



Commission for
Communications Regulation

Consultation Response

Strategy Statement (2005-2007)

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1 Foreword by the Chairperson

In a period of dynamic change in the communications sector both in Ireland and globally, it is vital that regulation is predictable, consistent and transparent. This in turn facilitates the promotion of competition for the benefit of consumers as well as encouraging investment.

Two years after the introduction of the new regulatory framework for electronic communications, ComReg is issuing its second strategy statement at a time of significant change in the Irish communications market coupled with a growing optimism in the sector.

The formulation of a strategy statement is invaluable to an organisation such as ComReg in that it facilitates stock-taking and forward-planning and helps ComReg prepare for near-term change, enhancing our regulatory agility and flexibility.

This document takes into account responses received both to the strategy statements on electronic communications and postal consultation as well as other recent consultations on spectrum¹ and the Forward-Looking Strategic Review of the Telecoms Sector². ComReg wishes to thank all of those who responded to these consultations.

Since the initial consultation was issued there have been a number of significant new developments which may have an impact on the Irish market in the short to medium term. These include the launch by ComReg of a competition for a fourth 3G mobile licence in August, the full commercial launch by 3 of its 3G service to consumers and the proposed acquisitions of Meteor and ntl Ireland by eircom and Liberty Global respectively.

ComReg hopes that this Strategy Statement provides the necessary level of regulatory certainty to the market and looks forward to working with stakeholders in the coming years to implement this Strategy.

**Isolde Goggin,
Chairperson**

¹ Original consultation: ComReg document 05/01A and 05/01B, response to consultation ComReg document 05/36

² ComReg document 05/30

2 Introduction

Under the Communications Regulation Act 2002, ComReg is obliged to produce a Strategy Statement every 2 years. The Strategy Statement must take into account the objectives set out in section 12 of the Act and any directions under section 13 of the Act.

These objectives are as follows:

- 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, and*
 - *To promote the interests of users within the Community*
- 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, and
- 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

In June 2005, ComReg issued its draft Strategy Statement for the electronic communications sector for the period 2005-2007³. 18 responses were received from a number of stakeholders. Details of these respondents are set out in Appendix A of this document.

In August 2005, ComReg issued a separate draft Strategy Statement for the postal sector⁴ 7 responses were received from a number of stakeholders. Details of these respondents are also set out in Appendix A of this document.

All of these responses, with the exception of those deemed to be confidential, will be published on the ComReg web site.

Over the past two years communications markets have experienced a period of considerable change. The international communications sector has gradually emerged from an economic downturn between 2001 and 2003 and is now entering a period of renewed optimism. New services such as Voice over Internet Protocol (VoIP), digital broadcasting and third generation mobile networks (3G) are offering consumers greater diversity, choice and value. Take-up of broadband has started to improve in the past 12 months, and there is evidence of strong consumer demand for

³ ComReg document 05/47

⁴ ComReg Document 05/59

new and advanced electronic communications services. This dynamism in the market has developed in parallel with impressive growth in the Irish economy.

A new EU regulatory framework for the electronic communications sector was introduced in July 2003 and Ireland is one of the most advanced countries in Europe in terms of its full implementation. This framework is based on the primacy of technological neutrality and competition law principles.

With regard to the postal sector, there have been a number of key developments in the past eighteen months. The market for outbound cross-border mail was opened to competition in January 2004 in accordance with the EU's timetable for the creation of an internal market in postal services. Further liberalisation will occur in 2006 as competitors to An Post will be permitted to deliver letters, so long as their weight exceeds 50g.

Since 2004 providers of postal services in Ireland with a turnover of more than €500,000 (excluding VAT) were obliged to obtain a Postal Service Authorisation from ComReg. Over twenty such companies have been authorised by ComReg since this date.

The objective of this Strategy Statement is to outline ComReg's views on possible developments in the sectors regulated by ComReg from July 2005 to June 2007, and to set out our regulatory strategy to meet our objectives and maximise market opportunities in light of those developments, taking into account the concerns of our key stakeholders, including consumers, industry and government as expressed in responses to the initial draft Strategy Statements on the electronic communications and postal sectors.

The document is structured as follows:

Chapter 3 examines the environment within which ComReg operates, including the legislative framework underpinning the work of ComReg.

Chapter 4 outlines ComReg's mission statement, core values and vision for the communications sector in Ireland.

Chapter 5 sets out ComReg's goals and objectives for the electronic communications sector between 2005 and 2007 and specific strategies to achieve those objectives.

Chapter 6 sets out ComReg's goals and objectives for spectrum management between 2005 and 2007 and specific strategies to achieve those objectives.

Chapter 7 examines the environment for the postal market both in Ireland and in Europe, including the legislative framework underpinning postal regulation, and sets out ComReg's vision, goals and objectives for the postal sector between 2005 and 2007 and specific strategies to achieve those objectives.

Chapter 8 contains an overview of ComReg's current organisational structure and cost base and maps out the resources and strategies ComReg will need to employ in order to deliver services to our stakeholders.

There are a number of annexes to the document including a list of respondents to the initial consultations, and a note on the origin and impact of postal monopolies.

This document should be read in conjunction with ComReg's Spectrum Management Strategy Statement 2005-2007 and the Forward-looking Strategic Review paper, both of which were issued earlier in 2005. While the latter focussed on future technological and social developments in the electronic communications arena up to 2010, this Strategy Statement will focus on markets in the short term to 2007.

3 Environmental analysis of the electronic communications sector

It is a vital first step of any forward-looking strategy review to consider key developments in the external environment. This chapter will examine key trends in the Irish economy and further afield, and key trends in the sectors where ComReg has regulatory oversight.

It should be noted that specific environmental analysis of the postal sector is set out in chapter seven although the initial macroeconomic analysis of the Irish economy and analysis of ComReg’s stakeholders are common to both the electronic communications and postal sectors.

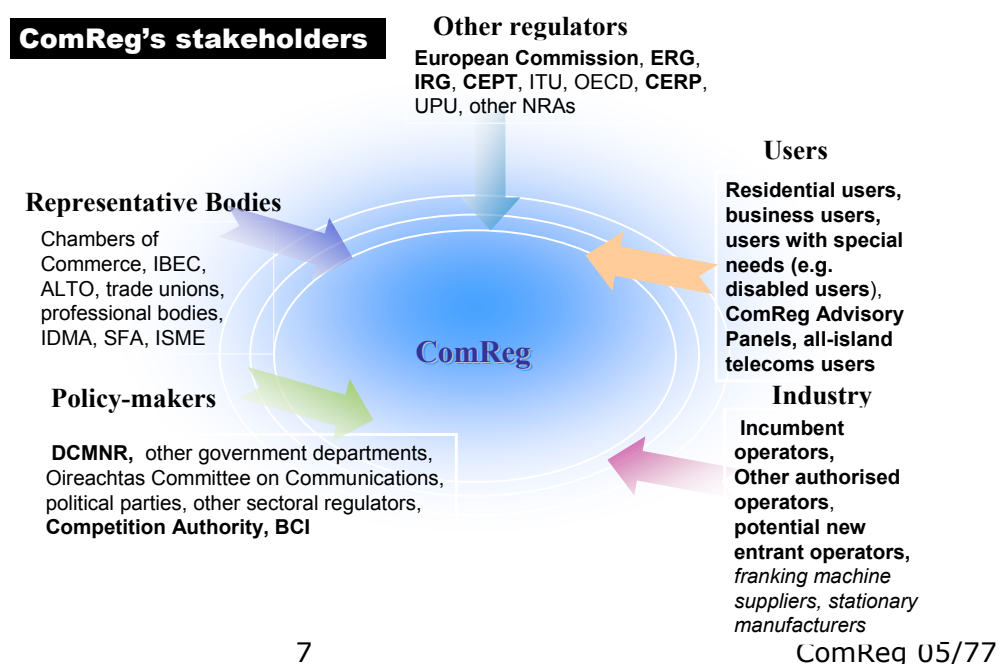
Respondents to the initial draft consultation were broadly in agreement with ComReg’s environmental analysis. However a number of commentators highlighted specific issues which ComReg has tried to incorporate in this section.

3.1 Our stakeholders

ComReg has a number of stakeholders whose views are considered when developing policy and regulatory initiatives. Most respondents to the draft consultation agreed with ComReg’s analysis of its stakeholder base. However a number of respondents suggested that ComReg focus more on particular stakeholders or suggested additional stakeholders that it should consider. Some respondents suggested that ComReg consider additional means of interaction with stakeholders such as online fora, bilateral meeting and roadshows. ComReg has incorporated these comments and suggestions where possible.

The diagram below analyses our more important stakeholders.

Figure 3.1.1 ComReg’s stakeholders



Given the difficulties inherent in trying to meet the competing needs of all of these stakeholders, ComReg will require each group's input into its work. Although interaction with all of our stakeholders is important, the following section outlines our interactions with three of our most important stakeholders.

3.1.1 Users

ComReg will pay particular attention to its relationship with users, including those with special needs or disabilities. Pending legislation will for instance place increased emphasis on the provision of services to people with disabilities.

ComReg welcomes the formation of the interim National Consumer Agency (NCA) and will cooperate closely with the NCA, alongside its continuing dialogue with the Consumer' Association of Ireland and the Office of the Director of Consumer Affairs, to ensure that its regulatory policy continues to reflect the needs of all consumers.

ComReg will also continue to engage with business users both individually and via organisations such as the Chambers of Commerce of Ireland, ISME/SFA and IBEC.

ComReg also recognises that many businesses operate on an all-Island basis and will seek to procure communications services that can meet their needs in terms of geographic reach and availability. In this regard ComReg will continue to work closely with these users by means of the ComReg/Ofcom Joint Working Group.

ComReg will continue to encourage direct interaction with consumers via its dedicated consumer phone line, consumer web site, consumer guides and networking events such as trade fairs and conferences. More detail on our interactions with consumers can be found in section 8.2.2.

3.1.2 Industry

ComReg anticipates rapid change in the 2005-2007 timeframe, particularly with regard to converged services and consumer demand for advanced services such as high-speed broadband and 3G. These and other developments pose significant challenges for regulators and industry alike.

In order to ensure the smooth implementation of its regulatory policy, ComReg depends upon the active cooperation of the communications industry. ComReg appreciates input from industry to date in shaping an increasingly competitive communications market in Ireland. Continued progress will require enhanced co-operation and dialogue between the industry and the regulator if consumers are to benefit from innovative and competitive products and services in the Irish market.

3.1.3 Regulatory bodies

Given the wide range of issues inherent in regulation of the electronic communications sector, ComReg recognises the value of close cooperation with

other regulatory bodies such as the Broadcasting Commission of Ireland (BCI), the Competition Authority, Regtel, the RTÉ Authority, the interim National Consumer Agency (NCA) and the Data Protection Commissioner.

A number of respondents made the point that they believed that ComReg did not have adequate powers of enforcement. ComReg will continue to work with the Department of Communications, Marine and Natural Resources (DCMNR) to ensure that our powers are commensurate with the needs of a dynamic and evolving industry. As the key policy-makers in the communications arena, ComReg will continue to work closely with the European Commission and the Department of Communications on key challenges in the communications market.

Some respondents to the consultation suggested that ComReg work more closely and in a more transparent way with the Competition Authority in the future on particular issues. ComReg has a Memorandum of Understanding (MoU) with the Competition Authority and both organisations have cooperated closely on market analysis since the new regulatory framework was implemented in July 2003. In addition ComReg publishes in full the opinion of the Authority on all market reviews.

There is much debate at present with regard to the compliance costs that regulation imposes on business through red tape, particularly in relation to small and medium businesses. There are efficiencies to be gained through better-engineered processes and less duplication in the collection of information and ComReg will continue to work closely and actively with both the Better Regulation Group and individual sectoral regulatory counterparts in Ireland to achieve such efficiencies.

ComReg will also continue to work closely with the European Commission on both a formal basis via the European Regulators' Group, CERP (European Committee of Postal Regulators) and informally with our national regulatory counterparts by means of the Independent Regulators Group (IRG) to ensure that we follow best regulatory practice and regulate in a harmonised and proactive manner.

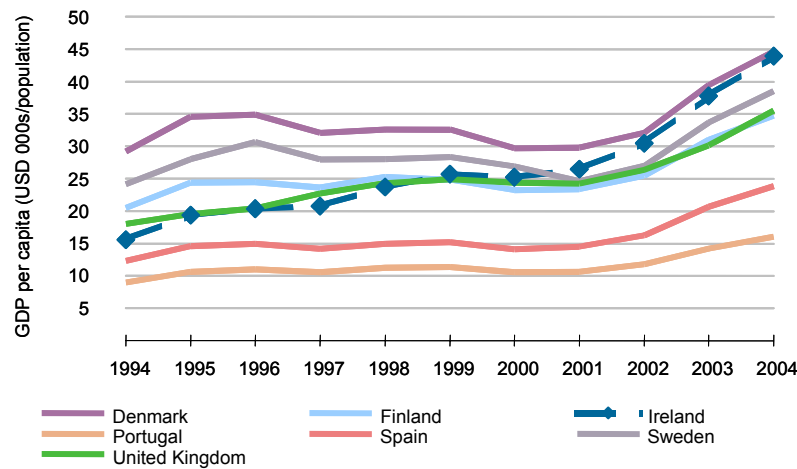
3.2 External environment

3.2.1 Irish economy

The Irish economy has continued to significantly out-perform most industrialised countries. The past ten years have seen growth (as measured by growth in GDP) of more than 7% per annum. In 2004 as a whole GDP expanded by 4.9%, while GNP increased by 5.5% - this is the first year since 2000 that GNP growth has exceeded GDP growth.⁵

This rapid growth has resulted in Ireland overtaking a number of peer countries in the EU in terms of GDP per capita.

⁵ Department of Finance. Monthly Economic Bulletin, June 2005

Figure 3.2.1 GDP per capita [source: Analysys]

This strong growth is set to continue over the period of this strategy statement. The European Commission forecasts GDP growth rates of 4.9% in 2005 and 5.1% in 2006. In addition recent analysis by Deutsche Bank indicates that Ireland will be the "top growth centre" within the OECD between now and 2020, with an estimated population growth rate of 1.1% per annum. Deutsche Bank also suggests that GDP per capita will grow by 3% per year, leaving Ireland second only to the US in terms of personal income.

Strong growth in GDP has been accompanied by historically high levels of employment. At the end of 2004 unemployment stood at an estimated 4.5% of the labour force. However given the openness of the economy, Ireland has not been immune to global economic shocks. The downturn in the telecom industry in 2000 also impacted on the sector in Ireland despite continued growth in the economy here.

The rapid growth in the Irish economy has led to increasing concerns about Ireland's competitiveness vis-à-vis other countries, particularly with the accession of ten new Member States to the European Union in June 2004. Specific areas of concern identified by the National Competitiveness Council in their latest report⁶ include relatively low productivity levels in specific economic sectors allied to labour shortages in sectors such as information technology, above inflation-level increases in a range of products and services and the low levels of Irish businesses' investment in R&D compared with other developed countries.

A recent report by Indepen and Ovum⁷ for the Brussels Roundtable highlighted the value of the Information & Communications Technology (ICT) sector in promoting economic growth in the EU, but warned of the productivity gap in Europe compared with other economies such as that of the US and Japan.

⁶ The report can be found at http://www.forfas.ie/ncc/reports/ncc_annual_05/index.html

⁷ Ovum/Indepen (2005) Achieving the Lisbon Agenda: the contribution of ICT

Therefore, while there is optimism with regard to the Irish economy in the near term, such optimism is also tempered with a more cautious outlook with regard to future growth. In this context ComReg recognises the need by potential investors for regulatory certainty and a regulatory climate that attracts new investment in the sectors that ComReg regulates. This Strategy Statement attempts to provide an element of certainty by clarifying ComReg’s regulatory strategy to 2007.

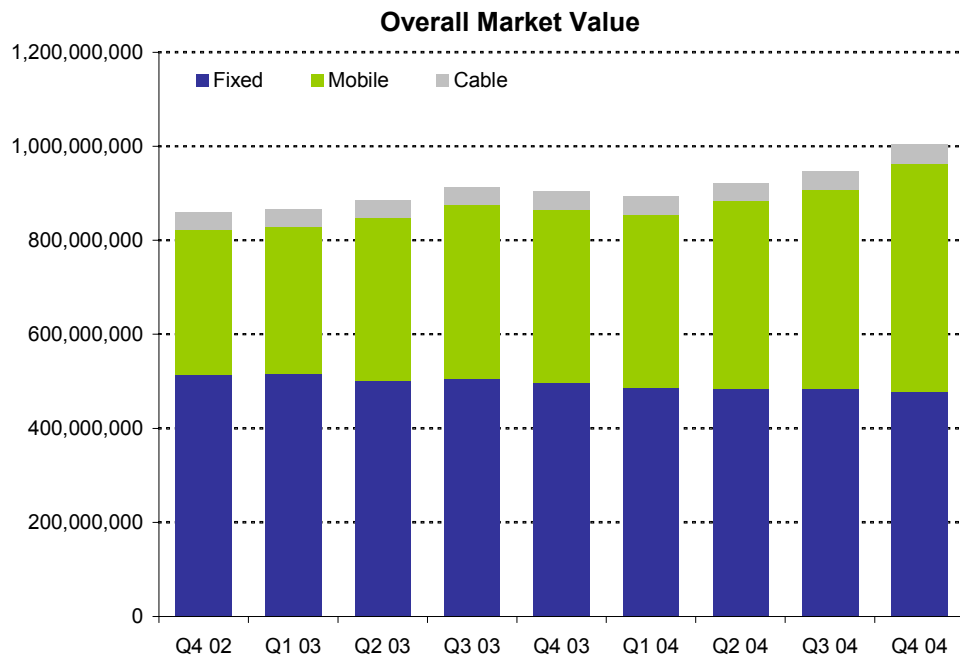
3.2.2 *Current analysis of the electronic communications market*

3.2.2.1 Overview

The importance of the Information & Communications Technology sector is illustrated by the European Commission in its i2010 initiative, which states that ICT accounts for 40% of Europe’s productivity growth and for 25% of EU GDP growth.⁸

The overall value of the Irish electronic communications sector has continued to rise, albeit gradually, as the global downturn in the sector eased off in late 2002 and early 2003.

Figure 3.2.2 Total communications revenues 2003-2004

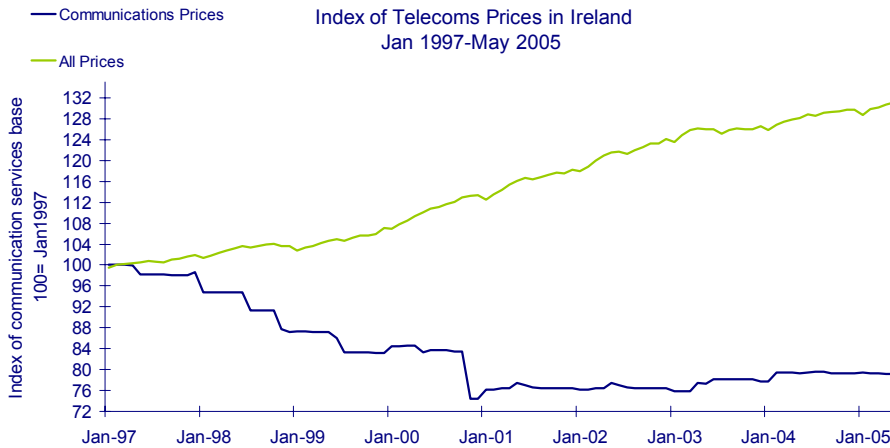


The mobile sector is the main driver of this revenue growth while fixed voice revenues in particular are declining as a result of more price competition and evidence of greater use of mobile networks for voice calls. The chart below plots the

⁸<http://europa.eu.int/rapid/pressReleasesAction.do?reference=IP/05/643&format=HTML&aged=0&language=EN&guiLanguage=en>

decline of electronic communications prices relative to overall prices in Ireland between 1997 and 2005.

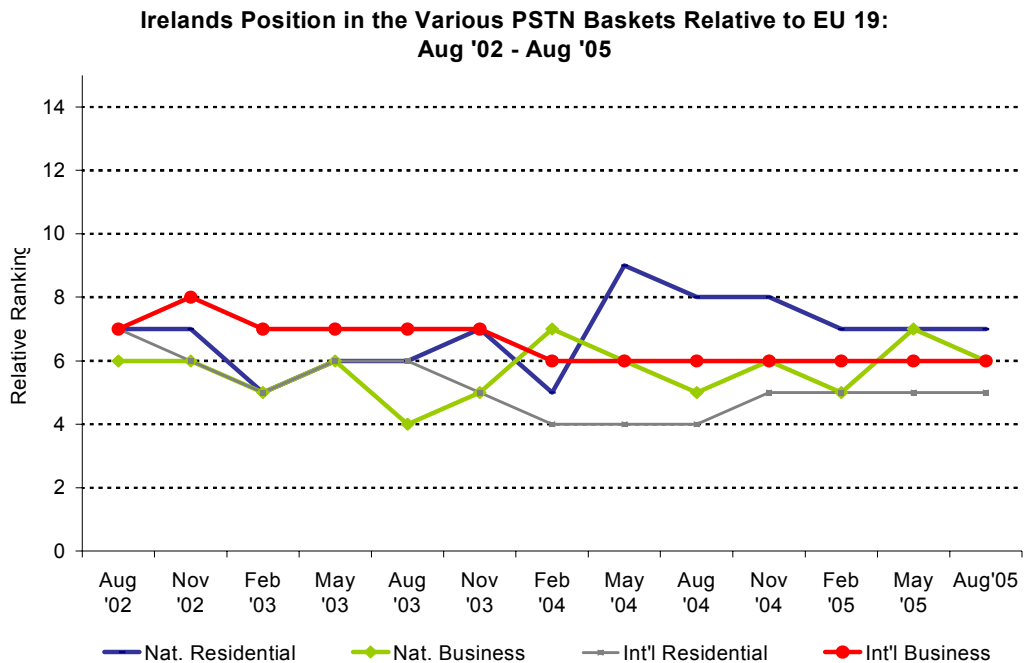
Figure 3.2.3 Communications prices and overall consumer prices between 1997 and 2005 [Source: CSO]



Source: CSO

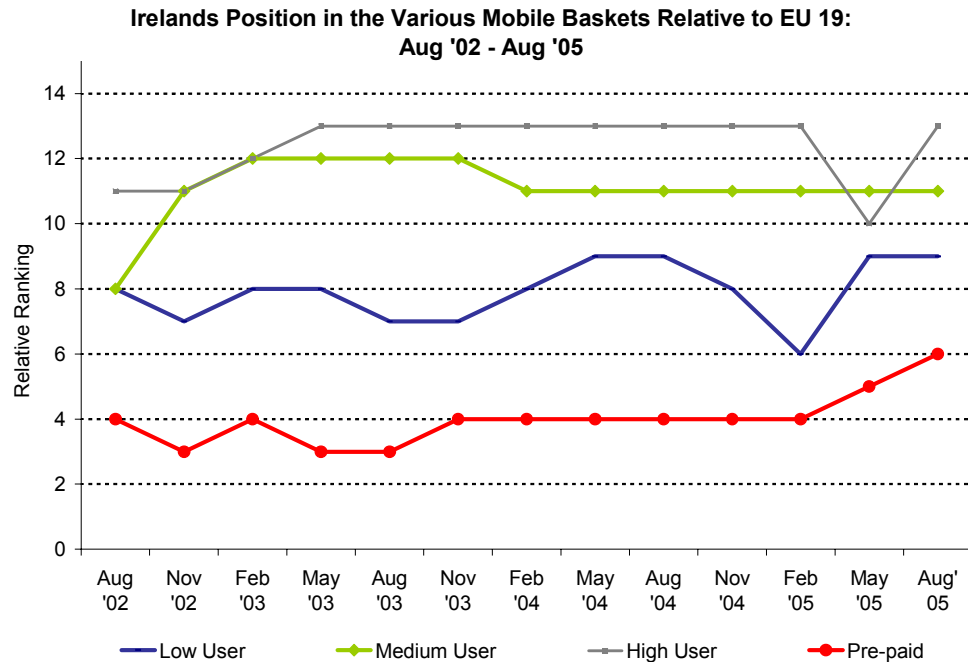
As the above chart clearly illustrates, Irish consumers have benefited from the liberalised market via lower prices. Additional tariff analysis commissioned by ComReg demonstrates the continued fall in communications prices, particularly in fixed voice markets.

Figure 3.2.4 Fixed voice telephony tariff baskets in Ireland, 2002-2005 [Source: Teligen]



However, prices in certain segments of the mobile market have remained stubbornly high as seen in the mobile tariff basket analysis below.

Figure 3.2.5 Mobile tariff baskets in Ireland, 2002-2005 [Source: Teligen]



New entrant 3's recent launch of its commercial 3G service, coupled with the current strong interest in the provision of virtual mobile network services, and the recent announcement by ComReg of a competition to issue an additional 3G licence, may help spur further price competition in the timeframe of this Strategy Statement.

The European Information Technology Observatory (EITO) suggests that the Irish electronic communications market will grow by 4.3% in 2005 and 2006, above the EU average of between 3.1% and 3.3%.⁹

3.2.2.2 Fixed electronic communications networks

Ireland has a number of competitors with competing network infrastructure. However ComReg's market analysis has found that eircom remains the dominant fixed network operator particularly in relation to access networks. eircom currently has a core network of around 55,000 km. BT Ireland also has a national network, although it is more limited in scale. BT, as the incumbent, also has an extensive network in Northern Ireland, ESB Telecom, a subsidiary of the Electricity Supply Board (ESB), and Aurora Telecom, a subsidiary of Bord Gais, both provide high

⁹ EITO Yearbook 2005

bandwidth network facilities at the wholesale level to other operators, but do not compete at the retail level.

The government has invested €65 million in the first phase of the Regional Broadband Programme, building twenty-six Metropolitan Area Fibre Networks (MANs) in towns and cities in association with the local and regional authorities. eNet have been appointed as the Management Service Entity to run this project.

Finally there are a number of private metro rings within the main population areas of Ireland, which are utilised to provide wholesale and retail leased lines.

Network investment here has also been undertaken on a smaller scale by other operators in Ireland, such as Colt Telecom, Smart Telecom, Energis, MCI, Cable and Wireless, Magnet Networks, Equant and Global Crossing.

Chorus and ntl are also investing to a significant degree to roll out digital services and increase broadband availability and had a combined customer base of more than 15,000 Broadband customers by August 2005.

Given that these cable networks pass almost 80% of Irish households, the possible consolidation of the two companies into a single entity and an improved investment climate overall, this may result in further upgrading of the networks and thereby spur continued roll-out and take-up of broadband.

ComReg also notes the deployment of a number of local area fixed wireless access networks by several operators, among them Irish Broadband, Last Mile Wireless and Digiweb. FWALA licences are available in the 3.5 GHz, 10.5 GHz and 26 GHz bands. These operators offer alternative platform access to broadband and by June 2005 had over 18,000 subscribers. Further information on the areas covered by these licensees is available on the ComReg website.¹⁰

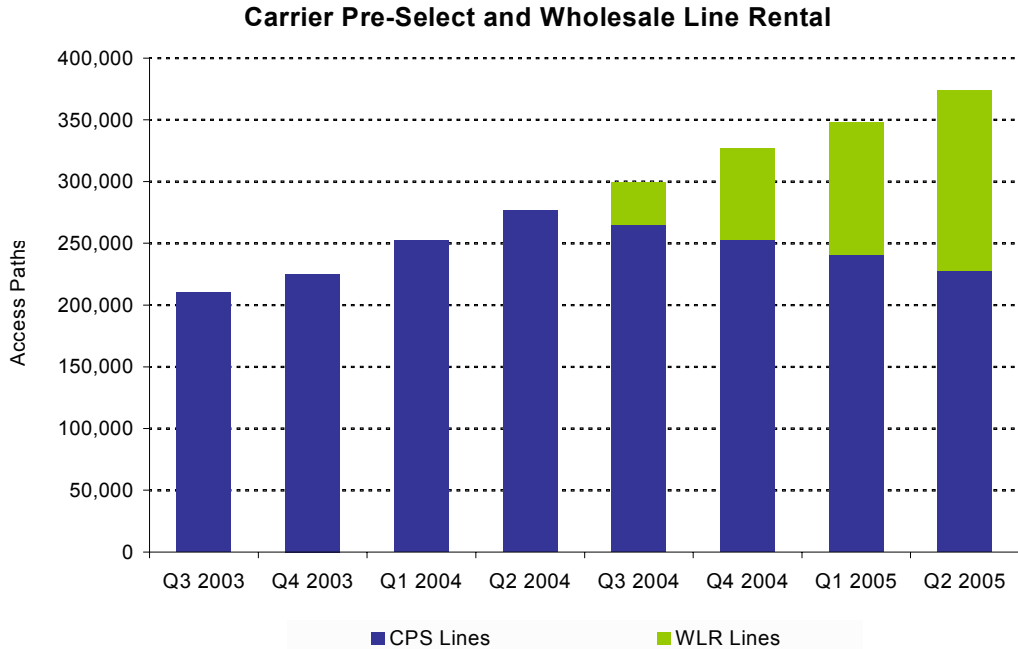
Recent data from the CSO indicates that new house building starts remain relatively buoyant. Over 41,000 homes were built in the first seven months of 2005. This provides further opportunities for the provision of electronic communication services and the resultant infrastructure to support it.

ComReg welcomes these network deployments as they have facilitated the delivery of an increasing range of innovative retail services to consumers, thus supporting ComReg's objective to provide end-users with increased choice and competitive prices. Since 2003 there has been a marked increase in activity in the Irish electronic communications market primarily by means of indirect access players, i.e. competitors using eircom's copper network to provide voice services to end-users by means of wholesale products such as carrier pre-selection (CPS) and wholesale line rental (WLR). By June 2005 six operators were offering a single bill for both calls and line rental while more than thirty operators were actively offering call services

¹⁰ <http://www.comreg.ie/FWABroadband/FWALA3-5.asp?S=4&NavID=228&M=>

using CPS. In the same period ComReg estimates that around one in ten of eircom’s PSTN lines was controlled by an alternative operator (OAO).

Figure 3.2.6 Indirect access competition in Ireland, 2003-2005



The majority of broadband connections in Ireland are currently delivered over the copper network. ComReg welcomes competition via alternative platforms such as cable, wireless and satellite and will actively encourage platform competition in the timeframe of this Strategy Statement.

The trend towards increasing convergence and bundling of services is beginning to become evident. A number of companies have for instance now launched a triple play of services combining telephony, Internet and TV.

ComReg generally welcomes the innovation and flexibility such services can offer to the consumer. Such services will however need to continue to be monitored to ensure that anti-competitive practices are prevented.

ComReg recognises that a number of authorised operators serve an all-island market for customers dependent on the provision of communications services to multiple sites on both sides of the border. Since April 2004, ComReg has worked closely with Ofcom by means of a Joint Working Group to address the needs of these users and will continue to actively participate in this Group in the future.

3.2.2.3 Mobile electronic communications networks

There are currently three companies – Vodafone, O2 and Meteor – providing mobile services over second-generation (GSM) networks in Ireland. Vodafone, O2 and 3 also have 3G licenses which will make higher-bandwidth mobile services available

over the mobile phone. At present both Vodafone and 3 are offering full commercial 3G services. O2 has also announced its intention to have a full commercial 3G service available by the end of 2005.

The Irish mobile penetration rate has increased steadily over the past few years and is currently at 94% of the population. Until recently this increase has been mainly attributable to the two main operators, Vodafone and O2. However in recent quarters, Meteor has also increased its subscriber base particularly in the pre-paid segment, adding to the overall growth.

Unlike other European countries, Ireland has not witnessed the entry of Mobile Virtual Network Operators (MVNOs) on a commercial basis. This was one of the factors taken into consideration in ComReg's analysis of the wholesale market for Mobile Access and Call Origination, which found Vodafone and O2 to be jointly dominant and which proposed mandating access by MVNOs, on a commercial basis, as a remedy to the competition problems in the market.

ComReg notes recent developments in the Irish mobile market, particularly the launch of commercial 3G services by 3 and the proposed acquisition of Meteor by eircom. In addition ComReg is also proposing to issue a fourth 3G licence and has received a number of expressions of interest in this licence. Such developments may facilitate greater consumer choice and value in the mobile market. ComReg will continue to monitor the mobile market closely in view of these developments.

3.2.2.4 Broadcasting transmission networks

RTÉ Transmission Network Limited ('RTÉNL'), a wholly owned subsidiary of RTÉ, owns and operates the national analogue terrestrial transmission networks.

As noted above ComReg welcomes the renewed appetite for network investment by the cable companies in Ireland, and highlights the fact that 40% of all households with a TV currently subscribe to digital TV services as evidence of strong consumer demand for digital broadcasting services.

There are moves throughout Europe to accelerate the transition from analogue to digital broadcasting. These developments will in turn make additional spectrum available for broadcasting and converged services (combining telephony and data services with television and radio). The Government is currently planning for national Digital Terrestrial Television (DTT).

ComReg continues to work with the Department of Communications, Marine and Natural Resources to enable the introduction of national digital terrestrial television (DTT) in the period under review.

ComReg will also explore other schemes such as digital video broadcasting (DVB) services at a regional level to increase competition in the provision of pay-TV and other services.

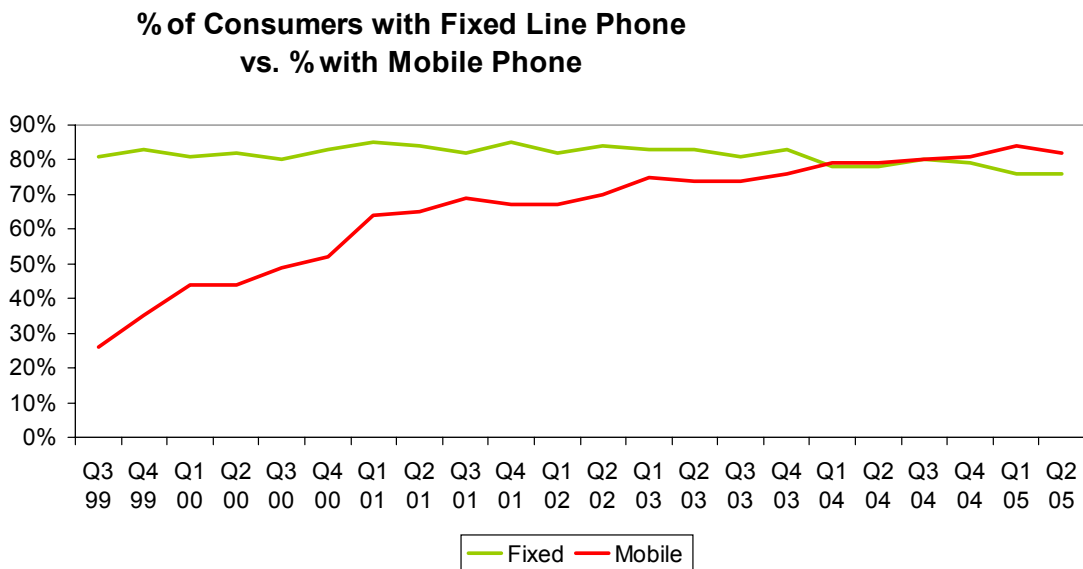
3.2.3 Future trends in the electronic communications market

3.2.3.1 Fixed mobile convergence and fixed mobile substitution

A high proportion of Ireland’s population is under 30 and this group has enthusiastically embraced electronic communications technologies such as mobile phones and broadband. According to Amárach Consulting’s Trends survey (commissioned by ComReg) carried out in May 2005, mobile phone ownership is highest among 15–24 year olds (94%) and 25–34 year olds (93%). This research also indicates that 36% of homeowners between the ages of 25 and 34 do not have a fixed line subscription in their home, suggesting a trend, particularly among younger demographic groups, of declining demand for a fixed line connection for voice telephony services.

Surveys commissioned by ComReg also indicate that there are more mobile than fixed telephony users in Ireland:

Figure 3.2.7: Fixed line and mobile phone subscribers in Ireland 1999-2005 [Source: Amárach Consulting]



Operators are responding to these trends in one of two ways. The first approach is taken by both fixed and mobile operators encouraging users to switch some or all of their voice calls to one specific type of network.

The second approach is one whereby a single operator offers both fixed and mobile network elements to their customers for voice calls. Service providers may decide to offer a converged or unified fixed service, which includes mobile or nomadic elements, to allow users to switch between a fixed and mobile network depending on their location. While such services offer increased flexibility to the consumer, their implementation will pose challenges for both the industry and regulators. Such converged services are not currently offered in the Irish market. However recent launches in the UK and elsewhere in Europe of commercial Fixed Mobile

Convergence (FMC) services herald a growing trend and ComReg will continue to liaise with other European Regulatory Authorities to monitor their progress.

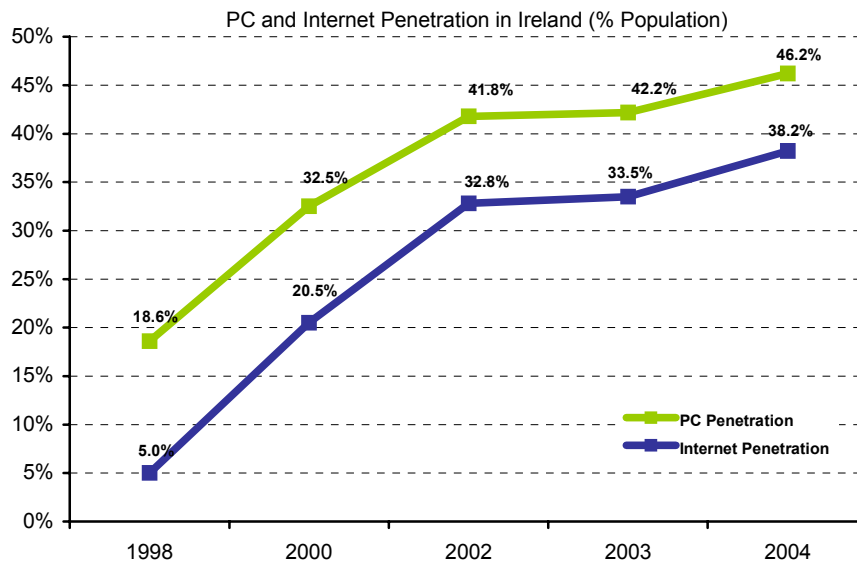
It should be noted that ComReg’s recent market analysis found that fixed and mobile access services are not in the same market; this is based on the fact that there are key differences between fixed and mobile access services and that neither supply-side nor demand-side substitution has taken place to any substantial degree thus far.¹¹ The European Commission, in setting out the eighteen relevant markets, also determined that these were in different markets, a view supported by other European regulators based on their own analysis of both fixed and mobile markets.

3.2.3.2 Internet and broadband penetration

Ireland has seen one of the highest levels of growth in broadband take-up over the past twelve months. This was however from a low base and further and significant growth will be necessary if we are to match or better levels of penetration in key competitor locations. There are a number of factors that will influence our ability to achieve this outcome. These would include increased supply/availability particularly in rural locations, demand stimulation and the levels of PC penetration.

While improvements continue on the supply side with more exchanges enabled, growth in cable roll-out and services from fixed wireless providers, equal focus is required on educating/mentoring users, particularly SMEs, and the development of further demand-side initiatives. The PC penetration level, while rising, also gives rise to concern, as levels here fall anywhere between 10% and 30% below countries with the highest levels of internet penetration. The chart below tracks growth in both home PC and internet access in Ireland over the past 4 years.

Figure 3.2.8 PC and Internet penetration in Ireland [Source: CSO]



¹¹ ComReg document 05/25

The table below charts the growth in alternative broadband platforms since June 2004.

Figure 3.2.9 Broadband subscribers and growth by platform

Platform	June 2005 Subs	Year-on-Year Growth June04-June05
DSL	141,000	154%
Cable	15,000	177%
FWA	18,000	313%
Satellite	1,500	-
Total	175,500	170%

It should be noted that the proliferation of single-unit housing in rural areas also has an impact on the electronic communications sector, as the cost to connect these houses to the access network can be higher than in more urbanised areas. ComReg recognises that there are a range of challenges in relation to the roll-out of broadband in Ireland. Progress needs to continue to be made on the levels of DSL line failure, removal of pair gains and access to the local loop. ComReg welcomes initiatives such as the Broadband for Schools programme and the Group Broadband Schemes in this regard, and notes that a number of respondents to the initial consultation document also highlighted the need for a focus by both industry and state bodies on demand stimulation.

Mass-market adoption of broadband by both consumers and business users in Ireland is crucial as broadband is a key enabler of productivity and efficiency for businesses and as a key tool to enable consumers to participate fully in the Information Society. The value of broadband to businesses was measured in a survey by the Institute of Directors¹² in the UK of its members in 2004. When asked what quantifiable benefits businesses are seeing in using broadband access, over 84% ascribed productivity improvements to their investment in broadband and 61% said that broadband had delivered cost savings, while 33% of respondents said that broadband had helped them boost customer satisfaction.

DSL, as in many other countries will not be the single solution to creating a broadband-based community. Issues such as line failure and distances from exchanges all have an impact. However advances in ADSL technology are increasing the reach from the DSL-enabled exchange to the end-user's premises. Further investment in the existing infrastructure will be necessary to meet the growing demand for bandwidth to support existing and emerging products and services.

¹² Broadband: its impact on British Business, October 2004

The continued promotion and rollout of alternative broadband technologies such as wireless and satellite also has a crucial role to play in ensuring that all Irish consumers have access to some form of broadband. ComReg has promoted such alternative technologies by means of initiatives such as the Fixed Wireless Access Local Area Licensing Scheme (FWALA).

3.2.3.3 VoIP and Next-Generation Networks

The international success of Voice over Internet Protocol (VoIP) service providers such as Skype and Vonage, linked to the rise in broadband penetration, has led to a new focus by fixed operators on the launch of commercial VoIP services to their own customer base. A number of service providers already offer retail VoIP services in the Irish market.

ComReg also notes developments elsewhere with regard to next-generation networks such as BT's 21st-Century Network and Telecom Italia's move to an all-IP converged network by 2008. The replacement of legacy networks with IP elements has the potential to deliver advanced electronic communications services to consumers while allowing network operators to reap the benefits of more efficient platforms, which in turn can help drive down network operational costs and improve margins. While such extensive technical migration may not occur in the timeframe of this Strategy Statement, ComReg will encourage industry analysis and focus on Next-Generation Networks by means of the establishment of an industry forum on NGNs.

3.3 General Legislative environment

Regulation is used most often as a general term to describe the diverse set of instruments by which all governments, and all branches of Government, regulate the economic and social activities of citizens and organisations.

Sector-specific regulation, aimed at introducing competition to former monopoly sectors, has been promoted primarily by the EU and supported by national governments as a move towards fully liberalised markets. The level of intervention required in any given market is predicated on these objectives. The more that communication markets are fully functioning and delivering quality, price and choice to end users, the more regulators can forbear from intervention.

ComReg recognises the importance of assessing the impact of regulatory measures in order to ensure that they are proportionate and justified. Such assessments are carried out in accordance with European and international best practice. ComReg has participated fully in the Better Regulation group set up by the Department of the Taoiseach, and is working to ensure that it applies any regulatory measures in accordance with both Irish and international best practice. In this context ComReg carries out Regulatory Impact Analyses (RIA), where warranted, to ensure that undue regulatory burdens are not imposed on the industry.

ComReg has also contributed to the Guidelines on Regulatory Impact Analysis which will be issued shortly by the Department of the Taoiseach. The imposition of

regulatory obligations by primary legislation requires a detailed RIA. The nature and focus of sectoral regulation is different; in many cases the regulatory obligation is imposed in primary legislation and ComReg is only concerned with implementation and enforcement. The number of regulatory decisions is much greater and there are legislative constraints on the scope of such decisions. For all these reasons an RIA to the same level of detail may not always be appropriate.

3.3.1 Legislative framework for the electronic communications sector

The new EU framework for regulation of the electronic communications sector has been fully implemented in Ireland and such progress has put Ireland among the most advanced countries in the EU in terms of regulatory agility and flexibility. The core regulatory principles as set out in Article 8 of the Framework Directive are:

- Technological neutrality
- Promotion of competition, for example by promoting innovation and ensuring that users derive maximum benefit in terms of choice, price and quality
- Promotion of the development of the Internal market, for example by eliminating discrimination, and by removing obstacles to the provision of electronic communication networks and services
- Promotion of the rights of citizens, for example by ensuring access to a universal service
- Regulation only where necessary and by means of clear, stable and predictable rules

The new EU Regulatory Electronic Communications package was transposed on July 25th 2003 in an attempt to harmonise and streamline regulation of the electronic communications sector in the EU. The framework is made up 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) and Decision No 676/2002/EC on a regulatory framework for radio spectrum policy in the European Community.

In addition to the main legislative texts there are other provisions dealing with competition in the markets for networks and service, the workings of the European Regulators Group (ERG) and guidelines on the assessment of market power.

This new framework promotes two principal regulatory concepts - technologically-neutral regulation and the application of a common economic and legal framework for analysis of eighteen key markets using competition law principles.

ComReg is among the first member states to complete its market analysis in a timely manner and is currently applying remedies to those markets where one or more

operators have been designated as dominant. This will ensure that ComReg regulates markets consistently and where necessary, thus minimising the regulatory burden on providers of electronic communications networks and services.

ComReg notes the European Commission's intention as stated in its i2010 Communication to review the regulatory framework for electronic communications in 2006 and will work closely with the Commission and regulators from the 25 Member States during this review.

It is a matter of public record that a number of legal challenges have been lodged against some of ComReg's decisions on dominance and the appropriate remedies. ComReg clearly recognises the right of affected persons to bring appeals, but is concerned that in the interests of providing certainty and thereby ensuring an environment that supports investment for both the industry and end-users, that these be concluded expeditiously. ComReg notes that both the OECD and the European Commission have commented on the threats which delays caused by these legal challenges pose to the further development of the Irish market.

3.3.2 Legislative framework for spectrum management

Under the Wireless Telegraphy (WT) Act, 1926, everybody requires an authorisation to keep and have apparatus for wireless telegraphy and this authorisation generally takes the form of a licence or a licence exemption created under secondary legislation. ComReg has the authority to develop secondary legislation to permit the licensing or licence exemption of different types of wireless apparatus.

The primary legislation applicable to the broadcasting sector comprises the Broadcasting Authority Act 1960 as amended, the Broadcasting and Wireless Telegraphy Act, 1988, the Broadcasting Act 1990, the Radio and Television Act, 1988 and the Broadcasting Act 2001 in addition to the Wireless Telegraphy Acts. Irish television and radio broadcasters are licensed for the use of spectrum and apparatus under the Broadcasting Authority Act 1960 (in the case of RTÉ) and under the Radio and Television Act 1988 (in the case of the BCI contractors). MMDS and Deflectors (which allow for the distribution of programme services in Ireland over the air), are licensed by ComReg under the 1926 Wireless Telegraphy Act. Broadcasting distribution and transmission systems are subject to the new EU regulatory framework for electronic communications networks and services.

The new framework regulations do not replace the WT Acts 1926-1988 but take priority over them. Since 2003, licensing of wireless electronic communications services and networks under the WT Acts must be done in accordance with the requirements of the framework regulations.

New legislation relating to the regulation of the electronic communications sector is expected in the medium term as set out in the Department of Communications, Marine and Natural Resources' most recent Statement of Strategy. This includes a new Electronic Communications (Miscellaneous Provisions) Bill, a new Radiocommunications Bill, which will replace the Wireless Telegraphy Acts 1926-1988 and new broadcasting legislation.

3.3.3 The legislative framework for the postal sector

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.

Provisions are also contained in older legislation including the Postal and Telecommunications Services Act, 1983, the Evasion of Postage Act, 1937, the Post Office (Duties) Act, 1847, the Post Office Act, 1908 (of which provisions remain extant), and a body of secondary legislation comprising various statutory instruments and orders.

4 ComReg's mission, values and vision

An organisation's vision is a key component of any corporate strategy. ComReg's vision encapsulates an efficient, dynamic and competitive market offering a range of innovative and competitively priced services to consumers.

We consider that our work critically enables:

- The provision of leading-edge, convergent electronic communications services to Irish consumers at the best possible value;
- Ireland becoming a leading international hub for electronic commerce and a base for investment in knowledge-intensive industry;
- Enhancing Ireland's development in the Information Age, unlocking the potential of technological convergence and, thereby, stimulating the overall development of Ireland's society and economy.

With this in mind, ComReg's mission statement takes into account both national and European objectives and has been revised in light of feedback from stakeholders. The revised mission statement and values are set out below:

Mission Statement

The Commission for Communications Regulation will facilitate the development of a dynamic, efficient and competitive market-place for electronic communications and postal networks and services for the benefit of the Irish Community.

Values

ComReg's mission is underpinned by adherence to five values:

- Integrity
- Professionalism
- Impartiality
- Effectiveness
- Transparency

5 ComReg's objectives and strategies for the electronic communications sector

5.1 Competition

The promotion of competition is a vital component of effective regulation. Competition is key to ensuring a sustainable industry, which has the means and is willing to invest in developing innovative products and promoting product differentiation. Competition is also vital to ensure that there is a level playing field for both incumbents and new entrants, which in turn ensures the availability of a range of products and services to consumers, which offer them choice, quality and competitive prices.

Most respondents to the draft Strategy Statement welcomed ComReg's focus on the promotion of competition in the timeframe of our Strategy Statement. In relation to competition a number of respondents indicated that ComReg's key focus should be on local loop unbundling between now and 2007. Some respondents also requested more detail on the means by which we could achieve our objectives in relation to competition.

ComReg's competition policy is to promote the development of a sustainable and dynamic industry which offers the widest choice of innovative products and services to users and will ensure its objectives are achieved by means of the following strategies:

- **Maximising competition framework**
The aim is to ensure choice, price and quality for consumers and is generally delivered through the regulatory framework that has been put in place to facilitate the development of effective competition.
- **Promoting platform competition**
The aim is to put in place measures which reward operators for investment in communications infrastructure and encourage delivery of innovative and differentiated services.
- **Preventing market distortions and anti-competitive behaviour**
The aim is to monitor the behaviour of industry players to ensure that they meet their obligations, and to take steps to prevent and/or rectify anti-competitive behaviour, for the benefit of end-users.

ComReg will ensure its objectives are achieved by means of the following strategies:

Ensuring choice, price and service for end-users

Work with the industry to develop new and innovative indirect access wholesale products where this is appropriate which are priced to encourage sustainable competition while avoiding the distortion of investment incentives.

<p>Encourage the development of digital broadcasting by conducting a strategic review of digital services and introduce schemes as appropriate to licence new services</p>
<p>Enable the licensing of appropriate new services</p>
<p>Work with the industry to enable the provision of relevant Fixed Mobile Convergence (FMC) services that are innovative, user-friendly and economically advantageous to end-users</p>
<p>Ensure the availability of alternative technologies such as fixed wireless access to provide the widest reach and choice of broadband products and services.</p>

Promoting platform competition

<p>Encourage continuing investment in alternative electronic communications infrastructure where appropriate</p>
<p>Encourage virtual or indirect access to both fixed and mobile networks at cost-oriented prices, which both guarantee a viable rate of return to the network operator and provide a sustainable margin for the virtual network operator, while ensuring that relative potential investment returns as between indirect access and infrastructure investment reflect the relative risks involved</p>
<p>Continue to support the development of initiatives to stimulate both demand for and supply of broadband such as the Group Broadband Schemes and the Broadband for Schools programme</p>
<p>Encourage the use of radio/alternative technologies to support competition in access, backhaul and/or core networks</p>

Preventing market distortions and anti-competitive behaviour

<p>Continue to work with industry to develop transparent and efficient processes for unbundling the local loop</p>
<p>In line with the new regulatory framework we will continue to identify distortions/restrictions in the provision or availability of Electronic Communications Services using market-based triggers. Where necessary, we will take steps/ develop policies to deal with any such restrictions or distortions</p>
<p>Oversee the production of clear and transparent separated accounts from eircom, RTÉNL and dominant mobile operators</p>
<p>Continue to promote transparent pricing and processes for access and interconnection</p>
<p>Introduce a transparent margin squeeze test, having regard to commercially sensitive information</p>
<p>Review the existing price cap on eircom</p>
<p>Investigate the introduction of wholesale price caps where possible and appropriate</p>
<p>Consider within the context of the regulatory framework the appropriateness of the markets already defined and whether there are other markets where intervention may be warranted</p>
<p>Ensure that the competitive playing field does not unduly favour particular operators and, in particular, the retail arms of incumbent operators</p>

5.2 Consumers

Most respondents to the initial consultation welcomed ComReg’s focus on the consumer. Some respondents suggested that ComReg consult the industry in advance of implementation of consumer initiatives. ComReg notes these concerns; however ComReg considers that it consults on all of its key decisions either via public consultation or by means of industry fora and communications.

A competitive electronic communications market offers benefits to consumers in terms of attractive and transparent pricing, a wide range of choice in terms of services and suppliers and high quality services and products. ComReg has a key role in informing and educating consumers with regard to the availability of electronic communications products and services, and in providing consumers with appropriate means of redress and support in the event of a dispute with their supplier.

The informed consumer feels more in control of their own lives and is better able to articulate their service and quality needs. This in turn ensures that the communications industry delivers products and services that are of real value to consumers.

ComReg's consumer policy is to promote the interests of consumers and end users and will ensure its objectives are achieved by means of the following strategies:

- **Maximising consumer welfare**
The aim is to ensure choice, price and quality for consumers and is generally delivered through the regulatory framework that has been put in place to facilitate the development of effective competition.
- **Protecting Consumers**
The aim is to put in place measures to protect consumers while competition is developing; this is achieved through specific measures adopted under appropriate legislation (mainly EU Directives and national legislation).
- **Raising Consumer Awareness**
The aim is to provide consumers with information to allow them to make informed choices in the market, thereby contributing to the development of competition. This is achieved through the publication of relevant information and ongoing communication with consumer groups and their representatives.

ComReg will ensure its objectives are achieved by means of the following strategies:

Maximising Consumer Welfare

Ensure that a Universal service of fixed telephony services and narrowband internet services is available to all citizens upon reasonable request and at affordable prices
--

Conduct a detailed review of the Universal Service Obligation in Ireland in preparation for its renewal in July 2006
--

Protecting Consumers

<p>Ensure the provision of an accessible and effective consumer complaints service to electronic communications users</p>
<p>Ensure compliance by operators with regard to codes of practice for tariff presentation</p>
<p>In collaboration with the with the Data Protection Commissioner, monitor usage of the National Directory Database direct marketing opt-out facility</p>
<p>Develop a memorandum of understanding with the newly established interim Board of the interim National Consumer Agency with regard to the needs of consumers of electronic communications services and networks</p>
<p>Through ComReg’s consumer line team, monitor the impact on consumers of any negative mis-selling or other unfair sales practices and in collaboration with other agencies apply remedies to address incidents of such negative practices in the electronic communications sector</p>
<p>Continue to invite input from ComReg’s External Consumer Advisory Panel on all consumer issues in the markets regulated by ComReg</p>

Raising Consumer Awareness

<p>Provide clear and user-friendly information through the www.askcomreg.ie website and the publication of consumer guides</p>
<p>Facilitate consumers to make more informed choices in order to allow them to benefit from increased competition and choice in the electronic communications market through the development and launch an Interactive Tariff Comparison website for Fixed, Mobile and Internet services</p>
<p>Carry out end-user surveys and research to inform the market of consumer attitudes to and use of communications technologies, and to raise awareness of the options open to consumers with regard to communications services and products in the Irish market</p>

5.3 Internal market

The regulatory framework within which ComReg operates has been set at a pan-European level by the European Union. The implementation of this framework has enabled ComReg to apply a consistent and harmonised set of rules to the electronic communications market in Ireland, which are based on the principles of technological neutrality, regulation only where necessary and the primacy of competition law.

The work of ComReg is dependent on cooperation with regulatory counterparts in the EU, as well as the European Commission via the European Regulators' Group (ERG). In addition ComReg actively participates in a number of other European and internal fora to ensure that it follows best practice with regard to regulation of the electronic communications sector.

In addition, given the fact that a number of electronic communications network and service providers operate on an all-island basis, ComReg will continue to work closely with its counterpart Ofcom on all-island issues.

- **Ensuring that regulatory policy is harmonised with policy in other Member States**

The aim is to ensure that ComReg's regulatory policies and decisions are consistent with approaches in other member states, thus ensuring regulatory certainty for operators

- **Promoting innovation**

The aim is to encourage and promote the development of innovative products and services by means of a light-handed regulatory policy which supports tests and trials of new technologies

- **Promoting regulatory cooperation**

The aim is to work closely with regulatory counterparts in Europe and further afield to adopt and maintain best practice with regard to regulation

ComReg will ensure its objectives are achieved by means of the following strategies:

Ensuring that regulatory policy is harmonised with policy in other Member States

Work closely with the IRG and other stakeholders to participate in the revision of the new regulatory framework
Work closely with the IRG and other regulators to contribute to the review of the Recommendation on relevant markets

Promoting innovation

<p>Work within the European Regulators’ Group to promote best practice with regard to regulation of the electronic communications market</p>
<p>Provide innovative solutions to Irish consumers through our work in international fora such as the European Commission, the ITU and the OECD</p>
<p>Work closely with the DCMNR and the broadcasters in preparation for the ITU Regional Radiocommunications Conference in 2006 (RRC-06) which will establish the future plan for digital radio and television terrestrial services in a post-analogue era.</p>

Promoting regulatory cooperation

<p>Continue to actively participate in the work of the IRG at both Plenary and sub-group level</p>
<p>Work closely with Ofcom to eliminate cross-border inefficiencies and barriers</p>
<p>Continue to actively participate in the work of the ERG</p>
<p>Continue to drive pan-European initiatives on spectrum such as Wireless Access Platforms for Electronic Communications Services (WAPECS) by means of ComReg’s participation in the Radio Spectrum Policy Group</p>

6 ComReg's objectives and strategies for management of radio frequency spectrum

The Commission for Communications Regulation (ComReg) is responsible for the efficient management and use of the radio spectrum, one of Ireland's key natural resources. In order to best meet the needs of the market, ComReg tries to ensure that, as far as possible, the right spectrum is available at the right time.

In 2002 ComReg's predecessor, the ODTR, was the first regulator in Europe to allow licence exempt fixed wireless access in the 5.8GHz band and as early as 2001 permitted public access services to be provided over the 2.4GHz band. Against this backdrop, new broadband service providers, some focussed on wireless only and some on multiple platforms, emerged in the Irish market.

In May 2005 ComReg launched a new licensing regime for radio service and technology trials which will bring Ireland to the forefront as an ideal location for research and development. This will allow new service concepts to be tested in a realistic environment at an early stage of development, ensuring that subsequent commercial offerings are properly tailored to meet the needs of users.

ComReg has published a strategy with regard to radio spectrum which includes a number of strategic goals, namely:

- Facilitating access to radio spectrum, particularly for innovative technologies and services;
- Maximising the economic and social benefits arising from the use of radio spectrum;
- Promoting the efficient use of scarce radio spectrum resources; and
- Ensuring compliance with international requirements and the avoidance of harmful interference.

These broad strategic goals are reflected in ComReg's positions regarding spectrum for specific services as detailed in ComReg document number 05/72, Spectrum Management Strategy Statement for 2005 – 2007.

7 Strategy Statement for the Postal Sector

7.1 Introduction

7.1.1 Postal Services: a brief overview

Postal services are atypical as there are two “customers” for every transaction, the sender and the receiver. In the case of correspondence normally the sender pays, but operators have obligations to both as it is often the receiver who “wants” the service¹³. In the case of merchandise express carriers and some other operators offer “receiver pays” options to facilitate importers of goods.

A network of Posts was first developed in these islands in the mid 17th Century. From the outset they were organised as a monopoly under state control, not for economic reasons but to safeguard state security (through censorship when necessary).

It was the Postal Reforms of the mid 19th Century, including the introduction of postage stamps which gave the impetus for the Posts to become a network for mass communication.

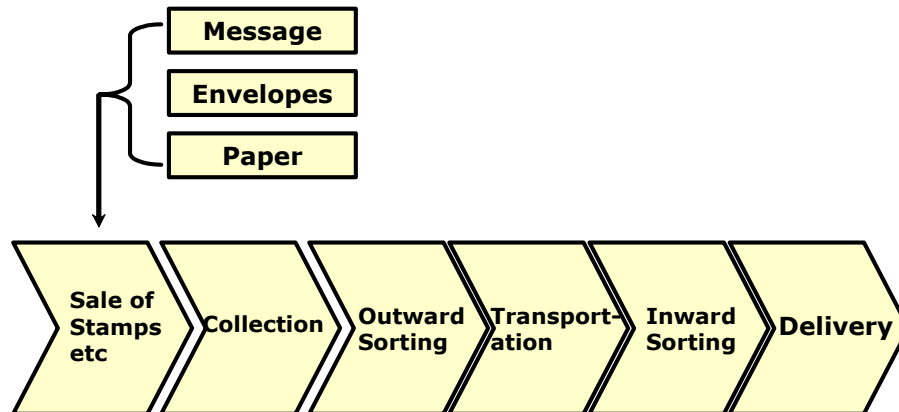
The formation of the UPU¹⁴ in 1874 laid the foundations for an integrated network of national Posts providing affordable services to every part of the world.

The introduction of a Parcel Post on 1 August 1883 arose from the decision of a UPU Conference in Paris in 1880 to establish an International Parcel Post. Within Britain and Ireland successful lobbying by the railway companies and other carriers had prevented the Post from providing such services, although “letters” were regularly used for the conveyance of small items.

Whether used for the conveyance of letters or parcels the postal value chain for the last two centuries comprised six distinct activities as shown in Figure 7.1.1 below. Upstream of the postal value chain originators of mail had to purchase envelopes and paper on which to write their message, or in which to wrap the goods or other articles.

¹³ In Common Law jurisdictions the act of posting a letter is normally sufficient to discharge the responsibility of the sender and the recipient bears the risk arising from loss or damage in the course of transmission by post.

¹⁴ Originally the General Postal Union, it changed its name to the Universal Postal Union in 1878 and became a specialised agency of the United Nations on 1 July 1948

Figure 7.1.1 Traditional Postal Value Added Chain

The impact of changes in the technical environment on the Postal Value Chain is discussed in section 6.3.4. Over the centuries, innovation, increased geographical coverage and the quest for affordable prices were all driven by public campaigns and the enterprise of entrepreneurs.¹⁵ Until recent years the ideas of successful competitors were adopted by the monopolies. It is only with the arrival of the international couriers in relatively recent times that enduring alternatives became available, and then to business customers only. While the provision of such services was allowed "de jure" in some large countries, in many European Countries, including Ireland, they operated only with "de facto" approval, until the first Postal Directive regularised the position.¹⁶

7.1.2 *Markets in which the postal services operate*

Consistent with the objectives of the Postal Reforms of the 19th century, postal operators have traditionally held de jure monopolies over the conveyance of letters. De jure monopolies over the provision of services, in any market, tend to lead to the underdevelopment of the market by comparison with fully competitive markets¹⁷. Furthermore, the existence of substitutes (such as newspaper advertising and electronic communications) which can meet market demand for at least some of those services, also tend to restrict the development of the market.

¹⁵ The earliest example was one William Dockwra who established a local "Penny Post" in London in 1680.

¹⁶ See Green Paper on the Development of the Single Market For Postal Services, COM(91)476. In Ireland section 63 of the Postal and Telecommunications Services Act, 1983 which granted an exclusive privilege to An Post was only repealed on 27 September 2000 (S.I. 310 of 2000).

¹⁷ See Annex B for a more comprehensive note on the origin and impact of the postal monopolies.

7.1.2.1 Retail Markets for Business Customers

Business customers account for between 80% and 95% of the postal items handled by the national “universal service providers”, depending on the country concerned.¹⁸ Irrespective of whether the recipient is another business (B2B) or a private consumer (B2C), there are substitutes available to most such users of the post. The opening of postal markets to full competition will enable the postal market to achieve its full potential.

7.1.2.2 Retail Markets for Private Consumers

At the beginning of the 20th century mail generated by private consumers accounted for a very large proportion of all mail. The emergence of affordable electronic communications services in the last three decades of the 20th century has largely eliminated the Post’s role in the messaging market. Currently mail posted by private consumers addressed to other individuals (C2C) accounts for between 6% and 8% of total letter mail flows.¹⁹

A large percentage of this relates to greetings cards and the vast majority of these are posted in the weeks immediately prior to Christmas. Customers of the Post have the alternative of hand delivery and retailers willing to deliver “gifts”, such as flowers or chocolates, in lieu of a greetings card.

The consumer to business (C2B) segment is concerned with correspondence and transactions. A small element of the C2B segment is concerned with physical distribution, largely in relation to returns of unwanted / damaged goods, or the despatch of items for repair.

7.1.2.3 Wholesale markets for other operators

The whole concept of a universal (worldwide) postal service has from the start been built upon national Posts, on foot of international treaties, providing wholesale delivery services to postal operators in other countries.

In more recent years similar services have been offered by many operators to consolidators of mail, mail preparation companies (e.g. printers and other companies who provide printing and/or addressing and insertion services on an outsourcing basis) and large mailers who can hand over their mail to the operator in delivery sequence.

7.1.2.4 The emergence of competition

As noted above alternatives to the services of the state monopolies emerged right from the start. The earliest example in these islands was the Penny Post launched in 1680 by William Dockwra and his partner Robert Murray to meet the demand for a

¹⁸ See "Main Developments in the European Postal Sector", WIK for the European Commission 2004, pages 111-112

¹⁹ See "Main Developments in the European Postal Sector", WIK for the European Commission 2004, pages 111-112

local postal service in London. They had a head office in Lime Street and seven sorting offices. In two years, it had grown to four to five hundred receiving houses, with messengers who delivered between five and 15 times daily. It was so successful that the Post Office claimed that it infringed their monopoly. As a result Dockwra lost his Penny Post, and in 1682 it was incorporated into the General Post Office²⁰ Writing in the context of Dockwra's Penny Post and subsequent innovations the postal historians Feldman and Kane²¹ observed:

“It is one of the remarkable facts of Post Office history that all the really important innovations and reforms were the work of outsiders, who usually did not achieve success until the strenuous opposition of Post Office Officials was overcome. Dockwra's case was, however, somewhat different. He was permitted to set up his Penny Post, open a large number of Receiving houses, and conduct his project with skill and efficiency. However, good results did not bring personal popularity for Dockwra. The Penny Post proved a great financial success and this was his undoing. The Post Office could view with majestic aloofness Dockwra's work so long as he arranged, planned, developed or spent money; but when it came to the point of his making a profit, the forces of law were at once put into operation against him.”

It was not until very recently that real competition was permitted in the provision of services for the conveyance of letters. Initially in 1972 the USA permitted competition in upstream activities (Collection, Sorting and Transportation), while from 1981 Britain permitted competition providing the price paid exceeded £1. During this period also the express companies developed their courier services on a global basis – in some countries with de jure authority, in others with de facto acceptance. Full competition followed in New Zealand (1987) and Sweden (1992).

In 1991 the EU Commission published its Green paper on the Liberalisation of postal services and in 1997 the first Postal Directive²² became law. Under this Directive the services that could be “reserved” to designated universal service providers within the EU were confined to those relating to the clearance, sorting, transportation and delivery of items of correspondence weighing less than 350g, providing that the price charged was less than 5 times the basic tariff²³.

The second Postal Directive²⁴ was adopted in 2002 and reduced the extent of the reserved area to 100g (with a limit of 3 times the basic tariff) with effect from the 1st of January 2003. This Directive (Article 7(3)) also set the 1st of January 2009 as the target date for the accomplishment of a fully liberalised postal market within the EU.

²⁰ <http://www.victorianweb.org/history/letters/1791.html>

²¹ Feldman and Kane, “Handbook of Irish Postal History to 1840”, David Feldman (Ireland) Ltd 1984

²² Directive 97/67/CE of December 15, 1997.

²³ Five times the public tariff for an item of correspondence in the first weight step of the fastest category,

²⁴ Directive 2002/39/EC of 10 June 2002 (amending Directive 97/67/EC with regard to the further opening to competition of Community postal services)

Many countries, such as Norway, Britain, the Netherlands and Germany intend to remove the restrictions prior to this date while countries such as Sweden, Finland, Estonia and New Zealand already have postal markets fully open to competition.

Within Ireland the Government opened the market for outbound cross-border mail to full competition from 1 January 2004, in accordance with the EU timetable for the creation of an internal market in postal services. From the same date providers of postal services in Ireland with a turnover of more than €500,000 (excluding VAT) were obliged to obtain a Postal Service Authorisation from ComReg. As at June 2005 23 Postal Service Authorisations had been issued by ComReg.

From 1 January 2006 the postal services which are “reserved” to An Post will be further reduced so that only services involving items of correspondence for delivery in Ireland weighing less than 50g and priced at less than 2½ times the basic tariff (i.e. currently €1.20 = 2½ x 48c.) cannot be provided by competitors. From this date competitors to An Post will be allowed to deliver all other letters, so long as they weigh more than 50g.

The Second Application Report²⁵ by the European Commission (March 2005) reports:

“In order to ensure that consumers can continue to enjoy the benefits of the Internal Market, it is essential to maintain (in parallel) the pace of regulatory reform and respect the timetable set in the Directive for accomplishing the Internal Market for postal services. Developments to date provide no evidence supporting the need for a change of the deadlines set out in the Postal Directive.”

The European Commission is due to submit another report to the European Parliament and the Council of Ministers by the end of December 2006. The European Commission intends to launch a public consultation towards the end of this year to develop the regulatory framework appropriate once the internal market for postal services is fully accomplished in 2009.

7.2 Environmental analysis

It is a vital first step of any strategy review to consider key developments in the relevant sector. This chapter will examine key trends in the postal sector and also key trends in the Irish economy:

- The changing nature of postal services
- An evolving regulatory framework
- Emerging ownership trends

²⁵ Report on the application of the Postal Directive (Directive 97/67/EC as amended by Directive 2002/39/EC) – COM(2005)102 final and annex

- The technical environment
- The postal business environment

The economic and legislative environments have been discussed in sections 3.2.1 and 3.3.3 respectively

7.2.1 The changing nature of postal services

In Ireland it can be observed that there are changes in the overall composition of letter mail, for example:

- Competition from electronic media, e.g. telephone (fixed and mobile), email, internet, and interactive television (iTV), is reducing the proportion of mail that is made up of business correspondence or which originates from private consumers²⁶.

On the other hand postal services continue to offer business customers significant advantages over electronic communications in some of their communications with private consumers and other businesses. According to recent research, consumers remain favourably disposed towards direct mail compared with other channels. Many more consumers prefer to receive direct mail compared to those that want to get email or telemarketing promotions.²⁷

- According to the Worldwide Benchmarking Study “What is Driving Direct Mail? Expected Mail Volumes vs. Actual Mail Volumes”²⁸, the level of addressed mail per capita in Ireland is 53% of the expected volumes on the basis of the key national economic indicators that are correlated internationally with mail volumes. The level is only 47% of that expected on the sole basis of national expenditure on advertising.

Parcel and packet services have always been open to intense competition and a process of consolidation is apparent internationally. Within Ireland, An Post’s specialised parcels division, SDS, has recently been closed and parcel services have been brought back into the mainstream operation. Competition between direct marketing / centralised distribution of goods and retail distribution and, in particular the growing importance of e-commerce, is leading to increased demand for fulfilment services and boosting the B2C segment of the parcels markets for remaining operators²⁹.

²⁶ See "Main Developments in the European Postal Sector", WIK for the European Commission 2004, Table 5.1.8 page 115

²⁷ See in particular page 15 of "Mail Trends" Fouad H. Nader (Adrenale Corporation) for Pitney Bowes Inc.

²⁸ A research report by Bryan Cassady, Postal Solutions, Belgium.2003

²⁹ See "Main Developments in the European Postal Sector", WIK for the European Commission 2004, pages 141-144 and 205-206

7.2.2 *An evolving regulatory framework*

Six countries currently have postal markets that are fully open to competition – Sweden, Finland, Estonia, New Zealand, Columbia and Argentina.³⁰ A number of countries, including Britain, Germany, the Netherlands and Norway, intend to open their markets to competition in the near future, Britain as soon as January 2006. The transitional period granted to allow other European operators time to comply with the internal market provisions of the EU Treaty / EEA Agreement is due to end on the 1st of January 2009.

The third Postal Directive, setting out the regulatory framework once the transitional period ends, is due to be presented to the European Parliament and Council of Ministers by the end of 2006. The European Commission intends to launch a public consultation towards the end of this year to develop the regulatory framework appropriate once the internal market for postal services is fully accomplished in 2009. Postal operators may be given more freedom to decide what services they will and will not provide and how to provide them. Regulatory intervention will possibly be confined to ex-ante enforcement of competition law principles although, as in the current telecommunications regulatory framework, there may be exceptions or alternatives in specific circumstances. The role and powers of National Regulatory Authorities (NRA's) could be enhanced in key areas such as accounting and pricing.

An Post contends that at European level the discussion about the next phase of liberalisation is dominated by considerations of the USO – how it is defined; how the costs of the USO is to be calculated; how the cost is to be funded and whether the USO is threatened by future liberalisation .

It may be that this is the dominant issue for those postal operators who contend that they should receive compensation payments to subsidise the provision of universal service when markets are fully open to competition.³¹ Under normal state aid rules such payments would typically be paid to the operators submitting the best offer in a competitive tender. It does not follow therefore that if such payments could be justified³² that the existing universal service providers would necessarily be the beneficiaries.

However, the consultation which the European Commission will launch later this year, as indicated above, will focus on a much wider range of issues concerned with the total regulatory framework appropriate in a fully liberalised market.

³⁰ The model adopted in Finland and Estonia has been described by Ecorys in a study for the European Commission as "cosmetic liberalisation" because although legal barriers to market entry have been removed fiscal barriers still exist.

³¹ The source of such payments is unclear. Under European law as it stands the providers of services outside the scope of universal services, especially express carriers and other value added service providers, cannot be called upon to contribute to a "universal service compensation fund". Governments are unlikely to be willing to contribute out of general taxation.

³² Some studies have shown that the provision of "universal service" is a benefit and not a burden. See for example Postcomm document "An assessment of the cost and benefits of Consignia's current Universal Service Provision", July 2001.

7.2.3 *Emerging ownership trends*

At present, only two national postal operators in Europe are quoted on the Stock Market – TNT (NL) and DPAG (Germany)³³ – although the German government still retains a controlling interest in DPAG. The remainder are owned by the State, although some Governments are seeking to dispose of a part of the share capital in their national operators, including Denmark³⁴, Austria, Italy and Belgium.

The large national operators DPAG, TNT, Royal Mail, La Poste (France) have already built pan-European Networks for parcel and express delivery and many intend to do the same for letters. Current indications are that this will be achieved by developing existing packet / parcel delivery networks, or acquiring national or local operators in complementary markets (especially delivery of unaddressed leaflets), rather than by acquiring interests in the national postal operators of other countries. There are two nationwide delivery networks for unaddressed mail in Ireland (in addition to An Post's Publicity Post service) and another that claims to serve 800,000 households, together with many more locally based companies.

7.2.4 *The technical environment*

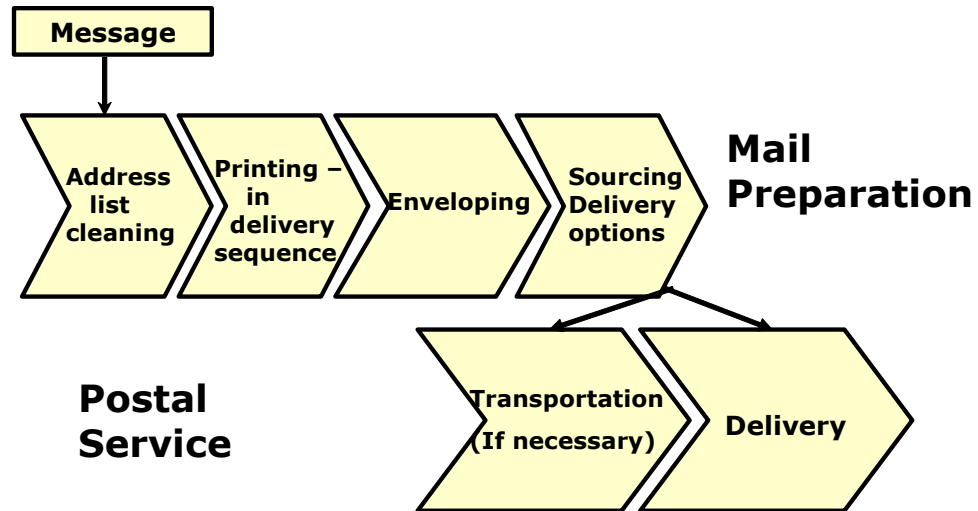
Technical developments involving further automation of mail processing will contribute to further reductions in unit costs, while developments in mail preparation, particularly in relation to computer generated business mail will lead to a remodelling of the traditional postal value chain (see Figure 7.2.4). Many large mailers can now produce their mail in delivery sequence, thereby facilitating entry into the postal value chain downstream, and confining the need for the traditional activities of Collection, Sorting and Transportation to “single-piece” mail.

On the other hand incumbent postal operators will be in a good position to move upstream and into the mail preparation market by using their sorting capabilities and expertise. However, the upstream market will experience strong competition as more and more business customers seek out technology-enabled, innovative turnkey mailing solutions.

³³ Outside of Europe the Argentine Post Office was privatised with disastrous results due to under capitalisation – and perhaps the political – economic environment in that country.

³⁴ The Danish government has recently sold a 25% stake to a Venture Capital Company.

Figure 7.2.4 Remodelled Postal Value Chain



The introduction of Postcodes which is currently being evaluated would, if introduced, open up new opportunities within the delivery market. Objectives such as route optimisation, giving customers a choice of delivery options³⁵ and value added features such as “track and trace” will all be facilitated by technological developments.

This all suggests that the distinctive, if not core competence of traditional postal operators going forward will be in the field of delivery. Operators will therefore need to move toward more flexible and effective operating models.

7.2.5 Postal business environment

The future demand for postal services is more difficult to predict. Post is one of the most resilient communications media. Although it has existed for more than three centuries volumes were still growing substantially until a few years ago.

Two very useful reports have recently been published by Pitney Bowes Inc.-“Mail Trends” and “Forecasts” both by Fouad H. Nader (Adrenale Corporation). Some key findings relative to global markets are:

- Traditionally there has been a correlation between growth in mail volumes and growth in economic activity. In the future any mail growth is likely to be slower than GDP growth. However volumes have increased during 2004 (year to date) by an average 0.3% in Europe and 1.7% in the U.S.
- Advertising spending by businesses has been growing faster than overall GDP, and this is reflected in the growth in direct mail volumes

³⁵ E.g. before 9am, before Noon, after 6pm

internationally. Unaddressed advertising leaflets may have substituted for higher-priced addressed direct mail services.

- Electronic substitution appears to have had a relatively reduced effect on mail volumes compared with predictions. (See also the EU Commission's conclusion reported below.)
- Reported volume declines in some countries can also be due to competition from private postal operators (PPOs) and from foreign posts operating in each other's markets as well as customer rationalization when faced with price increases.

The report "Mail Trends" draws some overall conclusions for specific streams of mail:

"The fundamental pattern of mail composition between businesses and households is generally unchanged. Businesses still originate some 85-90% of the mail. At a more granular level, business-household mail is generally still growing, especially for advertising. Business-business mail has begun to decline after decades of growth, exhibiting the resilience of mail in the face of an explosive increase in the level of electronic communications between businesses in the last two decades. Household-business mail is typically flat or declining, with the few countries where checks are widely used for mailing payments having the potential to experience additional volume declines for this stream. Household-household mail is a minor portion of total mail. Greeting cards continue to be a major flow in some countries and person-person correspondence has long ago been reduced to a minimum with the proliferation of telephone services in the last 50 years."

The Second Application Report³⁶ by the European Commission (March 2005) concludes

"More accurate data are needed to discern more subtle market trends. It should also be noted that while many public operators have foreseen a decline in volumes in the future, it appears that no in depth research has been published confirming this hypothesis. This will require further monitoring of the market and the collection of appropriate data."

An Post maintain that there has been a significant decline in letter mail volume in recent years. ComReg's own concerns with regard to the basis of An Post's volume measurement are discussed in consultation paper 05/68R2 - An Post's proposals to increase the price of Domestic Postal Service 2005.

³⁶ Com-2005-102 annex page 38

In response to the need for more transparent data the more progressive postal operators are confining their use of postage stamps to specific retail letter services, and using counter automation to directly identify revenue from the heavier or more expensive letters, packets and parcels. Operators in some countries, e.g. Norway, offer customers financial incentives to use “state of the art” franking machines which can record the service used as well as the price paid.

On the supply side there is evidence of alternative delivery networks emerging in countries such as Sweden, the Netherlands and Germany. The key conditions for success appear to be:

- High level of urbanisation
- High population density in urban areas
- High levels of mail per capita
- A reluctance by the incumbent postal operators to provide “wholesale” (delivery only) services

Incumbent postal operators, such as An Post in Ireland, tend to have significant advantages because the ubiquity of coverage (daily deliveries to every address) and the strength of their brand (high regard for the delivery postman, especially in rural areas and small towns). These are important assets, which give them a certain edge in remaining the dominant operator in terms of letter delivery. In a recent study for the European Commission, Ecorys notes that "competition between postal operators in addressed mail still is very limited and that all national postal operators have maintained a market share above 90% in addressed mail delivery."³⁷

7.2.6 The social environment

Social change will also have an impact on the demand for and supply of postal services.³⁸ Smaller family size³⁹, tending to European norms, improved employment prospects, more two income families, the number of new homes (400,000 in the last six years), together with an increase in the population of rural areas based on a movement from town to country driven by a mixture of expediency in terms of both housing availability and price and life-style change are all positive factors favouring growth in mail volumes.

On the other hand the difficulties of delivering packets and parcels when no one is at home to accept them, the large percentage of population (40%) living in rural areas⁴⁰,

³⁷ Development of competition in the European postal sector MARKT/2004/03/C, July 2005

³⁸ See in particular page 4 of “Mail Trends” Fouad H. Nader (Adrenale Corporation) for Pitney Bowes Inc.

³⁹ Central Statistics Office (CSO) figures based on the 2002 Census place average household size at 2.94 persons with over 47% of total households having only one or two persons.

⁴⁰ Who increasingly expect “urban” standards of service.

the level of immigration⁴¹ and the EU requirement for daily deliveries to every address will continue to put pressure on costs.

The nature of mail will also change as people become increasingly 'cash rich' but 'time poor' and so seek to process more of their affairs remotely.

7.3 ComReg's vision for the postal sector

Postal services are essential for communication and trade and as such have an important role to play in the economic and social cohesion of the EU. They are also strategically important as part of the wider communications and distributions market. Many key sectors, such as e-commerce, publishing, mail order, insurance, banking and advertising depend on the postal infrastructure. The role played by the postal sector is an important one in the context of achieving the Lisbon Agenda⁴²

ComReg's vision is of a dynamic and competitive postal services market offering a wide range of innovative, leading-edge, high-quality and competitively priced services to businesses, organisations and consumers, at least on a par with those available in key comparator economies elsewhere in the EU.

ComReg's 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. There is no explicit objective to promote competition, although 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 customers needs.

The companies providing these services will need to be efficient and profitable if they are to be capable of carrying the start-up costs associated with introducing the new and innovative services needed for a successful and vibrant postal sector. Experience abroad suggests a two to four year period is needed before new networks become profitable, while new retail operators availing of wholesale delivery service provided by an existing operator can achieve profitability within one year.

7.4 ComReg's objectives and strategies for the postal sector

7.4.1 A dynamic postal market

ComReg's vision of a dynamic and competitive postal services market offering a wide range of innovative, leading-edge, high-quality and competitively priced services to businesses, organisations and consumers will result in an environment where:

⁴¹ Immigrants tend to receive less mail per head. See in particular page 11 of "Mail Trends" Fouad H. Nader (Adrenale Corporation) for Pitney Bowes Inc.

⁴² In March 2000, the EU Heads of States and Governments agreed to make the EU "the most competitive and dynamic knowledge-driven economy by 2010".

- The third Postal Directive due to be published early in 2007 removes the remaining restrictions on the provision of postal services, and introduces a new lighter touch regulatory framework.
- In particular, governmental / regulatory intervention in the market will be limited to instances where there is market failure (e.g., where customer needs are not being met) or where there might be an abuse of a dominant position in a particular market.
- Universal Service will have been redefined to reinforce the European Union's guarantee that all customers, regardless of location, but especially indigenous businesses and SMEs, have access to efficient high quality postal services relevant to current and future needs.
- All exporters and importers, and especially the multi-national companies based in Ireland, will have access to the global and pan-European operators providing cross-border services in the letters, parcels and express markets.
- There will be significant competition in the provision of domestic retail services for business customers and emerging competition for individual consumers.
- Collectively postal operators will have strengthened their position, especially in relation to :
 - basic person to person communications,
 - advertising,
 - recording and facilitating transactions, and
 - the distribution of goods and services,

7.4.2 Future role of An Post's delivery networks

Competing delivery networks already exist in the unaddressed mail, parcels and express markets.

ComReg will use its powers, whenever appropriate and to the maximum extent permitted by law, to ensure that there is real competition at the retail level. At the wholesale (delivery) level ComReg's priority will be to ensure that the full forces of competition can influence the performance of this market in terms of choice, price and quality. Whether this is achieved by developing competing delivery networks or by the pressure from numerous retail service providers on a dominant wholesaler offering "downstream access", if necessary backed up by regulatory intervention, will depend on how the key players react to the market-opening programme. Either way the customer will win.

7.4.3 Expanded postal value chain

As mentioned in section 7.2.4 incumbent postal operators are in a good position to move upstream into the mail preparation market. In Ireland An Post has already moved upstream, and established a subsidiary, Printpost, which competes with many indigenous companies. These companies have traditionally acted as intermediaries between the principal generators of bulk mail and An Post, in effect “de facto” salesmen for An Post. ComReg will be vigilant to ensure that An Post’s dominant position in the postal delivery market, currently ensured by the “reserved area”, is not used to extend that dominance into the upstream mail preparation market, to the detriment of existing service providers.

7.4.4 Retail competition in business markets

Competition between providers of retail services to business customers, leading to growth in volume and increased usage vis-à-vis other media, should lead to a revitalisation of postal services. Leveraging efficiencies from automation and computerisation in the mail preparation market and the economies of scale will be key factors.

There is some evidence that customers would prefer to see more tangible competition in the form of competing networks⁴³, but economies of scale and scope mean that this is only likely to happen if An Post, as the owner of the dominant letter delivery network, does not operate an efficient network or fails to offer “wholesale” services, on terms and conditions consistent with competition law principles.

In this context the “below cost” wholesale rates it offers to some operators under the REIMS II agreement might discourage such operators from developing competing delivery networks in Ireland.

ComReg will ensure that An Post adheres to its requirement to ensure that such prices are fixed in relation to the cost of processing incoming international mail and that the prices are offered on a non-discriminatory basis to all operators.

7.4.5 Retail competition in consumer markets

While competition in consumer markets is not foreseen by many commentators at this stage, the possibility of the major supermarkets and convenience store / petrol station chains offering an “own label” version of An Post’s C2C and particularly C2B products cannot be discounted where there may be some synergies with the intensifying transaction processing industry offering consumer services.

ComReg will facilitate the emergence of such competition wherever permitted.

7.4.6 Parcel and express markets

These markets have always been open to competition, and all of the major multi-national operators are represented in Ireland. Postcodes, if they are introduced, will

⁴³ See “Monitoring developments in the postal sector – market survey” Roland Berger Strategy Consultants for Postcomm April 2004.

assist in improving their service offerings, which will in turn contribute to enhanced competitiveness.

ComReg will monitor this market to ensure that the benefits that Irish industry gains from the current level of competition are not eroded by the emergence of a dominant supplier as a result of market consolidation.

7.4.7 Impact of An Post's other activities on Universal Service provision

Europe's national postal operators have diversified into a wide range of other services, principally financial services, and express services that compete with the major multi-national operators. These non-postal activities bring with them both opportunities and challenges both in terms of management and funding.

ComReg's role is to ensure that the provision of "universal service" is not compromised.

7.4.8 Universal service

The four key concepts embraced by the term "universal service" as developed by the European Union are:

- Affordable prices
- High quality
- Accessible to all
- Evolution in response to customer needs ("innovation")

ComReg is of the view that these criteria can best be achieved through a competitive market. Regulatory interventions to achieve these objectives are, however, necessary in the short term while services remain reserved to An Post.

An Post in their submission contend that ComReg's statutory function is "to maintain the USO". In response to this ComReg needs to make a distinction between functions, objectives and between universal service and universal service obligations:

- The function of ComReg is to ensure that postal operators comply with their obligations⁴⁴. The statutory objective which must be taken into account in exercising its functions is to promote the development of the postal sector and in particular the availability of a universal service within to and from the state at an affordable price for the benefit of all users.⁴⁵ ComReg's vision for the postal sector makes it clear that while there is no specific objective to promote competition, ensuring the availability of competing postal services is, in ComReg's assessment, the most appropriate

⁴⁴ Communications Regulation Act, 2002, Section 1

⁴⁵ Communications Regulation Act, 2002, Section 12

strategy for ensuring that the universal service provided by An Post meets the statutory objective.

- One of the features of universal service as set out in the Postal Directives, and the Irish Regulations, is that it should “evolve in response to the technical, economic and social environment and to the needs of users”. This clearly envisages a far broader objective than one of simply maintenance as An Post suggests.
- The distinction between Universal Service Obligations (USO) and universal service must also be clarified. Universal Service Obligations are specific obligations placed on a designated universal service provider, e.g. the requirement to make deliveries to the home or premises of every legal or natural person five days a week. Universal service on the other hand is a range of services that the member state guarantees will be provided to its citizens, by the market as a whole, and the question of obligations only arises if the market does not do this.

7.4.9 VAT

The issue of VAT on postage was raised as a valid concern in relation to competition. The current arrangement sees postal services in Ireland supplied by anyone other than An Post charged at the standard rate of VAT (21%) while the state owned operator is exempt. In this current regime competitors find it hard to compete as VAT impacts individual customers depending on whether they can claim a VAT refund from the price of postage or if they are exempt as is the case for Public Administration, Financial Services and Religious/Charity Sectors who are also among the largest users of postal services. On the other hand the imposition of VAT on postal services provided by An Post, even at the “low” rate of 13½%, will represent a significant real increase in the cost of postal services for the end user. ComReg will continue to monitor developments in relation to VAT although ultimately this will be a matter for the Exchequer.

7.4.10 Summary

Competition is key to ensuring a sustainable industry, which has the means to, and is willing to invest in developing innovative products and promoting product differentiation. Competition is also vital to ensuring the provision of universal service. Regulatory intervention is necessary only where one operator has a dominant position in a market, whether from a legal monopoly (“reserved area”), economies of scale or scope, or uncontested markets.

8 Achieving our objectives

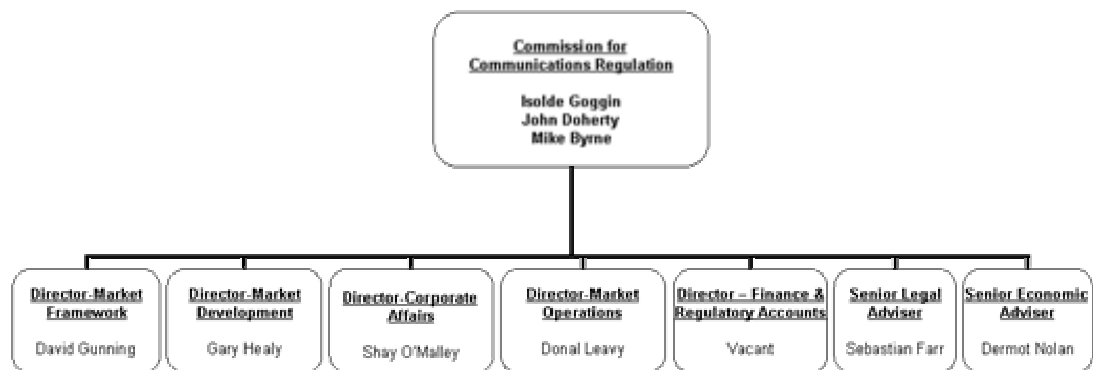
The delivery of timely, quality and transparent services and decisions to our stakeholders is central to effective regulation. In order to achieve our objectives, ComReg is reliant on a number of key internal corporate resources, as follows:

- Human resources
- Information services
- Finance

8.1 Human Resources

8.1.1 Organisational structure and Commissioners' roles

ComReg is managed by a three person commission with the chairperson appointed on an annual basis by the Minister of Communications, Marine and Natural Resources. The current Chairperson is Isolde Goggin. ComReg is divided into five main divisions supported by the Senior Legal Advisor and a Senior Economic Advisor. The organisational structure is illustrated below



The Postal team reports to the Director, Market Framework.

A more detailed description of the work of each division is available on the ComReg web site⁴⁶. Each of the three Commissioners has a distinct and complementary role, which is outlined below:

Innovation: Isolde Goggin

This covers both regulatory innovations, such as the completion of the first round of market reviews under the new European regulatory framework, and technical innovations. The role also covers the revision of ComReg's spectrum strategy, new initiatives in the wireless licensing area, and the promotion of Ireland as a test bed for innovative uses of spectrum. It also covers the development of a forward-looking telecommunications regulatory strategy, taking into account new technical, economic and regulatory trends. The evolution of postal services and the associated regulatory framework are also within the ambit of the Innovation role.

⁴⁶ http://www.comreg.ie/about_us/default.asp?s=2&navid=19

Competition: John Doherty

This role is concerned with enabling maximum competition in the electronic communications and postal sectors. It includes broadband, voice and voice over Internet Protocol (VoIP), including LLU, bitstream, wireless broadband (including mobile wireless broadband), cable and alternative infrastructure. John also leads on promoting enhanced competition in mobile via MVNO entrants, reviewing and (where appropriate) making adjustments in the fixed network wholesale pricing regime, and overseeing operator's compliance with obligations under the regulatory frameworks for electronic communications, spectrum and the postal service.

Consumer Affairs: Mike Byrne

This role covers business and residential consumers, as well as major consumer representative organisations, and spans telecommunications, spectrum licensing operations and postal services. It covers regulatory developments which affect retail consumers, including the application of the consumer protection provisions of the Universal Service and Postal Directives. Mike oversees both proactive consumer information measures, such as the www.askcomreg.ie website, Consumer Guides and the Interactive Tariff Guide (ITG) comparative pricing website, and the consumer care function within ComReg. The role also oversees the strategic development of the Licensing Operations function within ComReg, which deals with more than 16,000 wireless telegraphy licences per annum.

8.1.2 Centre of Excellence

ComReg is a multi-disciplined organisation employing highly motivated professional and support staff, including accountants, engineers, business analysts, economists and lawyers, who work in project-based, cross-functional teams. At June 2005, ComReg employed approximately 105 staff members.

The ongoing challenges faced by ComReg in our complex and fast-changing operating environment have made investment in the professional development of our staff more important than ever. ComReg is committed to attracting, retaining and developing highly competent staff, and we are pleased to have been awarded a number of major awards for our innovative human resources programmes, including:

- the Excellence Through People national standard since 2002
- the Irish Institute of Training and Development (IITD) National Training Awards in 2002 and 2004
- the Institution of Engineers of Ireland (IEI) award for Continuing Professional Development (CPD) in 2003
- the Association of Chartered Certified Accountants (ACCA) award for Continuing Professional Development (CPD) in 2005.

A key HR strategy is to position ComReg as a recognised centre of excellence and these accreditations provide us with the opportunity to benchmark our HR processes with other organizations, to obtain independent recognition of best practice HR standards and provide assurance our stakeholders. ComReg aims to maintain these high standards and ensure that we continue to be perceived as an employer of choice.

8.1.3 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. The primary objective of ComReg's performance management process is 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.

Our human resources philosophy holds that our effective performance management process makes a significant contribution to achieving our business objectives and desired culture and we are committed to developing and enhancing this key process. ComReg currently allocates around 5% of its budget to training.

8.2 Information Services

Our information services function encompasses three areas:

Information Technology
Consumer Care
Access to Information

8.2.1 Information Technology

The ComReg IT function aims to provide an efficient, reliable, secure and value-add Management Information Service for its stakeholders.

To this extent, IT acts as a seamless business enablement resource, ensuring that ComReg's function is supported and enhanced through its effective use. This will be achieved by supporting ComReg's business at an operational level, providing tactical mobilisation of software applications and information systems, while enabling strategic initiatives as required.

The key objectives of the IT Function are:-

- To ensure that IT is used effectively to support and enhance the delivery of ComReg's functions.
- To ensure that ComReg's IT dependent services provided for staff, operator and consumer usage are kept operational and secure.
- In the event of occurrence of IT issues, to ensure resolution of issues according to priority and within an acceptable time frame.

8.2.1.1 Strategic Use of IT

Recognising the benefits of information technology and its ability to deliver a more efficient, timely, transparent and user-friendly service to stakeholders, ComReg intends to move towards providing an array of online services for businesses and individuals who are providing and using electronic communications services regulated by ComReg.

Existing online services include:-

- Online Form for Notification of Postal Services
- Online Register and Search for Authorised Postal and Telecommunications Operators
- 'Siteviewer'
- Licensing e-payments service
- Email notification service

ComReg recognises the benefits of information technology to allow it to deliver a more efficient, timely, transparent and user-friendly service to stakeholders.

Online payments have now become a popular method of payment with ComReg, with just over 10% of licensing payment transactions now taking place online via its Electronic Licensing Initiative launched in October 2004, www.elicensing.comreg.ie. This service allows existing licensees to make online payments via laser or credit card in a secure, convenient and easy-to-use manner. ComReg is pleased with the take-up of this service and is now moving to the next stages of the initiative which will be implemented before the end of 2005. The next stages will include added account functionality, which will be of particular benefit for the larger account holders who have regular contact with ComReg.

Other planned online initiatives include:-

- The launch of an online form for Notification of Electronic Communications Services,
- The provision of a tool for online download of market data
- The provision of an Interactive Tariff guide for consumers
- The further development of Siteviewer.

8.2.2 Consumer Care

ComReg's consumer policy seeks to promote the interests of consumers with the following three aims:

- **Maximising Consumer Welfare**
The aim is to ensure choice, price and quality for consumers and is generally delivered through the regulatory framework that has been put in place to facilitate the development of effective competition.

- **Protecting Consumers**

The aim is to put in place measures to protect consumers while competition is developing; this is achieved through specific measures adopted under appropriate legislation (mainly EU Directives and national legislation).

- **Raising Consumer Awareness**

The aim is to provide consumers with information to allow them to make informed choices in the market, thereby contributing to the development of competition. This is achieved through the publication of relevant information and ongoing communication with consumer groups and their representatives.

8.2.2.1 Consumer Initiatives

ComReg has introduced a number of initiatives to encourage a proactive and effective approach to providing up-to-date information to consumers. This is mainly done through the following means:

- www.askcomreg.ie website
- Consumer Guides
- Market Research and Surveys
- Consultation Process
- Quarterly Reports
- Annual Report

8.2.2.2 Complaints and Enquiries Policy

The aim of ComReg's complaints policy is to empower consumers to take direct action regarding poor service provision, quality or other issues. ComReg received circa. 13,000 consumer contacts in 2004. The primary emphasis is to provide users with sufficient relevant information so that they can deal with their service providers and to ensure that operators have adequate procedures in place to address customer issues (not all issues are complaints). Consumers can contact ComReg for information, however ComReg cannot act on a consumer complaint until the operator's complaint handling process is completed. The primary responsibility for complaint resolution must be retained by the operator, as they have the direct relationship with the consumer.

In conjunction with the consumer initiatives outlined above, ComReg undertakes to publish statistical information with regard to consumer enquires and complaints on a quarterly basis on www.askcomreg.ie. In addition to this, ComReg will also continue to publish Information Notices and Consumer Guides regarding specific consumer items as necessary.

ComReg's consumer management team will continue to liaise with the Consumer Service representatives of the relevant authorised operators on a regular basis to

ensure that consumer issues are dealt with in line with published codes of practice and procedures.

8.2.2.3 Advisory Panels

While public consultations are extremely valuable for eliciting comments from a range of external groups and individuals, ComReg has established a number of advisory panels to assist it in understanding specific aspects of its role and to provide advice and feedback. To date ComReg has set up a number of such panels for the communications sector. These are:

- Expert Advisory Group
- Consumer Advisory Panel
- Forward-Looking Programme Steering Panel
- Postal Expert Group

These panels make a vital contribution to ComReg's work programme

8.2.2.4 www.askcomreg.ie


ComReg has developed a website which is dedicated to consumers (www.askcomreg.ie) and their specific needs. The aim of this website is to provide consumers with a user-friendly platform that gives them relevant information and answers on the main issues which affect them in their dealings with providers of communication services. The content of the website is written in non-technical language. In June 2005, ComReg was awarded the EIQA (Excellence Ireland Quality Association) W-mark award for this website. The W-Mark is assessed and audited under six criteria, namely: Accessibility, Commitment to Customer Service, Consistency & Appearance, Data and Information Security Management, Navigation and Privacy Compliance Management.

The www.askcomreg.ie website was developed to be accessible for all types of users, with special consideration for those with disabilities. Features include larger text sizes for consumers who are visually impaired; text only; high contrast versions for those with colour blindness; the ability to use assistive technologies such as screen readers and consideration for those consumers using adaptive keyboards or other more complex technologies to view websites. The site is built to adhere to W3C web standards, including WAI Accessibility standards.

ComReg will continue to develop the [askcomreg](http://www.askcomreg.ie) web site and will investigate the use of more interactive tools such as web-based fora to encourage consumer engagement with ComReg.

8.2.2.5 Customer Charter

In 2003, ComReg launched its Customer Charter which sets out the standards of service that the consumer can expect when dealing with us. These standards apply to all our stakeholders including consumers, industry, Government, interest groups, other national regulatory authorities and EU institutions.

 [Click here to view our Customer Charter.](#) (PDF Document Download, Size 140KB)

8.2.3 Access to Information and Publication Procedures

In line with best practice, ComReg is committed to ensuring that its Communications Strategy provides our stakeholders with access to all public documents and information. In achieving this goal, ComReg has taken into account all of the existing legislation that it is obliged to comply with. This includes the Communications Regulation Act, 2002, the Official Languages Act, 2003 and Government Accessibility Guidelines.

8.2.3.1 ComReg Information and Publications

ComReg aims to communicate with all of its stakeholders in a manner appropriate to their needs and we use a range of methods and techniques to communicate effectively with all of the stakeholders. We aim to ensure that all of our regulatory decisions are communicated clearly and in a timely manner. ComReg will continue to work to improve and enhance its consultation and publication procedures in line with best practice elsewhere and will continue to liaise with the Better Regulation Group in this regard.

ComReg has identified the following information channels through which it makes information available to its stakeholders. These include:

- Face-to-face meetings
- Web Site(s)
- Emails & Written Correspondence
- Consumer Information Leaflets
- Phone

ComReg has laid out the following core principles for dissemination of information:

- All consumer information will be readily available in a format that can be accessed by a wide range of consumers.
- Corporate information will be readily available in a format which accommodates a wide range of consumers, including Irish Language speakers.
- All regulatory documents such as consultation papers, responses to consultation and information notes are placed on our website www.comreg.ie.

- ComReg also makes available on its website all non-confidential submissions to consultations. ComReg has set out its guidelines for the treatment of confidential information in ComReg document 05/24.

8.3 Costs

This section outlines at a high level the financial profile of ComReg in the context of the future funding of its activities.

ComReg's income derives mainly from three sources: electronic communications levy, postal levy and wireless telegraphy fees. The electronic communications levy is set by ComReg at 0.2% of relevant turnover (from the provision of electronic communications networks and services within the State). In any year, the levy covers approximately 35-50% of ComReg's costs. Wireless telegraphy fees, on the other hand, are the fees payable to the State, after deduction of administrative fees, for the use of the electromagnetic frequency spectrum. There is a huge range of applications, from individual use by radio experimenters, ship and aircraft radios, through to fixed links used by telecommunications network operators and mobile networks. There are more than 16,000 licences in existence and their administration forms a large part of our day to day work. Some uses, such as short-range devices or radio LANS, are exempted from licensing, where this will not lead to interference problems.

The economic value of these spectrum allocations varies considerably, and in some cases the State considers it appropriate to charge a fee which reflects the economic rent for that spectrum. Fees are set by Statutory Instrument, which are drafted by ComReg but must be approved by the Minister for Communications, Marine & Natural Resources and the Minister for Finance. Since there is no overall policy framework for determining how fees should be set for any particular application, any change in fees (e.g. to reflect inflation) must be implemented by drafting new regulations for approval by both Ministers. The Wireless Telegraphy Act is currently under review by the Department of Communications, Marine and Natural Resources.

The postal levy currently is collected at three different rates. An Post, or any other designated universal service provider, pays 0.25% of relevant turnover from the provision of universal services. Holders of Postal Service Authorisations, and An Post in respect of non-universal services, pay a levy of €15,000 per annum. A lower payment of €1,000 applies if turnover is less than €20m per annum.

The table below shows ComReg's 5-year income and expenditure from 2000 to 2004.

Five Year Income and Expenditure Summary

	2000 €'m	2001 €'m	2002 €'m	2003 €'m	2004* €'m
Income					
Recurring					
Electronic Communications Levy	5	6	6	7	8
Cable, MMDS & Deflector licensing	4	4	4	5	1
Radio Spectrum Licensing	7	12	12	15	15
Postal Levy			1	1	1
Other (mainly Bank Interest)	1	1	1	2	1
Total Recurring Income	17	23	24	30	26
Non-Recurring					
Spectrum Income	27	2		101	0
Administration Fees	3		4		
Total Non-Recurring Income	30	2	4	101	0
Total Income (Recurring & Non-Recurring)	47	25	28	131	26

Summary of Income & Expenditure

Income					
Recurring	17	23	24	30	26
Non-Recurring	30	2	4	101	0
Total	47	25	28	131	26
Expenditure					
Recurring (Note 1)	13	15	9	20	16
Non-Recurring	3		4		
Total	16	15	13	20	16
Surplus					
Recurring	4	8	15	10	10
Non-Recurring	27	2	0	101	0
Total	31	10	15	111	10

*Unpublished

Note 1:

Recurring Expenditure in 2002 reflects a reduction in a Legal Provision of €4m. If the Legal Provision had not been reduced the Recurring Expenditure in 2002 would have been €13m giving a Recurring Surplus in 2002 of €11m.

Appendix A – Respondents to the draft Strategy Statement

Respondent	Category
3	Mobile operator
ALTO	Network operators association
BT Ireland	Fixed operator
Chambers of Commerce of Ireland	Business representative organisation
Communications Workers Union (CWU)	Trade Union
David Dunphy	Private interested party
eircom	Fixed operator
Forfas	State body
Martin Harran	Private interested party
IBEC/CBI Joint Business Council	Employers association
IrelandOffline	Consumer group
Irish Association of International Express Carriers (IAIEC)	Express couriers association
Irish Broadband	Fixed wireless access operator
Irish Charities Postal Users' Forum (ICPUF)	Charities representative organisation
Irish Mail Order Association	Mail order representative organisation
The Irish Missionary Union	Charities representative organisation
Mark Marley	Private interested party
Ntl	Cable operator
O2	Mobile Operator
Gareth Pelly	Private interested party
An Post	Postal operator
RTENL	Broadcaster
Matthew Taafe	Private interested party
TICo Group Ltd.	Bulk mail production company
Vodafone	Mobile operator
Peter Weigl	Private interested party

Appendix B The origin and impact of the postal monopolies

For more than three hundred years postal services have been provided by state monopolies. Initially the purpose of the monopoly was to protect the security of the State, but in more recent times the monopoly was justified on economic grounds⁴⁷. Throughout this period postal services have continued to play an important role in the national economies only because they have continuously changed in response to the needs of their customers and the social, technical, economic and political environment in which they have operated.

Largely, these changes took place because the monopoly did not fully protect the postal operator from the influence of competition. Customers had other channels of communication and distribution available, e.g. newspapers, telephone and telegraph systems, railways and road haulage. In more recent times developments such as the internet and email, and the emergence of courier and express parcel services, have widened the choice of services available to customers.

Latterly some countries, e.g. Sweden and New Zealand, have decided to fully expose their postal operators to competition. As a result the state owned operators have become more efficient, more profitable and more customer-focussed. In turn customers have benefited not only from the better service provided by the state owned operator, but from the greater choice of services provided by the market as a whole.

The EU Treaty requires that customers throughout the whole of Europe should have access to an internal market that is free of restriction as to what type of services are provided and who can provide them. Transitional arrangements are due to be phased out by the 1st of January 2009.

⁴⁷ State security still remains an issue, see for example the Interception of Postal Packets and Telecommunications Messages (Regulation) Act, 1993