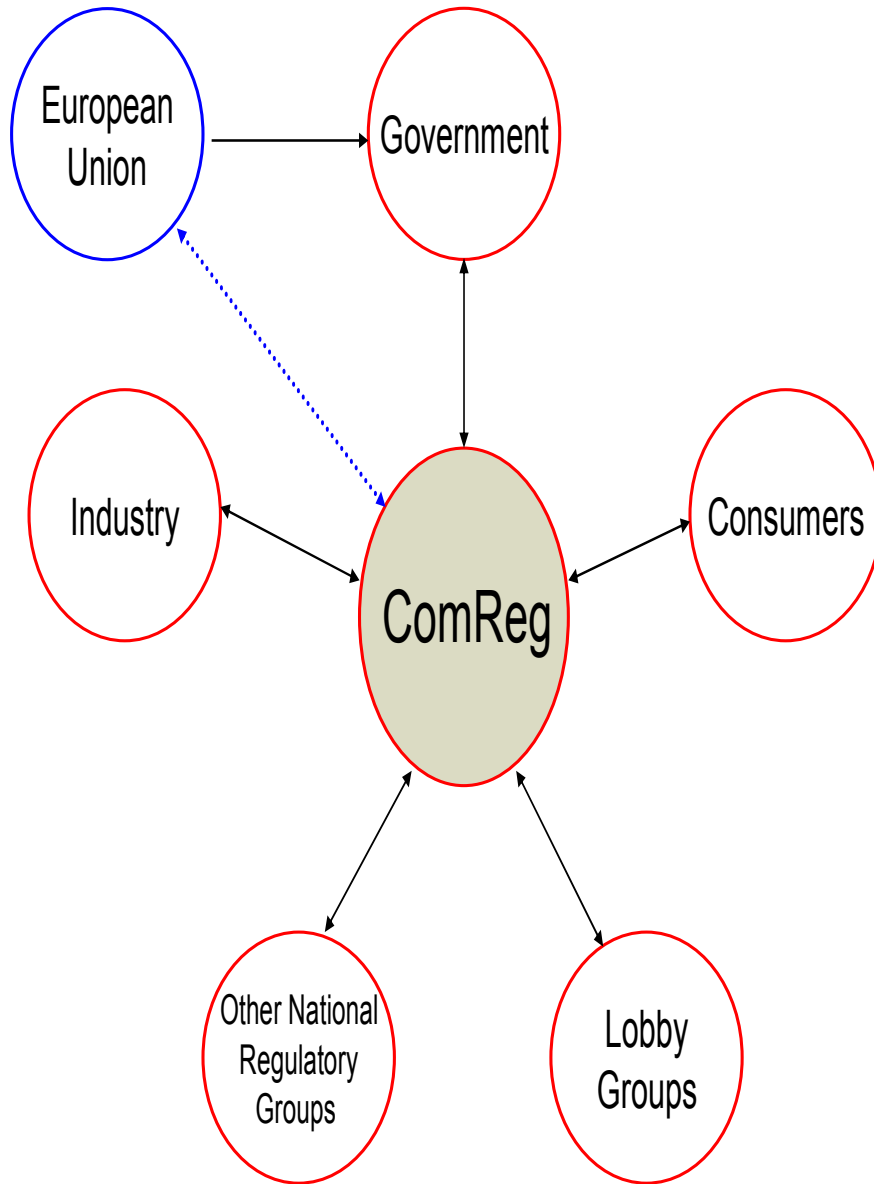
While ComReg fully supports the ethos of Freedom of Information and strives to comply with the obligations set out by the legislation, there is a complex balancing act required between satisfying the needs of the requester and upholding responsibilities of the office towards third parties supplying information. Sections of the Act, which preclude certain information being released, provide important protection to enable the continuation of the flow of information between third parties and ComReg, particularly in matters such as commercially sensitive information and information obtained in confidence e.g. commercially sensitive information provided by third parties or written assessments by ComReg which refer to the third party

information. It will be appreciated therefore that certain confidential information cannot be released. Where ComReg is asked to release information supplied by third parties, its policy will be to consult with respondents about sensitive information.

## Annex I: Organisational Structure



Annex II: ComReg stakeholders



## Annex III Typical Market Operators

### **Fixed:**

Ireland's incumbent fixed operator provides a range of voice, data and internet services. It has Universal Service Obligations and provides a national payphone service. With an extensive core and access network, it provides services to both the corporate and residential markets on a nationwide basis.

With a national focus, Ireland's second largest player in the fixed market has extensively rolled out its network. It continues its rollout of DSL to 40 exchanges around the country, further facilitating the extension of its capability to provide data, IP and managed bandwidth services. It currently provides telephony services via Carrier Pre Select to both the corporate and residential markets.

Operating in the fixed market with limited infrastructure, one of the incumbent's key competitors mainly serves the corporate market in Ireland. However it facilitates the provision of services to the residential market through the provision of wholesale services to resellers. It also provides a range of data products to the corporate market together with co-location and web hosting services.

There are a number of operators in the Irish market who operate their business by reselling minutes purchased from fixed network operators at a discount. Typically resellers are unlicensed and compete in the residential market.

### **Mobile:**

Currently there are three GSM mobile operators in the Irish market. Following the competition for 3G licenses an additional fourth entrant is expected to enter the market later this year, with provisions for MVNO access in its licence. Mobile network coverage is throughout Ireland with penetration standing at 79%.

### **Cable:**

The Irish Cable/MMDS market is comprised of two major operators and eight smaller local operators. The two major operators have 550,000 cable/MMDS customers between them. The remainder are local operators providing analogue cable services in eight further licensed areas. All operators offer analogue television services while digital television services are currently only offered by the two major cable/MMDS operators. The total number of households passed for the two major operators is over 1.1 million with over 700,000 passed for digital services. As at Q4 2002 the digital television penetration rate for the two major operators is 12%, up from 5% for Q4 2001.

## Annex IV: Legislative Framework

The Communications Regulation Act, 2002 contains various organisational and procedural provisions relating to matters such as the composition, staffing and financing of ComReg, most of which are usual for bodies established by statute. There are various other Acts and statutory instruments which have an actual or potential application to public bodies such as ComReg. Notable examples include the Freedom of Information Act 1997 which (subject to certain specified exemptions) provides a right of access to records held by it and the regulations transposing the EU directives relating to procurement of works and services contracts in the public sector.

As a public sector body, ComReg is subject to various obligations arising as a matter of **administrative law** and some of its decisions may, in certain circumstances, be subject to challenge by way of judicial review. Most of the principles of administrative law have been developed over the centuries through a very large body of case law in the Irish courts and the courts of other common law jurisdictions, whose rulings are persuasive (but not binding) on the Irish courts.

One of the key functions of ComReg is to regulate and **license**, including licensing the use of radio frequencies and radio equipment. The Wireless Telegraphy Act, 1926 is the Act which makes provision for the Regulation and control of and the issuing of licences for wireless telegraphy apparatus. Certain apparatuses such as mobile phones are exempt from the requirement for a licence. The use of spectrum is not licensed as such but is regulated and managed through licences issued under the Act and the regulations made thereunder. ComReg is empowered to grant licences for the public provision of telecommunications networks and services pursuant to the Postal and Telecommunications Services Act, 1983. This will change in July 2003 under the new EU Directives which will abolish the need for individual licences and introduce a new system of authorisations.

Many of the provisions of the Telecommunications (Miscellaneous Provisions) Act, 1996 were repealed by the Communications Regulation Act, 2002 but the provisions in section 7 relating to **regulation of tariffs** remain in force.

The main provisions relating to the **Regulation of the Postal Sector** are set out in the European Communities (Postal Services) Regulations, 2002 (S.I. No. 616 of 2002), which transposes the European Communities' Postal Directive, Directive 97/67/EC, as amended by Directive 2002/39/EC. The overall aim of the EU Postal legislation is to establish common rules for the development of the internal market for Community postal services. It is intended to guarantee, at community level, the provision of a minimum level of universal service, while at the same time progressively opening up the postal services market to competition.

Other domestic legislation, some provisions of which remain extant includes the Post Office Act, 1908, the Evasion of Postage Act, 1937, the Postal and

Telecommunications Services Act, 1983, and a body of secondary legislation comprising various statutory instruments and orders. .

In the field of **broadcasting**, ComReg is the Regulator in respect of infrastructure and cable and MMDS apparatus. ComReg's role does not however include the Regulation of content. The law in relation to broadcasting is contained principally in the Wireless Telegraphy Act 1926, the Broadcasting Authority Act 1960, the Broadcasting Act 1988, the Broadcasting Act 1990 and the Broadcasting Act 2001.

As much of the impetus for the **liberalisation of the Communications sector** has over the years come from the institutions of the EU, the state has enacted a range of Directives adopted at EU level.

The Interconnection in Telecommunications Regulations S.I. No. 15 of 1998 which transpose Directive 97/33/EC and deal with the rights and obligations in relation to interconnection arrangements between licensed operators;

The Telecommunications Licence Regulations S.I. No. 96 of 1998 (as amended) which transpose Directive 97/13/EC;

Voice Telephony and Universal Service Regulations S.I. No. 71 of 1999 which transpose Directive 98/10/EC; and

The Leased Lines Regulations S.I. 109 of 1998 which transposes Directive 92/44/EC (as amended)

The European Communities (Postal Services) Regulations, 2002 (S.I.616 of 2002), already referred to above

In addition to the above the EU Parliament and Council adopted Regulation 2887/2000 on 18 December 2000 on **unbundled access to the local loop**. As Regulations are directly applicable and is binding in its entirety on all member states, it did not require any national implementing legislation.

The **new EU Regulatory electronic Communications package** is made up of five Directives and one Decision, a recommendation and a set of guidelines. These are the Framework Directive (2002/21/EC), the Authorisation Directive (2002/20/EC), the Universal Service Directive (2002/22/EC), the Access and Interconnection Directive (2002/19/EC), the Data Protection Directive (2002/58/EC), which has been delayed, and Decision No 676/2002/EC on a regulatory framework for radio spectrum policy in the European Community.

The final adoption of the Framework, Authorisation, Universal Service and Access Directives took place on the 14<sup>th</sup> of February 2002. The Directives were published in the Official Journal on April 24<sup>th</sup> 2002. Member States must transpose the Directives into national law within 15 months of publication in the Official Journal (i.e. by July 24<sup>th</sup> 2003) and apply them from July 25<sup>th</sup> 2003.

## Annex V: Ministerial Direction

Below is the full text of the Ministerial Direction by the Minister for Communications Marine & Natural Resources in accordance with S13 of the Communications Regulation Act, 2002) published in February 2003:

### Communications Objectives

“In carrying out its functions, the Commission shall have regard to

- the Programme for Government 2002, including the provision of the Programme set out in the section “Building Peace and Justice” stating: “We will improve North-South infrastructural links and facilitate cross-border planning”, and the objectives set out in the section “Developing the Regions and the Islands” as well as the provisions relating to electronic Communications set out in the section “Research, Development and Innovation”, and
- the objectives for the Communications sector specified in the in the Statement of Strategy of the Department of Communications, Marine and Natural Resources, when published.”

### **ACCESS TO THE INTERNET AT FLAT-RATE CHARGES**

“The widespread availability of dial-up access to the internet charged at flat rates and at affordable prices would be of substantial benefit to users as well as for the further development of the market for internet access provision. In the first instance, the development and provision of such access services are matters for market players. The Commission shall make use of its powers under the legislation as appropriate, to bring about agreements among market players in order to facilitate early introduction of retail dial-up internet access services charged at flat rates. The Commission shall report to the Minister on progress in relation to this matter within one month of the issue of these Directions, and on a monthly basis thereafter until such time as retail services are introduced, making any recommendations it considers appropriate for further action.”

### **BROADBAND ELECTRONIC COMMUNICATIONS NETWORKS**

“The Commission shall, in the exercise of its functions, take into account the national objective regarding broadband rollout, viz., the Government wishes to ensure the widespread availability of open-access, affordable, always on broadband infrastructure and services for businesses and citizens on a balanced regional basis within three years, on the basis of utilisation of a range of existing and emerging technologies and broadband speeds appropriate to specific categories of service and customers.”

### **INDUSTRY SUSTAINABILITY**

“The Commission shall ensure that in making regulatory decisions in relation to the electronic Communications market, it takes account of the state of the industry and



in particular the industry's position in the business cycle and the impact of such decisions on the sustainability of the business of undertakings affected.”

#### **REGULATION ONLY WHERE NECESSARY**

“Where the Commission has discretion as to whether to impose regulatory obligations, it shall, before deciding to impose such regulatory obligations on undertakings in the market for electronic Communications, examine whether the objectives of such regulatory obligations would be better achieved by forbearance from imposition of such obligations and reliance instead on market forces. Where the Commission has discretion as to whether to impose regulatory obligations, it shall, before deciding to impose such regulatory obligations for the purpose of the management of the radio frequency spectrum, examine where the objectives of such regulatory obligations would be better achieved by forbearance from imposition of such obligations.”

#### **REGULATORY IMPACT ASSESSMENT**

“The Commission before deciding to impose regulatory obligations on undertakings in the market for electronic Communications or for the purposes of the management and use of the radio frequency spectrum or for the purposes of the regulation of the postal sector, shall conduct a Regulatory Impact Assessment in accordance with European and International best practice and otherwise in accordance with measures that may be adopted under the Government's Better Regulation programme.”

#### **CONSISTENCY WITH OTHER MEMBER STATES**

“The Commission shall ensure that, where market circumstances are equivalent, the regulatory obligations imposed on undertakings in the electronic Communications market in Ireland should be equivalent to those imposed on undertakings in equivalent positions in other Member States of the European Community.”

#### **COST OF REGULATION**

“The Commission shall ensure that the costs incurred by it in effectively carrying out its functions in relation to the electronic Communications market and the management of the radio frequency spectrum are minimised, consistent with best practice in other Member States of the European Community, and, subject to any different conditions that may exist, should not be out of line with the cost of regulation in such Member States.

The Commission shall ensure that the costs incurred by it in effectively carrying out its functions in relation to the postal market are minimised, consistent with best practice in other Member States of the European Community and, subject to any different conditions that may exist, should not be out of line with the cost of regulation in such Member States”

#### **CONSISTENCY ACROSS PLATFORMS**

“The Commission shall ensure that regulatory obligations imposed upon undertakings engaged in the provision of similar electronic Communications services but using different technologies are consistent, taking into account any different conditions that may exist, including the existence of market power.”

**REGULATION OF PRICES**

“The Commission shall ensure that, taking into account the requirement regarding the affordability of prices of electronic Communications services that come within the universal service obligation, as defined in the Directive of the European Parliament and Council of 7 March 2002 on universal service and users rights relating to electronic Communications networks and services (O.J. No. L 108, 24.4.2002), the provisions of a price cap under section 7 of the Telecommunications (Miscellaneous Provisions) Act 1996 (No. 34 of 1996) are set in such a way that they do not inhibit the development of viable competition in the market for the services coming within the scope of any such price cap and take into account their impact on further investment in the sector by the industry, including investment in infrastructural development.”

**MANAGEMENT OF THE RADIO FREQUENCY SPECTRUM**

”The Commission shall ensure that, in its management of the radio frequency spectrum, it takes account of the interests of all users of the radio frequency spectrum.”

**UNIVERSAL POSTAL SERVICE**

“The Commission shall ensure that, in making regulatory decisions in relation to the postal universal service obligation, it considers the impact of such decisions on the cost of sustaining the universal service, which cost includes per employee costs arising from national pay policy.”

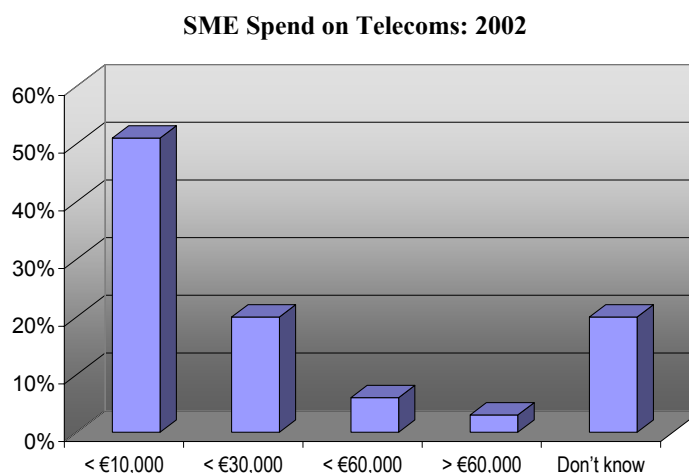
## Annex VI: The Evolution of the Irish Telecommunications market since liberalisation

The Irish Communications market has developed significantly in recent decades and more particularly in the years since full liberalisation of the market in 1998. The growth of mobile telephony; the use of the internet and the development of products which allow higher speed data products which can be accessed by end-users, have transformed how we communicate. Moreover, the rollout of digital television services has enhanced the range of services available through our television sets.

The Irish market is categorised by diverse market segments, each of which have different communications requirements. Ireland has a few hundred large corporates who demand integrated data/voice requirements, with in general a high demand for leased lines to transmit large capacities of data on sophisticated fixed networks, and who also make substantial use of mobile-for-business purposes. Even in the mid 1990's these companies were generally at the forefront in their requirements in respect of leased Communications.

The remaining business sector is characterised by a large number of Small Business Enterprises (SMEs) with typically less than 10 employees who have traditionally required voice services but in recent years have been demanding data products with the growth of online activity. In ComReg's SME survey, conducted in December 2002, approximately eight in ten companies indicated that they had access to the internet. Smaller scale broadband services such as DSL, FWA and wireless local area networks (W-LANs) are appropriate to this category, together with Flat Rate based services for the smallest firms. Mobile use has become widespread in this group.

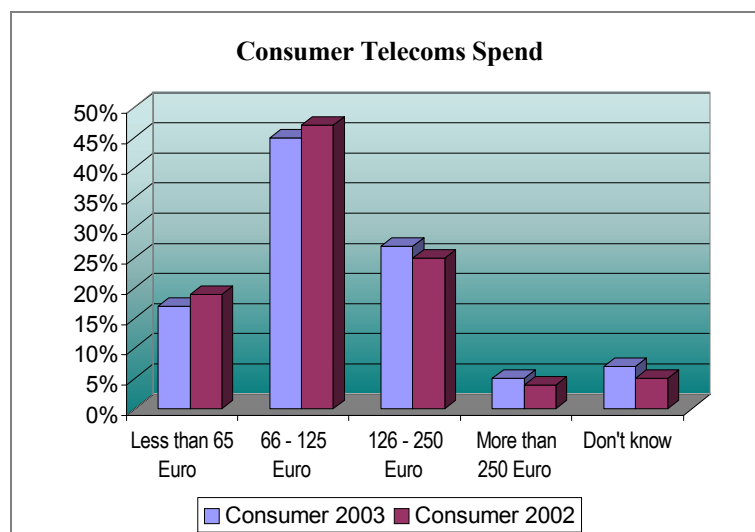
**Figure 1: SME Spend on Telecoms 2002**



The Government sector has become an increasingly sophisticated user of data Communications services as well as the traditional voice services and in some cases an innovative user of mobile Communications for keeping contact between dispersed services. It is estimated the Government's spend on telecoms for 2003 will be €520m<sup>16</sup>

Finally, in the residential sector there is still the requirement for fixed line telephony and explosive growth in mobile usage and a growing use of internet for email and online shopping services.

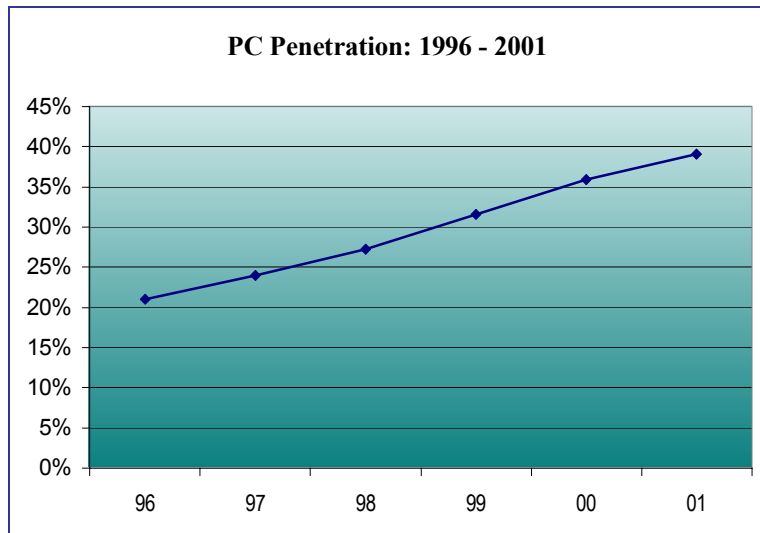
**Figure 2 Consumer Telecoms Spend**



As noted above, there is widespread access to internet and PC usage in the business sector. The residential sector has expanded its usage rapidly in recent years as shown in the tables below. Domestic PC penetration in 2001 was 39%, ahead of the EU average (31%) and a significant improvement on the 1996 position (21%).

<sup>16</sup> IDC 2003 estimate

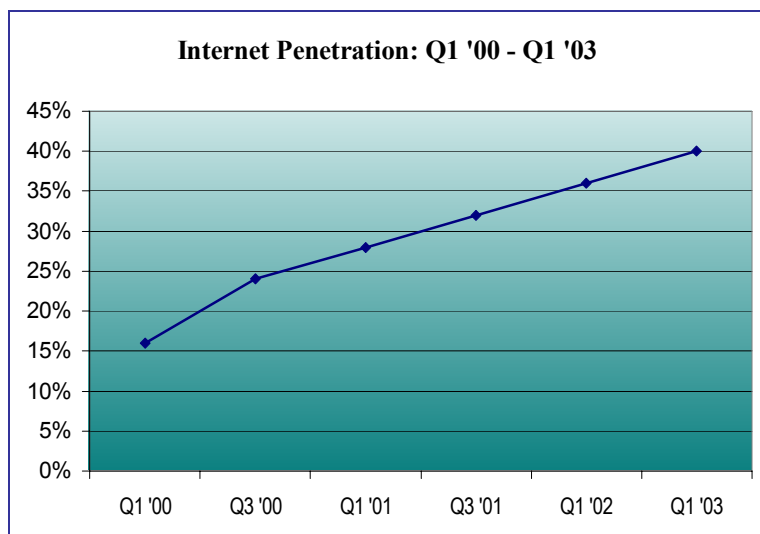
**Figure 3 Residential PC Penetration**



Source: ITU estimates

Residential internet penetration has also risen significantly in the last 5 years.

**Figure 4 Residential Internet Penetration**

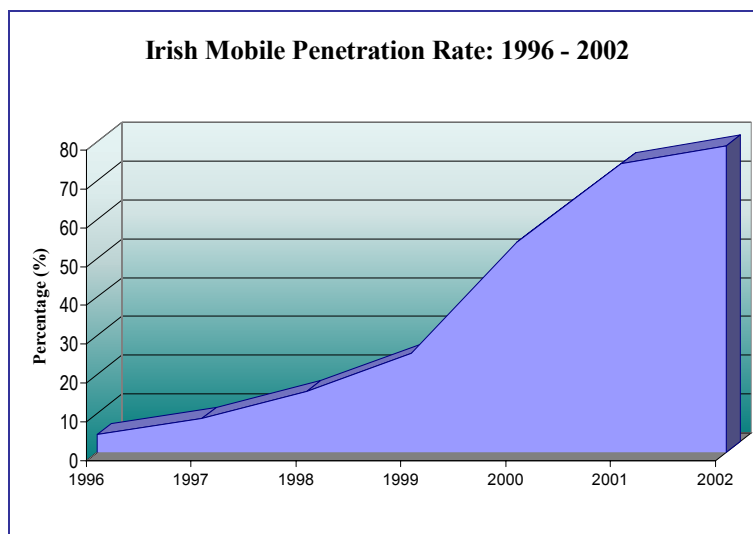


Source: Amárach

The above reflects the residential experience of internet take-up. The Irish SME sector has, in recent years, increasingly used email and web browsing to improve productivity. ComReg surveys suggest that the SME sector will increasingly need data products with 26% planning to increase their bandwidth needs in the next 12 months.

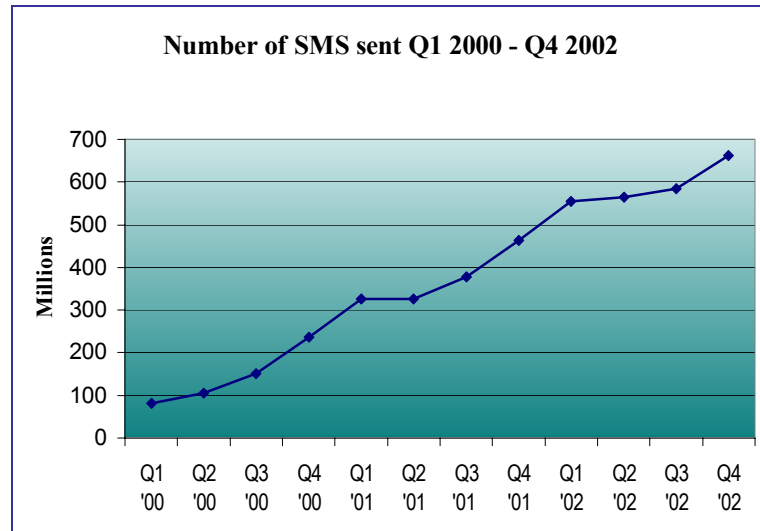
In 1996 mobile penetration was approx 10% of the country with only one operator in the marketplace. This took 10 years from the initiation of mobile service in 1986 to get to 10%, but now in 2003 there are 3 million users of mobile phones. Moreover with the dramatic growth of Short Messaging Services (SMS) as a Communications tool we have approximately 2 messages sent daily per person. SMS has spawned a text generation with a unique text language from a facility which was not anticipated only a few years ago, and mobile voting in the entertainment sector has become a substantial business in its own right . While some Government services such as the Department of Agriculture recognised early the business uses of SMS, Business, Government and the mobile operators generally are just beginning to focus on and develop relevant business applications for mobile.

**Figure 5 Mobile Penetration**



**Source: ComReg Estimates**

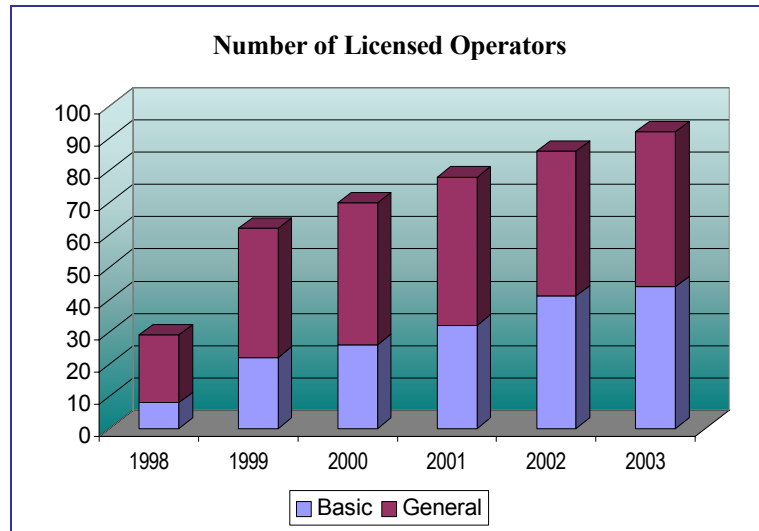
SMS services started in Ireland in the late 1990's, with a co-operative basis established at an early date between operators with regulatory approval, providing users with full interoperator use.

**Figure 6 SMS**

**Source: ComReg Quarterly Key Data Report**

The mobile penetration rate reflects not only residential take up but high adoption of mobile telephony by business. Our most recent SMS survey reveals that 88% of the population have company mobile phones.

In 1996, Ireland had a near monopoly provider, Telecom Eireann, of fixed line services, with only a small number of larger corporates availing of alternative operators. In that year, a derogation to delay full liberalisation to 2000 was obtained – but the Government reversed its position in May 1998 and full liberalisation was introduced in December 1998. The chart below shows that in 2003 we have 92 licensed telecommunications operations, of which 44 general and 48 basic are operating in Ireland. At this point, all of the major operators and many of the others are owned by multinationals and this has implications for the availability of capital investment for the development of the Irish operations.

**Figure 7 Licensed Operators**

**Source: ComReg**

#### Television Distribution:

In 1997, Cablelink which controlled the TV franchises in Dublin, Galway and Waterford was majority owned by Telecom Eireann and had seen little investment since its purchase at the start of the decade. It was sold to ntl in 1998 and they took over control in 1999. Princes Holdings Limited (now Chorus) was the second biggest operator with cable and MMDS networks in 1997, and in the following years it acquired most of the other, smaller networks, becoming an operator on a national scale. Both acquired telecoms licences at the time of liberalisation, and started work on upgrading/rolling out networks for digital television and telephony, but investment funds became more difficult in late 2000, and now they do not provide the challenge to eircom in respect of broadband which other more advanced cable operators do in some other EU countries. Only one small operator, Casey Cablevision in Dungarvan had an upgraded network capable of delivering internet services directly. Under the ComReg plan for the upgrade to digital television, ntl and Chorus accepted new TV distribution licences in 1999 and upgraded their networks, with the last elements to be completed within 12 months. Sky TV has expanded very rapidly in Ireland with a full digital service. A DTT operator has not yet been designated. Digitalisation is largely achieved on the main networks, but developing competition in the Broadcasting distribution sector has been more problematic and the challenge they might pose to the fixed network has remained unrealised.

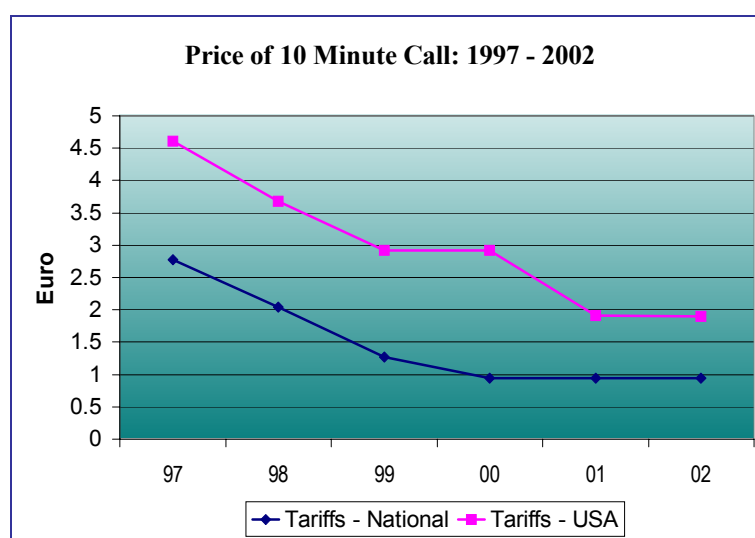
#### Prices:

Ireland had traditionally been an expensive country for telephony, in particular for SMEs and residential customers. Prior to the establishment of the ODTR in 1997, OLOs had to pay retail prices for connection to the eircom network, making the charges they faced very high in EU terms. With competition, supported by



regulatory interventions, there has been a substantial reduction in telephony charges as shown in Figure 7 and also leased lines. Interconnection rates are among the lowest in Western Europe, however improvements in efficiency in the incumbent have been slow, and the fragility of the competition in current circumstances with its small scale and constraints on investment have meant that it is not possible to maintain a sharp downward pressure on retail prices, despite the attractiveness of this in terms of competitiveness, and in encouraging users to make more use of innovative services. A long term major concern for competitive services is the embedded, fully allocated cost of the incumbent network which, on the basis of eircom figures, would be considerably in excess of that in other countries in terms of local access.

**Figure 8 Fixed Telephony Charges**



**Source: Eurostat**

Despite the slow development of DSL services, Ireland has made progress in reducing the gap between the adoption of innovative services elsewhere and in Ireland. ComReg has played a part in facilitating this. In some cases, what was needed was to catch up with other countries, introducing full satellite licensing for example, and publishing Frequency Allocation Tables and spectrum management policy. The ODTR was among the first European NRAs to issue FWA licences, benefitting from their early issue with some early roll-out as compared with many other countries. It also set up an innovative test licence regime under which more than 30 licences have been issued, to help research, development and adaptation of new radio technologies.

Following the competition for UMTS (3G) licenses in 2002, Ireland will see the commercial launch of 3G before the end of 2003 and the prospect of a new operator offering 3G services. ComReg has published papers on a wide range of new technologies, including wireless optical connections and DSL technologies to encourage interest among operators and others to examine the potential for developing them for Irish use.

The wide range of technologies becoming available to end users should increase the competitive spur and allow consumers choose the technology and services that best fits their requirements. Given the relative dispersal of the population, the availability of spectrum in Ireland and the speed of new wireless developments, wireless in particular should offer very useful solutions to Irish Communications gaps. With increasing choice and increasing convergence it would be expected that the choice of operators and of technologies will increase.

Maintaining competition and nurturing its development in the current fragile markets is essential to ensuring choice and innovation at reasonable prices into the long term. The Communications market faces a number challenges in coming years and the role of ComReg as Irish Regulator will be to play a facilitative role in the future development of the sector.

## Annex VII: Respondents to Strategy Statement consultation

Eircom

Esat/BT

Alto

Tico Limited

An Post

TIF

All responses are available for inspection at the ComReg office, excluding confidential material that respondents specifically asked to be withheld.