



Commission for  
**Communications Regulation**

# **Consultation on Formal Dispute Resolution Procedures for ECS/ECN End-Users**

**Responses to ComReg Consultation 18/34**

**Submissions to Consultation**

**Reference:** ComReg 18/77s

**Version:** Final

**Date:** 27/08/2018

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# **Formal Dispute Resolution Procedures for ECS/ECN End-Users ComReg 18/34**

**SUBMISSION**

**CONSUMERS' ASSOCIATION OF IRELAND**

**June 2018**

Q. 1 Do you agree with ComReg's preliminary view regarding the timeframe to allow an end-user access to ComReg's Formal Dispute Resolution Procedures for ECS/ECN end-users after 40 working days from when the complaint was first notified to the Service Provider and that ComReg's complaints handling team will inform end-users if the ComReg complaint is open for 30 days? Please explain the basis of your response in full and provide any supporting information.

A: The Consumers' Association of Ireland (CAI) sees no problem with the proposed timeframe. However, if there is an open complaint in the ComReg system, then our assumption would be that the progress of the complaint will be, generally, one of continuity albeit with a defined resolution timeframe? This raises the question of how the new 'system' would benefit the average consumer in any greater way than that of the already established formal structure.

The answer seems to lie in a determination that is binding upon the retailer and with the consumer having the alternative to take the complaint to a higher authority. This suggests that the Small Claims Procedure would be such an established authority for the consumer.

Q. 2 Do you agree with ComReg's preliminary view that a nominal fee of €25 is reasonable? Please explain the basis of your response in full and provide any supporting information.

A: It is not a question of reasonability of the sum but rather its resemblance to that of the Small Claims Procedure which determines disputes independently under State legislation. The benefit of the ComReg structure seems to either challenge the authority of the Small Claims Court or seeks to in some way operate in parallel to it. This would be of concern to the CAI.

In addition, fees are usually required where there is an absence of funding either by way of direct levy paid by the retail sector (as with e.g. the Competition and Consumer Protection Commission, Financial Services and Pensions Ombudsman, Investor Compensation Company Limited ) or the State. As there is State subvention through exchequer funding it is likely that consumers would find this a doubling of charges from a regulator. This could result in a negative reaction from consumers.

The pragmatic approach here would be for lodgement of the €25 fee by the body against whom the complaint was made, refundable to them in the event of the complaint failing.

**Q. 3 Do you agree with ComReg's preliminary view that the €25 fee should be refunded to the end-user if the final determination is in their favour? Please explain the basis of your response in full and provide any supporting information.**

**A:** Yes. It is our concern at the need for a charge that is of difficulty. There will always be a consideration of a frustration of any complaint system but, in this case, it must be considered in terms of affordability, fairness of structure and duplication of process.

**Q. 4 Do you agree/disagree with ComReg's preliminary view of the details that should be included in the application for access to Formal Dispute Resolution? Please explain the basis of your response in full and provide any supporting information.**

**A:** There must always be full and broad detail of any complaint in a formal structure to ensure validity and understanding for processing.

**Q. 5 Do you agree/disagree with ComReg's preliminary view of the timeframe of 15 working days for ComReg to assess the application (once all the necessary information has been received from the end-user) and to notify the end-user of the acceptance or non-acceptance? Please explain the basis of your response in full and provide any supporting information.**

**A:** Yes. However, holiday leave, illness and technological and postal delays must be taken into consideration. It is the juxtaposition we refer to in our earlier answer that concerns us as it will introduce confusion and concern that the popular and successful complaint system in current operation is not fit for purpose.

**Q. 6 Do you agree/disagree with the criteria to be used for an application to be accepted? Please explain the basis of your response in full and provide any supporting information.**

**A:** Complaints are always determined on the merit of the supporting claim for loss or inadequacy that is frustrating the contract.

**Q. 7 Do you agree/disagree with ComReg's preliminary view of the timeframe of up to 10 working days for the end-user to respond to ComReg should more information be necessary? Please explain the basis of your response in full and provide any supporting information**

**A:** Again, in the context of our earlier responses.

Q. 8 Do you agree/disagree with ComReg's preliminary view that if the end-user does not respond to ComReg or fails to provide the information requested, that it will be assumed that the end-user does not want to proceed and that, in this case, they will be contacted and advised that unless they respond accordingly, the dispute will be closed and that if a response is still not forthcoming, both parties will be notified that the dispute has been closed? Please explain the basis of your response in full and provide any supporting information.

A: This is common practice. However, where it is shown that due to illness etc. a response was not possible then lenience must be extended. The issue of refund also arises. As no case is considered or proven shall the fee be refunded?

Q. 9 Do you agree/disagree with ComReg's preliminary view that the Service Provider will be formally advised of receipt of the dispute on the Date of Acceptance? Please explain the basis of your response in full and provide any supporting information.

A: No. We would not consider this appropriate or necessary. A robust system must be supported by documentation within a defined dateline for audit and acceptance by all parties.

Q. 10 Do you agree/disagree with ComReg's preliminary view of the timeframe of 5 working days from the Date of Acceptance for ComReg to provide to the Service Provider an electronic copy of the details submitted in the application by the end- user, including any supporting documentation? Please explain the basis of your response in full and provide any supporting information.

A: We agree with this option in reference to that of Q 9.

Q. 11 Do you agree/disagree with ComReg's preliminary view of the timeframe of the 10 working days that the Service Provider is given to provide a written detailed response to ComReg upon receipt of the electronic copy of the details of the dispute from the end-user? Please explain the basis of your response in full and provide any supporting information.

A: Yes, it is quite sufficient.

Q. 12 Do you agree/disagree with ComReg's preliminary view of the timeframe of up to an additional up to 10 working days that ComReg can grant to the Service Provider for the provision of a response in exceptional circumstances? Please explain the basis of your response in full and provide any supporting information.

A: We are acting upon the understanding that this will be a case which has already been delayed for reasons that bring it to this process of resolution. Any unique circumstances would have been identified, likely in advance of the complaint being made and will likely also be a factor within the complaint.

Q. 13 Do you agree/disagree with ComReg's preliminary view of the timeframe of up to 10 working days for the Service Provider to respond, should further information or comments be requested by ComReg? Please explain the basis of your response in full and provide any supporting information.

A: In a progressing case a very short number of days should be sufficient. In deed, we would consider how responses could be provided by email or confirmed by telephone in real-time. Therefore, we would see a maximum of 2-4 working days being sufficient.

Q. 14 Do you agree/disagree with ComReg's preliminary view of the timeframe of 2 working days for the Service Provider to notify ComReg that the dispute has been resolved and to provide all supporting evidence of the resolution, including evidence that the end-user has accepted the resolution in writing? Please explain the basis of your response in full and provide any supporting information.

A: We fully agree that a maximum of 2 working days would apply but with it being the exception to the requirement of 1 day.

Q. 15 Do you agree/disagree with ComReg's preliminary view of the timeframe of 2 working days for ComReg to notify the Service Provider upon receipt of notification of withdrawal from the end-user? Please explain the basis of your response in full and provide any supporting information.

A: We must be fair and provide similar notification terms here as with the preceding demand.

Q. 16 Do you agree/disagree with ComReg's preliminary view of the timeframe of 60 working days from the date of Acceptance for ComReg to issue a draft determination in writing? Please explain the basis of your response in full and provide any supporting information.

A: This is quite a lengthy period for this form of contract as it involves an activation or disconnection of service that very much of daily life relies heavily upon. If this term is to apply then penalties in the event of loss must be immediately paid and, Comreg must determine a fair and appropriate additional penalty for personal and other loss.

The reality that this must become a feature of this process is owing to the fact that a fee will be charged.

Q. 17 Do you agree/disagree with ComReg's preliminary view that the parties will have 10 working days from the date of the draft determination to submit comments on the draft determination? Please explain the basis of your response in full and provide any supporting information.

A: This is not entirely unreasonable. However, again, as time is of the essence here, we consider that a shorter timeframe must be encouraged and so we would recommend a 5 day term.

ENDS.

Presented by:

Consumers' Association of Ireland (CAI)

4th June 2018/DJ.



**Eircom Group**

**Response to ComReg Consultation:**

**Formal Dispute Resolution Procedures for ECS/ECN End-Users**

**ComReg Document 18/34**



**11 June 2018**



**DOCUMENT CONTROL**

<b>Document name</b>	Eircom Group response to ComReg Consultation Paper 18/34
<b>Document Owner</b>	Eircom Group
<b>Status</b>	Non-Confidential

The comments submitted in response to this consultation are those of Eircom Limited and Meteor Mobile Communications Limited, collectively referred to as 'eir'.



## INTRODUCTION

eir welcomes the opportunity to respond to this consultation paper and supports the introduction of a Formal Dispute Resolution Procedure for end users in principle. However, eir has some concerns in relation to the adjudication procedure as described and, in particular, the ambiguity in the consultation document as to who will be assessing the case and making the ultimate determination and what criteria will be used as the basis for that determination. These are arguably the most important aspects of the process and ComReg has not provided any legal certainty in this regard. In light of ComReg's proposal that any determination made under this adjudication procedure will be legally binding on operators and subject to criminal sanctions, ComReg is required to be clear and transparent in order to ensure that due process is afforded to both operators and end users.

eir is also concerned that ComReg does not appear to be asking respondents to comment on the most important parts of the process, i.e. the assessment of the merits of the case and the basis upon which the determination will be made. In particular, eir notes that the questions ComReg has posed in relation to Step 4 (Resolution and Determination) relate exclusively to time lines. There is no question for respondents on the adjudication itself or the criteria to be used by ComReg in determining the matter. This may have been an oversight. In any event, we set out our comments below on each of the steps in the process.

It is also unclear to eir as to whether the end user's case with the ComReg customer care team is closed once the Formal Dispute Resolution Procedure is invoked. This is not explained in the consultation document but it would seem logical that the case is closed given that the Formal Dispute Resolution Procedure will result in a legally binding outcome on the matter. ComReg should clarify this point.

## RESPONSE

***Q1: Do you agree with ComReg's preliminary view regarding the timeframe to allow an end-user access to ComReg's Formal Dispute Resolution Procedures for ECS/ECN end users after 40 working days from when the complaint was first notified to the Service Provider and that ComReg's complaints handling team will inform end-users if the ComReg complaint is open for 30 days? Please explain the basis of your response in full and provide any supporting information.***

eir agrees with ComReg's preliminary view on the timeframe for allowing an end user to access to the Formal Dispute Resolution Procedure. However, ComReg should make it clear in its decision when this timeframe begins to run. For example, it should be stipulated in the process that the customer must have formally complained to the operator and received a complaint reference number.

***Q2: Do you agree with ComReg's preliminary view that a nominal fee of €25 is reasonable? Please explain the basis of your response in full and provide any supporting information.***

eir agrees with ComReg's preliminary view that a nominal fee of €25 is reasonable.

***Q3: Do you agree with ComReg's preliminary view that the €25 fee should be refunded to the end-user if the final determination is in their favour? Please explain the basis of your response in full and provide any supporting information.***



eir agrees that the €25 fee should be refunded to the end user if the final determination is in their favour.

### **Step 1 – Submission of an Application**

***Q4: Do you agree/disagree with ComReg’s preliminary view of the details that should be included in the application for access to Formal Dispute Resolution? Please explain the basis of your response in full and provide any supporting information.***

eir agrees that there should be a standard application form. However, it is not clear to eir if ComReg proposes to provide an application form for end users to complete as this is not explained in the consultation document and a template form has not been provided as part of the consultation. ComReg should publish a template application form to assist end users in availing of the service and to ensure that all relevant information is collected.

eir notes the statement at paragraph 49 of the consultation document that end users “*may be able*” to get the details of their complaint from ComReg’s customer care function to assist them in completing the application. eir suggests that, in the interests of due process, ComReg should provide this information to the end user as a matter of course in order to ensure that all relevant information is available to the dispute resolution panel tasked with adjudicating the matter. This is particularly important in light of the statement at paragraph 73 of the consultation document that ComReg can in some cases proceed to make a determination based entirely on the information provided by the end user.

eir does not understand the reference to “*(if applicable)*” in the second bullet point listing what should be in the application form at paragraph 50 of the consultation document. There must be a name and account number and, from a data protection perspective, eir cannot deal with the matter without verifying these details. ComReg should remove the reference to “*(if applicable)*” from the final decision.

### **Step 2 – Acceptance of an Application**

***Q5: Do you agree/disagree with ComReg’s preliminary view of the timeframe of 15 working days for ComReg to assess the application (once all the necessary information has been received from the end-user) and to notify the end-user of the acceptance or non-acceptance? Please explain the basis of your response in full and provide any supporting information.***

ComReg states at paragraph 58 of the consultation document and also in the draft procedures at Annex 3 that the determination of whether an application is valid will be completed “*as soon as possible following receipt of the completed application*”. However, in other parts of the document it states that ComReg will decide whether the application is acceptable within 15 working days. In its ultimate decision, ComReg should be clear on what timetable applies to each step. eir believes that 15 working days may be reasonable in some circumstances however eir would expect that this step can and should be done in a much shorter period of time for most cases.

***Q6: Do you agree/disagree with the criteria to be used for an application to be accepted? Please explain the basis of your response in full and provide any supporting information.***

eir agrees that there should be a minimum set of requirements in order to access the Formal Dispute Resolution Procedure. However, ComReg should be more transparent in relation to



those requirements. For example, ComReg states in the first bullet point at paragraph 54 of the consultation document and in the draft procedures in Annex 3 that:

*The complaint must relate to an issue arising in relation to the Users' Rights Regulations or the Roaming Regulations and any other regulations which give ComReg the power to resolve disputes using the procedures in accordance with Regulation 27 of the Users' Rights Regulations.*

End users will not understand what this means. In eir's view, ComReg should provide some clear guidance on the procedures and the minimum requirements for end users, including a template application form.

eir also requests that ComReg provide some clarity around the circumstances in which it intends to accept an application before 40 working days have lapsed. We note that ComReg will explain its reasons for accepting an application however as the adjudication process will result in a legally binding determination subject to criminal sanctions ComReg must be clear and transparent on the criteria to be applied here and these should be established and explained upfront in the procedures.

### **Step 3A – Correspondence with the End-User**

***Q7: Do you agree/disagree with ComReg's preliminary view of the timeframe of up to 10 working days for the end-user to respond to ComReg should more information be necessary? Please explain the basis of your response in full and provide any supporting information.***

ComReg's proposal appears reasonable but some flexibility should be included for more complex matters.

***Q8: Do you agree/disagree with ComReg's preliminary view that if the end-user does not respond to ComReg or fails to provide the information requested, that it will be assumed that the end-user does not want to proceed and that, in this case, they will be contacted and advised that unless they respond accordingly, the dispute will be closed and that if a response is still not forthcoming, both parties will be notified that the dispute has been closed? Please explain the basis of your response in full and provide any supporting information.***

In eir's view, a timeline should also be set for this step to ensure that all parties know where they stand and cases do not remain open for lengthy periods of time.

### **Step 3B – Correspondence with the Service Provider**

***Q9: Do you agree/disagree with ComReg's preliminary view that the Service Provider will be formally advised of receipt of the dispute on the Date of Acceptance? Please explain the basis of your response in full and provide any supporting information.***

eir agrees that the Service Provider should be formally advised of receipt of the dispute on the date of acceptance. However, it is unclear from the consultation how ComReg intends to notify operators that the Formal Dispute Resolution Procedure has been invoked. Please confirm whether operators will be given an opportunity to nominate a point of contact for this purpose. Given the tight timelines being proposed for some steps in the process it is important that the matter be raised directly with the most appropriate personnel.



eir response to ComReg 18/34

**Q10: Do you agree/disagree with ComReg's preliminary view of the timeframe of 5 working days from the Date of Acceptance for ComReg to provide to the Service Provider an electronic copy of the details submitted in the application by the end user, including any supporting documentation? Please explain the basis of your response in full and provide any supporting information.**

eir does not have any comments on this timeline.

**Q11: Do you agree/disagree with ComReg's preliminary view of the timeframe of the 10 working days that the Service Provider is given to provide a written detailed response to ComReg upon receipt of the electronic copy of the details of the dispute from the end-user? Please explain the basis of your response in full and provide any supporting information.**

Allowing only 10 working days for operators to provide a detailed written response to the entire case seems entirely at odds with ComReg allowing itself 60 working days to provide a draft determination on the same case. eir would suggest that if operators can provide a complete response to the matter within 10 working days, then ComReg can adjudicate on the matter in a much shorter timeframe.

**Q12: Do you agree/disagree with ComReg's preliminary view of the timeframe of up to an additional up to 10 working days that ComReg can grant to the Service Provider for the provision of a response in exceptional circumstances? Please explain the basis of your response in full and provide any supporting information.**

eir does not agree that the ability to extend the 10 working day period should be strictly limited to a further 10 working days. In complex cases there may be a need to extend beyond 10 working days and this must be recognised as part of the process. For example, there may be cases where the issue relates to works orders or licensing issues that are County Council timeframes and are outside the control of the operator.

**Q13: Do you agree/disagree with ComReg's preliminary view of the timeframe of up to 10 working days for the Service Provider to respond, should further information or comments be requested by ComReg? Please explain the basis of your response in full and provide any supporting information.**

In eir's view there must be some flexibility to allow for complex cases where it may not be possible or reasonable to expect a complete response within this time frame.

**Q14: Do you agree/disagree with ComReg's preliminary view of the timeframe of 2 working days for the Service Provider to notify ComReg that the dispute has been resolved and to provide all supporting evidence of the resolution, including evidence that the end-user has accepted the resolution in writing? Please explain the basis of your response in full and provide any supporting information.**

eir does not have any comments on this timeline.

**Q15: Do you agree/disagree with ComReg's preliminary view of the timeframe of 2 working days for ComReg to notify the Service Provider upon receipt of notification of withdrawal from the end user? Please explain the basis of your response in full and provide any supporting information.**

eir does not have any comments on this timeline.

#### **Step 4 – Resolution and Determination**

***Q16: Do you agree/disagree with ComReg's preliminary view of the timeframe of 60 working days from the date of Acceptance for ComReg to issue a draft determination in writing? Please explain the basis of your response in full and provide any supporting information.***

In eir's view, 60 working days to provide a draft determination seems entirely disproportionate when operators are only permitted 10 working days to provide a detailed response to the issues in the case. As stated in Q11 above, eir would suggest that if operators can provide a complete response to the matter within 10 working days, then ComReg can adjudicate on the matter in a much shorter timeframe, particular when this timing leads to only a "draft" determination.

In this regard, we would refer ComReg to the Communications & Internet Service Adjudication Scheme (CISAS) in the UK where the timelines are assessed against various KPIs, including a KPI relating to 90% of case decisions being issued within six weeks of the case being accepted. We suggest that similar KPIs should be implemented and published by ComReg to ensure efficiency and transparency of process.

***Q17: Do you agree/disagree with ComReg's preliminary view that the parties will have 10 working days from the date of the draft determination to submit comments on the draft determination? Please explain the basis of your response in full and provide any supporting information.***

eir does not believe that it is appropriate to impose such tight timelines on industry when ComReg has not proposed any similar timelines for itself. There needs to be some flexibility to allow for more complex cases.

#### **Additional comments on Step 4**

eir has serious concerns with the lack of clarity in relation to this final step in the process and is surprised that ComReg has not asked respondents to comment on anything other than the two timelines referred to in Q16 and Q17.

For example, at paragraph 78 of the consultation document and in the draft procedures at Annex 3 ComReg lists a wide range of items that it "may" take into account when assessing the matter. This list includes the law, codes of practice, the customer's contract and the relevant regulatory framework. eir is surprised that ComReg believes it has discretion in this regard. ComReg is proposing a legally binding determination subject to criminal sanctions and is obliged to have regard to the relevant law, codes, regulations and contracts. This should be made clear in the procedures.

eir is also concerned with the suggestion that ComReg can take into account other evidence that has not been provided by either of the parties to the dispute and for which parties will not be given an opportunity to review in advance of the draft determination. The example provided by ComReg is "technical expertise". However, it is unclear to eir what ComReg means by technical expertise in the context of an individual customer complaint. It is also unclear what "other evidence" ComReg proposes to include. In the interests of due process, ComReg must be clear on how exactly it intends to adjudicate on cases before the Formal Dispute Resolution Procedure can be put in place.

eir notes that paragraph 80 of the consultation document goes on to list some material that ComReg “shall” have regard to which appears to contradict the list of items provided in paragraph 78 which ComReg “may” have regard to if it so wishes.

There is also a later statement at paragraph 80 in the consultation document that “ComReg will ultimately make its determination having regard to the relevant regulatory and legislative framework” which is confusing in light of other statements made at various stages throughout the document about what may or may not be taken into consideration by ComReg.

eir is also concerned with the reference to “third party experts” in paragraph 80. We fail to see how due process can be safeguarded when ComReg proposes to engage third party experts to assist in its decision making without notifying the relevant parties in advance that it proposes to engage such experts and affording them the opportunity to counter that evidence before ComReg drafts its determination. We would also query what third party experts ComReg requires to decide on individual customer cases. This suggests that the adjudication panel will not have the appropriate expertise itself which is a cause for concern.

eir also notes that ComReg has not set any deadline for itself in coming to a final determination. While it has proposed 60 working days to issue a draft determination (and this can apparently be extended indefinitely for any reason whatsoever), there is no time line for the final determination. This is very unsatisfactory and reinforces the lack of legal certainty surrounding the entire process.

The ambiguity around the entire process is further compounded by the statement made by ComReg at paragraph 88 of the consultation document and again in the draft procedures at Annex 3 that these are the steps that ComReg “normally expects to follow”. This is very unsatisfactory for a Formal Dispute Resolution Procedure.

Finally, eir notes that no information is provided in the consultation document in relation to who will be responsible for the adjudication and what kind of decisions they will be empowered to make. For example:

- Will there be a panel of adjudicators or an individual adjudicator for each case?
- What kind of decisions will be made and what remedies can be imposed?
- What kind of oversight on decision making will there be?
- Will there be KPIs or any transparent assessment of performance?
- Will the adjudicators have the requisite level of expertise to decide on legal and regulatory matters?
- Does ComReg intend to publish details on the cases or the decisions?

The above issues must be clear before any formal process can be implemented.

**Q18: Do you agree/disagree with the proposed effective date? Please explain the basis of your response in full and provide any supporting information**

Given the seriousness of the issues raised, eir would suggest that a further consultation is required before any such process can be put in place.





**SKY IRELAND RESPONSE TO THE COMREG CONSULTATION ON FORMAL DISPUTE RESOLUTION  
PROCEDURES FOR ECS/ECN END-USERS (COMREG 18/34)**

## **SKY IRELAND RESPONSE TO THE COMREG CONSULTATION ON FORMAL DISPUTE RESOLUTION PROCEDURES FOR ECS/ECN END-USERS (COMREG 18/34)**

### **1. Executive Summary**

- 1.1. Excellent customer service is at the heart of Sky Ireland's business. When things do go wrong from time to time, Sky's focus is on treating our customers as individuals and ensuring the correct case management of customer issues and complaints; making sure that complaints are resolved in a timely manner.
- 1.2. Sky Ireland invested heavily in establishing a call centre in Dublin to coincide with our entry into the broadband and talk market in Ireland. We are proud to be delivering leading customer satisfaction levels within our industry. However, this is not a cause for complacency and if our customers have reason to complain, then we want to be able to deal with those complaints swiftly and efficiently.
- 1.3. Sky welcomes the opportunity to comment on ComReg's Consultation on Formal Dispute Resolution Procedures for ECS/ECN End-Users (the "Consultation") because Sky considers that recourse to an independent adjudication for the resolution of disputes is an important tool for consumer empowerment.
- 1.4. Sky considers formal dispute resolution procedures to be an essential service for consumers but it is also a useful failsafe for providers to highlight where things have "slipped through the net" in their processes or with training so that providers can put them right as quickly as possible should a resolution be achievable.
- 1.5. We have included general observations and recommendations from Sky Ireland in Section 2 below and then addressed the questions posed by ComReg in Section 3.
- 1.6. Sky Ireland would be happy to discuss our response further with ComReg. Please do not hesitate to contact David Kelly, Senior Legal Counsel, from Sky Ireland ([david.kelly@sky.ie](mailto:david.kelly@sky.ie)) if you require any further information.

### **2. Observations and recommendations**

#### Interaction with the ADR Regulations:

- 2.1. ComReg will be aware that the ADR Directive 2013/11/EU sought to ensure that consumers have access to ADR for resolving their contractual disputes with traders established in the European Union. The ADR Directive was transposed in Ireland by means of the European Union (Alternative Dispute Resolution for Consumer Disputes) Regulations 2015, S.I. No. 343/2015 (the "**ADR Regulations**"). Sky Ireland would welcome clarification from ComReg in relation to the interaction between the ComReg proposal as set out in the Consultation and the Regulations.

#### Fairness and Efficiency:

- 2.2. We understand that ComReg staff will have been trained to deal with consumer complaints. However we appreciate that the team in question is unlikely to have legal qualifications. The lack of legal training could potentially lead to a misunderstanding of the underlying law and we would therefore

ask that all adjudicators are given adequate and relevant training, for example basic contract law training to ensure accurate and consistent decision making.

- 2.3. Furthermore Sky considers that it is essential that ComReg front line staff have access to legal resource if necessary to obtain a correct legal interpretation of the underlying rules.
- 2.4. In the rare circumstances where a dispute arises in relation to this interpretation ComReg should be obliged to clearly articulate its legal reasoning for arriving at its conclusion.
- 2.5. It must be a fundamental principle that the decisions set by the ComReg are based on the legal and regulatory position together with the consumer's own individual set of circumstances and facts provided, setting a precedent only where the facts lead to the same conclusion as previous cases.
- 2.6. We are concerned to note that ComReg has provided at paragraph 76 of the Consultation that ComReg may, inter alia, (i.e. amongst other things) have regard to any applicable rule of law, the terms of any relevant codes of practice and contracts between the end-users and the Service Provider, the relevant regulatory framework and ComReg policy in place when investigating and determining disputes referred to it in accordance with the out-of-court dispute resolution procedures. In order to provide clarity for Service Providers it must be the case that ComReg should be granted no discretion as to whether or not it applies the rule of law and the terms of any relevant codes of practice in determining the outcome of any complaint. We fail to see how fair process could be followed if the rule of law is not taken into account by ComReg.
- 2.7. It is provided at paragraph 33 of the Consultation that the Formal Dispute Resolution Procedures for ECS/ECN end-users are separate to ComReg's compliance and enforcement function. Sky Ireland believes that for the dispute resolution process to get buy in from service providers it is integral that the two functions within ComReg are operated separately and that the resolution of particular disputes should not drive wider enforcement activities. It could well be the case that a Service Provider is prepared to make a concession in respect of one particular case and to offer a level of compensation but this should not be taken an indication that (a) they are willing to accept a similar position in the wider context and (b) that they have conceded any arguments they might make in the context of a wider investigation (any comments must be made on a without prejudice basis).

#### Transparency

- 2.8. The issue of an inconsistent approach to similar issues by different Service Providers in their dealings with consumers and ComReg is also a concern for Sky Ireland. Sky accepts that a factor may be that the investigating officers differ but we believe the success of any dispute resolution process is dependent upon Service Providers and consumers being clear about the approach being adopted by ComReg in its investigations (particularly in relation to the consistency of same). Where ComReg has policies which can be interpreted in different ways, they should provide guidance on how the policy has been interpreted. This would help to avoid differences between Service Providers. This is undesirable and could lead to confusion amongst consumers and result in regulatory uncertainty.
- 2.9. It is important for Sky Ireland, and its customers, that ComReg is transparent and robust in its approach in reviewing and managing complaints and accountable for decisions. It is Sky Ireland's view that the potential for complaints to be referred to the dispute resolution process would be greatly reduced if ComReg was to publish case studies in relation to recurring complaints and complaints that hinged on an interpretation of a point of law by ComReg.

2.10. In addition we believe that it would be useful for ComReg's dispute resolution team and the Service Providers to establish a collaborative working relationship and to hold quarterly reviews to allow Service Providers to gain an understanding as to why decisions were made. This allows Sky Ireland to improve its customer experience and gain a greater understanding of what drives customer complaints.

### **3. Responses to questions raised in the Consultations**

3.1. We have responded to each question below using the numbering in the Consultation.

**Q. 1 Do you agree with ComReg's preliminary view regarding the timeframe to allow an end-user access to ComReg's Formal Dispute Resolution Procedures for ECS/ECN end-users after 40 working days from when the complaint was first notified to the Service Provider and that ComReg's complaints handling team will inform end-users if the ComReg complaint is open for 30 days? Please explain the basis of your response in full and provide any supporting information.**

Sky Ireland agrees with ComReg's preliminary views in relation to the timeframe for allowing an end-user access to ComReg's Formal Dispute Resolution Procedures. Given that 88% of complaints to ComReg are currently closed within 30 working days we consider that the majority of complaints should be resolved within the timeframe suggested.

We note from paragraph 52 of the Consultation that ComReg considers that at least 40 working days must have passed since that point of first notification. We would ask that the clock only starts ticking where it is established that the consumer has given the Service Provider adequate information to identify their interaction with the Service Provider.

We note that at paragraph 42 of the Consultation ComReg proposes that it will monitor the minimum 40 working days duration period and may review the timeframe at a future date. We believe that any such review should only occur following appropriate consultation at an industry level.

The ability to review the timeframes is however important as new technologies develop as it may well be the case that complaints in relation to certain types of technology may take longer to resolve than others.

**Q. 2 Do you agree with ComReg's preliminary view that a nominal fee of €25 is reasonable? Please explain the basis of your response in full and provide any supporting information**

Sky Ireland considers that the fee in question is reasonable.

**Q. 3 Do you agree with ComReg's preliminary view that the €25 fee should be refunded to the end-user if the final determination is in their favour? Please explain the basis of your response in full and provide any supporting information.**

Sky Ireland agrees that the fee should be refunded to the customers where the final determination is in their favour.

**Q. 4 Do you agree/disagree with ComReg's preliminary view of the details that should be included in the application for access to Formal Dispute Resolution? Please explain the basis of your response in full and provide any supporting information**

Sky Ireland agrees with ComReg's preliminary view of the details that should be included in the application form for access to the Formal Dispute Resolution process.

**Q. 5 Do you agree/disagree with ComReg's preliminary view of the timeframe of 15 working days for ComReg to assess the application (once all the necessary information has been received from the end-user) and to notify the end-user of the acceptance or non-acceptance? Please explain the basis of your response in full and provide any supporting information.**

Sky Ireland considers that 15 working days is too long for ComReg to consider whether a complaint can be accepted given that Service Providers are expected to resolve complaints within 10 working days under the existing complaint handling process before it can be escalated to ComReg. Any delay in ComReg investigating matters may lead to the advisors who handled the original complaint having to re-familiarise themselves with the complaint on each occasion. This is not an efficient use of resources. We would consider that one working week (5 working days) should be more than adequate.

**Q. 6 Do you agree/disagree with the criteria to be used for an application to be accepted? Please explain the basis of your response in full and provide any supporting information**

Sky Ireland considers that the criteria are appropriate subject to one caveat.

We would have concerns that ComReg has left open the possibility of it investigating cases which are over 12 months old. It should be noted that in these circumstances all evidence may no longer be available (for example vCAF). It is Sky's view that the 12 month deadline should be absolute.

**Q. 7 Do you agree/disagree with ComReg's preliminary view of the timeframe of up to 10 working days for the end-user to respond to ComReg should more information be necessary? Please explain the basis of your response in full and provide any supporting information**

Sky Ireland agrees with this approach.

**Q. 8 Do you agree/disagree with ComReg's preliminary view that if the end-user does not respond to ComReg or fails to provide the information requested, that it will be assumed that the end-user does not want to proceed and that, in this case, they will be contacted and advised that unless they respond accordingly, the dispute will be closed and that if a response is still not forthcoming, both parties will be notified that the dispute has been closed? Please explain the basis of your response in full and provide any supporting information.**

Sky Ireland agrees with this position.

**Q. 9 Do you agree/disagree with ComReg's preliminary view that the Service Provider will be formally advised of receipt of the dispute on the Date of Acceptance? Please explain the basis of your response in full and provide any supporting information**

Sky Ireland feels that it will not always be practical to advise the Service Provider of the receipt of a dispute on the Date of Acceptance. We fail to see why a period of 15 working days would be needed to assess if the complaints meets the criteria and then for ComReg to put itself under pressure to issue advice of receipt of the dispute. This will almost inevitably lead to a scenario where ComReg is issuing notifications in bulk to hit the deadline thereby starting the clock for responses unnecessarily.

We would suggest that ComReg should shorten the period for it to determine if the criteria are met for acceptance of a dispute and allow two working days to notify Service Providers.

Separately we note the suggestion that correspondence will be issued in writing. Given the tight timelines involved we would ask that ComReg directs all operators to set up a centralised email address for the acceptance of all documentation.

**Q. 10 Do you agree/disagree with ComReg's preliminary view of the timeframe of 5 working days from the Date of Acceptance for ComReg to provide to the Service Provider an electronic copy of the details submitted in the application by the end-user, including any supporting documentation? Please explain the basis of your response in full and provide any supporting information.**

Sky Ireland considers that this is acceptable subject to our response to question 9 above. In circumstances where Sky's proposal in question 9 is acceptable we would ask that the clock starts from the date on which Service Providers are notified about the acceptance of the dispute (as opposed to the Date of Acceptance).

**Q. 11 Do you agree/disagree with ComReg's preliminary view of the timeframe of the 10 working days that the Service Provider is given to provide a written detailed response to ComReg upon receipt of**

**the electronic copy of the details of the dispute from the end-user? Please explain the basis of your response in full and provide any supporting information**

As pointed out above, under the current proposal ComReg is allowed 15 working days to consider if it accepts a complaint whereas Service Providers are expected to provide a detailed response within 10 working days.

Sky Ireland believes that this period should be a minimum of 15 working days. As ComReg will be aware, the level of complaints will fluctuate at certain points of the year (e.g. if there is a price increase) and whilst we would aim to address complaints within 10 working days this may not be achievable in all circumstances.

**Q. 12 Do you agree/disagree with ComReg's preliminary view of the timeframe of up to an additional up to 10 working days that ComReg can grant to the Service Provider for the provision of a response in exceptional circumstances? Please explain the basis of your response in full and provide any supporting information**

Sky Ireland would query why ComReg is placing a hard stop of 10 working days on this extension. It would, in Sky's view, be more appropriate to allow the investigation officer to have discretion based on the particular aspects of the case.

For instance, Sky may require assistance from a wholesale partner to explain the background to a complaint about speeds. This may require a number of operators to speak with each other and to test networks. It may not be possible to get a full response within 10 working days for perfectly valid reasons and we would therefore suggest that hard stop is not appropriate.

**Q. 13 Do you agree/disagree with ComReg's preliminary view of the timeframe of up to 10 working days for the Service Provider to respond, should further information or comments be requested by ComReg? Please explain the basis of your response in full and provide any supporting information.**

As above, we believe that the particular circumstances will determine whether this is an adequate period of time and we would therefore recommend that the investigating officer is given discretion to extend this period where appropriate.

**Q. 14 Do you agree/disagree with ComReg's preliminary view of the timeframe of 2 working days for the Service Provider to notify ComReg that the dispute has been resolved and to provide all supporting evidence of the resolution, including evidence that the end-user has accepted the resolution in writing? Please explain the basis of your response in full and provide any supporting information.**

Sky Ireland agrees with the suggested timeframes and approach.

**Q. 15 Do you agree/disagree with ComReg's preliminary view of the timeframe of 2 working days for ComReg to notify the Service Provider upon receipt of notification of withdrawal from the end-user? Please explain the basis of your response in full and provide any supporting information.**

Sky Ireland agrees with the suggested timeframes and approach.

**Q. 16 Do you agree/disagree with ComReg's preliminary view of the timeframe of 60 working days from the date of Acceptance for ComReg to issue a draft determination in writing? Please explain the basis of your response in full and provide any supporting information**

Sky Ireland agrees with the suggested timeframes and approach.

**Q. 17 Do you agree/disagree with ComReg's preliminary view that the parties will have 10 working days from the date of the draft determination to submit comments on the draft determination? Please explain the basis of your response in full and provide any supporting information.**

Sky Ireland agrees with the suggested timeframes and approach.

**Q. 18 Do you agree/disagree with the proposed effective date? Please explain the basis of your response in full and provide any supporting information**

Sky Ireland agrees with the proposed effective date.

**SKY IRELAND RESPONSE TO THE COMREG CONSULTATION ON FORMAL DISPUTE RESOLUTION  
PROCEDURES FOR ECS/ECN END-USERS (COMREG 18/34)**

**8 JUNE 2018**



**Response by Tesco Mobile Ireland**  
**to the**  
**Commission for Communications Regulation's**  
**Consultation entitled**  
**"Formal Dispute Resolution Procedures for ECS/ECN End-Users"**  
**ComReg Reference: 18/34**

**Non-confidential**

26 June 2018



Tesco Mobile Ireland (“TMI”) welcomes the opportunity to provide input into the Commission for Communications Regulation (“ComReg”) consultation regarding its proposed Formal Dispute Resolution Procedures for ECS/ECN end-users (“Dispute Process”).

Overall TMI supports ComReg’s intentions of introducing a fair, efficient, simple, inexpensive and transparent Dispute Process for end-users. In relation to same, TMI requests that ComReg consider reviewing and revising the timeframe within which a complaint and/or a dispute can be raised given the improvements in Service Providers complaint management and on foot of the implementation of ComReg Decision D04/17<sup>1</sup>. TMI believes that should end-users want to avail of the Dispute process, that they be required to avail of the Dispute Process within 3 months following the completion of the Service Providers code of practice for complaint handling. TMI believes this would provide for a more timely and efficient Dispute Process. In addition, TMI believes if ComReg amends the timeframe within which cases can be raised via the Dispute Process, it will also ensure that end-users will have the required supporting material available as opposed to having to request same of the Service Provider and/or possibly having to source supporting materials from other third parties such as bank statements etc.

Please note the following responses to ComReg’s Consultation Document No. 18/34

**Q. 1 Do you agree with ComReg’s preliminary view regarding the timeframe to allow an end-user access to ComReg’s Formal Dispute Resolution Procedures for ECS/ECN end-users after 40 working days from when the complaint was first notified to the Service Provider and that ComReg’s complaints handling team will inform end-users if the ComReg complaint is open for 30 days? Please explain the basis of your response in full and provide any supporting information.**

TMI agrees with ComReg’s proposal in that end-users can access the Dispute Process after 40 working days from when the complaint was first notified to the Service Provider and that ComReg’s complaints handling team will inform end-users if the ComReg complaint is open for 30 days. However, TMI believes there should also be a specified timeframe within which ComReg’s Dispute Process can be availed of by end-users. TMI believes that end-users should be required to avail of the Dispute Process within 3 months following the completion of the Service Providers code of practice for complaint handling. TMI believes this would provide for a more timely and efficient Dispute Process.

With regard to the current criteria for an issue to be classified as a complaint and subsequently validated and accepted by ComReg’s complaint handling team (see paragraph 2 section ‘ComReg’s Current Complaints Handling Process’ of page 12), ‘a complaint must have been notified to the Service Provider within the previous 12 months’, TMI believes this should be revised to 3 months given the improvements in Service Providers complaint handling and on foot of the implementation of ComReg’s Decision D04/17.

**Q. 2 Do you agree with ComReg’s preliminary view that a nominal fee of €25 is reasonable? Please explain the basis of your response in full and provide any supporting information**

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<sup>1</sup> <https://www.comreg.ie/publication/electronic-communications-complaints-handling-code-practice-response-consultation-decision/>

TMI agrees with ComReg's preliminary view that a nominal fee of €25 is reasonable. TMI agrees with ComReg's view that the proposed fee is inexpensive.

**Q. 3 Do you agree with ComReg's preliminary view that the €25 fee should be refunded to the end-user if the final determination is in their favour? Please explain the basis of your response in full and provide any supporting information.**

TMI agrees with ComReg's preliminary view that the €25 fee should be refunded to the end-user if the final determination is in their favour. TMI believes that the end-user should not suffer any financial loss if the final determination is in their favour.

**Q. 4 Do you agree/disagree with ComReg's preliminary view of the details that should be included in the application for access to Formal Dispute Resolution? Please explain the basis of your response in full and provide any supporting information**

TMI agrees with ComReg's preliminary view of the details that should be included in the application for access to Formal Dispute Resolution. TMI believes that the details requested are necessary as it ensures that only those complaints that have been through due process are accepted.

**Q. 5 Do you agree/disagree with ComReg's preliminary view of the timeframe of 15 working days for ComReg to assess the application (once all the necessary information has been received from the end-user) and to notify the end-user of the acceptance or non-acceptance? Please explain the basis of your response in full and provide any supporting information.**

TMI agrees with ComReg's preliminary view of the timeframe of 15 working days for ComReg to assess the application (once all the necessary information has been received from the end-user) and to notify the end-user of the acceptance or non-acceptance.

**Q. 6 Do you agree/disagree with the criteria to be used for an application to be accepted? Please explain the basis of your response in full and provide any supporting information**

TMI agrees with most of the criteria to be used, however TMI does not agree that a dispute can be raised for an unresolved complaint which remains outstanding after exhausting the Service Providers code of practice in the previous 12 months. TMI believes the timeframe should be revised to 3 months, as with improvements in Service Providers complaint management and ComReg's Decision D04/17 there should not be any cases outstanding for 12 months. Notwithstanding, to address any such cases, ComReg could accept these in the first year of establishment of the Dispute Process and to restrict the process to 3 months thereafter. TMI believes this would provide for a more timely and efficient Dispute Process. TMI believes if ComReg amends the timeframe within which cases can be raised via the Dispute Process, it will also ensure that end-users will have the required supporting material available as opposed to having to request same of the Service Provider and/or possibly having to source other supporting materials such as bank statements etc.

**Q. 7 Do you agree/disagree with ComReg’s preliminary view of the timeframe of up to 10 working days for the end-user to respond to ComReg should more information be necessary? Please explain the basis of your response in full and provide any supporting information.**

TMI agrees with ComReg’s preliminary view of the timeframe of up to 10 working days for the end-user to respond to ComReg should more information be necessary.

**Q. 8 Do you agree/disagree with ComReg’s preliminary view that if the end-user does not respond to ComReg or fails to provide the information requested, that it will be assumed that the end-user does not want to proceed and that, in this case, they will be contacted and advised that unless they respond accordingly, the dispute will be closed and that if a response is still not forthcoming, both parties will be notified that the dispute has been closed? Please explain the basis of your response in full and provide any supporting information.**

TMI agrees with ComReg’s preliminary view that if the end-user does not respond to ComReg or fails to provide the information requested, that it will be assumed that the end-user does not want to proceed and that, in this case, they will be contacted and advised that unless they respond accordingly, the dispute will be closed and that if a response is still not forthcoming, both parties will be notified that the dispute has been closed. TMI believes that ComReg will have provided the end-user with ample opportunity to engage and continue with the Dispute Process.

**Q. 9 Do you agree/disagree with ComReg’s preliminary view that the Service Provider will be formally advised of receipt of the dispute on the Date of Acceptance? Please explain the basis of your response in full and provide any supporting information**

TMI agrees with ComReg’s preliminary view that the Service Provider will be formally advised of receipt of the dispute on the Date of Acceptance. As with any formal correspondence with Service Providers, TMI requests confirmation that the formal notification will be issued to the Regulatory contact for the Service Provider in question.

**Q. 10 Do you agree/disagree with ComReg’s preliminary view of the timeframe of 5 working days from the Date of Acceptance for ComReg to provide to the Service Provider an electronic copy of the details submitted in the application by the end-user, including any supporting documentation? Please explain the basis of your response in full and provide any supporting information.**

TMI agrees with ComReg’s preliminary view of the timeframe of 5 working days from the Date of Acceptance for ComReg to provide to the Service Provider an electronic copy of the details submitted in the application by the end-user, including any supporting documentation.

**Q. 11 Do you agree/disagree with ComReg’s preliminary view of the timeframe of the 10 working days that the Service Provider is given to provide a written detailed response to ComReg upon receipt of the**

**electronic copy of the details of the dispute from the end-user? Please explain the basis of your response in full and provide any supporting information**

TMI agrees with ComReg’s preliminary view of the timeframe of the 10 working days that the Service Provider is given to provide a written detailed response to ComReg upon receipt of the electronic copy of the details of the dispute from the end-user.

**Q. 12 Do you agree/disagree with ComReg’s preliminary view of the timeframe of up to an additional up to 10 working days that ComReg can grant to the Service Provider Page 33 of 40 Formal Dispute Resolution Procedures for ECS/ECN End-Users ComReg 18/34 for the provision of a response in exceptional circumstances? Please explain the basis of your response in full and provide any supporting information**

TMI agrees with ComReg’s preliminary view of the timeframe of up to an additional up to 10 working days that ComReg can grant to the Service Provider Page 33 of 40 Formal Dispute Resolution Procedures for ECS/ECN End-Users ComReg 18/34 for the provision of a response in exceptional circumstances.

**Q. 13 Do you agree/disagree with ComReg’s preliminary view of the timeframe of up to 10 working days for the Service Provider to respond, should further information or comments be requested by ComReg? Please explain the basis of your response in full and provide any supporting information.**

TMI agrees with ComReg’s preliminary view of the timeframe of up to 10 working days for the Service Provider to respond, should further information or comments be requested by ComReg.

**Q. 14 Do you agree/disagree with ComReg’s preliminary view of the timeframe of 2 working days for the Service Provider to notify ComReg that the dispute has been resolved and to provide all supporting evidence of the resolution, including evidence that the end-user has accepted the resolution in writing? Please explain the basis of your response in full and provide any supporting information.**

TMI agrees with ComReg’s preliminary view of the timeframe of 2 working days for the Service Provider to notify ComReg that the dispute has been resolved and to provide all supporting evidence of the resolution, including evidence that the end-user has accepted the resolution in writing. With regard to the notification, TMI requests confirmation that the 2 working day timeframe applies to electronic notifications.

**Q. 15 Do you agree/disagree with ComReg’s preliminary view of the timeframe of 2 working days for ComReg to notify the Service Provider upon receipt of notification of withdrawal from the end-user? Please explain the basis of your response in full and provide any supporting information.**

TMI agrees with ComReg’s preliminary view of the timeframe of 2 working days for ComReg to notify the Service Provider upon receipt of notification of withdrawal from the end-user.

**Q. 16 Do you agree/disagree with ComReg’s preliminary view of the timeframe of 60 working days from the date of Acceptance for ComReg to issue a draft determination in writing? Please explain the basis of your response in full and provide any supporting information**

TMI agrees with ComReg's preliminary view of the timeframe of 60 working days from the date of Acceptance for ComReg to issue a draft determination in writing.

**Q. 17 Do you agree/disagree with ComReg's preliminary view that the parties will have 10 working days from the date of the draft determination to submit comments on the draft determination? Please explain the basis of your response in full and provide any supporting information.**

TMI agrees with ComReg's preliminary view that the parties will have 10 working days from the date of the draft determination to submit comments on the draft determination.

**Q. 18 Do you agree/disagree with the proposed effective date? Please explain the basis of your response in full and provide any supporting information**

TMI agrees with the proposed effective date.



## Responses to ComReg 18/34

### General Comments

Three's existing complaint escalation process is robust and delivers carefully considered and fair outcomes for our customer complaints. Three fully engages with ComReg's existing complaints resolution procedures and is committed to achieving satisfactory resolutions for any complaint raised by our customers either directly with Three or with ComReg through the existing complaint resolution process.

In our Code of Practice (published on our website at <http://www.three.ie/explore/about-three/code-of-practice/>) we clearly outline in full for our customers our internal complaint escalation process and how to access the next steps of the process.

In the event that a customer is not satisfied with the outcome after speaking with an agent, the customer can request to escalate their complaint to a supervisor and if the customer still remains dissatisfied with the outcome or resolution they may refer the complaint in writing by email or letter to our escalations team who aim to resolve complaint cases in 10 working days. Our escalations team will also manage any complaint cases or queries referred by our customer to ComReg. We are very committed and focused on managing complaint cases as efficiently as possible and to resolving complaints to our customer's satisfaction.

Three is happy to discuss with ComReg any measures which aim at facilitating resolution for customers with on-going open complaint cases which are open more 40 days or more. We believe that a formal escalation process of engagement between the Service Provider and ComReg would be a more practical approach to the one proposed by ComReg in its consultation, and one that is aimed at enhancing the experience of the customer in terms of potentially gaining faster resolution and complaint case closure.

Three has already recently proactively extended contact details to ComReg of escalation points within our complaints handling team and our regulatory team should ComReg require escalation of an end-user's complaint in order to facilitate speedy resolution regardless of the time the complaint has been open.

Three is fully committed to improving our customer experience and reducing customer complaints. ComReg will be aware that Three has a number of on-going successful initiatives which focus on improving our customer experience and reducing complaint volumes.



*Q.1 Do you agree with ComReg's preliminary view regarding the timeframe to allow an end-user access to ComReg's Formal Dispute Resolution Procedures for ECS/ECN end-users after 40 working days from when the complaint was first notified to the Service Provider and that ComReg's complaint handling team will inform end-users if the ComReg complaint is open for 30 days? Please explain the basis of your response in full and provide any supporting information.*

Q.1 Three Answer.

Three is comfortable with the implementation of a formal dispute resolution process within ComReg but does not agree with all the elements of the proposed procedures as presented in the consultation document (the "Formal Dispute Resolution Procedures")

In terms of the proposed Formal Dispute Resolution Procedures we have a number of comments and observations:

Three agrees that a small number of complaint cases remain on-going in nature, and that this may often be due to a number of reasons such as the contentiousness of the individual case, works required in order to provide a solution, and/or the complexity in the nature of complaint. In some circumstances a technology or system fix may take time to implement which means a complaint case may remain in an open status until such as time as this the issue is fully resolved for the end-user. In such cases Three will always keep the customer and ComReg fully informed and regularly updated. These complaint cases may remain open for all the reasons outlined but do not remain open and on-going in nature for lack of customer focus, diligence with complaint case management or absolute commitment to achieving the best possible outcome and resolution for the customer.

Three notes that the proposed Formal Dispute Resolution Procedures envisage acceptance by ComReg of complaints that are unresolved with the Service Provider for 40 days or more after first notifying the complaint to the Service Provider in accordance with their code of practice. Three has a concern that ComReg may not be in a position to fully verify the date of complaint notification in all complaint cases particularly when handled over the phone, without engagement with the Service Provider. Three's code of practice provides that a customer query or issue becomes a complaint once it is escalated to a supervisor (i.e. where a customer is not satisfied with the first contact response and asks that the issue be escalated to a supervisor). We would have some concern over the appropriate date from which the 40 day timeframe would start to run, and ComReg should be clear in this respect, regardless of the type of dispute resolution procedures eventually implemented by ComReg.



As such Three would propose an alternative proposed scenario whereby the small number of complaint cases open with ComReg's complaint handling team for 30 days following notification to ComReg, or that are open with the Service Provider 40 days after being notified to the Service Provider according to their complaints handling Code of Practice, would be firstly internally reviewed by ComReg. In circumstances when deemed necessary by ComReg, open cases would then be escalated by ComReg to formally engage with the Service Provider's escalation points for the determination of an agreeable outcome or resolution. We would envisage that the escalation points within ComReg / Service Providers would be agreed and formalised.

In our view, an approach of formal engagement between ComReg and Service Providers would be much more favourable, positive, proactive and efficient for the customer. This approach would minimise further delay that an end-user would have to spend in terms of entering a new ComReg process, and repeating the same complaint details to enter the proposed Formal Resolution Dispute Procedures. Three has found in general that customers who have to repeat queries or issues experience increased dissatisfaction. This approach would minimise end-users having to repeat complaints, minimise lengthy waiting periods such as the proposed 15 working days timeframe in order for ComReg to assess the application and inform the end-users of acceptance or non-acceptance, up to 5 working days to provide the case details to the end-user and the Service Provider and 10 working days for Service Providers response thus prolonging outcomes and resolutions for end-users. This approach would provide a better overall experience for end-users and may also potentially remove the necessity for end-users completing an application process in order to gain entry to the proposed Formal Dispute Resolution Procedures.

Three is very concerned that introducing Formal Dispute Resolution Procedures creating a channel and means available for end-users in order to seek "*...measures for the resolution of the dispute including reimbursement of payments, payments of compensation and payments in settlement of losses, as appropriate in light of the circumstances of the dispute*" could potentially drive end-users into taking the decision not to accept appropriate outcomes and resolutions with their Service Providers at all, if they consider that they could potentially gain a much better result from entering the proposed Dispute Resolution Procedures. This could also potentially create a serious issue in terms of driving higher complaint volumes, creating a bottle neck and back log of end-users with unresolved or open cases both for Service Providers and for ComReg.

Each Service Provider will have different internal software systems, different products suites, different internal processes and procedures, and varying capabilities and limitations which may not be always be comparable. The determination of the outcome for the end-user would take full consideration of ComReg's proposed recommended course of action, recommended remedy or direction in order to facilitate resolution with the Service Provider, however, the determination





in terms of the measures, availability of measures or monetary scale in terms final outcome for resolution should ultimately be determined in consultation with the Service Provider (which is why we recommend the formalised alternative proposed scenario above for resolution of disputes).

*Q.2 Do you agree with ComReg's preliminary view that a nominal fee of €25 is reasonable? Please explain the basis of your response in full and provide any supporting information.*

Q.2 Three Answer.

Please refer to Q1 for Three's preferred approach to resolving the type of open complaints being considered under this consultation. We believe that there is no requirement for the type of Formal Dispute Resolution Procedures envisaged by ComReg, therefore the requirement for the €25 fee is superfluous.

Customers engage with ComReg in order to facilitate a resolution of their complaint with their Service Provider, which should be managed by ComReg under the existing process or the proposed formal escalation process identified by Three at Q1 above. We do not think that the type of process/timelines envisaged by ComReg will be satisfactory to a customer in terms of swift resolution of their complaint.

If ComReg chooses to implement the Formal Dispute Resolution Procedures envisaged in the consultation, the €25 fee would appear reasonable.

*Q.3 Do you agree with ComReg's preliminary view that the €25 should be refunded to the end user if the final determination is in their favour? Please explain the basis of your response in full and provide any supporting information.*

Q.3 Three Answer.

Please refer to Q1 and Q2.

If ComReg chooses to implement the Formal Dispute Resolution Procedures envisaged in the consultation, the refund of the €25 fee would appear reasonable.

## **Step 1- Submission of an Application**



*Q.4 Do you agree/disagree with ComReg's preliminary view of the details that should be included in the application for access to Formal Dispute Resolution? Please explain the basis of your response in full and provide any supporting information*

Q.4 Three Answer.

Please refer to Q1.

If ComReg chooses to implement the Formal Dispute Resolution Procedures envisaged in the consultation, Three agrees with the details that end-users should include in the application for access to formal dispute resolution. Three would recommend that in addition the end-users should include the details of offers or resolutions already extended by the Service Provider at full completion of the Service Providers internal escalation process.

**Step 2- Acceptance of an Application**

*Q.5 Do you agree/disagree with ComReg's preliminary view of the timeframe of 15 working days for ComReg to access the application ( once all the necessary information has been received from the end-user) and to notify the end-user of the acceptance or non-acceptance? Please explain the basis of your response in full and provide any supporting information.*

Q.5 Three Answer.

Please refer to Q1.

If ComReg chooses to implement the procedures envisaged in the consultation, Three agrees with this timeframe.

*Q.6 Do you agree/disagree with the criteria to be used for an application to be accepted? Please explain the basis of your response in full and provide any supporting information.*

Q.6 Three Answer.

Please refer to Q1.

If ComReg chooses to implement the Formal Dispute Resolution Procedures envisaged in the consultation, Three generally agrees with the criteria outlined to be used for application acceptance.



In terms of point 59, “For accepted disputes, a reference number will be allocated to the dispute and this must be quotes on all correspondence with the parties involved”, Three’s case management system will create a complaint case reference number when a formal complaint is lodged. With a view to ease of complaint case management, Three would recommend that for cases that have already been managed by ComReg’s complaint handling team, the original ComReg complaint case reference number is maintained for continuity of the complaint history record. For cases that have not yet been through ComReg’s complaints process, the Three-generated complaint reference number should be used. The existing case reference number that has been issued to the end-user then simply transfers into the proposed Formal Dispute Resolution Procedures.

### **Step 3A- Correspondence with the End User**

*Q.7 Do you agree/disagree with ComReg’s preliminary view of the of the timeframe of up to 10 working days for the end user to response to ComReg should more information be necessary? Please explain the basis of your response in full and provide any supporting information.*

Q.7 Three Answer.

Please refer to Q1.

If ComReg chooses to implement the Formal Dispute Resolution Procedures envisaged in the consultation, Three agrees with this timeframe.

*Q.8 Do you agree/disagree with ComReg’s preliminary view that if the end-user does not respond to ComReg or fails to provide the information requested, that it will be assumed that the end-user does not want to proceed and that, in this case the will be contacted and advised that unless they respond accordingly, the dispute will be closed and that if a response is still not forthcoming, both parties will be notified that the case is closed? Please explain the basis of your response in full and provide any supporting information.*

Q.8 Three Answer.

Please refer to Q1.

If ComReg chooses to implement the Formal Dispute Resolution Procedures envisaged in the consultation, Three agrees with this step.

### **Step 3B- Correspondence with the Service Provider**



*Q.9 Do you agree/disagree with ComReg's preliminary view that the Service Provider will be formally advised of the receipt for the dispute on the Date of Acceptance? Please explain the basis of your response in full and provide any supporting information.*

Q.9 Three Answer.

Please refer to Q1.

If ComReg chooses to implement the Formal Dispute Resolution Procedures envisaged in the consultation, Three agrees with this proposal.

Three is of the view that ComReg may require engagement with the Service Provider in order to confirm the date that the end-user first notifies the Service Provider of complaint to ensure that the "Date of Acceptance" is accurate.

*Q.10 Do you agree/disagree with ComReg's preliminary view of the timeframe of 5 working days from the Date of Acceptance for ComReg to provide to the Service Provider an electronic copy of the details submitted in the application by the end-user, including any supporting documentation? Please explain the basis of your response in full and provide any supporting information.*

Q.10 Three Answer.

Please refer to Q1.

If ComReg chooses to implement the Formal Dispute Resolution Procedures envisaged in the consultation, Three agrees with this proposal.

*Q.11 Do you agree/disagree with ComReg's preliminary view of the timeframe of the 10 working days that the Service Provider is given to provide a written detailed response to ComReg upon receipt of the electronic copy of the details of the dispute from the end-user? Please explain the basis of your response in full and provide any supporting information.*

Q.11 Three Answer.

Please refer to Q1.



If ComReg chooses to implement the Formal Dispute Resolution Procedures envisaged in the consultation, Three agrees with this proposal.

*Q.12 Do you agree/disagree with ComReg's preliminary view of the timeframe of up to an additional up to 10 working days that ComReg can grant the Service Provider for the provision of a response in exceptional circumstances? Please explain the basis of your response in full and provide any supporting information.*

Q.12 Three Answer.

Please refer to Q1.

If ComReg chooses to implement the Formal Dispute Resolution Procedures envisaged in the consultation, Three agrees with this proposal.

*Q.13 Do you agree/disagree with ComReg's preliminary view of the timeframe of up to 10 working days for the Service Provider to respond, should further information or comments be requested by ComReg? Please explain the basis of your response in full and provide any supporting information.*

Q.13 Three Answer.

Please refer to Q1.

If ComReg chooses to implement the Formal Dispute Resolution Procedures envisaged in the consultation, Three agrees with this proposal.

*Q.14 Do you agree/disagree with ComReg's preliminary view of the timeframe of 2 working days for the Service Provider to notify ComReg that the dispute has been resolved and to provide all supporting evidence of that resolution, including evidence that the end-user has accepted the resolution in writing? Please explain the basis of your response in full and provide any supporting information.*

Q.14 Three Answer.

Please refer to Q1.

If ComReg chooses to implement the Formal Dispute Resolution Procedures envisaged in the consultation, Three agrees with this proposal.



*Q.15 Do you agree/disagree with ComReg's preliminary view of the timeframe of 2 working days for ComReg to notify the Service Provider upon receipt of notification of withdrawal from the end-user? Please explain the basis of your response in full and provide any supporting information.*

Q.15 Three Answer.

Please refer to Q1.

If ComReg chooses to implement the Formal Dispute Resolution Procedures envisaged in the consultation, Three agrees with this proposal.

#### **Step 4-Resolution and Determination.**

*Q.16 Do you agree/disagree with ComReg's preliminary view of the timeframe of 60 working days from the Date of Acceptance for ComReg to issue a draft determination in writing? Please explain the basis of your response in full and provide any supporting information.*

Q.16 Three Answer.

Please refer to Q1.

In general, Three has concerns regarding the following point: *"It is ComReg's view that it may also be necessary for ComReg to consider relevant and required evidence not presented by the parties, such as technical expertise; however, both the end-user and the Service Provider should be made aware of that evidence as part of the draft determination"*

*"In making its draft and final determinations, ComReg shall have regard to the information received from the end-user, the Service Provider and to any contracts, codes of practice, or any ComReg policy or relevant legislation pertaining to the issue. ComReg may have regard to the opinion of third party experts and the draft and final determinations will contain details of all reasoning behind the determination. With regard to the final determination, ComReg will ultimately make its determination having regard to the relevant regulatory and legislative framework"*

The type of *"technical expertise"* or *"third party experts"* envisaged by ComReg is not clear. Three does not provide details relating to our proprietary internal technology systems to end-users and provides the end-user with the outcome of technical investigations only. Three has



concerns relating to the level of information or level of detail that may be required in terms of providing supporting evidence or the level of evidence that may be required for dealing with cases under ComReg's proposed Formal Dispute Resolution Procedures, especially in cases relating to technical or coverage related issues. In terms of making determinations in technical or coverage related complaints, Three may utilise information from various sources in order to gauge service levels or service limitations such as usage levels from bills, internal coverage maps, internal systems and technology ticket resolutions in order to build a holistic viewpoint of the customer's individual circumstances. Currently, even as part as of Subject Access Requests, we do not provide our internal technology system records, e.g. screen shots or internal coverage maps to end-users.

We also believe that, should ComReg require third party experts or "technical expertise" in order to resolve the case, Service Providers must have the opportunity to review such evidence / submissions and provide comments to ComReg, in advance of ComReg making any determination on the case. Timelines should be adjusted to reflect this process as necessary.

Three is concerned about the proposal in paragraph 86 of the consultation document, that "[T]he final determination may specify measures for the resolution of the dispute, including reimbursement of payments, payments of compensation and payments in settlement of losses, as appropriate..." In our view, ComReg should separately provide details (e.g. in terms of scale / limitation) and consult on any compensatory/punitive measures it envisages applying in these cases. It is difficult to comment further without knowing the nature of these measures envisaged in paragraph 86.

For example, in the Small Claim process the claimant pays a fee of €25 to enter a judicial process for which they can only pursue or claim to the maximum value of €2000 in out of pocket sums, amounts paid for the faulty goods purchased, or costs for repair. The respondent or Service Provider in this instance would be aware of the purchase cost of devices supplied and afforded the opportunity to negotiate settlement with the Small Claims Registrar prior to court hearing. In this scenario the Service Provider has advance knowledge of the amount being claimed for the cost of device or repair of a device and can take a view in terms of a business decision to negotiate, settle the claim or proceed to court hearing. The boundaries and limitations of the procedure are transparently established in the full knowledge of all parties.

If ComReg proposes to be able to make determinations that Service Providers must make payments to customers, careful consideration should be given to the boundaries of such powers in terms of the constitutionality of the process. Appropriate financial limitations and procedural steps (including appeals – see below) must be built into the Formal Dispute Resolution Procedures to protect the interests of all parties and make the process legally robust.



Three already acknowledges and considers inconvenience caused to our customers when handling complaints and extends gestures of goodwill by way of account credit determined on a case by case basis to reflect the end-user's individual set of circumstances appropriately. Our customers are on a wide variety of price plans types and product offerings, and any goodwill measures extended are considered to the scale of the cost of price plan, broadband package and product suite from which the customers is availing. Three are of the view that as such we are in the best position to make to determination as to the appropriate scale of goodwill measures extended in terms of determining and offering resolution for our customers.

*Q.17 Do you agree/disagree with ComReg's preliminary view that the parties will have 10 working days from the date of the draft determination to submit comments of the draft determination in writing? Please explain the basis of your response in full and provide any supporting information.*

Q.17 Three Answer

Please refer to Q1 and Q16.

If ComReg chooses to implement the Formal Dispute Resolution Procedures envisaged in the consultation, Three agrees with this step.

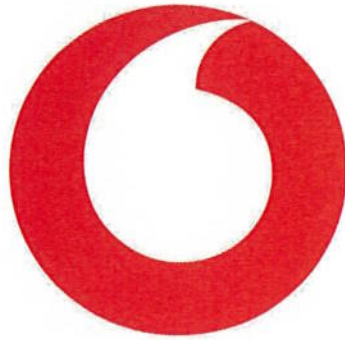
However, it is unclear whether an appeal of ComReg's determination is provided for in the proposed process. If ComReg proposes to make determinations on issues of fact, potentially leading to orders to pay customers, a right of appeal must be provided. If no right of appeal is provided, there may be potential issues around the constitutionality of the process.

*Q.18 Do you agree/disagree with the proposed effective date? Please explain the basis of your response in full and provide any supporting information.*

Q.18 Three Answer

Please refer to Q1. Three agrees





Non-Confidential

**Formal Dispute Resolution Procedures for ECS/ECN End-Users**

Response to Consultation

## Executive Summary

- I. Vodafone welcomes the opportunity to respond to the ComReg consultation on Formal Dispute Resolution Procedures for ECS/ECN end-users.
- II. In all aspects of our business, we aim to provide the best possible experience for our customers. We strive to achieve excellence in customer service and from time to time, if our efforts fail to meet our customer's expectations, we aim to resolve their issues in a timely and satisfactory manner.
- III. It is Vodafone's view that the current process for dealing with escalated issues is an effective solution for customers and that a formal process outside the small claims process may not be required. ComReg has recognised that the number of complaints escalated to ComReg has decreased, that there is generally better management by Service Providers of end-user complaints and that there is an expectation that this will further decrease over time. It raises the question whether a formal process is now required as prescribed under Regulation 27.
- IV. If ComReg decide to exercise its discretion and proceed with the formal process, it is our view that further detail is required on a number of aspects of the process. We have set these out at a high level below and the more detailed responses to the consultation questions then follow.

### Scope of the Process

- V. The policy objective needs to be clear in relation to the introduction of the Formal Dispute Resolution Process ('FDR Process'). ComReg is proposing from the outset the FDR Process will be made available to the broadest possible number of end-users. This appears ambitious and it is, in our view, more prudent to adopt a graduated approach and limit the scope initially to consumer cases.
- VI. By its very nature a formal process requires adherence to strict response timelines and KPIs that impact ComReg in its administration of the process. It also requires significant resource commitment from Service Providers who will need to adapt systems and processes that align with the formal reporting timelines. If ComReg prioritise the rollout of FDR processes to

consumers on a phased basis it will be better equipped to manage the any unknown challenges or issues arising with this new process. ComReg has in the past adopted a phased approach to the scope of its complaint handling services. It may be appropriate at a later date to extend to smaller business customers, however ultimately this redress scheme may not be sought by certain groups of customers, such as larger business customers who have more direct account management.

#### **Detailed criteria and thresholds**

- VII. The consultation paper has not specified any award thresholds or any details on compensatory claims that are in and out of scope. It is important that clear information on the scope of claims are provided up front and that the maximum thresholds are clear.

#### **Procedures and Administration**

- VIII. The consultation sets out at a very high level the timelines that ComReg would plan to adopt in the FDR process. As envisaged in the regulations we anticipate that ComReg will make available a more detailed procedures document. This is particularly important in light of the cost to the consumer to avail of the process and the costs to Services Providers and ComReg associated with operation of this process. We would recommend that clear detailed procedures are put in place well in advance of the commencement date of the process.
- IX. It is also clear that ComReg plan to internally resource and fund the FDR process and that it does not plan to appoint an independent entity to run the scheme. This approach is pragmatic in light of current complaint volumes and the effectiveness of the current informal process.



## Consultation Questions

### Question 1

**Do you agree with ComReg's preliminary view regarding the timeframe to allow an end-user access to ComReg's Formal Dispute Resolution Procedures for ECS/ECN end-users after 40 working days from when the complaint was first notified to the Service Provider and that ComReg's complaints handling team will inform end-users if the ComReg complaint is open for 30 days? Please explain the basis of your response in full and provide any supporting information.**

1. Vodafone agree with ComReg's preliminary view to make the Formal Dispute Resolution Procedures available to customers 40 working days from when the complaint was first notified to the Service Provider. There should also be flexibility to identify complaints and customer issues that are complex to resolve and may not automatically trigger the formal process. In addition, further clarification is required in relation to timeframes for dealing with complaints which may be closed by the operator, notified as such to ComReg, however the customer remains dissatisfied. These deadlock situations can arise and it would be helpful if ComReg can specify processes that might then apply.
2. In general, a complaint to Vodafone should only remain unresolved past 40 working days if the matter is extremely complex or it relates to factors beyond a Service Providers direct control. If, for example, Vodafone rely on a 3<sup>rd</sup> party e.g. a wholesale provider, a local authority, landlord etc to provide a customer with service or to repair an existing service then challenges can arise. In certain situations, the complainant may not engage, as necessary, or may be uncontactable and in such cases the operator may need to park the issue until it can be progressed.
3. It is Vodafone's understanding that the intention is for ComReg to provide an update in 30 working days. We would question the value of advising of the formal process during the operator complaint handling timeframe. A possible alternative approach is that an operator



could set out the details on the Formal Dispute Resolution Procedures timelines within their Code of Practice for Complaint handling.

### **Question 2**

**Do you agree with ComReg's preliminary view that a nominal fee of €25 is reasonable? Please explain the basis of your response in full and provide any supporting information**

4. A nominal fee is appropriate. The €25 cost is consistent with other processes and while this does not reflect in any way the formal process costs for ComReg or for the operator it is recognised it is sufficiently low to ensure the scheme is accessible to end-users, in particular consumers.

### **Question 3**

**Do you agree with ComReg's preliminary view that the €25 fee should be refunded to the end-user if the final determination is in their favour? Please explain the basis of your response in full and provide any supporting information.**

5. Vodafone would welcome clarification on how the payment administration process should work, however, we would agree that it is appropriate for ComReg to refund the €25 fee should the final determination be in favour of the customer.

### **Question 4**

**Do you agree/disagree with ComReg's preliminary view of the details that should be included in the application for access to Formal Dispute Resolution? Please explain the basis of your response in full and provide any supporting information.**

6. It is not clear how ComReg propose to validate authority to act on behalf of a third party if the contact details differ from the name on the account. It would be important for



ComReg to specify the data protection consents, and agreements to the process that will be captured from the complainant as part of this process.

ComReg propose in paragraph 50 that the complainant should provide a 'brief' outline of what outcome the end-user is seeking. The current informal complaints process requires the complainant to provide a 'clear' idea as to what the complainant expects to achieve by raising their complaint. It is appropriate for ComReg to get a clear idea on the expected outcome, and that ComReg ensure the complainants expectations on outcome are clearly informed before the customer submits payment.

#### **Question 5**

**Do you agree/disagree with ComReg's preliminary view of the timeframe of 15 working days for ComReg to assess the application (once all the necessary information has been received from the end-user) and to notify the end-user of the acceptance or non-acceptance? Please explain the basis of your response in full and provide any supporting information.**

7. Vodafone agree with the timeframe once the necessary information has been provided. If ComReg require additional information from an operator (which we expect will often be the case) as part of this assessment timeframe then further time should be allocated, as required, particularly when more complex issues arise.

#### **Question 6**

**Do you agree/disagree with the criteria to be used for an application to be accepted? Please explain the basis of your response in full and provide any supporting information**



8. ComReg will need to be clear upfront with complainants on the exact scope of the disputes process, in advance of accepting the €25 payment. End-users will need to be fully informed on issues that fall within ComReg's competency and those that may need to be addressed through alternative means.
  
9. Vodafone agree that the scope of the complaint will be confined to the issues raised in the initial complaint and it must initially have been notified to the service provider within the code of practice for complaints handling.
  
10. In paragraph 58 ComReg propose that a complainant, having had a complaint declined through the formal process may then have their complaint re-opened through the standard ComReg complaint handling process. This seems counter intuitive given the escalated process has already rejected the complaint and this proposal requires further explanation by ComReg. We note that all parties will be notified when a dispute has been accepted. We would request further clarification on how rejected requests for dispute resolution will be reported and whether notifications will include the basis rejection of the request.

#### **Question 7**

**Do you agree/disagree with ComReg's preliminary view of the timeframe of up to 10 working days for the end-user to respond to ComReg should more information be necessary? Please explain the basis of your response in full and provide any supporting information.**

11. The 10 working day response time is appropriate.

#### **Question 8**



**Do you agree/disagree with ComReg’s preliminary view that if the end-user does not respond to ComReg or fails to provide the information requested, that it will be assumed that the end-user does not want to proceed and that, in this case, they will be contacted and advised that unless they respond accordingly, the dispute will be closed and that if a response is still not forthcoming, both parties will be notified that the dispute has been closed? Please explain the basis of your response in full and provide any supporting information.**

12. In paragraph 65 ComReg propose that where a response is not forthcoming the end-user will be notified that the dispute has closed and if a further response is not forthcoming the dispute will be closed and all parties will be notified. It will be helpful if ComReg prescribe definitive timeframes for such scenarios. This is necessary to ensure Vodafone can structure our internal processes to align with the formal process timelines.

#### **Question 9**

**Do you agree/disagree with ComReg’s preliminary view that the Service Provider will be formally advised of receipt of the dispute on the Date of Acceptance? Please explain the basis of your response in full and provide any supporting information.**

13. Vodafone agree with this proposal as the date of acceptance provides a definitive and unambiguous starting point for the process. ComReg will need to establish appropriate contact criteria with operator teams for the formal aspects of the process and we would suggest an industry workshop would be useful for broader teams in advance of commencement.

#### **Question 10**

**Do you agree/disagree with ComReg’s preliminary view of the timeframe of 5 working days from the Date of Acceptance for ComReg to provide to the Service Provider an**





**electronic copy of the details submitted in the application by the end-user, including any supporting documentation? Please explain the basis of your response in full and provide any supporting information.**

14. We agree with the 5 working day timeframe and believe it to be adequate. However, the first working date for commencement of the operator response period, should be the next working day after receipt from ComReg of the details submitted by the customer.

#### **Question 11**

**Do you agree/disagree with ComReg’s preliminary view of the timeframe of the 10 working days that the Service Provider is given to provide a written detailed response to ComReg upon receipt of the electronic copy of the details of the dispute from the end-user? Please explain the basis of your response in full and provide any supporting information.**

15. The 10 working day timeframe should commence on the next working day after receipt of details from ComReg. As recognised in paragraph 71 extended periods will be required and it is our view that this period should not be limited to the further 10 working days proposed.

#### **Question 12**

**Do you agree/disagree with ComReg’s preliminary view of the timeframe of up to an additional up to 10 working days that ComReg can grant to the Service Provider for the provision of a response in exceptional circumstances? Please explain the basis of your response in full and provide any supporting information.**

16. As above extended response periods will be required for a smaller number of nuanced and more complex cases. It should not be limited to 10 working days. This will ensure the operator is in a position to provide sufficiently detailed response and will facilitate a full and fair assessment of the dispute. It is also necessary to take into account the dependency on



third parties, such as a wholesale operator, who will not be impacted directly by the dispute, but who is required to engage with the operator to provide important details regarding the case.

### **Question 13**

**Do you agree/disagree with ComReg’s preliminary view of the timeframe of up to 10 working days for the Service Provider to respond, should further information or comments be requested by ComReg? Please explain the basis of your response in full and provide any supporting information.**

17. While many cases will be dealt within this timeframe a discretionary exception is required. ComReg may be required to request a large amount of information, there will be dependencies on third parties and their engagement is outside the control of the retail operator.

### **Question 14**

**Do you agree/disagree with ComReg’s preliminary view of the timeframe of 2 working days for the Service Provider to notify ComReg that the dispute has been resolved and to provide all supporting evidence of the resolution, including evidence that the end-user has accepted the resolution in writing? Please explain the basis of your response in full and provide any supporting information.**

18. There should also be a provision for parking the dispute while an operator awaits confirmation of acceptance of an agreed resolution.

### **Question 15**



**Do you agree/disagree with ComReg’s preliminary view of the timeframe of 2 working days for ComReg to notify the Service Provider upon receipt of notification of withdrawal from the end-user? Please explain the basis of your response in full and provide any supporting information.**

19. This is an appropriate timeframe. As above for clarity we recommend all target times should commence on the next full working day.

#### **Question 16**

**Do you agree/disagree with ComReg’s preliminary view of the timeframe of 60 working days from the date of Acceptance for ComReg to issue a draft determination in writing? Please explain the basis of your response in full and provide any supporting information.**

20. It is appropriate to have an overall target timeframe however there needs to be a mechanism in place for pausing the process and for extended timeframes to deal with more complex and exceptional issues. The provision for a discretionary extension, as outlined by ComReg, is an absolute requirement and extension timeframes may need to be amended on a case by case basis.

#### **Question 17**

**Do you agree/disagree with ComReg’s preliminary view that the parties will have 10 working days from the date of the draft determination to submit comments on the draft determination? Please explain the basis of your response in full and provide any supporting information.**

21. We agree with the timeframe. It is important that ComReg outlines the consideration that will be given to comments provided. It is also necessary that the parties are informed of further steps to appeal any determination.



**Question 18**

**Do you agree/disagree with the proposed effective date? Please explain the basis of your response in full and provide any supporting information.**

22. Vodafone agree a minimum six-month lead time is required.