

ComReg Document 20/95s

Non confidential responses to Consultation 20/19

Fixed Voice Call Termination Further review concerning 0818 numbers and Additional Fixed Service Providers



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

1. BT
2. Eir
3. Three
4. Vodafone
5. Goldfish

BT Communications Ireland Ltd [“BT”] Response to ComReg Consultation:

Market Review – Fixed Voice Call Termination Markets Further Review concerning 0818 Numbers and Additional Fixed Service Providers

BT Response Issue 1 – 29 May 2020

Introduction

We welcome the opportunity to comment on this consultation and also welcome the considerable work of ComReg to resolve the many issues within this specific area of the market. However in this case we are unable to agree that there is justification to designate 0818 as part of the FVCT regulated market.

Separately we welcome and agree with the proposal of ComReg to add Additional Fixed Service Providers to the list of SMP operators, and would also ask ComReg to further add any other Fixed Service Providers that are now trading in the FVCT regulated market and not already covered by the SMP Designation.

We support ComReg’s position that the originating operator should be responsible for paying for 0818 transit facilities as this creates the natural incentive for the originating operator to select the most efficient routing of the calls. We remain most concerned by the 1800 transit approach of the receiving operator having to pay for the transit service without any say in the efficient routing of the traffic. We do not believe this situation will be stable or sustainable until the natural commercial incentive approach emerges. We consider ComReg in the upcoming Fixed Access Call Origination FACO market review should take a serious look at the market segment that is Non-Geo transit concerning 0181 and 1800 and run the Three Criteria Test in this matter. We would agree with ComReg’s stance in earlier consultations that further regulation for the 1850, 1890 and the 076 ranges in this matter is not required given the ranges are closing.

Response to the detailed questions

Q. 1. Do you agree that the preliminary views regarding retail voice market developments and trends remain valid for purposes of this market review? Please explain the reason for your answer, clearly indicating the relevant paragraph numbers to which your comments refer, along with all relevant factual evidence supporting your views.

BT Response

Generally we agree with the preliminary views regarding the retail voice market trends; we note that since the forced bundling of PSTN lines is abating, unregulated over the top providers of telephony services continue to take significant share from PSTN providers.

Q. 2. Do you agree with ComReg’s preliminary view that, consistent with its position in the 2019 Termination Markets Decision, there are unlikely to be effective retail demand-side or retail supply-side substitutes which would, within the timeframe of this market review, indirectly constrain a SSNIP in FTRs by the Additional FSPs? Please support your answer with reasoning.

BT Response

We generally agree with ComReg’s preliminary view that, consistent with its position in the 2019 Termination Markets Decision, there are unlikely to be effective retail demand-side or retail supply-side substitutes which would, within the timeframe of this market review, indirectly constrain a SSNIP in FTRs by the Additional FSPs. We agree with ComReg’s statement in 4.3 of this consultation that the assessment for the FVCT market was primarily carried out with respect to geographic numbers, hence we are unable to agree that the same assessment applies for the 0818 NTC and explain this in our response to question 3.

Q. 3. Do you agree with ComReg’s preliminary views on the definition of the Relevant FVCT Markets? In particular, do you agree that (a) 0818 numbers should be included in each of the Relevant FVCT Markets and (b) the Additional FSPs (along with the 2019 SMP FSPs) each constitute separate Relevant FVCT Markets? Please explain the reasons for your answer, clearly indicating the relevant paragraph numbers to which your comments refer, along with all relevant factual evidence supporting your views.

BT Response

- (a) We do not agree that 0818 should be included in the Regulated FVCT for the following reasons.
- i. ComReg itself found in the consultation for the 2019 Termination Decision¹ that the commercial environment concerning 0818 is different to that of geographic numbers with end service providers having a motivation to ensure the price of termination does not discourage callers. Whilst ComReg did not conclude whether to include 0818 within the 2019 Termination Decision we consider the analysis is still relevant.
 - ii. The ComReg Non-Geo Decision of 2020² creates a linkage between the wholesale call origination rate and the fixed call termination rate for calls to 0818 numbers and operators that raise their termination rates face paying out equivalent higher origination rates to normalise the situation back to the FTR. We note the ComReg discussion in 6.39 of this consultation suggesting no FTR price controls are in place relates to the situation before the new 2020 NGN Decision became effective for pricing on the 1st May and thus time is needed to see whether the new regime works. Our view is ComReg’s position is not demonstrable as it has not given the previous solution within the 2020 NGN Decision any chance of being proven. So far the operators are lining up with the new scheme within the published Switched Transit Routing Price List (STRPL) and the long history of the deemed-to-be regime demonstrated voluntary alignment in this market.
 - iii. The key regulatory principle behind the finding of SMP for the call termination markets is the called party has no choice in how the call is received as the operator to which they subscribe has 100% market share of their own call termination. However, the 0818 non-geo translation number is more of an intermediate number as it’s not the end of routing and there are numerous choices available for the end Service Provider receiving calls including to different numbers in different countries and time zones, different call centres with active load balancing and even to different networks including mobile. In practice many options are available to the end customer and we don’t believe the finding of SMP for 0818 is appropriate given the facility with which the entire service can be switched to another provider, the potential for originators to control excessive termination charges and this ability to further select call termination by the receiving party.
 - iv. We also have an additional comment that there are about to be major changes in the FVCT market as the European Commission is expected to directly regulate in this market and even at this late stage the conditions of that regulation are not available. Whilst we generally support a price control for the termination rate for 0818 (and which we believe is already in place through the linkage with call origination), we are concerned that regulatory scope drift could stifle the commercial nature of the services supported through 0818.
 - v. We welcome Comreg comments with respect to the direction of charging for transit service for 0818 as this creates the correct incentive for the party paying the bill. We note that the same principles apply to 1800.
- (b) We agree the Additional FSPs (along with the 2019 SMP FSPs) each constitute separate Relevant FVCT Markets for the purposes of the FVCT based on the analysis of geographic numbers and should be aligned with the operators in the 2019 Decision, but we believe as in (a) that the 0818 market displays different characteristics given the options available for termination after the call is routed through the 0818 NTC and should not be classified as within the regulated FVCT market.

¹ Fixed Voice Call and Mobile Voice Call Termination – Response to Consultation and Decision, ComReg Document 19/47, ComReg Decision D10/19, May 2019.

² Access to Non-geographic Numbers: Imposition of price control and transparency obligations. ComReg Document 20/04R, ComReg Decision D02/20, 16 January 2020.

Q. 4. Do you agree with ComReg’s assessment of SMP in the Relevant FVCT Markets? Please explain the reasons for your answer, clearly indicating the relevant paragraph numbers to which your comments refer, along with all relevant factual evidence supporting your views.

BT Response

We agree with ComReg’s assessment of SMP in the Relevant FVCT markets for geographic numbers as discussed in the 2019 Termination Decision but not for the 0818 number which was not concluded in that Decision. Please see our response to question 3.

Q. 5. Do you agree that the competition problems and the associated impacts on competition and consumers which are identified in this Section are those which could potentially arise in the Relevant FVCT Markets? Please explain the reason for your answer, clearly indicating the relevant paragraph numbers to which your comments refer, along with all relevant factual evidence supporting your views.

BT Response

1. We continue to agree with the 2019 Termination Market review and the aspects re-appraised in this consultation for geographic numbers. We also note the ComReg comment in 6.8 as follows:

“In section 5 of this consultation, the Relevant Termination Markets are defined, such that each FSP identified is the sole supplier of FVCT to its subscribers.”

We note that 0818 is an NTC number and is not the final termination of the call. For example, as discussed in our answer to question 3, these numbers will be further mapped for termination to a geographic number, a mobile number, to different operator in another country, and different numbers can be selected by the end service provider to give many various routing options to support the customer needs. The customer also tends to be a business customer and we note they can and do move between providers. Hence we do not believe 0818 aligns with ComReg fundamental principle highlighted above.

We also consider the 2020 NGN Decision creates a natural balancing model between origination and termination which has not yet been given a chance. We note that the fixed industry voluntarily adopted the “deemed to be” regime for some 10 years and even when some changes were made this simply led to two groups of “deemed to be” stable prices. The benefit of the “deemed to be” regime was it made the settlements straight forward and we believe the new ComReg natural balancing model will do the same, hence the aim for a universal and stable FTR will be achieved. As previously we are supportive of a regulated termination rate for 0818 numbers however we don’t believe the proposed approach of moving 0818 into the regulated FVCT market is correct and it carries the risks of further unknown regulatory changes as the EU FTR and MTR regimes come into force.

Q. 6. Do you agree with ComReg’s approach to imposing remedies in each of the Relevant FVCT Markets within which the Proposed Additional SMP FSPs operate? Please explain the reason for your answer, clearly indicating the relevant paragraph numbers to which your comments refer, along with all relevant factual evidence supporting your views.

BT Response

We you agree with ComReg’s approach to impose remedies in each of the Relevant FVCT Markets within which the Proposed Additional SMP FSPs operate for the existing requirements of the 2019 Termination Decision. We support this to provide a fair playing field. We would also like to make two further comments.

1. We would ask ComReg to check and include further new operators that now appear in the STPRL. We would also seek for any operators with name changes etc. to be updated.
2. We don’t believe 0818 should be included in the FVCT regulated market and ComReg should give the remedies described in the 2020 NGN Decision a chance.

Q. 7. Do you have any comments on the draft FVCT Decision Instrument set out in Annex: 1? Please explain the reason for your answer, clearly indicating the relevant paragraph numbers to which your comments refer.

BT Response

1. We agree with the inclusion of the proposed three operators into the FVCT as SMP operators into the existing scope of D10/19.
2. We consider ComReg should also look to update the list further with new operators.
3. We don't agree to the proposal to add 0818 into the FVCT as we don't believe the case is proven given the different characteristics of 0818 from Geographic numbers. Please see our response to question 3.

Q. 8. Do you agree with ComReg's preliminary conclusions on the Regulatory Impact Assessment, in respect of FVCT? Please explain the reasons for your answer, clearly indicating the relevant paragraph numbers to which your comments refer, along with all relevant factual evidence supporting your position.

BT Response

1. We generally agree with the impact statement including clause 9.6 to add the Proposed Additional SMP FSP's but not including the 0818 number.
2. We believe ComReg should also add further providers that have joined the FVCT market since the last review and update the description of any operator that have changed their details, such as trading name.
3. We do not agree with the inclusion of 0818 as we don't believe the characteristics of this NTC number aligns with those of geographic numbers and the FVCT Decision.
4. We also believe that ComReg has not allowed for the impact of the 2020 NGN decision which is effectively a price control to set the 0818 termination price to the FTR.
5. We are concerned that there is no Irish legislation or clarity on how the European will regulate the FTR and MTR markets going forward.

End

[REDACTED]

eir

Response to Consultation:

**Market Review - Fixed Voice Call Termination Markets
Further Review concerning 0818 Numbers and Additional Fixed Service
Providers**

ComReg Document 20/19



29 May 2020

**DOCUMENT CONTROL**

Document name	eir response to ComReg 20/19
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'.

Response to consultation

eir welcomes the opportunity to respond to ComReg's Consultation in relation to the further review of the Fixed Voice Call Termination (FVCT) market. eir has reviewed the ComReg proposals and has no objection to the three identified additional FVCT suppliers (Nuacom, Goldfish and Phone Pulse) being designated with Significant Market Power (SMP) and subject to conditions equivalent to those already imposed on the 2019 SMP fixed service providers.

eir has also considered ComReg's proposal that 0818 numbers should now be included in the relevant FVCT product market along with Geographic, 076 and 112/999 numbers. eir considers this to be a more efficient approach to regulate the level of 0818 wholesale termination charges than the measures set out in D02/20 and agrees with the proposal.

eir is aware of at least one service provider providing 0818 call termination services (Blackdog Communications) who does not appear to be addressed in the 2019 FVCT Decision or the proposed Decision in this consultation. It may be appropriate for ComReg to review its numbering allocation database to ensure the list of SMP operators in the FVCT market is comprehensive.

Fixed Voice Call Termination Markets and 0818 Services

**Response to Document 20/19 from
Three**

29th May 2020



Three.ie

1. Introduction

Three is pleased to respond to this consultation. ComReg has made a number of interventions in the structure and operation of the markets for non-Geographic services over the past two years, and Three has disagreed with many of those interventions. Nevertheless, starting from the situation that exists today, we believe ComReg's proposals as outlined in document 20/19 are appropriate and necessary in order to "tidy up" a lacuna created by previous decisions.

At present, within the supply chain for calls to 0818 numbers the originating operator is subject to regulatory price control at both the retail and wholesale level, and has no ability to control its revenues or costs associated with providing access to this service. From ComReg decision D15/18, the 1850, 1890, and 076 number ranges will be retired the end of 2021. As a result it can be expected that 0818 will become the primary NGN number range, with growth in traffic from that which exists today

In Decision D02/20 ComReg introduced a "workaround" that would allow originators some ability to react to excessive prices for termination of calls to 0818 numbers. This allows the origination rate for any particular call to be uplifted to counter the amount by the actual termination rate exceeds the appropriate termination rate. While this has had the effect to disincentivise 0818 termination rate increases in the short term, Three is of the view that it was only ever a short-term measure and we are pleased that ComReg has now proposed that calls to 0818 numbers should be included in the fixed voice call termination market. We have previously called on ComReg to remedy this gap, and we are fully supportive of the approach taken by ComReg in document 20/19.

2. Response to the Questions

Q. 1. Do you agree that the preliminary views regarding retail voice market developments and trends remain valid for purposes of this market review? Please explain the reason for your answer, clearly indicating the relevant paragraph numbers to which your comments refer, along with all relevant factual evidence supporting your views.

Three agrees that the positions set out in the 2019 Termination Markets Decision with regards to retail voice call market trends continue to apply. We agree that calls to 0818 numbers should be included in the Relevant FVCT Markets.

Q. 2. Do you agree with ComReg's preliminary view that, consistent with its position in the 2019 Termination Markets Decision, there are unlikely to be effective retail demand-side or retail supply-side substitutes which would, within the timeframe of this market review, indirectly constrain a SSNIP in FTRs by the Additional FSPs? Please support your answer with reasoning.

Three completely agrees – an originating operator has no control or ability to influence the a call made by one of its customers to an 0818 number – it must be terminated with the recipient

operator, who holds complete power in the market for termination of that call, just as is the case for Geographic numbers..

Q. 3. Do you agree with ComReg's preliminary views on the definition of the Relevant FVCT Markets? In particular, do you agree that (a) 0818 numbers should be included in each of the Relevant FVCT Markets and (b) the Additional FSPs (along with the 2019 SMP FSPs) each constitute separate Relevant FVCT Markets? Please explain the reasons for your answer, clearly indicating the relevant paragraph numbers to which your comments refer, along with all relevant factual evidence supporting your views.

Yes, Three agrees with this view, and has submitted this position to ComReg in response to previous consultations. As stated above, these calls can only be terminated with the relevant terminating service provider and each represents a single market. All of the service providers listed in section 5.48 should be included in the decision.

Q. 4. Do you agree with ComReg's assessment of SMP in the Relevant FVCT Markets? Please explain the reasons for your answer, clearly indicating the relevant paragraph numbers to which your comments refer, along with all relevant factual evidence supporting your views.

Yes, originating operators have no ability to influence termination prices – and neither can they raise retail prices in response to a price increase, so terminating service providers can increase prices with impunity knowing that it will have no influence on call volumes. Three agrees that all of the service providers listed in paragraph 6.57 hold SMP.

Q. 5. Do you agree that the competition problems and the associated impacts on competition and consumers which are identified in this Section are those which could potentially arise in the Relevant FVCT Markets? Please explain the reason for your answer, clearly indicating the relevant paragraph numbers to which your comments refer, along with all relevant factual evidence supporting your views.

Yes, the same issues arise for calls to 0818 numbers as for calls to Geographic numbers. The same remedies are appropriate.

Q. 6. Do you agree with ComReg's approach to imposing remedies in each of the Relevant FVCT Markets within which the Proposed Additional SMP FSPs operate? Please explain the reason for your answer, clearly indicating the relevant paragraph numbers to which your comments refer, along with all relevant factual evidence supporting your views.

Yes, the same issues arise for calls to 0818 numbers as for calls to Geographic numbers. The same remedies are appropriate

Q. 7. Do you have any comments on the draft FVCT Decision Instrument set out in Annex: 1? Please explain the reason for your answer, clearly indicating the relevant paragraph numbers to which your comments refer.

We have no comments on the Decision Instrument.

Q. 8. Do you agree with ComReg's preliminary conclusions on the Regulatory Impact Assessment, in respect of FVCT? Please explain the reasons for your answer, clearly indicating the relevant paragraph numbers to which your comments refer, along with all relevant factual evidence supporting your position.

Yes, the same issues arise for calls to 0818 numbers as for calls to Geographic numbers. The same RIA is appropriate.

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Vodafone Response to ComReg document:

Market Review - Fixed Voice Call Termination Markets

Further Review concerning 0818 Numbers and Additional Fixed Service Providers

Consultation and Draft Decision

Reference: ComReg 20/19

Date: 2 April 2020

Reference: ComReg 20/19

Vodafone Response:

Vodafone welcome the opportunity to respond to Comreg consultation 20/19.

In our response to Comreg 19/46, we pointed to number of issues that have arisen with ComReg regulatory regime for NGN numbers.

In particular, we believe that the cost of termination for NGN numbers is higher than for Geo numbers because the implementation and administration of the required technical solutions is spread over a much smaller count of calls and minutes.

We specifically called out that the proposed inter-operator charging process for 0818 calls would add considerable complexity and cost to the processes needed to negotiate, administer, and bill for these inter-operator charges.

As in other NGN number ranges, ComReg have considerably understated the additional costs for operators associated with the administration of special solution for numbers with small call volumes.

Whereas we believe that, the proposed termination rate is too low for 0818, in order to minimise the administration costs it is important that a consistent Termination Charge be levied by all operators. This will simplify billing processes. For this reason we believe that 0818 should be included in the relevant FVCT Market (Q3a) and the additional FSPs should be included in the decision (Q3b).

Our only additional comment is on the communication on 0818 that ComReg are making to Service Providers. In our experience, all services using 0818 numbers are non-standard termination services and require inputs from us over and above the services required to terminate Geo numbers. For this reason, there are real costs to Vodafone that are not covered by the Termination Rate now proposed. It is misleading to indicate to Service Providers that there will be no cost for these services.

Please see below for the question 3b that questions whether goldfish.ie operate within a relevant FVCT market:

3.(b). We would agree that based on the definition of FVCT markets, that Goldfish Telecom should constitute a separate FVCT market, based on the technical and functional descriptions outlined in paragraphs 5.10 to 5.22 of the 2019 Termination Markets Decision and in paragraphs 5.23 to 5.27 ComReg provided its FVCT service description.