An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Review of Non-Geographic Numbers

Non-Confidential Submissions to Consultation 18/65

Submissions to

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Content

1: BT Ireland

BT Communications Ireland "BT" Response to the ComReg Consultation:

Review of Non-Geographic Numbers Response to Consultation and Draft Decision

Issue 1 – 22 August 2018

Introduction and Summary

BT welcomes this consultation which seeks to address the customer harm and market failures identified in the Non-Geographic Numbers (NGN) Market. We strongly welcome that ComReg's and its consultant recognise that the wholesale issues need to be resolved. However we consider ComReg's proposal of allowing wholesale services one year to be resolved before implementing retail geo-linking numbers is a hostage to fortune and some parties maybe incentivised (to recover lost revenue from wholesale) to delay the wholesale remedies. Such delays could extend for years leaving wholesale operators exposed to further potential unacceptable harmful behaviour. We are concerned that ComReg's track record is not strong at implementing resolutions to problems including in this area. It's abundantly clear a holistic retail and wholesale joint solution is required simultaneously.

ComReg is aware BT and other fixed line operators have raised issues over many years concerning the distorted operation of the wholesale NGN market (in particular for the 1800, 1890 and 1850 ranges) which we believe has acted against fixed line wholesale operators, service providers and retail customers leading to high charges to Retail Service Providers and retail customer harm. We believe the poor usage of the 1800 Freephone number in Ireland is a consequence of the wholesale issues rather than retail problems given it's generally known as the free to caller number.

Whilst welcoming that ComReg acknowledge and recognise the wholesale issues we consider resolving the wholesale issues needs to be factored far more strongly into a holistic implementation plan. For example, the retail plan (Clause 6.12) seeks to publicise the use of the Freephone 1800 number, however to do this before resolution of the Wholesale problems only acts to exacerbate the wholesale market harm problems and with the result that the publicity may not lead to any improvement.

We support ComReg in its intention to apply a price control for NGN numbers to resolve the specific issues market failure issues and trust that ComReg will not simply shift the problems to the wholesale market which in our view will resolve nothing.

BT therefore remains of the view that the retail and wholesale harm and market failures must be resolved simultaneously as a package. We are concerned that ComReg is underestimating how difficult that will be.

Response to Detailed Questions

Q. 1 ComReg invites and welcomes the views of all interested parties on the proposals contained herein and will consider all responses to this consultation. Do you have any new information relevant to the proposals contained herein? Please explain the basis of your response in full and provide any supporting information. 13

Response 1
We welcome that ComReg recognises the importance of resolving the continuing wholesale issues that need to be resolved as part of an overall package to solve the customer harm and market failures identified. We continue to be of the view that a retail only solution creates a real danger wholesale mobile origination rates could increase (to recoup losses in end user retail revenue) to further distort the wholesale market with fixed line operators having to pass on very high wholesale charges to Retail Service Providers.

As regards the cessation we agree with ComReg's view in clause 6.16 that it would stop allocating numbers in the 1890 and 1850 ranges at the publication date of the Decision as this will bring a natural pressure for all new supply to go directly to 0818 saving migration costs for new supply customers. We believe it would also be efficient to set a date (three to six months out) to stop operators providing 1890 and 1850 numbers from existing allocations to further drive an efficient new business move to 0818. When closing a telecoms service no new supply at the earliest opportunity is a good practice to minimise the closure work. This approach creates less pressure for wasted management time as the closure window nears.

Considering the industry effort into resolving 076 portability issues in recent times, including all operators changing the porting prefixes it's disappointing this work is now wasted. The 076 range has provided a useful non-geo-location based number which is ideal for VoIP nomadic voice services. Absent this range there is a strong risk operators will use geographic numbers for VoIP based services without correctly observing the geographic minimum numbering areas (MNAs) for their usage. We welcome that ComReg is making available the polygons for mapping Geographic VoIP numbers to the correct geographic areas, but we are concerned the demand for nomadic voice telephony will be incorrectly met through geographic numbers (the ComReg proposal leaves no range for simple voice (VoIP) nomadic services). In the event that ComReg maintains its intention to close the 076 range then we would suggest the phasing out of new supply and resupply of existing numbers and to provide a longer period to close out the range – say 5 years. Please see our response to question 5.

Q. 2 Do you agree with ComReg's assessment of the issues arising at the wholesale level, in particular ComReg's preliminary view that there is a problem with interoperability, interconnection and end-to-end connectivity and access to Non-Geographic Numbers and services, as outlined above? Please explain the basis for your response in full and provide supporting information.

Response 2
We agree with ComReg's assessment of the issues arising at the wholesale level, in particular ComReg's preliminary view that there is a problem with interoperability, interconnection and end-to-end connectivity and access to Non-Geographic Numbers

and services, as outlined above. We also note that over several years including the active engagement of ComReg's pricing people that it has not been possible to achieve a voluntary settlement to these issues. We consider that ComReg is therefore left with no option but to introduce a regulatory solution to resolve the interconnection issues.

Whilst we can understand ComReg's worthy intention in clause 3.52 of giving itself a year to resolve the wholesale issues prior to the retail implementation of geo-linking, we are concerned that such will be a hostage to fortune and there is incentive for some parties to ensure the resolution of the wholesale issues take a considerably longer time to resolve. The track record is that it's now been many years since the wholesale problems in this market were raised to ComReg and the situation is still not resolved and whilst a one year deadline is laudable we are concerned it won't be met and implementing retail solutions without the wholesale solutions being resolved will compound the problems for retail and wholesale.

Q. 3 Do you agree with ComReg's proposal that a price control would achieve the objective of addressing high wholesale origination charges and, that ComReg should consult on the form and implementation of such a price control? Please explain the basis for your response in full and provide supporting information.

Response 3
We welcome ComReg's analysis commencing page 68 of the consultation into possible wholesale approaches to resolving the issue and we support the analysis and the conclusions of ComReg. We would also like to add the following:

1. Dispute resolution – We agree with ComReg's conclusions that the dispute route be limited to the parties involved. However, as ComReg will be aware a dispute has been prepared and could still be submitted. We are aware following the recent SLA dispute that it can take ComReg several years to resolve disputes, even single issue disputes.
2. Abuse of Dominance – This is a slow approach with considerable legal expenses by both the prosecution and defence side which may act as a distraction from simply trying to resolve what is a settlement problem is. We consider the industry is better served by resolving and moving on rather than a divisive and costly legal approach.
3. Negotiated Agreement – Within the rules of competition law and with the assistance of the good offices of ComReg this has already been attempted and failed. We therefore cannot see this approach being successful.
4. Structural Change – We would agree with the DotEcon analysis and therefore don't consider this an effective solution.
5. Guidance – Given the considerable work by ComReg to seek a voluntary settlement failed, a voluntary solution such as voluntary guides is certain to fail.
6. Price Control – After the failure of a voluntary resolution to this matter we consider ComReg has in practice been left with no alternative but to introduce a mandatory price control. We agree with ComReg's that it has the powers to set rules for numbers and note ComReg is already mandating the pricing of numbers such as for the 1890, 1850 and 076 etc. hence there is precedence for setting prices as proposed by ComReg.
7. Transit Monopoly – Eircom's current practice of charging the terminating operator for transit costs incurred by the choices of the originating network has resulted in a de facto monopoly in the provision of transit to NTCs, and this monopoly is

already resulting in demonstrable market harm ✂. The removal of price controls of eircom transit should not have included these “reverse charge” services and since it does – this practice must stop or the price controls re-instated.

Q. 4 Do you have any views on ComReg’s proposals for improving transparency of retail tariffs for consumers? Please explain the basis of your response in full and provide any supporting information.

Response 4
We continue to agree with the principle that customers should be aware of the costs of calling Non-Geo Numbers so that they can manage spend and consider alternative options for making the calls. We also agree there is scope to improve the information around NGN calling.

- ComReg’s proposed NGN Transparency Measures – We agree with the proposal in Figure 1 on page 90 of the consultation and in particular the information campaign is a good way to heighten public awareness of the pricing.
- We are not active in the Consumer volume market and so will leave comments on the operator measures (Fig 2 page 91) to those operators that will have to implement the proposals. However, we welcome ComReg’s position not to progress the specific proposal for ‘In call announcements’ prior to the connection signal as it could cause some significant technical network hurdles.

Q. 5 Please provide your views on the tasks required for the implementation of the proposed Geo-Linked and Consolidation measures? Please explain the basis for your response in full and provide any supporting information.

Response 5
We would like to offer the following comments.

- Reference section Clause 6.8
  We still consider there is significant value in keeping 076 for nomadic voice, but if ComReg decide not to do this then we suggest that a decision to withdraw 1890, 1850 and 076 should be deferred until after a 5 year “care and maintain” period during which service to existing customers is maintained but operators are prohibited from assigning new or reassigning existing codes. This would avoid large scale cost and disruption in the service provider market who have invested significantly in the “equity value” of their NTCs (not just documentation, vehicles and infrastructure – but also the penetration of their contact numbers into customer memory and mobile contact books). This harm would be greatly alleviated by prohibiting new supply while maintaining service.

- Reference Clause 6.12
  Absent resolution of the wholesale issues we consider an information campaign including 1800 would be most unhelpful and simply compound the existing

wholesale interconnect problems with service. We strongly advise against market stimulation of 1800 until the associated wholesale issues are resolved.

- Reference Clause 6.16
  We agree with the proposal to stop allocating new numbers from the publication of the decision, however we also consider to remove any competition concerns (around any operators that have a significant stock of numbers) that ComReg should stop operators providing new numbers that are allocated and not used from say within 1 month of the Decision. This will put all new supply onto 0818 and reduce the pressure on working to the closure date.

- Reference Clause 6.18
  The 1st bullet on the plan should be to resolve the wholesale problems otherwise the implementation plan won't solve the market problems and more likely act to further highlights the problems within this market. Once the wholesale issues are resolved the implementation plan looks to be generally pragmatic.

End

Enquires to this response should be addressed to john.odwyer@bt.com

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20 August 2018

Dear Albert

Review of Non-Geographic Numbers (NGN) – ComReg 18/65

I refer to the above consultation setting out ComReg's response to the earlier consultation and the ComReg draft decision and also to Colt's earlier response on this matter (17/70).

We are pleased that ComReg has recognised the failures in the wholesale call origination market. We note and agree with ComReg's provisional thinking, that a price control "…would be justified, reasonable and proportionate." ComReg identifies that a price control can be implemented in a timely manner to ensure implementation in line with the proposed introduction of geo-linking (by Q4, 2019). On the basis that this market has been failing for many years (with ComReg hosting workshops as far back as 2014), ComReg has recognised this failure in 18/65 and has significant analysis (including modelling) already, we do urge ComReg to derive a remedy at the earliest opportunity. We also agree with ComReg's thinking that wholesale origination charges should be limited to the cost of origination. In the intervening period, we seek that ComReg works with mobile operators to adopt a glide path reduction for mobile call origination rates.

In the event that ComReg moves forward with the draft decisions on reducing the available NGNs, we seek sufficient lead time to implement the magnitude of changes. We note that ComReg seeks to implement the geo linked tariff changes by Q4, 2019 (assuming a ComReg decision in Q4, 2018). We would ask that ComReg allow a 12 month implementation window and therefore in the event there is any slippage in their decisions and earlier deliverables, that the overall programme of works changes to reflect a 12 month lead time for this implementation. We note that ComReg intend to issue an Information Notice in Q4, however, we would ask that ComReg convenes an industry workshop ahead of issuing out such an Information Notice. The purpose of which, is to initiate an industry wide work programme and set out a clear timetable and set of deliverables. This will enable a transparent and constructive dialogue across the industry.

ComReg has set out its broad approach for improving transparency of retail tariffs. However careful consideration is required before ComReg moves forward so that any proposals are proportionate and address specific harm. For example, ComReg proposes that it would monitor operators' retail tariff lists and take appropriate action if it should deem any list to be insufficient, as to its accessibility, format, clarity, and/or content. As ComReg already has powers under its

Universal Service Regulations, it is unclear as to why these provisions are set out and how these would affect business only providers such as Colt. ComReg's intentions on integrating service providers is not prescribed, although these organisations play an integral part in the value chain,due to their relationship with end-users.

Please do not hesitate to contact me if you would like to discuss the above further.

Yours sincerely

DocuSigned by:
Ceri Owen
4E027032FE09492...

Ceri Owen

Director, Compliance & Global Licensing

3: Commission for Regulation of Utilities

From: Gavin Miller <gmiller@cru.ie>
Sent: 22 October 2018 14:18
To: Market Framework Consult
Subject: "Reference: Response to Consultation 18/65 - Review of Non-Geographic Numbering

Dear Sir or Madam,
Further to phone conversation with Karen Dunne, please consider this response from the Commission for Regulation of Utilities (CRU) to the above consultation.
The CRU is Ireland's independent energy and water regulator. Central to what the CRU does is its public interest mandate. A key role is to ensure safe, secure and sustainable energy at a reasonable cost for every Irish home and business.
Within the CRU's regulatory remit of ensuring safe supply of energy, falls our role in the promotion and public awareness of energy safety.
Here, the CRU ensures that business and organisations such as energy distributers and suppliers maintain their regulatory commitments to not only providing energy in a safe manner, but also advising their customers of their rights and responsibilities in this regard.
The CRU has reviewed ComReg's Review of Non-Geographic Numbers Response to Consultation and Draft Decision. Our interest centres on proposals for discontinuing 1850 numbers.
The 1850 prefix is used for four important safety phone numbers:

- **'Gas escapes'** (1850 20 50 50): 24-hour emergency serviced line for public to report suspected gas leaks. During 2017 there were 25,107 calls to this number.
- **'Carbon monoxide'** (1850 79 79 79): office hours serviced line providing safety information on carbon monoxide. 1,012 calls in 2017.
- '**Dial before you dig'** (1850 42 77 47): office hours serviced line providing check on the location of gas pipes prior to excavations. 7,550 calls in 2017.
- **'Meter tampering'** (1850 200 694): office hours serviced line for public to confidentially report suspected gas meter bypassing. 406 reported incidents in 2017.

All four numbers are well-established with a significant amount of promotion and public awareness-raising conducted on them.
The CRU notes that ComReg's proposals for withdrawing 1850 numbers would not come into effect until 2021 and would include an information campaign ahead of the change. Nevertheless, the CRU's main concern around the withdrawal of 1850 numbers is not so much on the principle but the practicalities, particularly on the potential consequences for the 'gas escapes' line.
'Gas escapes' is an emergency rather than information line. Not only is it used in a wide-range of promotional materials by gas suppliers, appliance installers etc. it is also given on every gas meter in the country: around 700,000 units, mostly located on private property.
The CRU considers that altering the 'gas escapes' number across all gas meters would be a significant and costly undertaking to the point that it would be unrealistic within the proposed timelines.
With this in mind, the CRU asks whether consideration has been given by ComReg to alongside consolidating non-geographic numbers to the 0818 prefix also putting in place measures for 'auto-diverting' particular, safety-related 1850 numbers? We consider doing so could effectively allow both the old (1850) and new (0818) numbers to be used in tandem, mitigating risks of withdrawal such as confusion around which number to dial.
An alternative to auto-diverting could be a recorded message asking callers to redial. While this could be suitable for the information/reporting services listed above, it does not seem appropriate for an emergency line.
The CRU thanks ComReg for the opportunity to comment on this consultation and would be happy to discuss the above in more detail.
Yours, Gavin
Miller,

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The CRU Privacy Notice sets out how we protect the privacy rights of individuals and can be found here

Regulating Water, Energy and Energy Safety in the Public Interest

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4: Eir Group

eir

Response to ComReg Consultation and Draft Decision: Review of Non-Geographic Numbers

ComReg Document 18/65

22 August 2018

DOCUMENT CONTROL

Document name	eir response to ComReg 18/65
Document Owner	eir
Status	Non-Confidential

The comments submitted in response to this consultation document are those of Eircom Limited and Meteor Mobile Communications Limited (trading as 'eir' and 'open eir'), collectively referred to as 'eir Group' or 'eir'.

INTRODUCTION

1. As stated in eir's response to ComReg 17/70, ComReg is going beyond the scope of its powers in this Consultation process. eir fully recognises that ComReg may specify tariffs and tariff principles to be attached to non-geographic numbers (NGNs). However, this authority does not extend to prescribing what operators must include in customer bundles. This is a commercial decision for operators based on customer preferences and market trends. It is clear that ComReg's authority in this regard purely relates to the capping of tariffs and specifying how tariffs are to be calculated. However, ComReg appears to be ignoring this important fact and simply states that it does not agree with eir. It seems clear to eir that, of the nine categories of conditions that may be attached to rights of use for numbers under Part C of the Annex to the Authorisation Directive[1] and Part C of the Schedule to the Authorisation Regulations[2] (powers which ComReg says it is using), none of them allow ComReg to go so far as to direct operators to include specific types of numbers in the inclusive allowances of commercial offerings to customers.

2. ComReg seeks to justify its approach on the basis that this has been done in the Netherlands and the UK. However, ComReg's basis is flawed and, in particular, ComReg appears to be misunderstanding the position in those jurisdictions. Firstly, eir notes that the provisions of Dutch law quoted by ComReg <u>do not specify that such calls must be included "in-bundle"</u>. The provisions simply specify that tariffs for calls to NGNs must be comparable to the tariffs for calls to geographic numbers. eir would not have any issue with this proposition and agrees that ComReg has the power to cap the tariffs and to specify that the tariffs should be comparable to those for geographic numbers as is the current case in the Numbering Conditions of Use.

3. However, eir strongly rejects any proposal to prescribe what operators must include in their commercial offerings. It is also important to highlight that the Dutch provisions also state that operators are permitted to impose different tariffs for NGNs in circumstances where the costs are different. So, for example, if wholesale costs for calls to NGNs are higher, then retail charges for calls to NGNs can be higher. ComReg appears to have ignored this. In respect of the UK market, eir also notes that only one number is geo-linked – the 03 number. 03 numbers were introduced in 2007 and were specifically designed from the outset as a geo-linked number range with a corresponding requirement to include calls to these numbers in inclusive

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[1] Directive 2002/20/EC on the authorisation of electronic communications networks and services (Authorisation Directive) (as amended by Directive 2009/140/EC)

[2] S.I. No 335/2001 European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2011

allowances. eir notes that the requirement was not applied in a retrospective manner and is therefore not comparable to what ComReg is proposing for the Irish market. eir also notes that no other NGN in the UK market is geo-linked and required to be included in bundle. This UK example from 2007 (some 11 years ago) is therefore not a genuine comparison and certainly does not justify ComReg overreaching in terms of its statutory powers.

4. It is also eir's view that ComReg is attempting to circumvent the EU legal framework with these proposals. In particular, ComReg is required to comply with the procedure under Article 7(3) of the Framework Directive[3] in order to implement such measures. In this regard, eir notes that Article 28 of the Universal Service Directive[4] (which is transposed into Irish law by Regulation 23(1) of the Universal Service Regulations[5]) has specific provisions in relation to obligations designed to ensure access and use of services relating to NGNs and is therefore the appropriate legal framework. We note that ComReg has referred to these provisions at A2.42 of ComReg 18/65 when setting out the legal framework. eir also notes, more importantly, that the Court of Justice of the European Union (CJEU) held in 2015 that a measure which is designed to ensure access to NGNs in accordance with Article 28 of the Universal Service Directive <u>must be made subject to the Article 7(3) procedure if that measure may affect trade between Member States</u>.[6] In the same case, the CJEU also found that measures relating to access to NGNs by their very nature have a cross border effect, in particular in light of roaming obligations.

5. The measure being proposed by ComReg must be said to have an effect on trade between Member States in circumstances where such numbers can be accessed internationally and will also be accessed by citizens when roaming. ComReg is therefore obliged to follow the Article 7 procedure. As set out in the recitals to the Framework Directive, it is appropriate for NRAs to consult all interested parties in order to ensure that decisions at national level do not have an adverse effect on the single market or other Treaty objectives. This is also acknowledged in the *KPN* ruling referenced by ComReg where the CJEU noted that it is for the national court to decide whether the tariff obligation is objective, transparent, proportionate, non-discriminatory, based on the nature of the problem identified and justified in the light of the objectives of Article

[3] Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services (Framework Directive) (as amended by Directive 2009/140/EC and Regulation 544/2009)

[4] Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services (as amended by Directive 2009/136/EC) (Universal Service Directive)

[5] S.I. No 337/2011 European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011

[6] Case C-3/14 Prezes Urzędu Komunikacji Elektronicznej and Telefonia Dialog sp. z o.o. v T-Mobile Polska SA (16 April 2015)

8 of the Framework Directive and whether the procedures laid down in Articles 6, 7 and 7a of the Framework Directive have been followed.[7]

6. In light of the above, eir believes that ComReg does not have any legal basis for its proposals and is in breach of its obligations under EU law and the determination of the CJEU. eir has therefore commenced engagement with the European Commission in relation to this matter.

7. Notwithstanding our position with regard to the legal basis of ComReg's geo-linked proposal, eir is also very surprised that, despite every respondent from industry and ComReg's own advisers (DotEcon) expressing concerns that a wholesale market review must be carried out in advance of any retail intervention, or at least in parallel, that ComReg is proposing to proceed regardless with this retail intervention. It appears therefore that this is not a genuine consultation process, but is rather a decision that has already been made by ComReg. If so this would amount to a further breach of ComReg's legal obligations both in terms of the obligation to consult under the telecoms framework and also its obligations as a statutory body under Irish law to be open and transparent in its decision making, to follow fair procedures and not to pre-empt the outcome of public consultations.

8. As set out in more detail below, eir also fundamentally disagrees with ComReg's approach to this Consultation as a whole and, in particular, the failure to carry out a proper market review at the wholesale level in order to determine whether regulatory intervention is necessary. This amounts to even further circumvention of the regulatory framework. In this regard, eir notes that Ofcom's recent review of the 070 number-range in the UK market has been notified to the European Commission, BEREC and the NRAs under the Article 7 procedure. ComReg is also obliged to follow this approach.[8]

9. ComReg appears to have assigned a lot of resources to this consultation including substantial expenditure on external consultants. Given the amount of work the consultants do for ComReg on other work items we assume that ComReg will have discounted rates from these captive consultants. However, the apparent level of resourcing raises questions regarding ComReg's planning activities and its commitment to meet its obligations. ComReg is pouring resources into a flawed and arguably unlawful process to fix a perceived problem which is in fact due to the natural decline of the relevance of chargeable NGNs. At the same time, Ireland is subject to infringement proceedings from the European Commission due to the failure by ComReg to undertake timely reviews in a number of relevant markets. One of these, the Wholesale High Quality Access (WHQA) market, is rapidly approaching the 10th anniversary since the last

[7] Case C-85/14 KPN BV v Autoriteit Consument en Markt (ACM) (17 September 2015), paragraph 49
[8] Ofcom, *Personal numbering – Review of the 070 number range*, Draft statement (15 August 2018)

review was completed despite ComReg being obliged to review markets every three years. In eir's view, ComReg must therefore take a serious look at its resource planning and priorities.

GENERAL COMMENTS

10. Despite the numerous objections of operators, ComReg has indicated that it will be proceeding with the proposal to introduce a new geo-linked pricing tariff. ComReg has simply ignored the valid arguments presented – suggesting failure to operate a fair process. While eir and other operators have indicated support for general measures to improve the functioning of the NGN platform, in particular with regard to improving transparency, and have been raising the issue with ComReg for a number of years, there is a prevailing view among operators, as indicated in the responses to the consultation, that a retail price control implemented in the manner proposed by ComReg will instead result in overall consumer harm. As a result of the loss of NGN associated revenues, operators will face pressure to re-adjust their retail tariffs and bundles, not in response to consumer demand but rather in response to regulatory intervention. This is likely to result in operators increasing the retail price of bundles that include calls to geographic numbers or by reducing or potentially even eliminating landline minutes that are currently included 'in bundle'.

11. It is important to note that the composition of bundles has evolved and changed over time in response to changing competitive retail market demands. ComReg's proposals, if implemented, would result in a welfare-decreasing outcome which would be particularly striking when one considers that the research commissioned by ComReg itself indicated that just 5% of customers considered the inclusion of NGN minutes in different call packages when choosing their fixed line provider/package while 6% of respondents stated that they considered the inclusion of NGN minutes in different mobile call packages when choosing the provider/package. eir considers that the actual benefits associated with ComReg's preferred remedies would not outweigh the costs and eir is surprised that the consumer harm that would ensue has been dismissed out of hand by ComReg without adequate assessment.

12. The majority of operators including eir, have also raised issues in relation to the sequencing of regulatory intervention, heavy-handed intervention in a competitive retail market and failure to follow due process in the imposition of what DotEcon refers to as "*SMP obligations on non-SMP operators*" including price controls. A number of SPs have also raised issues around the consolidation of the number ranges. eir is therefore surprised at the manner in which these issues have been simply dismissed and ignored by ComReg, with little or no evidence based argument provided to support the utter adherence to its previous views.

13. ComReg states that it is of the view that nothing in the responses received to date has caused it to significantly alter its preliminary views, as set out in Consultation Document 17/70. In particular, ComReg contends that no respondent has yet provided any countervailing facts or arguments as would convince ComReg not to take any or all of the identified measures. ComReg therefore emphasises to all interested parties – and especially those who do not agree with any or all of its proposals – that any further submissions, opposing any proposed measure, should be supported by very robust evidence and reasoning as to why any such measure ought not to be taken. It is disappointing that ComReg has decided to simply dismiss the reasoned arguments presented to it. ComReg is failing to meet the requirements of its own procedures[9] where ComReg has committed that it "*will at all times seek to ensure that all of its consultations are as open, transparent, fair and complete as possible, and ComReg will take proper consideration of all submissions that are received*".

14. In a letter to Ibec, dated 16 August 2017, ComReg advised of the launch of the public consultation on NGNs. This letter was presumably one of many sent to organisations and SPs to drum up support for ComReg's proposed remedies, in particular the geo-linked measure. In that letter ComReg stated that *"[a]ny regulatory decision by ComReg must be fully reasoned and evidence-based and therefore all consultation responses should be as detailed as possible and should be supported by all relevant information – i.e. <u>a bare expression of support for or objection to a proposal without any reasoned explanation or supporting evidence, is likely to have very limited influence on our eventual decision</u>"* [emphasis added].

15. However, it would appear that ComReg has reversed its position such that representations will have limited influence on ComReg's eventual decision only where they disagree with ComReg's proposals. In the matter of SPs providing "*bare expressions of support*" for ComReg's geo-linked proposal, it would appear that these are more than sufficient to justify ComReg's position. ComReg's internal bias is concerning, in particular where operators have raised detailed and evidence-based objections based on their in-depth understanding of the market and the relevant market dynamics, and the lawful operation of the European regulatory framework. ComReg on the other hand does not appear to have any robust evidence to support its position in the Consultation and its complete refusal to consider and acknowledge the views of any operator, SP or interested party where they are in disagreement with ComReg is entirely unreasonable.

[9] ComReg Consultation Procedures, 11/34

16. Once again[10], ComReg appears to be consulting on an issue that it appears to regard as a foregone conclusion. The only conclusion that can be drawn from ComReg's position is that it has already decided that it will impose an additional and unjustified price control obligation on NGNs and retire a number of NGN ranges and this Consultation is merely a tick-box exercise as ComReg is legally obliged to consult. Simply going through the motions of running a consultation process is not enough to justify regulatory intervention. The consultation process must be fair to all participants and the proposed intervention must be compatible with ComReg's powers.

17. ComReg also states at paragraph 1.8 that "*it considers that B&A's market research and surveys and DotEcon's data gathering and modelling both remain current as there do not appear to have been any significant changes in the NGN sector to which such information relates and from which it was derived. Therefore, ComReg does not consider it necessary, at this time, to conduct additional market research or to gather any additional data*". eir notes that the data presented in DotEcon's original report (ComReg 17/70a) in relation to the Irish market covers the period 2011-2015 and a mere declaration that this "*remains current*" does not negate the fact that this data is already at least 3 years old and will be 4 years and 6 years out of date by the time the proposals in relation to the geo-linked and consolidation measures are implemented respectively. While not outdated to the same extent, the fieldwork for B&A's consumer and organisation surveys was conducted between May and July 2016, which is over 2 years ago.

18. The general linkage in argument of potential market failure and declining volumes combined with the use of outdated research is not to the required level of economic assessment to justify regulatory market intervention and is circumstantial at best and may in fact just be coincidental. This is why Article 7 notifications require cogent and rigorous market analysis before regulatory intervention could be considered warranted and proportionate. The risk of regulatory failure (i.e., that regulatory intervention leads to poor market outcomes for both industry and consumers) in this instance is significantly higher given ComReg's failure to undertake the necessary steps to justify its heavy handed approach.

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[10] We refer for example to ComReg's consultation (18/57) and subsequent Decision (D09/18) imposing an Interim Public Payphone Universal Service Interim Designation. The consultation was late, issued on 28th June, 2 days before the expiry of the existing designation. The consultation was inadequate allowing only 1 week for interested parties to submit their views. The Decision was issued 7 working days later ignoring all valid points raised. It is questionable whether ComReg's internal governance processes are operating effectively in terms of ComReg's ability to manage its workload in an orderly and fair manner, and to undertake regulatory intervention in accordance with its statutory duties.

19. eir also takes issue with a number of the responses provided by ComReg and DotEcon as set out below.

Consumer harm

20. ComReg states that it "*remains of the overall view that consumer harm in respect of the NGN platform is, in large part, the result of relatively high NGN retail charges (known and unknown)*". First, as previously discussed eir considers that ComReg's geo-linked proposal will cause consumer harm. Contrary to the view of ComReg that "*even if there was a complete waterbed effect, a 100% decline in NGN call revenues would require at most a 1% price increase for other electronic communication services, in order to have a revenue-neutral effect on operators*", the consumer harm in the context of increased retail charges will not be spread across services and the entire consumer base but will be particularly concentrated on those consumers who subscribe to bundles with inclusive call allowances.

21. ComReg also states at paragraph 2.55 that it "*considers that any Originating Operator's decision to adjust its retail tariffs and/or bundle offerings would be a **commercial decision** made in light of all factors likely to affect it, including that each Originating Operator must compete with other Originating Operators for the same customers"* [emphasis added]. eir is surprised at ComReg's admission that this is a "*commercial decision"* given that ComReg is proposing in this very consultation to mandate operators to adjust their bundle offerings. In addition, eir notes that aggregate market level reactions that affect the offers available to all consumers are much more likely where the regulatory intervention is applied to all operators equally. ComReg also states further that it "*seeks to reduce those retail charges by **leveraging competition** amongst operators for call packages that include NGN calls*" [emphasis added]. The mandatory inclusion of certain call types in bundle is in no way leveraging competition, rather it is erasing it. eir remains of the view that the correct manner in which to leverage and encourage competition in the retail market is through determining whether regulatory intervention is required at the wholesale level first and foremost and if so letting the retail market adjust accordingly on its own.

22. In addition to the inevitable water-bed effects, which ComReg has dismissed, there is an even more immediate certainty of consumer harm as a result of the geo-linked proposal that ComReg has overlooked. [✂] Both of these number ranges are charged to eir prepay and postpay customers at 15c per min and are not included within the customer's inclusive allowance. If these number ranges were to be treated in the same way as all other national calls, customers would be negatively impacted in the following way:

- The cost per minute of calls to these NGN ranges could double to 30c/min in line with the geographic cap; and/or
- More expensive national calls that would normally be included in bundles will be pushed out of bundle

Sample scenario

23. A customer is optimised on a plan which matches their usage patterns and the value they ascribe to various telecommunications services. The customer therefore currently subscribes to a plan that provides 400 inclusive minutes. The customer also currently makes 30 minutes of calls per month to 1890/0818 numbers which cost €4.50 in out of bundle usage (30 mins x €0.15 per min)

24. In the above scenario the 30 minutes to 1890/0818 numbers will now force some or all of the 400 inclusive minutes to out of bundle national voice calls which are charged at 30c per min. If all 1890/0818 minutes were consumed in the customer's allowance and forced 30 minutes to national calls into out of bundle usage, the customer would now be paying €9.00 (30 mins x €0.30 per min) for out of bundle voice calls instead of €4.50. The customer's bill would therefore increase by €4.50 per month (€54 per annum) under this monthly usage scenario.

25. In line with such knock-on effects, it is the more vulnerable members of society who are on lower priced bundles with less inclusive minutes who would be disproportionately affected. eir also notes that calls to NGNs may typically be longer than the average voice call, given the consumer queries and complaints that may need to be dealt with and the fact that customers may remain in a queue for significant periods of time and are more likely to be put on hold. There is therefore increased potential for these calls to consume a consumer's inclusive minutes, again pushing an even higher volume of minutes to higher out of bundle and rates, exacerbating the resulting 'bill-shock'.

26. In terms of potentially more vulnerable users, for those consumers who have no inclusive allowance, whose allowances do not include calls to geographic numbers or whose allowances are limited in terms of time of day or spending constraints, eir notes that ComReg's geo-linking proposal will have little or no impact in terms of reducing the cost of calling NGNs and in fact the cost is more likely to increase. [✂]

27. For prepay mobile consumers, eir notes that some operators either offer on-net calls only or units that can be used for either SMS or calls. This is particularly true for lower price plans. Some plans may offer no inclusive minutes or offer a choice between unlimited calls or texts or data. For bill-pay mobile customers, there are similar options available albeit at price points that reflect included monthly payments for handsets and/or higher allowances. The multitude of offers and the varying components that are included in the range of plans available reflect operators' strategies to appeal to different segments of consumers based on the value that they attach to particular services.

Consumer preferences

28. eir notes that this particularity of the mobile market as well as the fixed voice market, in that packages are designed in a manner that reflects consumer preferences and value, is supported by the B&A consumer survey results, which found that just 5% of customers considered the inclusion of NGN minutes in different call packages when choosing provider/package for their fixed line while 6% of respondents stated that they considered the inclusion of NGN minutes in different mobile call packages when choosing the provider/package

29. ComReg, however, considers that "*Three, Eir, and Sky misapprehend the relevance of the finding that most consumers do not consider whether NGN calls are in-bundle when choosing their service providers/packages. This finding does not mean or indicate that consumers are indifferent as to the retail charges that they will incur for NGN calls. On the contrary, there is material evidence that many consumers are concerned about such retail charges and will react in such manner as to avoid incurring them*".

30. eir is not suggesting that consumers are indifferent to the retail charges that they will incur for NGN calls but rather that their usage patterns and thus the value they place on certain telecommunications services are reflected when choosing their provider/package. The logical conclusion is therefore that if customers placed great value on calls to NGNs then bundles would be designed with this in mind.

Substitutability

31. ComReg recognises that "*consumers appear largely indifferent as to whether a voice service is provided using a Geographic Number or NGN*" and that "*the research shows that consumers treat Geographic Numbers and NGNs as **highly substitutable***" [emphasis added] but notes that "*the decision to provide a voice service using a NGN is made by the SP, and not by the*

consumer", However, it is also the case that the decision made by SPs in relation to the provision of a voice service using a NGN or GN or even both generally reflects the preferences of consumers, as evidenced by the decline of the NGN market.

32. ComReg states that "*[m]any consumers, therefore, cannot easily react to different retail prices by switching from an NGN voice service to the same service provided over a Geographic or Mobile Number".* As evidenced by the organisation survey evidence commissioned by ComReg itself, this is patently untrue. eir notes that of the organisations surveyed 87% use landline numbers, 67% use mobile numbers, and 10% use NGNs. However, upon further investigation, of the 10% that use NGNs, just 18% of these or 1.8% of all organisations surveyed do not provide an alternative landline or mobile number. eir also notes that ComReg's statement that "*[n]early 770,000 NGN calls are made in the State every day*" is also incorrect. eir notes that this figure is based on outdated data used in the DotEcon report, which covers 2011-2015 and additionally is an average calculated using all 5 years. An aggregate calculated in this manner is not representative of the current situation in Ireland. It would therefore appear that the scale of the perceived issues as ComReg envisages them has been vastly overestimated. It is particularly in this regard that eir questions the proportionality of ComReg's proposed remedies.

Declining market

33. ComReg notes that the "*observed widespread consumer wariness or distrust of NGNs has resulted in reduced utilisation of the NGN platform which, in turn, could affect the future viability of the platform*". eir remains of the view that the future viability of the platform was called into question a number of years ago and that the point for significant intervention to halt the inevitable decline of the market has now passed.

34. ComReg remains of the view that the geo-linked proposal will cause a sudden uptake of NGNs by SPs and increased demand from consumers for calls to these numbers, which combined will be enough to miraculously revive a legacy platform. In particular ComReg states that the Organisational Survey "*shows that 40% of organisations, who currently think that NGNs are too expensive for their customers to call, would consider using NGNs in future if the retail call charges to their customers were reduced*". eir notes that those organisations who currently think that NGNs are too expensive for their customers to call represented 19.6% of all respondents. Therefore, the actual proportion of organisations surveyed who would simply **consider** using NGNs in future if costs to the customer were reduced is 8%. It is also surprising that additional control questions testing the likelihood of such behaviour have not been put forward by ComReg's consultants.

35. DotEcon states that there are "*good reasons that overall volumes of voice calls are falling, primarily due to increased use of texting, over-the-top services and social media. Nevertheless, there are potential use cases for NGNs that are unaffected by these trends, such as the need to provide contact points and product support numbers that are accessible to all and freephone numbers where calling costs are paid by the recipient*"

36. eir notes that call volumes for mobile have remained relatively stable over the last number of years, with a more pronounced decline in fixed call volumes. According to ComReg's Quarterly Key Data Report, mobile voice minutes experienced a 1.1% decline in Q1 2018 but a slight overall increase of 1.1% between Q1 2017 and Q1 2018. In comparison, fixed voice minutes fell by 9.3% between Q1 2017 and Q1 2018. The reference to substitution by DotEcon in the form of increased competition from SMS, OTTs and social media, fails to recognise that there is also substitution away from NGNs to geographic and mobile numbers. For the 1850, 1890, 076 and 0818 ranges, geographic and mobile numbers serve the same purpose. Geographic and mobile numbers are accessible to all so it is not at all clear what added value DotEcon perceives the NGN ranges bring to the market. This demonstrates a fundamental misunderstanding of the boundaries of competition[11] and illustrates the need for a market review in line with the Regulatory Framework where tools used for market definition would reveal the actual boundaries of the market. In terms of the other potential use case for NGNs i.e. freephone numbers, these numbers are already free to call so there is no issue around pricing. However, there is an issue in relation to the willingness of SPs to absorb the cost for these calls. This needs to be addressed at the wholesale level.

37. It is entirely apparent to eir and other operators that understand the current market dynamics that the remedies as currently proposed by ComReg will not result in a resurgence of the platform.

[11] In fact there appears to be a number of fundamental misunderstandings of competition in the analysis, not least the suggestion by DotEcon that operators might come together to voluntarily fix wholesale pricing.

RESPONSE TO CONSULTATION QUESTIONS

Q. 1 ComReg invites and welcomes the views of all interested parties on the proposals contained herein and will consider all responses to this consultation. Do you have any new information relevant to the proposals contained herein? Please explain the basis of your response in full and provide any supporting information

38. eir remains of the view that the point in time for the intervention required in the NGN market to stem the decline in the platform as a whole has passed. The decline in usage of NGN ranges cannot be attributed with any certainty to their exclusion from call allowances but rather is due to a natural decline which is in part a natural migration to geographic numbers (GNs) because geo-significance (the original rationale for NGNs) is no longer a concern in the modern market as the trend in pricing is towards national rates with local rates declining in importance. The majority of SPs now view GNs or indeed mobile numbers as the preferred alternative to NGNs for providing a point of contact for end-users. Indeed they involve a shorter number length to communicate to customers and are accessible from abroad. eir notes that ComReg itself does not use a NGN and provides geographic numbers in order for consumers to contact it. In addition SPs have also embraced non-voice based communications including email, chat and social media platforms. It is wrong for ComReg to seek to use its powers in an attempt to prop up a segment of the competitive market that has had its day. The need for chargeable NGNs is passing.

39. eir would remind ComReg that it raised issues around the potential demise of the NGN platform in 2014, in particular concerns that the pricing in place for mobile origination to NGNs had resulted in many SPs moving away from these services and urged ComReg to take immediate corrective action to address market failure and the consequent consumer detriment. It was eir's view at that time that unless the regime was corrected at the wholesale level, the market for these services would not have a future.

40. eir submitted in its response to ComReg 17/70 that this had indeed been the case and that some of eir's business customers were already pursuing or considering migration strategies. [✂]

41. [✂]

42. Irrespective of the outcome of this consultation, SPs that have already initiated plans to move to geographic alternatives are unlikely to change these plans. [✂]

43. eir therefore expects that a further decline in the number of SPs offering services over NGNs as well as the corresponding decline in usage by consumers is inevitable regardless of the outcome of ComReg's current review. eir considers that ComReg's proposals fail to address the core remaining issue in relation to the NGN platform, that is the issues associated with SPs willingness to use 1800 numbers, which are more likely to be relevant to vulnerable members of society. To the extent that ComReg wishes to remedy this issue, intervention at the wholesale level is required. This is discussed further in eir's response to Question 2.

Q. 2 Do you agree with ComReg's assessment of the issues arising at the wholesale level, in particular ComReg's preliminary view that there is a problem with interoperability, interconnection and end-to-end connectivity and access to Non-Geographic Numbers and services, as outlined above? Please explain the basis for your response in full and provide supporting information

44. eir is of the view that there are potential issues arising at the wholesale level, particularly in relation to the wholesale charges for the provision of 1800 services. However, eir does not agree with ComReg's preliminary view that there is a problem with interoperability, interconnection and end-to-end connectivity and access to NGNs and services. ComReg has not provided any evidence in this regard.

45. ComReg considers that an assessment of SMP is not necessary and will therefore proceed with a consultation to consider implementing a wholesale price control in line with Regulation 6(2) of the Access Regulation and/or Regulation 23(1) of the Universal Service Regulations as such a control constitutes a necessary step to ensure end-to-end connectivity and/or to ensure that end-users are able to access numbers and services using NGNs. It is a fact that all telephony users can pick up a phone and call NGN numbers across the State. There is no end to end connectivity issue for NGNs that could be addressed under Regulation 6(2) and Regulation 23(1) which are both about removing technical blocks at the network level and encouraging technical interconnection between networks.

46. eir considers that any issue at the wholesale level is specifically a pricing issue and therefore does not agree with the manner in which ComReg has indicated that it will pursue imposing pricing remedies without the corresponding SMP designation on the basis of an evidence based and forward looking market review. This is discussed further in response to Question 3.

Q. 3 Do you agree with ComReg's proposal that a price control would achieve the objective of addressing high wholesale origination charges and, that ComReg should consult on the form and implementation of such a price control? Please explain the basis for your response in full and provide supporting information

47. eir does not agree that a unilateral wholesale price control is required at this point but rather that a complete market review is required to identify the true issues in the NGN market if indeed there are any issues. If wholesale remedies are required then the appropriate process from remedying said issue is through a review of the wholesale market and a subsequent determination as to whether a wholesale remedy will also solve any identified issues at the retail level.

48. eir is of the view that intervention in this market would require ComReg to conduct a market review in line with the European Regulatory Framework. The market that ComReg is seeking to regulate by proxy is part of the wholesale markets for fixed and mobile call origination. eir remains of the view that ComReg is required to conduct a three criteria test for the purpose of identifying the NGN market in Ireland as being susceptible to ex ante regulation and subsequently follow the standard process for conducting a market review i.e. determining the product and geographic scope of the relevant market and assessing whether any firm or a number of firms hold a position of SMP in the market as defined for the purposes of the market review. ComReg would then be required to notify the EC of its findings and proposed measures.

49. The 2014 EC Recommendation identifies those service markets which, the European Commission has identified as being susceptible to ex ante regulation. The wholesale NGN call origination market is not a market specifically listed by the European Commission in the 2014 EC Recommendation. However, the Recommendation recognises that there may be other markets, aside from those specifically identified, in which it is appropriate to impose ex ante regulatory obligations according to national circumstances.[12] The 2014 EC Recommendation states: "*National regulatory authorities may identify other markets than those listed in this Recommendation and apply the three-criteria test*."

50. Should ComReg wish to identify the wholesale NGN call origination market as warranting ex ante regulation, it is required to present the assessment that underlies its view this market meets the requirements of the three-criteria test and the associated market review taking

[12] 31 See Recital 5 of the 2014 EC Recommendation.

account of anticipated longer-term developments of relevance to the provision of NGN call origination and downstream retail services.

51. eir considers that this move by ComReg to unilaterally impose pricing remedies in both the wholesale and retail markets without the prerequisite market review sets a worrying precedent and calls into question the approach that may be taken by ComReg in future. This will undoubtedly serve to undermine regulatory certainty and chill investment incentives.

Q. 4 Do you have any views on ComReg's proposals for improving transparency of retail tariffs for consumers? Please explain the basis of your response in full and provide any supporting information

52. eir is supportive of proposals to encourage further transparency in relation to the tariffs applicable for calling NGNs however we note that retail tariff lists are already readily available and easy to find and understand for consumers as is required by currently regulatory obligations. Therefore, some of these proposals are moot. eir also supports the proposals for ComReg to update its website and carry out a further consumer information campaign (including the use of social media) on NGN retail tariffs and where to find tariff information, although we believe that resources could be better directed to other more pressing market reviews.

53. However, the full suite of measures appears entirely disproportionate in the circumstances and wasteful of resources. In particular, it seems disproportionate and wasteful to carry out these measures for the NGNs that ComReg is proposing to remove from the market. eir also considers that the costs to operators and businesses of some of the direct notification proposals would be entirely disproportionate in the circumstances. For example, any proposal that operators should fund ad campaigns or direct communications to customers is far beyond what is necessary in the circumstances and it is not entirely clear what exactly ComReg is proposing here. For example, is ComReg proposing that operators would market the use of NGNs to customers? It is unclear to eir what benefit to customers this would be or even whether data protection would permit such direct marketing of customers.

54. eir also notes that ComReg intends to consult on "bill shock" measures in 2018 and that eir has received a statutory information request in respect of this consultation. It is interesting in light of this consultation process that the information request does not ask operators for any information in relation to calls to NGNs. In eir's view, this reinforces the point that NGNs are not

really important to consumers and that there is in fact no “bill shock” problem in relation to NGNs.

Q. 5 Please provide your views on the tasks required for the implementation of the proposed Geo-Linked and Consolidation measures? Please explain the basis for your response in full and provide any supporting information

55. eir’s initial assessment is that implementation of these proposals would require configuration changes and testing across active and legacy plans on each of eir’s billing systems. This would however require a formal IT assessment, including testing of the proposed changes. From a technical perspective, eir considers that a 12 month implementation window is achievable

56. However, eir notes that the time required for implementation including design, build and testing phases will lead to other projects being de-prioritised given the large number of tariff plans in scope. This further calls into question the proportionality of ComReg’s proposals.

Additional comments on the Draft Decision Instrument

57. eir notes that, in the consultation document, ComReg has not posed any questions for respondents in relation to the Draft Decision Instrument at page 98. We assume that this is an oversight. In any event, eir has a couple of comments that it wishes to make on the Draft Decision Instrument as follows.

58. eir notes that the Draft Decision Instrument refers to the provisions applying to retail tariffs charged to “end users”, rather than to consumers. However, the research carried out on behalf of ComReg (i.e. the B&A Consumer Study), on which these proposed measures are based, only surveyed individual consumers. As these proposals are consumer protection measures and ComReg has not actually considered business customers in the consultation process eir assume that the measures will only apply to consumers. We ask that ComReg clarify this point.

59. eir also notes that the Draft Decision Instrument does not contain any transparency measures. We therefore assume that any transparency measures are purely for discussion at this stage and that no mandatory provisions will be included in the ultimate decision. ComReg might also please clarify this point.

RESERVATION OF RIGHTS

With the foregoing concerns as to validity of the process, as well as the more specific grounds of concern noted through our responses, eir fully reserves its rights to continue to raise all concerns and objections raised in this response or otherwise, including in any ultimate event of eir being forced to object to any ultimate Decision adopted by ComReg, particularly based around the positioning and pre-determined approach displayed in this Consultation. eir must also fully reserve its rights to seek an indemnity against losses caused by ComReg or by the State as a result of it proceeding with any aspect of this proposal that is unlawful.

eir fully reserves its rights to comment further on any and all issues, including any not raised in this response, in the next stage of consultation and any failure to comment on specific aspects of this document should not be taken as implicit acceptance of specific assertions in the document. eir also fully reserves its rights to raise further concerns, including ones similar to those that may have been raised by other operators in their responses which equally impact upon the position of eir and the industry more generally, including in the event of eir objecting to any ultimate Decision adopted by ComReg.

eir notes ComReg's request to "....*provide any supporting information*...". Further to the flaws and issues indicated throughout this and our previous response, we believe that it is impossible to provide all such items at this present time, as much of this consultation is affected by the lack of evidential material, applicable justification, improper reasoning or by other information which should have been provided by ComReg in support of its' proposition and conclusions. eir should not be prejudiced by this failure, or inferred to be incapable of providing further support of its position, and thus entirely reserves its position to supply further evidential materials behind our position at a later stage.

5: ESB Networks Limited

Energy for generations

Telecom Services, ESB Networks

ESB Networks' response to ComReg's Response to Consultation and Draft Decision on Review of Non-Geographic Numbers (18/65)

22/08/2018

Contents

1. INTRODUCTION

ESB Networks Ltd. (ESBN) welcomes the opportunity to respond to the Commission for Communications Regulation (ComReg) Response to Consultation and Draft Decision in relation to its Review of Non-Geographic Numbers (NGN).

ESB Group is a vertically integrated electricity utility with a large number of customer service 18xx numbers. The majority of inbound NGN numbers are owned by Electric Ireland, an Energy Supplier and ESBN, the Low Voltage (LV) and Medium Voltage (MV) Network Operator. The ESBN Fault and Emergency contact number (1850 372 999) is an extremely important service of strategic importance to both ESBN and the general public. This number is critical to both the general public as well as other emergency service functions in emergency scenarios. The potential safety and public service implications of disruption to this number are significant. When ESBN began using 1850 numbers, the cost to the customer of ringing an 1850 number was far below the cost of dialling a mobile or landline telephone number. 1850 numbers are used extensively across ESB Group.

1.1 Introduction to ESBN

ESBN, a regulated subsidiary within ESB Group, is the licensed operator of the electricity distribution system in the Republic of Ireland. ESBN is responsible for building, operating, maintaining and developing the electricity network and serving all electricity customers in the Republic of Ireland.

The electricity distribution network includes all distribution stations, overhead electricity lines, poles and underground cables used to bring power to more than 2 million domestic, commercial and industrial customers connected to the electricity network nationwide. ESBN also maintains the high voltage transmission network in Ireland on behalf of the Transmission System Operator (TSO) EirGrid.

It is critically important to the health of the Electricity Network that customers have reliable, resilient low cost contact numbers. ESBN relies on reports from members of the public to advise of faults as well as dangerous or life and death events. ESBN's usage of numbers enhances the reliability of the electricity network. ESBN have engineered our Contact Centre systems and PSTN interfaces to a high level of resilience and redundancy.

2. COMMENTARY

ESBN has responded with comments on sections of interest below, labelling each section with a reference to paragraph or chapter number from ComReg's consultation document.

ESBN's comments are outlined below.

Q. 1 ComReg invites and welcomes the views of all interested parties on the proposals contained herein and will consider all responses to this consultation. Do you have any new information relevant to the proposals contained herein? Please explain the basis of your response in full and provide any supporting information.

ESBN stands over its comments to ComReg consultation 17/70. ESBN does not agree with the proposal to withdraw 1850 numbers. ESBN recommends that 1850 calls are mandated to be included in call package bundles. As expressed in its previous response, ESBN will suffer significant costs in marketing its new number for the safety of the electrical network and every person in Ireland. Such costs include changing of signage on the vast number of poles on its network. Ultimately, the costs for ESBN in marketing a new number and changing signage on poles etc. will be borne by every electricity customer.

ESBN does not have any new information to present to ComReg in addition to what was stated in its previous response.

Q. 2 Do you agree with ComReg's assessment of the issues arising at the wholesale level, in particular ComReg's preliminary view that there is a problem with interoperability, interconnection and end-to-end connectivity and access to Non-Geographic Numbers and services, as outlined above? Please explain the basis for your response in full and provide supporting information.

Yes, ESBN agrees that the wholesale market is dysfunctional and costly to the detriment of consumers and Service Providers. ESBN encourages ComReg to set Geo-Linked price control on NGN's as soon as possible, and in tandem set price control on 1800 on foot of its consultation. ESBN encourages ComReg to liaise with consumer groups and market the changes when introduced.

Q. 3 Do you agree with ComReg's proposal that a price control would achieve the objective of addressing high wholesale origination charges and, that ComReg should consult on the form and implementation of such a price control? Please explain the basis for your response in full and provide supporting information.

ESBN strongly agrees with ComReg that there is a need for price control regarding NGN. This would be to the ultimate benefit of consumers, and also Service Providers. As ComReg correctly allude, Service Providers decision making is significantly impacted by substantial wholesale costs, particularly with regard to 1800 numbers. If price control was introduced, this would encourage more Service Providers to utilise 1800 numbers, which in turn is to the benefit of the caller (free calls). Service Providers subsequently benefit as users trust this number range and consumers are more likely to engage with 1800 numbers. ESBN looks forward to responding to ComReg's consultation in this regard.

Q. 4 Do you have any views on ComReg's proposals for improving transparency of retail tariffs for consumers? Please explain the basis of your response in full and provide any supporting information.

ESBN strongly agrees with ComReg that transparency of retail tariffs for consumers is important. Such transparency will also be to the benefit of Service Providers as consumers will be more favourably engaged to NGN when it can trust and understand associated charges.

Q. 5 Please provide your views on the tasks required for the implementation of the proposed Geo-Linked and Consolidation measures? Please explain the basis for your response in full and provide any supporting information.

ESBN will be happy to participate and be involved in industry workshops to assist with implementation changes as proposed by ComReg. ESB considers that ComReg's high level plan as outlined and timeline is appropriate at this point in time.

ESBN strongly urges ComReg to recover currently unused 1800 and 0818 numbers so those migrating from other NGNs have access to these numbers. ESBN believes that a lot of these numbers are being hoarded in an unfair and inefficient manner.

ENDS

6: Gas Networks Ireland

GNI Response to ComReg Consultation 18/65

Review of Non-Geographic Numbering

September 2018

Reference: Response to Consultation 18/65 – Review of Non-Geographic Numbering

1. Introduction

Gas Networks Ireland ('GNI') is part of Ervia. GNI builds, owns, operates and maintains the natural gas network in Ireland and connects all gas customers to the network, regardless of who their gas supplier is. There are currently over 688,000 customers connected to the gas network and GNI's core purpose is to ensure these customers receive a safe, efficient and secure supply of natural gas, 24 hours a day, 365 days a year. Safety and Customer Service are two of GNI's Core Values and, as such, GNI must be easily contactable by the general public and gas consumers at all times to ensure the continued safe operation of the gas network.

GNI welcomes the opportunity to respond to the Consultation by the Commission for Communications Regulation ('ComReg') reviewing Non-Geographic Numbering. Whilst a number of matters are included in this Consultation, the issue most pertinent to GNI relates to the potential removal from service of the 1850 Non-Geographic Number (NGN). This Consultation response therefore focuses on this matter.

In the draft decision (ComReg 18/65) published on 11th July 2018, ComReg proposed to reduce the number of NGN types from five (1800, 1850, 1890, 0818 and 076) to two (1800 and 0818) from 31st December 2021. Whilst recognising the need for consumers to easily understand the cost of the calls that they make to NGN numbers, GNI is firmly opposed to the removal of the 1850 number, which ComReg has indicated it is minded to do as per Part III (ii) of Chapter 7 (Draft Decision Instrument) of ComReg Document 18/65. Withdrawal of the 1850 NGN would necessitate GNI transitioning to alternative numbers for all Emergency Service and Customer Service numbers which currently use the 1850 NGN. The decision by ComReg to abolish 1850 numbers would have serious and significant safety and cost implications for gas consumers, the general public and GNI, which are outlined in turn below.

2. Use of 1850 NGNs in GNI

GNI operates the following 1850 NGNs:

Number	Purpose	Comment
1850 20 50 50	National Gas Emergency Service	Operates 24/ 7 / 365 for gas consumer and the general public to report suspected gas escapes or other gas related emergencies
1850 42 77 47	Dial Before You Dig	Operates during office hours to provide gas network drawings to persons planning to undertake excavation work
1850 79 79 79	Carbon Monoxide Information Line	Operates Monday – Saturday and provides carbon monoxide safety information to callers
1850 200 694	Customer Service Line	Operates Monday – Saturday as the main contact point for domestic gas consumer queries
1850 411 511	Businesslink	Operates Monday – Saturday as the main contact point for business gas consumer queries
1850 42 77 32	Dial-A-Read	24/ 7 automated service for gas users to submit a meter reading
1850 211 540	RGI Line	Dedicated line for Registerd Gas Installers to inform GNI when they are lifting a GNI-applied meter lock following works to resolve a safety issue
1850 42 77 37	Project Line	Dedicated contact number provided to gas consumers affected by specific projects
1850 42 72 61	GPRO Services	Enables natural gas customers to efficiently change from one natural gas supplier to another

3. Safety and Cost Implications of Removing the 1850 NGN

GNI has invested significant time and money, over many years, in ensuring gas consumers and the general public are fully aware of who to call in the event of an emergency (e.g. gas escape) or in advance of commencing excavation work.

3.1. GNI Emergency Service Number

GNI operates the national gas emergency service on behalf of all gas consumers and gas suppliers. The 1850 GNI Emergency Service number has been used for over 20 years. On average, 38,600 emergency calls have been received annually from 2015-2017 on this number, which has resulted in GNI responding to approximately 18,000 reports of gas escapes each year. This telephone number is critically important to the general public and other emergency service functions in an emergency scenario. The potential safety and public service implications of any disruption to this number are significant.

The GNI Emergency Service number has been widely promoted for many years by an ongoing multimedia advertising campaign and is documented on, *inter alia*, virtually all GNI assets (including approx. 688,000 domestic and commercial gas meters), stickers on consumers' gas boilers, all GNI station signage (circa. tens of thousands), all gas pipeline marker posts (circa 14,000), GNI fleet vehicles and numerous marketing materials.

Furthermore, the Emergency Service number has been downloaded to a substantive number of private mobile phones following promotional campaigns to incentivise members of the public and gas consumers to do so, which enables them to contact GNI quickly in a potentially life threatening situation.

Consumer research has indicated to GNI that whilst the majority of callers obtain the 1850 GNI Emergency Service number from GNI's website (which can be readily changed), a significant proportion of callers continue to access the number from the fixed sources outlined above. In the event that the 1850 number is abolished, the risk of someone attempting to report a gas escape using the 'old 1850 number' and being unable to do so is significant and its impact should not be underestimated.

In light of the proposed decision, GNI seek to know exactly what would happen if the 1850 NGN service is terminated on 31st December 2021. Specifically, would there be a message to re-direct the caller to a different number? Would that message be a generic message or would it be customisable by GNI?

Even in the event of a message informing users of a number change, GNI envisages that some callers, on whom GNI relies not only to report potential gas escapes in their own homes but also in public areas, would be put off making a second call and potential gas escapes could therefore go unreported.

GNI are fully aware of the challenges that any update to public-facing information entails, having changed our name from Bord Gáis Networks to Gas Networks Ireland in 2014. Changing the 1850 emergency number was considered at that time as part of the brand change, but was discounted as the safety-related risks were considered too high. The brand change itself was not an issue in 2014 as the 1850 Emergency Service number was retained, i.e. even if individuals thought they were reporting an incident to Bord Gáis Networks instead of GNI, the call would still connect to GNI emergency services. This would not be the case if the 1850 number was to be switched off.

A change to the Emergency Service number would require all relevant assets and signage to be updated accordingly. By way of illustration, GNI currently replaces gas meters on a 20 year cycle, so to change the number currently documented on gas meters, through existing processes, would take a minimum of 20 years. It would also necessitate an upweighted multimedia campaign to promote the change in phone numbers to gas consumers and the general public, which would incur significant cost (considerably over and above the monies that are currently spent maintaining public awareness of the emergency services and numbers), in addition to the cost of creating suitable advertising material. The rebrand project previously mentioned, which did not include any number changes, cost circa. €X which included an advertising campaign. This rebrand cost illustrates the potential costs that would be incurred in changing GNI advertising materials and associated multimedia campaigns to notify the general public and gas consumers about any such number changes.

Even if existing signage etc. could be ‘re-stickered’ with a ‘new number’, there would be significant costs associated with sending resources into the field to do this. Based on the cost of the rebranding undertaken in 2014, GNI estimate the cost of these necessary steps would run to several million euros and, most importantly, would not eliminate the risk of someone being unable to report a potential gas emergency. Furthermore, the gas Emergency Service number is documented in countless places over which GNI has no direct control, such as people’s mobile phones, on stickers affixed to gas boilers and inside cupboard doors and in the emergency procedures of many businesses. Even if GNI could change the numbers on its own assets, the number would likely remain widely unchanged in many of these locations.

The resultant risks from changing the 1850 emergency number would affect not only gas consumers, but also the general public living in proximity to the gas network.

Other cost implications would also extend to gas suppliers, who list GNI’s Emergency Service number on their various documentation (e.g. bills, marketing material, website etc.) and equipment. The majority of gas suppliers also use 1850 numbers as their contact numbers, so they would be impacted both directly and indirectly by the withdrawal of the 1850 NGN.

3.2. Other Key Numbers Potentially Impacted

Other safety related numbers, Dial Before You Dig (DBYD) and the Carbon Monoxide Information Line, as well as Customer Service, Dial-a-Read Services, GPRO Services etc., would also be seriously impacted. Of particular note, changing the Dial Before You Dig service number and the Carbon Monoxide information number would result in serious safety-related risks. GNI is charged by the Commission for Regulation of Utilities (CRU) with maintaining the Carbon Monoxide Information Line, not just for gas consumers, but on behalf of all fuel users. The Dial Before You Dig number, for example, is documented on around 14,000 gas pipeline marker posts located across the country and is also contained on a wide variety of merchandise which is used to promote the service and number to personnel in the construction and related industries.

There would be significant additional costs associated with changing all of these numbers. Whilst these costs would not be as great as those to change the Emergency Service number (and would not carry the same levels of risk), they would still be considerable.

In terms of Customer Service numbers, it is important to note that despite the advances in alternative customer communication channels, customer contact by telephone continues to remain the preferred method of contacting GNI. On this point, GNI wishes to reiterate its commitment to maintaining excellent levels of customer service to gas customers.

4. Concluding Remarks

GNI considers ComReg's proposal to remove the 1850 NGN to be a disproportionate response to addressing perceived market failures, particularly when one considers the serious and significant safety implications to the general public, as outlined above.

GNI robustly defends the retention of the 1850 number for its Emergency and Customer Services. Moreover, it seeks to ensure that telecom operators are mandated to include 1850 numbers (at a minimum for relevant emergency service and related safety-critical numbers) in call bundle packages.

A detailed analysis of the potential cost to industry (and in turn on consumers and the economy) of the proposed removal of specific NGNs should be undertaken, prior to any decision being made by ComReg, to ensure that the costs of doing so do not outweigh the envisaged benefits.

The 1850 NGN variant has been more customer friendly than the 1890 or 0818 variants, and has traditionally cost the owner of the number more in terms of telcommunication service costs. As the most customer friendly of these numbers, the 1850 NGN should be retained.

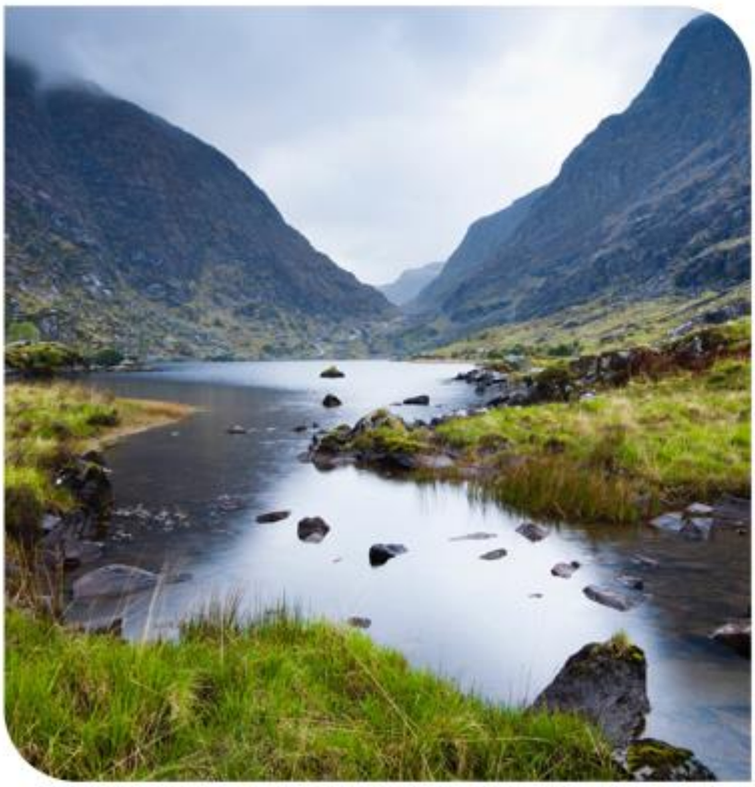
GNI would ask ComReg to consider an alternative technological solution that would allow 1850 numbers to be retained, as a minimum in circumstances where they currently facilitate the safe provision and operation of essential national strategic infrastructure including the gas network, whilst achieving the reduction in consumer costs which ComReg seeks.

7: Irish Water

Irish Water Response to ComReg Consultation 18/65

Review of Non-Geographic Numbering

September 2018



1. Introduction

Irish Water ('IW') is part of Ervia. IW owns, operates, builds and maintains the water network in Ireland and connects new customers to the network. IW's core purpose is to ensure that over 1,800,000 homes and businesses receive a safe, efficient and secure supply of water, 24 hours a day, 365 days a year. Safety and Customer Service are two of the key Core Values of IW and, as such, IW must be easily accessible by the general public and water customers at all times.

IW welcomes the opportunity to respond to the Consultation by the Commission for Communications Regulation ('ComReg') reviewing Non-Geographic Numbering. While a number of matters have been raised in this Consultation, the issue most pertinent to IW relates to the potential removal from service of the 1850 Non-Geographic Number (NGN). This Consultation Response therefore focuses on this matter.

In the draft decision (ComReg 18/65) published on 13th July 2018, ComReg proposed to reduce the number of NGN types from five (1800, 1850, 1890, 0818 and 076) to two (1800 and 0818) from 31 December 2021. While recognising the merit of reducing the number of NGN numbers so that consumers more readily understand the cost of the calls that they make, IW is firmly opposed to the removal of the 1850 number. Withdrawal of this NGN would necessitate IW transitioning to a '1800' or '0818' NGN for all Customer Service and Emergency Service numbers which currently use the 1850 NGN. The decision by ComReg to abolish 1850 numbers would have serious cost implications for IW and safety implications for the general public and IW customers.

2. Use of 1850 NGNs in IW

IW operates the following 1850 NGNs:

Number	Purpose	Comment
1850 448 448	Domestic Account queries	Operates Monday – Friday for IW Domestic Customers to provide updates to account details
1850 778 778	Commercial Billing and General account queries	Operates Monday – Friday for IW Commercial Customers to get information on bills, make payments and updates to account details
1850 278 278	Supply and Service	Operates 24 / 7/ 365 for IW Customers and the General Public to report supply and service issues
1850 558 558	Credit and Collections	Operates Monday – Friday to deal with commercial accounts

3. Customer Service Implications of Removing the 1850 NGN

IW uses 1850 numbers across a number of areas within the business, to support customer contacts relating to Leak reporting, Flood reporting, Supply and Service queries and General Account queries. IW has invested time and money in ensuring water customers and the general public are fully aware of who to call in the event of one of the above mentioned customer contacts.

3.1. Supply and Service Queries

There are times when IW customers experience a supply issue in their area, such as no water or low water pressure. IW customers are required to contact IW using the 1850 NGN in order to obtain information relating to the supply issue in their area.

3.2. Reporting a Leak

IW requests that customers and the General Public report water leaks that they may have spotted on public property in their local area. This includes footpaths, roads, communal open spaces and public recreational facilities. These reports are made to IW using the 1850 NGN.

4. Safety Implications of Removing the 1850 NGN

IW also uses 1850 numbers to support customers in relation to possible emergency scenarios, including Flood reporting and 'Vulnerable Customer' communications. IW has also invested time and money in ensuring water customers and the general public are fully aware of who to call in the event of one of the above mentioned customer contacts.

4.1. 'Vulnerable Customer' Communications

IW currently provides 'Vulnerable Customers" with a 1850 number in order to contact IW in the case of an emergency. There are approx. 30,000 'Vulnerable Customers' currently registered with IW and the 1850 NGN is a key means of communicating with this customer group.

4.2. Flood reporting

There are situations where IW customers or the General Public may require urgent help from IW as the issue they are reporting may relate to sewer flooding, pollution or any other issue that is a health and safety or environmental risk

5. Concluding Remarks

IW considers ComReg's proposal to remove the 1850 NGN to be a disproportionate response to addressing perceived market failures, particularly when one considers the serious and significant safety implications to the general public, as outlined above.

IW robustly defends the retention of the 1850 number for its Customer and Emergency Services. Moreover, it seeks to ensure that telecom operators are mandated to include 1850 numbers (at a minimum for relevant Emergency Service numbers) in call bundle packages.

A detailed analysis of the potential cost to industry, as a whole, of the removal of the proposed NGNs should be undertaken, prior to any such decision being made by ComReg, to ensure that the costs of doing so do not outweigh the envisaged benefits.

IW would ask ComReg to consider an alternative technological solution that would allow the 1850 number to be retained, whilst achieving the reduction in consumer costs which ComReg seeks. IW requests that 1850 numbers are retained in circumstances where they currently facilitate the safe provision and operation of essential strategic infrastructure and services, including the water network.

8: Office of the Revenue Commissioners

Revenue
Cáin agus Custaim na hÉireann
Irish Tax and Customs

www.revenue.ie

Cathaoirleach
Chairman

Oifig na gCoimisinéirí Ioncaim
Caisleán Bhaile Átha Cliath
Baile Átha Cliath 2
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Éire

Office of the Revenue Commissioners
Dublin Castle
Dublin 2
D02 F342
Ireland

Mr. Brendan O'Brien,
Commission for Communications Regulation,
1 Dockland Central,
Guild St,
Dublin 1
D01 E4X0

Date: 2 August 2018

Ref: CRMS 100389/18

Dear Mr. O'Brien,

I refer to the recently published response to consultation on review of non-geographic numbers by the Commission for Communications Regulation (ComReg) and the invitation for further submissions and views from interested parties.

Revenue welcomes the detailed response and the recommendations proposed and is happy to provide the attached feedback to the draft decisions.

As outlined in our original submission, Revenue provides an extensive 1890 based service to our customers. It is essential that customer compliance costs are minimised while providing a fair and accessible public service. It is unfortunate as noted in the response that '1890' has suffered such serious reputational damage that it is likely to remain "toxic" in the long-term.

Telephone based services are still the most popular contact channel for Revenue customers based on analysis of our contact channels. Therefore, it is extremely important to Revenue that the proposals are implemented and that the improved transparency of retail tariffs are provided for consumers within the planned timeframes.

Yours sincerely,

N. ÓCody

Niall Cody,
Chairman

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chairmansoffice@revenue.ie

ComReg invites and welcomes the views of all interested parties on the proposals contained herein and will consider all responses to this consultation.
Q. 1 Do you have any new information relevant to the proposals contained herein? Please explain the basis of your response in full and provide any supporting information.

Revenue has no new information relevant to the proposals.

Q. 2 Do you agree with ComReg's assessment of the issues arising at the wholesale level, in particular ComReg's preliminary view that there is a problem with interoperability, interconnection and end-to-end connectivity and access to Non-Geographic Numbers and services, as outlined above? Please explain the basis for your response in full and provide supporting information.

Revenue fully agrees with the assessment of ComReg in relation to interoperability, interconnection and end-to-end connectivity and access to Non-Geographic Numbers and services. The need for this type of service offering particularly by large SPs with a diverse consumer base is critical. It is unfortunate that the Revenue 1890 service has suffered reputational damage because of the tariffs for usage on mobile customers which were beyond Revenue's control. Telephone based services are still the most popular contact channel for Revenue based on analysis of Revenue contact channels. Given the growth and ubiquitous use of mobile phones, the cost model for NGNs needs to be updated urgently.

Q. 3 Do you agree with ComReg's proposal that a price control would achieve the objective of addressing high wholesale origination charges and, that ComReg should consult on the form and implementation of such a price control? Please explain the basis for your response in full and provide supporting information.

Revenue agrees that price control for NGNs will address the immediate problem of fair, equal and open access for all users and open-up the NGN market to more Originating Operators and potentially other Service Providers to the benefit of consumers.

Q. 4 Do you have any views on ComReg's proposals for improving transparency of retail tariffs for consumers? Please explain the basis of your response in full and provide any supporting information.

Revenue fully agrees with the proposed geo-linking of NGNs and the proposal for improved cost transparency for consumers. The main complaint received by Revenue in relation to 1890 from users of mobile phones, is not the service provided but the cost of calls. Consumers are often confused by the "lo-call" reference given to NGNs and the inability to call a NGN using their existing bundle. The lack of transparency provided by the Originating Operators regarding the costs of calling NGNs is a major source of annoyance for Revenue Customers. Complaints from users of fixed lines generally relate to call wait times which indicates that the "lo-call" feature of NGNs works as intended. Revenue believes that the planned introduction of geo-linked prices will alleviate this major irritant for mobile users of NGN services.

Q. 5 Please provide your views on the tasks required for the implementation of the proposed Geo-Linked and Consolidation measures? Please explain the basis for your response in full and provide any supporting information.

In terms of the geo-linked proposal and the twelve month timeline for implementation, Revenue believes that the mobile operators should advertise the relevant cost reductions and bundle changes to their consumers clearly and with definite start dates. Revenue will add notifications and supporting material to our call services and website to coincide with the start dates.

In relation to consolidation measures, paragraph 3.37 of the report states that "SPs currently paying for '1890' would likely be able to migrate to Freephone services (as part of consolidation) and be no worse off (possibly better off) in terms of cost of providing services over NGNs. In 2.138, it is also stated that the volume discounts Revenue currently claims it receives are likely to be negated by any reduction in wholesale origination charges". Revenue wants to minimise customer compliance costs and to provide a fair and accessible public service. However, Revenue also needs to minimise unnecessary calls and Revenue costs, so has always favoured a lo-call shared cost model as provided by 1890 services (rather than 1800 free phone services).

Revenue is in the process of moving to Session Initiation Protocol (SIP) based telephony service to replace our 1890 service due to the ongoing challenge of using the 1890 NGN for our customers. The SIP service will provide the same scalability, resilience and manageability. As SIP uses standard geo-numbers, the caller can avail of the standard bundle relevant to their telephony contract which will minimise (but not eliminate) call costs to Revenue services. As a result of this decision and the proposed three year timeline of the consolidation process, it is likely that all 1890 services in Revenue will be withdrawn before the consolidation date. However, the option of using a geo-linked '0818' number knowing that such calls are included in a customer's bundle of inclusive call minutes provides Revenue with a useful option should it be required in addition to or to supplement our SIP services.

9: Office of the Government Chief Information Officer

An Roinn Caiteachais Phoiblí
agus Athchóirithe
Department of Public
Expenditure and Reform

OGCIO Response

The OGCIO welcomes the publication of Comreg document 1865 and in the main support proposals contained therein to rationalise the number of non-geographic number ranges operating in the Irish market. The OGCIO understands the motivation to reduce the complexity of number ranges in operation and fully appreciates that the market has become overly complex in how non geographic numbers are billed. The OGCIO fully supports the view that 076 numbers should be treated in the same manner as geographic STD numbers and posits that there is no technical barrier to doing so.

The take-up of the 076 number range across the public sector has been significant and therefore the inclusion of a proposal to remove the 076 number range is a cause for concern and we would ask that Comreg take on board the OGCIO concerns (outlined below in more detail) and reconsider this course of action. The use of the 076 number range across Government agencies is not limited to use as the main contact numbers for public services, rather its use has been adopted on a wider scale and with large number ranges assigned as DDI numbers for individual staff members and/or teams. These services are implemented in line with the purported reason for this number range and would be both costly and service impacting to agencies, including those providing front line services, to migrate from.

The move from geographical number ranges to non-geographical number ranges over the last number of years has seen steady year on year increase within Government agencies. The fact that this number range is not associated with particular geographic areas is seen as a considerable advantage and has allowed citizens avail of services without consideration to where that service might originate from. Public perception of where a service is located can be critical when dealing with sensitive matters and in many cases can be politically impactful. Using the 076 number ranges decouples location from service delivery. A very good example of the merits of non-geographical numbers is their use during the merger of North and South Tipperary councils. The non-geographic numbers allowed services based in North Tipperary to be advertised in South Tipperary with no need for concern of how this might be perceived by the public during a sensitive period.

The Citizens Information Board also utilises a large block of non-geographic numbers (8,000) to provider services throughout the state from a single number range and without having to maintain geographic number blocks in each area.

The OGCIO continues to see strong demand from public service bodies for non-geographic numbers in the 076 number range and the assignment of these to both public facing services and as general DDI numbers.

[redacted]

[redacted]

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[redacted] This functionality has assisted with the seamless transfer of services to the citizens arising from Department restructuring / relocation of staff, the transfer of functions from one agency to another and the establishment of new agencies.

Conclusion

In drafting this paper, we have been cognisant of the content in both submissions and the Comreg report that identifies the uncertainty surrounding call costs to non-geographic number ranges and the concern both service users and service providers have expressed. We would strongly suggest that the best way forward would be for Comreg to mandate that both 0818 and 076 numbers are treated in the same manner as geographic numbers in both per minute call cost and in how they are included in bundles offered to consumers (as per option 3 set out at A.1.169). Should this not be possible we would ask that the range of 076 numbers currently assigned to the Irish Government (076 100 000 – 076 199 999) be retained solely for the use of the Irish Government and treated in the same manner as geographic numbers.

The migration of the existing number ranges assigned to the Irish Government would be a complex and costly project with a high level of risk to critical operations. The OGCIO requests that Comreg take into consideration the concerns expressed in this paper before arriving at the final decision.

I am available to meet with you at any stage should you require further clarification.

Yours sincerely,

Ken Barclay

Ken Barclay

Assistant Principal Officer Higher

Office of the Government Chief Information Officer

Department of Public Expenditure and Reform

10: Three Ireland (Hutchison) Limited

Review of Non-Geographic Numbers

ComReg’s Proposals

Comments on Document 18/65

Three.ie

1. Introduction

ComReg has proposed an intrusive intervention to change the manner in which the current "NGN Platform" operates. The changes would alter the structure of the NGN Platform itself, and also the manner in which both retail and wholesale prices operate for NGN calls. ComReg has already consulted on the changes that are proposed, and has received wide ranging comments (including from Three) so we will not repeat those points unnecessarily. Three is of the view however that some aspects of the proposal and their implications have not been fully considered by ComReg. We also note that a relatively short period has been allowed by ComReg for comment on the proposal, which falls during the summer holiday period when different key staff are likely to be unavailable. For this reason, Three reserves the right to make further comment on ComReg's proposals.

ComReg's research shows that the NGN Platform is of reducing importance to consumers, with a proliferation of different number ranges, features, and tariffs. Consumers no longer understand the purpose that the NGN Platform serves, and there is even a lack of understanding that 1800 is free to call. This is the primary issue that ComReg should be seeking to resolve in its intervention, and Three cautiously supports ComReg's proposals to rationalise down to two number ranges which have a distinct purpose. We are cautious because we believe there is additional work to be completed in order to understand how such rationalisation will be achieved, and the implications of the rationalisation.

Three disagrees fundamentally with some aspects of ComReg's proposed approach, particularly in relation to retail pricing intervention. ComReg's proposal intervenes in the retail market for call origination to restrict operators' ability to freely offer their services and set their tariffs in a competitive market. ComReg requires an express and precise legal power to require and impose such intervention. As outlined further in Section 3, ComReg has no legal power to dictate the structure of products and any proposal to do so would involve it acting *ultra vires*. A requirement to include Non Geographic Number ("NGN") calls in all bundles would be a serious incursion on contractual freedom / privity of contract.

ComReg has not justified this intervention, and Three believes ComReg is acting *ultra vires* beyond its statutory objectives and powers as set out in the relevant legislation in making this proposal. Moreover, some aspects of the proposal would cause disproportionate and wasteful cost for operators to implement which would involve consequential consumer detriment and structural changes would need to be made to the wholesale market. It is clear that to the extent that retail measures are legally permitted and required to be implemented, then any wholesale problems created as a result of those retail measures must be remedied at the same time.

2. Transparency is the Identified Problem

Three has already presented its view on what ComReg's consumer and service provider research demonstrates (please refer to section 3 of Three's response to document 17/70), and it is not proposed to repeat that here. In summary, however:

- There is little or no understanding of what purpose NGNs serve outside of the communications industry;
- There is confusion and widespread misunderstanding of the price to call NGNs, both among consumers and service providers;
- Most consumers would rather use a geographic number or mobile number to call organisations than a NGN;
- Consumers do not consider the inclusion of NGN calls in their calls bundle is important;
- Only a minority of organisations actually use NGNs, and most of those also provide a geographic or mobile number for contact;
- Most organisations who do not use NGNs believe they are not necessary;
- The price/cost of NGNs is not a significant issue for organisations, and they seem to have a poor understanding of the cost of NGNs, both for the customer to call and for the organisation to receive.

ComReg's own research indicates that the main problem that exists on the NGN Platform at present is a lack of purpose for all of the different number types, and a lack of transparency as to their price and function.

Three cautiously agrees that ComReg's proposal to rationalise the number ranges down to two distinct number types (one free and one charged to caller) can simplify the NGN numbers and make it easier to convey their purpose and price. There are some practical considerations that will need to be addressed in implementing this consolidation, which are addressed later in this document.

The proposals relating to transparency measures would seem to be the least developed strand of ComReg's initiative to improve the use of the NGN Platform. Three generally supports ComReg's position as outlined in section 5 of the response document (18/65), however we believe that the major issue identified in ComReg's research is a lack of transparency as regards NGN prices and purpose, and that this should be the area where ComReg focuses its attention to propose improvements. ComReg's own prioritisation principles under its statutory objectives and "Electronic Communications Strategy Statement 2017-2019" outline that it must prioritise its resources on markets / areas with the greatest potential harm to consumers or to competition in the market.

We also note that most consumers would rather use a geographic number or mobile number to call organisations than a NGN, so a part of ComReg's solution should include an initiative to encourage service providers to make a Geographic number available in addition to, or instead of an NGN.

3. Retail Price Intervention

Three does not agree with ComReg's proposal to require that originating operators "Geo-link" the price charged for calls to NGNs. This is an aggressive intervention that purports to directly limit retail service providers' ability to determine the price, price-structure and configuration of consumer bundles they charge for different call types. ComReg is required to definitively evidence that there is market failure to intervene in such a manner, and having done so, ComReg is required to make the least restrictive intervention needed to remedy any established market failure falling within its statutory powers. The proposed intervention is not appropriate as it does not properly address the main issue identified with NGNs in ComReg's own research – lack of purpose and lack of transparency. As such, it is an unjustified intervention in the retail market for call origination, which is not supported by ComReg's powers and functions.

It should be noted that ComReg has never before attempted to intervene in a competitive retail market to mandate which elements an originating service provider may/must include within their retail price bundles. The unprecedented level of intervention, in particular where no clear consumer detriment has been established, is of serious concern. In fact there is no requirement for an originating service provider to include free calls to any Geographic service or to any particular Geographic destination within its retail tariff structure.

ComReg is proposing to take onto itself part of the decision as to what type of service the originating operators can offer inclusive calls to as part of their retail proposition. This would impose a restriction that is deeper than any other existing condition or remedy under ComReg's remit. It is not even a requirement at present that originating service providers treat all Geographic numbers uniformly in their retail price plans. ComReg's proposal would have the effect to reduce the incidence of bundles that include free call minutes, thus creating consumer harm in direct breach of its statutory duties and objectives.

Legal Powers
ComReg's Draft Decision would constitute a misuse of its legal powers as it intends to utilise the numbering / authorisation conditions to achieve an outcome those conditions were not intended to produce – intensive regulation of product structures and pricing across the entire market. ComReg can only carry out its objectives by using the powers and functions granted to it in legislation, and only for the purpose for which they were granted.

The only relevant legal power ComReg identifies is that to impose general and right of use conditions per Annex A of the Authorisation Directive. It should be noted that Annex A of the Authorisation Directive does not provide a right for ComReg to determine the content of retail price plans for a service provider in a competitive market.

ComReg refers to the nine categories of conditions which may be attached to rights of use for numbers as listed in Part C of the Annex, highlighting the first two categories as being relevant to the proposed Geo-Link Condition:

> *1. Designation of service for which the number shall be used, including any requirements linked to the provision of that service and, for the avoidance of doubt, tariff principles and maximum prices that can apply in the specific number range for the purpose of ensuring consumer protection in accordance with section 12(2)(c)(ii) of the Act of 2002.*
>
> *2. Effective and efficient use of numbers in conformity with the Framework Regulations.*

It should be noted that ComReg is not proposing to designate tariff principles for which a number can be used, nor maximum prices that can apply. The proposal is to specify or restrict the manner in which originating service providers may determine their retail price structures. If ComReg's interpretation was correct, it would have the unprecedented effect of allowing ComReg to regulate any element of every operators' commercial products and contracts (without conducting a complete market analysis or determining that such intervention is required).

Annex A and C of the Authorisation Directive must be narrowly construed as they set the 'maximum' level of regulation by ComReg. This means that ComReg cannot, as it claims, 'read across' types of permissible conditions from Parts A to C, in particular as (i) there are different lists and different permissible conditions in each for a reason, and (ii) Part C conditions can only apply to the individual operator that was granted such a right of use and not to the industry as a whole.

ComReg itself acknowledges that the General Authorisation conditions (Part A) and the Rights of Use conditions (Part C) are two categories of condition existing under "distinct statutory provisions" in ComReg document 15/136R1. In addition, ComReg outlined (in ComReg document 15/60) in relation to numbering / conditions of use, its view that: (a) the only conditions which should attach to an individual right of use are those which are intended to apply only to the undertaking which applied for and was granted that individual right of use; and (b) conditions intended to have general effect should attach to the general authorisation pursuant to Regulation 8 and Part A of the Schedule to the Authorisation Regulations. Therefore, ComReg has previously stated (and Three agrees) that ComReg cannot impose tariff principles 'across the industry' (rather than to individual undertakings) under Schedule C.

The ‘tariff principle’ Part C, Part 1) is linked to Section 12(2)(c)(ii) of the 2002 Act and can only be applied to ensure a “*high level of protection for consumers in their dealings with suppliers, in particular by ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved”* and ComReg has not demonstrated that this high level of protection is mandated or required in relation to the NGN market.

ComReg’s proposal would impose *ex ante* retail price restrictions on originating service providers. This exceeds the intervention permitted under Regulation 16(2) of the Framework Regulations, which provides that in the pursuit of its objectives, ComReg must apply objective, transparent, non-discriminatory and proportionate regulatory principles, including by:

> “*(c) safeguarding competition to the benefit of consumers*”; and
>
> *(f) imposing ex-ante regulatory obligations only where there is no effective and sustainable competition*.”

Three submits that as only a small minority of customers may benefit from its proposed intervention (not all consumers wish to use NGNs per ComReg’s own research or benefit from free inclusive minutes as part of their contract / price plan while the vast majority of customers will be disadvantaged. Accordingly, ComReg’s intervention is disproportionate to its stated objectives and statutory principles.

Cost of Implementation

ComReg’s proposal would directly impose implementation costs on originating service providers. This would be a large scale project that would require modification to rating, pricing, and billing systems and in addition multiple other support systems. Three estimates that it would take it 5,000 man-days of effort to make the changes to its systems in order to “Geo-link” the price of NGN calls. Three does not believe ComReg has demonstrated that its proposal is a proportionate response to an identified market problem, in particular no cost/benefit analysis has been carried out, so this cannot have been established.

Imposition of Unnecessary Cost

Three notes ComReg’s proposal to rationalise the number of different NGN ranges from the current 5 to 2. Three cautiously supports this proposal, as we recognise that it addresses the problem identified – apparent loss of a distinct function for NGNs and lack of transparency as to pricing.

Noting that all service providers would incur significant cost simply in implementing ComReg’s retail proposal, this should only be imposed where necessary, and where it will have a lasting effect. ComReg’s proposal would see at least the 1850,1890, and 076 number ranges withdrawn from service as soon as can be practically achieved. It would be wasteful and inefficient for ComReg to impose cost on service providers to implement changes for number ranges that are in the process of being withdrawn. The regulatory framework requires that ComReg take due consideration of efficient investment by operators and avoids the imposition of unnecessary costs. Three believes that any proposal to require service providers to implement Geo- linking for numbers that are subsequently to be withdrawn does not meet the requirement for proportional intervention.

New/Existing Contracts

ComReg does not seem to have considered whether the "Geo-linking" sould be applied to new customers or upgrading customers only from the implementation date. Without prejudice to our view that ComReg would still be exceeding its legal functions, it should be noted that this would be a less destructive intervention. It would however allow originating service providers the opportunity to rebalance the contents of their retail products taking into consideration that NGN calls are Geo- linked.

The alternative (that the requirement would be applied to all existing and new contracts) from the implementation date would be an extraordinary incursion into the existing retail contracts. ComReg is aware from its consultation (document 17/70) of the process by which bundles have been developed in what is a competitive market. In particular for mobile service providers, offers are developed that provide value to customers on the basis of an expected return in revenue over the duration of the retail contract. They can often include a significant upfront investment by the service provider (in some cases including handset subsidy) which can only be recovered over the duration of the service contract. This is why many products have a minimum term.

If ComReg's proposal to Geo-link NGNs was to be applied to all customers from the implementation date then this would have the direct effect to amend the existing customer contracts, reducing the originating service provider's ability to earn the revenue that was predicted at the time the contract was entered into. In effect it would impose an amendment that would make a significant number of existing contracts either loss-making or generate less revenue than was expected at the time the contract was entered into. Three does not believe that ComReg's powers permit it to make such an intervention into existing contracts.

Regulation 14

Several respondents to document 17/70 raised questions regarding the application of Regulation 14(4) of the Universal Service Regulations in relation to ComReg's proposed decision. In section 4.3 of the response document, ComReg has given its opinion that a right of exit would not apply in the circumstances where the Geo-linking condition is imposed as a direct result of a ComReg decision, as there is no discretion on the part of a service provider as to whether to apply the change or not. This clarification is noted.

There is however a further point regarding the application of Regulation 14(4) that requires clarification in relation to ComReg's proposal – ComReg's proposal would reduce the revenue that an originating service provider could expect to earn over the lifetime of any existing retail contract, and in some cases could make those contracts loss-making. In this case, in preparation for the change, the operator would need to adjust the retail tariff plan to take account of the incurred loss. Three specifically requests that ComReg clarifies whether such an amendment would trigger a right to withdraw on the part of the customer. If this is the case, then an operator would suffer additional significant loss as a result of early contract termination which would make the proposal even more burdensome on operators and result in consumer detriment as operators would not be forced to abandon investment projects / upgrades designed to benefit all consumers.

Three does not accept that ComReg's statutory powers and functions permit it to impose such a provision causing loss without allowing for adjustment of the retail plan. This would introduce the possibility that ComReg could at any time mandate changes to the terms under which operators contract with their customers, causing significant regulatory uncertainty. The regulatory framework requires that ComReg make only proportionate interventions (when such interventions are legally sound), which requires the least intrusive action is taken. Three believes that the imposition of a decision that would cause direct loss under existing contracts exceeds this proportionality requirement. This is particularly the case where ComReg's own research shows that the most significant issue for the NGN platform is a lack of transparency.

Consumer Detriment Not Established

Three reiterates its view that no significant consumer detriment has been shown, or at least not one for which Geo-linking is the appropriate solution. ComReg has stated that prices for retail calls to NGNs are relatively high when compared with the free call value that is included in some bundles. This is a subjective opinion that ignores the fact that calls to geographic numbers are charged at the same price as NGN calls (i) when customers are out of bundle; (ii) for customers whose contract does not include free minutes; or (iii) for customers who do not meet the minimum top-up requirement for free minutes.

Noting that 1800 numbers are always free to the caller and are not within the scope of ComReg's Geo-linking proposal, and that there will be only one other NGN range (0818) it is clear that Geographic numbers can act as a substitute for Non- Geographic numbers. ComReg has not demonstrated that there is a reduction in contact between consumers and contact centres that can be attributed to the current retail price of calls to NGN. Neither has ComReg established that the retail prices are excessive nor what minimum reduction is required to resolve the issue. It is not good enough to just state that calls to Geographic numbers are cheaper because some are included in-bundle, and short-circuit the required analysis to say that Geo-linking will solve the problem. This is not the application of a proportional remedy to an objectively established market failing. If ComReg intends to impose price control, then it must establish the correct price objectively, acting *intra vires*.

As was previously pointed out, ComReg must conduct a proper market analysis in order to assert that NGN retail prices are excessive, and prescribe proportional remedies. Again, Three reminds ComReg that no finding has been made that any originating operator has significant market power for mobile access and call origination.

It is a basic principle of good regulation that ComReg cannot implement an interventionist measure like the Draft Decision without robustly evidencing that consumer harm exists. ComReg has not presented such robust evidence and further has not explained what threshold level of consumer harm (equivalent to the SMP threshold under the Framework Directive) has occurred and why this justifies intervention in the form of the Draft Decision.

Origination vs Termination Model

At present, there are two different wholesale payment models that apply to NGNs – 1800, 1850, and 1890 which use the “Origination” model and 076 and 0818 which use the “Termination” model. In the Origination model, the originating service provider receives a payment from the downstream operator for call origination, and in the Termination model, the originating service provider makes a payment to the downstream operator for call termination. It should also be noted that Geographic calls use the Termination model, however the price charged for terminating calls is regulated.

ComReg’s proposal to Geo-link retail prices for NGN calls effectively constrains an originating service provider’s ability to freely set their retail price for those calls. In the case of 1800, 1850, and 1890 the originating operator can recover their costs in originating those calls, however this would not be the case for 076 and 0818 at present. As ComReg is aware, the price to terminate a call to an 076 or 0818 number is unregulated and unconstrained. The price is already 1,000% to 1,700% higher than the price to terminate a Geographic call. This price difference cannot be accounted for because of higher cost of termination, it is because there is no constraint on the price. In a situation where retail prices are constrained or linked to Geographic prices, terminating operators have no incentive to reduce their price for terminating calls to 076 or 0818, and there is no direct relationship between the termination price and the retail price. If geo-linking was introduced, originating service providers cannot recover the termination price from consumers and would be forced to increase the price of geographic / non-geographic calls (to recover the high termination cost passed on from the terminating operator) which would lead to higher prices for consumers (and thus potentially deter them from using these number ranges).

If Geo-linking was introduced for 076 and 0818 calls then under the current model and prices, they would be severely loss-making for originating operators. Originating operators cannot be forced to carry these calls at a loss – and that would lead immediately to disputes between originating and terminating operators. If NGNs are to be Geo-linked for retail price origination, then they must also be geo-linked for termination price. In the alternative, all NGNs would need to revert to the Origination model only, at the same time as the Geo-linking takes effect.

ComReg is of the unsubstantiated belief that there is currently a suppressed demand for calls to NGNs (except 1800) that will be remedied by the Geo-linking. While Three disagrees with this hypothesis, it is the basis for ComReg's proposal, and if it is true then the volume of calls to both 076 and 0818 can be expected to increase post implementation. The table below shows the distribution of call minutes among the different NGNs for calls originated on Three's network at present.

NGN Number Range	Traffic Share %
1800	25.9%
1850	19.2%
1890	29.3%
0818 Universal	17.2%
076 VOIP	8.4%
Total	100.0%

As can be seen, 75% of minutes are currently under the Origination model, and 25% Termination. With the consolidation down to just two number ranges, it is to be expected that most of the traffic will transfer to the 0818 number range. The call volume can be expected to grow to somewhere between 50% and 75% of the total NGN volume (as the only remaining distinction is free vs paid-for). This would exacerbate the concern raised above whereby Geo-linked calls would be loss- making under the current termination model.

Q. 1 ComReg invites and welcomes the views of all interested parties on the proposals contained herein and will consider all responses to this consultation. Do *you have any new information relevant to the proposals contained herein? Please explain the basis of your response in full and provide any supporting information.*

Three's comments are provided in the section above.

4. Wholesale Intervention

ComReg has proposed to introduce wholesale price control in the NGN platform. This proposal has been based on the claim that: "*the evidence above clearly shows that end-users, and in particular, certain consumers are unable to access and use services using NGNs"*. While a suggestion has been provided to explain why originating operators might charge excessively, no evidence has been provided that this has actually occurred in practice. Neither is this thesis supported by ComReg's market research:

- only 3% of organisations have ceased using NGNs, and the main reason given for doing so is because they decided that a geographic or mobile number was just as suitable for their purpose (P25);
- most organisations (82%) who do not use NGNs believe they are not necessary (P7);
- for organisations who do not use NGNs, the cost (either for the organisation or the caller) is not a significant reason, coming as the 5th and 6th most common reason respectively (P33).

ComReg further states that there is evidence to demonstrate a problem exists with end-to-end connectivity in relation to NGNs (Paragraph 3.77 of 18/65). This evidence has not been provided, and Three is not aware of any case whereby end-to-end connectivity has been prevented because of the current price structure for NGNs.

ComReg has proposed to introduce wholesale price control under Regulation 6(2) of the Access Regulations, or Regulation 23(1) of the Universal Service Regulations. Regulation 6(2) of the Access Regulations can be used "*to the extent that is necessary to ensure end-to-end connectivity*". As stated above, there is no evidence that any problem exists which is currently preventing end-to-end connectivity of NGN calls. Accordingly, this Regulation cannot be used to support ComReg's intervention.

Regulation 23(1) USO provides for ComReg to take steps designed to ensure NGNs are accessible within the EU, and access to the ETNS. Again, this Regulation cannot be used as a means to impose price control.

The regulatory framework limits the circumstances under which ComReg can impose ex-ante price control. ComReg cannot shortcut through procedure, but must follow it. It will require market definition and assessment to establish that the market is properly susceptible to price control, followed by Article 7 notification.

In addition, whereas Three does not agree with either retail or wholesale intervention (for the reasons outlined above), if ComReg was legally permitted to intervene (which Three contends is not the case), ComReg must address the consequential issues that this would cause end-to-end for calls, i.e. the Termination model for 076 and 0818 calls.

Q. 2 Do you agree with ComReg's assessment of the issues arising at the wholesale level, in particular ComReg's preliminary view that there is a problem with interoperability, interconnection and end-to-end connectivity and access to Non-Geographic Numbers and services, as outlined above? Please explain the basis for your response in full and provide supporting information.

As stated above, there is no short-cut through the process that is required to impose price control. No problem of end-to-end connectivity has been shown, and ComReg cannot use this as a justification for bypassing the required procedure.

Q. 3 Do you agree with ComReg's proposal that a price control would achieve the objective of addressing high wholesale origination charges and, that ComReg should consult on the form and implementation of such a price control? Please explain the basis for your response in full and provide supporting information.

See comments above under Q2 in relation to the procedure that ComReg must follow to introduce price control. Note also the comments raised in relation to regulation of the price for termination of calls to 076 and 0818 – ComReg cannot introduce retail price control for these NGNs without also controlling the termination price.

Three agrees that ComReg should consult on its specific proposals.

Q. 4 Do you have any views on ComReg's proposals for improving transparency of retail tariffs for consumers? Please explain the basis of your response in full and provide any supporting information.

As previously stated, Three generally supports ComReg's proposals to improve transparency in the NGN platform. It might be that a workshop or other such discussion would help to decide on the detail for action.

Q. 5 Please provide your views on the tasks required for the implementation of the proposed Geo-Linked and Consolidation measures? Please explain the basis for your response in full and provide any supporting information.

Geo-linking of NGN tariffs would be a large scale project that would require modification to rating, pricing, and billing systems and in addition multiple other support systems. Three has recently completed a project that involves similar changes to these systems, and using this as a basis, we estimate it would take it 5,000 man-days of effort to make the changes to its systems in order to “Geo-link” the price of NGN calls. It is a project that could not be implemented in less than 6- months, and would need to displace other planned work in order to be in place for the end of 2019.

ComReg will be aware that Three is currently mid-way through a large scale project to replace its support systems. Further analysis is needed to determine if Geo- linking NGNs could be introduced without delaying the main project to replace support systems. Obviously any delay to that project would have significant cost implications for Three.

In relation to the number consolidation, considerable further work will be required to develop a plan of implementation. This will be similar to any number change, however in addition rules will need to be developed to determine how the 5 existing number ranges can map to 2; how to resolve conflicting claims for numbers; different number length; etc.

End.

11: Verizon Enterprise Solutions

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Verizon response to ComReg's "Review of Non-Geographic Numbers – Response to Consultation and Draft Decision"

Introduction

1. Verizon Enterprise Solutions ("Verizon") welcomes the opportunity to respond to ComReg's "Review of Non-Geographic Numbers – Response to Consultation and Draft Decision" consultation ("the Consultation").[1]

2. Verizon is the global IT solutions partner to business and government. As part of Verizon Communications – a company with nearly $131 billion in annual revenue – Verizon serves 98 per cent of the Fortune 500. Verizon caters to large and medium businesses and government agencies and is connecting systems, machines, ideas and people around the world for altogether better outcomes.

3. Please note the views expressed in this response are specific to the Irish market environment and regulatory regime and should not be taken as expressing Verizon's views in other jurisdictions where the regulatory and market environments could differ from that in Ireland.

Response to consultation

4. Verizon does not offer any comments on ComReg's proposals to require that non-geographic numbers (apart from Freephone) should have pricing linked to geographic number pricing, nor on the consolidation from five to two non-geographic number ranges. **[✂]**

5. This response therefore focuses on two elements:

   - The need for wholesale intervention; and
   - The proposals around price transparency for non-geographic calls.

[1] ComReg document 18/65, published 11 July 2018, https://www.comreg.ie/publication/response-to-consultation-review-of-non-geographic-numbers/

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Wholesale intervention (Consultation Questions 2 and 3)[2]

6. Verizon fully agrees with ComReg's assessment of the market failures at the wholesale level for call origination as set out in Section 3 of the Consultation. The issue of excessive wholesale origination charges, particularly from mobile network operators, has been a long-standing issue which has had a number of negative effects on the non-geographic number market. Verizon has highlighted these to ComReg in previous submissions over the years. In summary:

   - Business customers (such as those Verizon serves) are facing very high costs for offering Freephone numbers – this forces them to either migrate to other ranges or not to offer the numbers in the first place – this is a distortion of the non-geographic market;

   - Some customers have considered leaving the Freephone market given the high costs; and

   - Consumers suffer either through having to pay for calls where a business has opted to not use a Freephone number, and/or through lack of competition.

7. The harm is particularly severe for mobile originated calls where charges are wildly above cost and the rates employed by fixed operators.

8. As a result, action is needed from ComReg to ensure that the harm is reduced as soon as possible, and arguably should be focused on the mobile origination market given there is less evidence of harm in the fixed origination market (given the lower rates in this market).

9. **[✂]**[3, 4]

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[2] "*Q. 2 Do you agree with ComReg's assessment of the issues arising at the wholesale level, in particular ComReg's preliminary view that there is a problem with interoperability, interconnection and end-to-end connectivity and access to Non-Geographic Numbers and services, as outlined above? Please explain the basis for your response in full and provide supporting information*" and "*Q. 3 Do you agree with ComReg's proposal that a price control would achieve the objective of addressing high wholesale origination charges and, that ComReg should consult on the form and implementation of such a price control? Please explain the basis for your response in full and provide supporting information*"– the Consultation.

[3] See paragraph 5.160 of ComReg's "Price Consultation - Further Specification of Proposed Price Control Obligations for Fixed and Mobile Call Termination Rates", https://www.comreg.ie/publication-download/price-consultation-specification-proposed-price-control-obligations-fixed-mobile-call-termination-rates

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10. Verizon agrees with ComReg that a wholesale price control is indeed the best option on balance for addressing the harm at the wholesale and retail level (given the arguments from paragraph 3.56 onwards in the Consultation). A price control brings stability, certainty and clarity to industry. However, there are two major questions to consider with this remedy:

- Cost standard; and
- Timing

Cost standard

11. Verizon submits that the price control should seek to ensure that mobile origination charges for calls to non-geographic numbers are brought down to cost. We note that ComReg also agrees that wholesale origination charges should be limited to at least the costs of origination.[5] Fixed operators have for many years (until recently) used a proxy for cost based on eir's regulated interconnection rate which is cost-based.

12. We agree with DotEcon's analysis of using mobile termination rates as a proxy for determining the costs of mobile origination,[6] given that (as evidenced by consultation responses) that there is very little difference in cost between termination and origination.[7] Given that termination rates are generally set at LRIC across the EU, as recommended by the 2009 EC recommendation,[8] Verizon submits that ComReg should look to implement a LRIC-based charge control for mobile call origination.

Timing

13. The greatest downside with a price control is arguably the longer time needed to implement such a remedy. However, given ComReg's statement that it "has already

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[4] See Figure 26 of ComReg's "Price Consultation - Further Specification of Proposed Price Control Obligations for Fixed and Mobile Call Termination Rates", https://www.comreg.ie/publication-download/price-consultation-specification-proposed-price-control-obligations-fixed-mobile-call-termination-rates

[5] See paragraph 3.53 of the Consultation.

[6] See page 85 of the DotEcon report, ComReg document 17/70a, https://www.comreg.ie/publication/report-dotecon-non-geographic-numbers-ireland/

[7] See for example the summary at paragraph A1.47 of the Consultation.

[8] Commission Recommendation of 7 May 2009 on the Regulatory Treatment of Fixed and Mobile Termination Rates in the EU (2009/396/EC) http://eur-lex.europa.eu/LexUriServ/LexUriServ.do?uri=OJ:L:2009:124:0067:0074:EN:PDF

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collected a large amount of evidence and analysis"[9], in addition to the work already conducted by ComReg in developing a cost model;[10] we believe that the risk of a slow implementation is somewhat mitigated. We therefore agree with ComReg that a price control is the best way to remedy the market failures identified in the wholesale origination market.

14. That said, Verizon is still concerned that the harm present in the market for several years may continue for even longer before the price control is implemented. ComReg suggests that a wholesale price control should be implemented on or before the move to geo-linked pricing for non-geographic numbers, currently scheduled for Q4 2019.[11] In its Action Plan for 2018/19, ComReg suggests that it would publish a decision on wholesale pricing for call origination to non-geographic numbers in Q2 2019.[12] While this is a more ambitious target, Verizon is somewhat sceptical of the proposed timing given ComReg's lack of action on this issue over the years (the original workshop was held in February 2014 – over four and a half years ago!). We therefore urge ComReg to ensure that it has sufficient resource to complete the price control analysis and implementation in an urgent manner.

15. Verizon appreciates that price controls can take time and must follow due consultation process. However the harm being caused by the excessive mobile origination charges for calls to non-geographic numbers simply cannot continue. We therefore urge ComReg, in parallel and in addition to the price control development, to seek a voluntary agreement from the mobile operators for an immediate one-off reduction or a glide path over a few months to reduce the excessive prices before the price control comes into effect in order to alleviate the harm to service providers (SPs), consumers and businesses without undue delay.

Retail pricing transparency (Consultation Question 4)[13]

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[9] See the Consultation, paragraph 3.74, bullet point 7.

[10] As notified in 2014 and 2015 in ComReg documents 14/130 (https://www.comreg.ie/publication/update-on-treatment-of-non-geographic-numbers/) and 15/40 (https://www.comreg.ie/publication/call-for-input-wholesale-charges-for-non-geographic-numbers-development-of-a-mobile-cost-model/).

[11] See the Consultation, Figure 3, page 97.

[12] See page 12 of ComReg's "Action Plan for Year to 30 June 2019" https://www.comreg.ie/media/2018/07/Annual-Action-Plan-Ye-300619.pdf

[13] "*Q. 4 Do you have any views on ComReg's proposals for improving transparency of retail tariffs for consumers? Please explain the basis of your response in full and provide any supporting information.*" – the Consultation.

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16. Verizon agrees that ComReg should play a crucial part in informing the public about the proposed changes around pricing and consolidation of the non-geographic number ranges available. Having a dedicated and clear section of the ComReg website will provide a consistent and central place for consumers to find information. We therefore support ComReg in this proposal.[14] We would also advise ComReg to seek advice and the experience of Ofcom and other regulators on consumer-facing transparency measures. Ofcom for example established the "UK Calling" website[15] when it introduced changes to various revenue-sharing ranges in 2015 – it may be useful to know how successful that site has been.

17. With regards to the pricing transparency proposals falling on communications providers, there are three key areas that ComReg suggests:

- Retail tariff publication and transparency;
- Direct customer notifications; and
- Guidance for SPs developed by ComReg and operators.[16]

18. However, we note that there are several suggestions made in the consultation on how to manage this including tariff publication, bill inserts, online campaigns, colour coding promotional material etc.[17] ComReg also does not clearly distinguish the various parties in the provision of non-geographic numbers: originating voice providers, SPs, and non-geographic number platform providers. ComReg's position is therefore unclear.

19. At a high level, Verizon agrees that transparency of non-geographic number pricing is needed to ensure that the market functions correctly and consumers and businesses can have confidence in the numbers they are using. However we note several issues with ComReg's proposals, as set out below.

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[14] As set out in paragraph 5.25 of the Consultation.

[15] Previously, Ofcom had set up a dedicated website separate from its own to raise awareness of the changes to revenue-sharing numbers (this was www.ukcalling.info) however this website has now been decommissioned. Information can still be seen on the UK Calling section of Ofcom website here: https://www.ofcom.org.uk/phones-telecoms-and-internet/advice-for-consumers/advice/uk-calling; and also the call cost guide here: https://www.ofcom.org.uk/phones-telecoms-and-internet/advice-for-consumers/costs-and-billing/how-much-does-a-phone-call-really-cost

[16] See paragraph 5.26 of the Consultation.

[17] See paragraph 5.26 of the Consultation.

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20. Firstly, there is very little consideration of the need for SPs to provide clear tariff information when they are promoting their service. As this is the point where callers will be seeking out the right contact information, it seems logical and practical for there to be an obligation on the SPs to provide clear tariff information here. Similarly, some of the other proposals considered (colour coding and pre-call announcements) should also reasonably be a responsibility for the SPs. While ComReg tries to address this with its proposal for guidance to be produced for SPs, it unnecessarily burdens operators, including those that simply provide voice origination with that proposal;[18] rather than suggesting that a workshop should be set-up between SPs and ComReg. We urge ComReg to re-consider this proposal.

21. Secondly, ComReg notes that all operators are already required to ensure that retail tariff information is made available in a transparent, comparable, adequate and up-to-date manner, under Regulation 15 of the Universal Service Regulations.[19] It is therefore unclear why further transparency measures on the part of operators, particularly those only providing voice origination, are needed beyond this to ensure customer awareness of the relevant non-geographic number tariffs.

22. Furthermore, the individual communication and publication measures carried out by each operator under the relevant Regulation should be a decision made by those operators as they can determine the best way to contact and inform their customers. For example, consumer-facing operators may need more in-depth communication campaigns to engage them in relation to the changes proposed than say large, well-informed corporate customers who have dedicated account managers.

23. There is no need for prescriptive requirements to be imposed about specific formats of communication – this would be an unnecessary over-extension of regulation which could cause cost and burden with no guarantee that the measures would be fit-for-purpose for all types of customers.

24. We therefore suggest that ComReg simply continues to require communications providers to “publish transparent, comparable, adequate and up-to-date information on applicable prices and tariffs” as per the Universal Service Regulations, with no

[18] See paragraph 5.26 of the Consultation.
[19] See Regulation 15(1) of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011.

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additional regulation required. We can however see an argument for requiring SPs to provide greater transparency over the tariffs for their services.

25. In considering this, ComReg should ensure that it identifies what the harm is that they are trying to resolve with transparency measures. In this sense, we would again expect this to focus on the responsibilities of SPs and the needs of domestic consumers. Conversely, we do not consider that large enterprises require or want information in the same fashion as domestic consumers and should therefore be carved out given the lack of harm.

Verizon Enterprise Services
August 2018

12: Vodafone Ireland Limited

Vodafone Response to ComReg document:

Review of Non-Geographic Numbers – Draft Decision

Reference: ComReg 18/65

Executive Summary

Vodafone welcome the opportunity to respond to ComReg's document –
Review of Non-Geographic Numbers, Response to Consultation and Draft decision 18/65.

We have reviewed the documentation published by Comreg but remain convinced that the ComReg draft decision is a disproportionate solution to issues with non-Geo numbers and will in fact be counterproductive in that it will lead to further decline in the NGN market.

While we stand by the view we expressed in response to Comreg 17/70 we understand that ComReg have progressed to a Draft Decision and so in this document will focus on a small number of issues where we urge that change should be made to the current proposals.

These three issues are:

- Wholesale solution
- Timing of Geo-bundling
- Cessation of 076 number range

Wholesale Solution

As we illustrated in our response to Document 17/70, without a change in the current wholesale regime the ComReg proposal in 18/65 will result in operators being expected to carry non-geo calls while losing money on every call. This is clearly a disproportionate solution to a retail problem and, we believe, an action in excess of ComReg's powers.

The retail solution should not be implemented in advance of the implementation of a wholesale solution.

It would be entirely unacceptable for ComReg to impose a price control where forced operators to lose money on each non-geo call because wholesale charges exceed retail revenue per call.

In this 18/65 Comreg acknowledge wholesale issues but propose deciding on a solution at a future undefined time, but later than the retail decision.

In fact, ComReg have in this decision document effectively introduced a new consultation and elements of a market review of the wholesale market for Non-Geo calls. This is on its own a considerable decision which will need further consideration and we will revert further to ComReg on the issue of wholesale solution of Non -Geo calls.

Comreg should not proceed with the retail decision until the wholesale issue is resolved and there is a joined up timetable for the implementation of both the wholesale and retail issues.

Timing

Separately to the above we suggest that the timing of the inclusion of the non-geo calls in-bundle is extended to two years. This would allow many of the contracts between operators and service providers to cease without intervention, and allow for the orderly negotiation of new contracts. In addition, we believe that a number of Service Providers will choose to cease their service in this time scale; and it may be more efficient for small service providers to complete this process in a single step -rather than in a double step of communicating prices changes and later communicating a number change.

Implementing the change in this way will have a number of advantages: it will lower the effort required to effectively communicate with customers, it will make the change more transparent to customers and it will lower the costs of all parties making the change.

There are other service providers who could not make the change in this timescale -these will include those where numbers are presented on external signage or vehicles etc. and those who have to make changes to internal IT and customer care systems. For these operators the three-year timescale to cease number rages is appropriate.

Cessation of 076 numbers

Lastly we ask that ComReg review the proposal to remove the 076 number range. As under this decision these numbers will be geo-rated, they would quickly be identified by customers as exactly equivalent to other geo ranges and there appears to be no risk of consumer confusion on cost.

Removing this range will cause an unnecessary disruption to the many complex Government services and number management systems.

The clear trend in the market is towards a National Geo area and it may be attractive for customers with premises in multiple areas to use numbers which do not identify their business as limited to a specific geographic area.

Response to specific questions in ComReg Document 18/65:

Q. 1 ComReg invites and welcomes the views of all interested parties on the proposals contained herein and will consider all responses to this consultation. Do you have any new information relevant to the proposals contained herein? Please explain the basis of your response in full and provide any supporting information.

No – existing points stand.

Q. 2 Do you agree with ComReg's assessment of the issues arising at the wholesale level, in particular ComReg's preliminary view that there is a problem with interoperability, interconnection and end-to-end connectivity and access to Non-Geographic Numbers and services, as outlined above? Please explain the basis for your response in full and provide supporting information. ....

Vodafone agree that there is a significant issue arise at the wholesale level. ComReg have produced a wide-ranging overview of the possible solutions in a draft decision document. More consideration will have to be given to possible wholesale solutions.

In section 3.52 ComReg proposes that the Geo-Linking comes into effect one year from the date of the final decision.

The section goes on to say "Therefore, it would be preferable for any wholesale intervention to come into effect on or before the implementation date of the geo-linking option noting that while geo-linking may be introduced prior to wholesale measures, such a scenario would only arise where wholesale measures were delayed beyond a year but would be implemented shortly thereafter"

This outcome would be entirely unacceptable to retail operators. We could not accept a decision that forced us to carry calls below cost.

The risks associated with the introduction of a retail only remedy are clearly identified in the DotEcon report 17/70a– see the following quotes:

"It is also possible that retail remedies without corresponding wholesale remedies could even worsen the situation for SPs if originators seek to recover lost retail margins through higher wholesale charges. . ..
For these reasons, we recommended that measures to intervene in the wholesale market are considered in parallel with our proposed remedies for the retail market." Comreg 17/70a. P126

Q. 3 Do you agree with ComReg's proposal that a price control would achieve the objective of addressing high wholesale origination charges and, that ComReg should consult on the form and implementation of such a price control? Please explain the basis for your response in full and provide supporting information.

Vodafone believe that further consideration need to be given to a wholesale solution and will revert further.

Q. 4 Do you have any views on ComReg's proposals for improving transparency of retail tariffs for consumers? Please explain the basis of your response in full and provide any supporting information.

We will only add that we believe that some smaller service providers will choose to cease using non-geo numbers rather than communicate price change and then number change. This would be most efficiently carried out in a two-year time-scale.

Q. 5 Please provide your views on the tasks required for the implementation of the proposed Geo-Linked and Consolidation measures? Please explain the basis for your response in full and provide any supporting information

For operators there are a number of significant tasks:

For Geo-Linking:

- Contract discussion with wholesale providers
- Change to Internal number management and billing systems.
- Change to charging information presented on-line and on other customer documentation.

For Number Consolidation:

- Discussions with SPs on new number to use/ preparation of new contracts with end users
- Implementation of new number ranges for each customer in Network Switches and customers care systems.

We are concerned that while Comreg acknowledge the wholesale issues a solution has not been decided on. This will delay contract discussions with Service Providers. but a solution has not been decided on. Comreg should have an integrated plan for the implementation of both wholesale and retail not proceed with a final decision until the wholesale issue is resolved.

For the Service Providers:

In our view that ComReg's consultants have significantly underestimated the cost and timescales involved for Service Provider companies to make the changes required to support the new NGN regime. It is unlikely that the companies surveyed carried out full analysis of the Network and IT costs involved in implementing a new number system. From our experience working with multiple customers, implementation of new number ranges can be a long and complex process.

In particular, where large organisations operate from multiple sites the implementation of new numbering systems can take a long time.

In addition, companies will have to negotiate with telecoms providers to complete contracts for new numbers, prepare internal material and brand review before they can begin the cycle of replacement of stationary, signage, web site development, vehicle repainting etc.

ComReg's use of averages for time required to replace stationary etc. does not provide an appropriate figure for time to change the number plan. Many companies will not wish to make the significant investment needed to use the new proposed NGN system and will want to allow the current numbers to lapse over a longer time period.