



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

FACO & RFTS Market Reviews

Consultation Respondent Submissions (non-confidential)

Non-confidential

Submissions to Consultation

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ComReg
Dockland Central,
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Dublin, D01 E4XO

14 March 2022

Re: Magnet Response to ComReg Consultation 22/10

Dear Mr Dave O'Connell,

Full deregulation of the market is not merited and ComReg should revisit this issue

Magnet + ("Magnet") welcomes the opportunity to respond to ComReg's reissued market review on the RFTS and FACO markets. We are extremely concerned at the proposals outlined in the latest draft decision which appears to amount more to a capitulation to the European Commission's "*serious doubts*" letter in July 2021 rather than ComReg conducting a rigorous approach to market analysis which it is incumbent on it to do. In this regard, ComReg has made a complete "u-turn" on a range of issues without any explanation as to why its previous and very recent analysis was incorrect. The total deregulation of these markets will have a material distortionary effect on competition and serious implications for end-users with potentially the biggest detriment being suffered by vulnerable users.

The tenor of the EC's "*serious doubts*" letter was focussed on ComReg providing insufficient evidence to support the market analysis and SMP designation proposed in its previously notified draft decision. This view was only "partially" support by BEREC. ComReg's response to this criticism appears to be, rather than conduct a more in-depth review and provide sufficient evidence, the path of least resistance is to simply adopt the EC's high-level views, which as ComReg is aware, do not meet the standard of the market review based on its own Directives and Recommendations. It cannot have been the intention of the EC that its high-level views expressed in the "*serious doubts*" letter should be a substitute for ComReg meeting its statutory obligation in carrying out an appropriate market analysis.

It is worth noting that BEREC concluded that ComReg's views in relation to fixed and mobile not being in the same market was "*logical and convincing*" and found the EC's serious doubts in this regard not to be justified. ComReg has not outlined why evidence it deemed to be conclusive and BEREC found to be "*logical and convincing*" is now no longer so. Rather than carry out further analysis to support the point (e.g. more detailed consumer survey, indoor speed assessments in the Regional FACO market etc), it has simply adopted a position as though evidence it rightly relied on very recently is no longer of relevance. This is illogical and unreasonable.

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WEEE Reg No. IE01674WB

Director:
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John Delves

BEREC further noted that including Virgin Media “self-supply”, a point raised by the EC in their criticism of ComReg for the exclusion of the same, in the market definition analysis would likely result in only a small number of exchanges being excluded from the Regional FACO markets. The implications of this important point would not appear to have been well understood by the EC at the time of issuing its “serious doubts” letter further compounding the argument that had the EC been provided with sufficient evidence on such matters it is likely it would have recognised the point to be immaterial. ComReg’s deference to objections raised by the EC serves no party well including the EC, because the outcome of full deregulation, as ComReg rightly concluded previously, will be detrimental to the internal market and consumers. ComReg simply needed to provide the EC with more evidence in this reissued market analysis rather than adopt a position ComReg cannot genuinely support based on its very recent analysis and conclusions as covered in the previous draft decision.

ComReg itself noted that the EC had no “evidential basis” to suggest customers would switch in response to a SSNIP noting that 53% of respondents indicated they would retain their subscription in response to a SSNIP. BEREC concluded on this matter that “*the results of the Draft Decision regarding consumer behaviour do not seem deficient*”. It is not possible for ComReg to reconcile its position and that of BEREC’s less than 6 months ago while at the same time now proposing there are no competition concerns. Nothing has changed in the market since ComReg took that position other than the EC challenged ComReg to provide more convincing evidence.

Magnet would strongly urge ComReg to reconsider its position, have the courage of its convictions in relation to its previous analysis, which has largely been supported by BEREC and provide the EC with additional evidence to ensure it is satisfied that Regional FACO markets should continue to be regulated in the manner prescribed in the original draft decision.

Factors that should inform appropriate Sun-Set Periods

If ComReg are not minded to supplement its previous analysis to support the correct market definition and SMP designation it will have a material impact on competition and Magnet’s operations. Given that ComReg is aware that the market analysis it has put forward in this consultation is not correct but rather an attempt to appease the EC, it has a duty to ensure that the transition to full deregulation is fair and orderly. In this regard the proposed sunset periods are simply too short to ensure this is the case.

At the outset we would note that ComReg typically gives Eircom 3 to 4 months to simply update billing systems where new regulatory prices are imposed e.g. see D11/18. In addition, there is no expectation on ComReg’s part that Eircom should prepare for such eventualities until such time as a final decision has issued so it is reasonable to assume operators like Magnet will be similarly treated and in particular when Magnet’s position in response to this consultation is that ComReg must reconsider its plans to fully deregulate the market. Furthermore, where Eircom make amendments to order types on its Unified Gateway (UG) (which they will have planned for and scoped out months in advance of notifying to industry themselves) a period of 6 months notification is usually provided for e.g. see D10/18 Decision Instrument. As such sunset periods of 12-18 months where an entire business has to be overhauled and moved on to new technological platforms is clearly disproportionately too short a time frame.

A large proportion of Magnet’s business sits on Eircom supported PSTN/WLR, ISDN BRA, FRA and PRA services. Where the market is deregulated Magnet will be exposed immediately to a range of outcomes including complete withdrawal of service by Eircom which can have a materially detrimental impact on our business and our customers. In order to protect itself against such an outcome it would need conduct a process in accordance with key project management fundamentals:

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- Conception and initiation
- Planning
- Execution
- Performance/monitoring through trials
- Project closing

This process would have to be carried out while continuing to provide a high-quality service to our customers. Magnet would have to develop a robust migration plan from legacy technologies to VOIP platforms that will require system **AND** solution development as well as hiring and training resources to manage and implement a project of this magnitude. In many case our customers use legacy services to support elevator/lift services and alarms which our IT department will need to explore alternative solutions for. In the case where WLR is supporting alarm services to vulnerable customers, ComReg has a duty to err on the side of implementing sunset periods that are too long rather than ones that are too short in order to protect vulnerable customers and allow operators like Magnet enough time to find/develop alternative solutions.

In assessing the appropriate sunset periods ComReg need to be mindful that there will need to be period of engagement with customers before alternative solutions can be advanced as they will need time to consider and be convinced that the changes being proposed will be necessary and particularly where there are cost implications for the customers. In many cases Magnet will not simply be able to set a customer on a path to migration until the customer has had time to review and consent to the proposal. Magnet will need understand individual customer requirements, their contractual relationship, their pricing and their plans and work with every customer individually to develop tailor made migration plans. Magnet's will further need to develop its Salesforce CRM and billing systems to cater for such a platform overhaul.

In migrating customers from the existing platform, ComReg should be mindful of what such a process entails (independent of the aforementioned project management in relation to technology changes):

Data extraction from the current system including data cleansing on the source data to improve quality. Collaboration on correcting data to make sure that it will be better adapted to the requirements of the target system will be required. This, in its own right, is a significant project which requires a lot of focus and planning.

- **Adding additional data:** Sometimes, data that was not included may need to be added to our database – this can only be ascertained following detailed customer engagement once they have accepted that such a process is necessary.
- **Data mapping:** In this stage, Magnet will need to map the migration path and set up campaigns in the Customer Relationship Management system to manage each customer properly and with minimal impact to their experience.
- **Reporting on progress:** Magnet will need to log and visualize the migration and track the progress and tweak the campaigns as required.

A full-time project manger will be required to oversee a project of this scale.

Another factor that ComReg must consider is associated with the backlog in global supply chains as a consequence of the Covid pandemic that has significantly impacted on timelines in relation to acquiring hardware. Simply because Ireland has returned to normal in recent weeks does mean this is the case on a global scale and how long supply chains are impacted in this regard in terms of a lga effect is currently unclear. Furthermore, the extent to which the war in

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Ukraine exacerbates this issue is also an uncertainty that reinforces a case for a cautious approach to full deregulation and the setting of appropriate sunset periods.

As noted by ComReg (and endorsed by BEREC) in response to EC queries during the Phase II Investigation, current Universal Service provisions do not cater for ISDN services where migration to a VOIP solution will face greater operational complexities than for WLR so there would appear to be no justification from shorter sunset periods on ISDN services, as is currently being proposed in relation to ISDN BRA.

At least 36 Month Sunset Period appropriate

There is little doubt that Magnet will lose customers as a consequence of the unmerited deregulation of the Regional FACO market as has is being proposed in the current consultation regardless of the sunset periods put in place. That is something that should be of grave concern to ComReg and give it pause for thought about not carrying out an appropriate market analysis by providing the EC with additional evidence to support the views that ComReg clearly holds i.e. it is not appropriate to deregulate this market in the manner being proposed.

Without prejudice to Magnet's view that ComReg should reconsider its current proposal to deregulate the market for reasons ComReg is aware of as outlined in its previous draft decision, at the very least ComReg must ensure that market distortions and detriment to end-user is kept to a minimum. In this regard Magnet would propose that at least in relation to **pricing and access**, a minimum sunset period of 36 months is observed for all services from the effective date of the decision. The reasonableness of a 36-month sunset period is further reflected in the fact that it will not pose a major inconvenience on Eircom who voluntarily offered a 5 year sunset period from June 2021 to June 2026¹ as part of the previous market review process. As such Eircom previously offered access and pricing assurances for a longer period than those now being proposed by Magnet.

Even if ComReg is unwilling to stand over its original assessment of the market by providing EC with additional evidence to support its original conclusions, it does have the power to ensure customers are protected to the greatest extent possible by imposing more reasonable and realistic sunset periods in relation to the withdrawal of obligations.

Kind regards,



John Delves
Managing Director, Magnet+

¹ As per Eircom's voluntary commitments as outlined in ComReg 20/46c

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alto

alternative operators in the communications market

Consultation/Market Review: - Retail Access to the Public Telephone Network at a Fixed Location & Wholesale Fixed Access and Call Origination RTFS/FACO ComReg Ref: 22/10

Submission By ALTO

Date: March 14th 2022

ALTO is pleased to respond to the ComReg - Retail Access to the Public Telephone Network at a Fixed Location for Residential and Non-Residential Customers Wholesale Fixed Access and Call Origination – ComReg Ref: 22/10

Preliminary Remarks

ALTO notes that the European Commission intervened in the above Market Review by letter dated 23 July 2021 bearing reference number: IE/2021/2332-2333. This resulted in the withdrawal of the initial measures proposed by ComReg (by the “**Withdrawal Decision**”).

ALTO had set out its positions carefully in the initial round of consultation prior to the withdrawal and retains certain concerns over the general move towards deregulation considering the state of the market for fixed telecommunications and a general lack of focus on next generation migrations and the integration of new technologies.

That said, ALTO appreciates the position adopted by the European Commission and indeed the position ComReg has found itself in and responds accordingly.

ALTO’s key focus in this response is on the subject of sunset or migration periods. We believe this is of critical import considering the intervention by the European Commission.

Consultation Question

Q. 1. Having regard to the Withdrawal Decision and ComReg’s analysis in this Consultation, do you agree with the proposals set out in this Consultation? Please provide evidence in support of your response where appropriate.

A. 1. ALTO submits that it does agree with the proposals set out in this Consultation having full regard to the Withdrawal Decision and ComReg’s analysis set out in the Consultation.

We offer comments on discrete areas of the Consultation below:

PSTN – Public Switched Telephone Network

ALTO suggests (as it did previously) that there is still a substantial number of consumers and end-users using Wholesale Line Rental (“WLR”) services in the Irish market. In consequence, and considering that fact, we note that there is a concerning lack of products and offerings with which to migrate the said consumers and end-users to, such as on to decent and scalable standalone broadband services.

Considering this obvious market dynamic or deficiency, ALTO supports ComReg’s conclusion that in order to facilitate an effective and tested and operational bulk migration solution for WLR consumers and end-users, a minimum sunset period of 18 months appears to be proper and appropriate – after the industry acknowledged availability of a fully functional bulk migration solution. ALTO notes that IT development periods diverge between undertakings active on the market and a time period in that region is appropriate and correct. We also note the position regarding small batch orders types that can be migrated. We suggest that small batch order types remain available to the market in the interregnum, and we consider that those should be retained in the long term irrespective of sunset clauses.

ALTO notes the European Commission’s position on the MTS market. We submit again, as we did previously, that the national network is not fit for purpose when it comes to full substitution, which may have been incorrectly assumed by the European Commission. Consequently, the State has brought forward plans to aid this area of the market. Until such time as State intervention reaches consumers and end-users, choice and network quality remain very significant concerns. We also agree with and support ComReg’s conclusion that an 18 month sunset period is correct considering this aspect of the market.

In general, ALTO agrees with ComReg's proposals. Shorter sunset periods would be detrimental to the market and the interests of ALTO members and we cannot support those.

ISDN 2 – Basic Rate

ALTO notes ComReg's suggested 2-month period for de-regulation of new supply in this area. We suggest that should the market close, or should prices rise to the extent that these services become unviable, then a period of 24-months should be considered for migration away from existing ISDN 2 connections.

Primary and Fractional Rate Services

ALTO notes the position considering PRA and FRA services and the suggested period of 9-months for the removal of regulation. However, ALTO submits that an 18-month is a more appropriate to facilitate the migration of existing customers, consumers and/or end-users from these technologies. The situation remains the same, the availability of robust and good quality high speed access services can be said to be found wanting and in consequence, ComReg must consider the position of the existing market prior to de-regulating fully and likely jettisoning or stranding users with no viable alternative access network services.

ALTO

14th March 2022

**BT Communications Ireland Response [“BT”] Response to ComReg’s Market Review
Consultation concerning:**

Retail Access to the Public Telephone Network at a fixed Location for Residential and Non-Residential Customers.

Wholesale Fixed Access and Call Origination

Issue 1: 14th March 2022

1.0 Introduction

We welcome the opportunity to comment to this consultation and would like to offer the following comments:

1. In our response to the original consultation we understood ComReg’s rationale for de-regulating the urban areas given ComReg arguments that NGA and FTTP/H Broadband is capable of supporting an acceptable quality of voice as a substitute path to copper access. However we also noted considerable problems with bulk migrating customers from WLR to VoIP and at this point the proposed resolution still needs to be tested. We also note that parts of the country are still without BB capable of supporting acceptable quality voice services.
2. Given the position of the EC our focus in this response will be towards the sunset periods which we would agree are required given the unexpected nature of the step-in by the EC and the issues discussed below.

2.0 BT Response to the ComReg Consultation Question in Annex 2

Q. 1. Having regard to the Withdrawal Decision and ComReg’s analysis in this Consultation, do you agree with the proposals set out in this Consultation? Please provide evidence in support of your response where appropriate.

BT Response

2.1 PSTN

We agree with the proposed PSTN de-regulation sunsets of 9 months for new sales and 18 months for existing customers provided the bulk migration facilities are effective and fit for purpose. ✂ We would like to offer the following comments:

- a. Although we note ComReg has been careful to describe percentages of users for FACO services, ✂ and in our view there has been problems with the lack of an effective (fit for purpose) migration product to migrate customers to Standalone Broadband services. We note the statement in the consultation that migration services have been available, and nobody has used them, however this ignores the risk to operators should they attempt to use such. i.e. there is a lack of facilities to recover if something should go wrong and the down time would be unknown

as no order types would work for some time – at least days but possibly longer. Such could restrict the availability of 112/999 to customers over fixed lines and such is unacceptable. The industry has not remained silent in this matter, and we welcome the Direction¹ that ComReg issued although it allowed Open eir until the end of April 2022 to put in place a solution. We note that documentation has recently been issued by Open eir but given the considerable difficulties in this matter to date, we will need to deploy these order types into our systems and test that they are effective.

Given these issues we welcome ComReg's approach of providing a sunset period that will allow for an effective bulk migration to be put in place and demonstrated by usage to be effective. Hence we welcome the 18-month sunset. Just like Open eir it can take time for other operators to update their order handling systems to use new Open eir order types so it will take time for some other operators to code in the new order type. ✂

- b. Whilst we note the Commission's view added the MTS market, we would like to point out that in rural area a lot of Ireland does not have BB that could support reliable VoIP based voice and reception on mobile phones can be patchy. We note the Irish Gov't has created an Intervention Area (IA) for State Aid however we understand the rollout of this has been significantly delayed due to the pandemic that is Covid 19. The State Aided provider rolling out BB in the IA has assured the parliamentary Oireachtas that things will speed up and we consider the 18th Month ComReg sunset should hopefully allow many customers to receive good quality voice services. Absent regulation customers within the IA could be significantly limited in supplier choice and service quality.

In conclusion we agree with ComReg's proposals. We would not agree with shorter sunset clauses which in our view would seem to only benefit one carrier.

4.2 ISDN 2

ISDN basic Rate.

We agree with the 2-month sunset for the de-regulation of new sales and the 12 months period before de-regulation applies to existing customers.

We are comfortable with the 2-month period for de-regulation of new supply to allow for the appropriate administration to take place to make this effective. ✂. ✂ At this point we don't know whether a de-regulated Open eir will close this product, however if it were to act to close or substantially raise prices etc. we consider it would take a year to force migrate customers to new products. The Irish industry has recently had to force migrate customers out of certain non-geo number ranges and whilst some customers moved without issue, there were many that would not. Hence a year is tight, but we think just about manageable.

¹ ComReg 21/61 11th June 2021 - Direction to Open eir Limited pursuant to Regulation 18 of the European Communities (Electronic Communications Networks and Services) (Access) Regulations 2011 in relation to Migrations

4.3 Primary and Fractional Rate Services

We are comfortable with the 9-month period for the removal of regulation for new supply of Open air PRAs and FRAs and the 18-month sunset would appear tight for the de-regulation for existing customers.

We are concerned with de-regulating existing customers and the 18-month period would appear to be a minimum period as these systems often involve significant investment by the customer if they were required to migrate. We agree with ComReg that this cohort is not aligned with the mobile market. Whilst we appreciate ComReg is discussing removing regulation we have found in the broadband market such can signal higher wholesale prices and hence migration is an option that needs to be considered seriously. Whilst migration in areas where high speed BB is available looks tight in an 18-month period, such is not an option in areas without high-speed access. Leased lines service could be considered but the cost to the customer will likely increase.

End

Non-Confidential

eir Response to ComReg Consultation

Retail Access to the Public Telephone Network at a Fixed Location for Residential and Non- Residential Customers

Wholesale Fixed Access and Call Origination

ComReg Document 22/10



14 March 2022

DOCUMENT CONTROL

Document name	eir response to ComReg 21/133
Document Owner	eir
Status	Confidential

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

Please note that, for the purposes of the Freedom of Information Act 2014 and the Communications Regulation Act 2002 (as amended) and in the context of the eir Group's general rights and obligations, information supplied by the eir Group to you may contain confidential, commercially sensitive or price sensitive information consisting of financial, commercial, technical or other information, whose disclosure to a third party could result in financial loss to the eir Group, could prejudice the competitive position of the eir Group in the conduct of its business, or could otherwise prejudice the conduct or outcome of contractual or other negotiations to which the eir Group is a party.

Accordingly, you are requested to contact a member of eir Group's Regulatory Strategy Team where there is a request by any party to have access to records which may contain any of the information herein and not to furnish any information before the eir Group has had an opportunity to consider the matter.

Response to consultation

1. eir welcomes the opportunity to comment on ComReg's draft Decision.

Q. 1. Having regard to the Withdrawal Decision and ComReg's analysis in this Consultation, do you agree with the proposals set out in this Consultation?

2. eir agrees with the analysis and conclusions set out by the Commission in the Withdrawal Decision and welcomes ComReg's updated market analysis and conclusions that there is no longer any justification to maintain the regulatory obligations imposed by D12/14 and D05/15.
3. eir notes the Commission's guidance in paragraphs 139 and 140 of the Withdrawal Decision regarding the need for ComReg to take a forward looking assessment in the market review taking into account inter alia commercial and State aid funded Next generation deployments. eir expects that the standard of a required forward looking view will be taken in ComReg's market reviews of other currently regulated markets.
4. Whilst, eir agrees with the conclusions to remove regulatory obligations, eir does not agree with the proposed sunset periods for the removal of obligations imposed by D05/15.
5. ComReg has maintained its view as set out in the consultation ComReg 20/46 that the sunset period for full de-regulation should be 18 months from the effective date of the Decision being made. ComReg bases this proposal on a construct of affording sufficient time for demand for regulated the wholesale products to cease to exist. So in effect ComReg is proposing to remove regulation but only at a pace that would allow all volumes in the market to move to another service, as such regulation is only being removed in a timeframe at a pace that ensures that there is nothing left to regulate. This is a questionable construct against a conclusion that the downstream retail market is competitive absent upstream regulation.
6. In addition, this is not compatible with Article 67(3) of the Code which requires NRAs to provide notice to parties affected by the withdrawal of SMP obligations "*defined by balancing the need to ensure a sustainable transition for the beneficiaries of those obligations and end-users, end-user choice, and that regulation does not continue for longer than necessary*". ComReg's construct to only de-regulate when there is nothing left to regulate is at odds with the requirement of the Code not to continue regulation for longer

than necessary when no issues have been identified regarding the provision of the wholesale services.

7. ComReg's position appears to presume that open eir would behave unreasonably and therefore Access Seekers would need to flee to alternatives. As we explained elsewhere in our response to ComReg 20/46 such a strategy could not be sustained. eir has every incentive to not to push its wholesale customers away. Similar unfounded concerns appear to have informed ComReg's sunset period for the urban WCA market. It is notable that the sunset period selected was 6 months and that concerns regarding abusive behaviour by open eir have not arisen. It is not possible to understand why the proposed sunset date in this review is three times that in the WCA market.
8. ComReg proposes the 18 month sunset date for WLR, ISDN PRA and ISDN FRA on the basis that operators require 9 months to establish a VoIP platform and then 9 months to execute a migration away from the regulated services.
9. In eir's response to ComReg 20/46 we questioned the rationale for the first 9 months as most if not all retail providers already have VoIP platforms in operation. ComReg's response¹ to this is that some unspecified access seeker(s) would need to have "*sufficient time to **(further)** develop or procure a VoIP platform and associated operational/support systems and processes to enable the delivery of Managed VoIP to RFTS end users*" [emphasis added]. ComReg has presented no evidence that it has engaged with access seekers and validated that there is a need to further develop their platform or indeed the degree of further development that may be required.
10. Even if ComReg has firm evidence that one or more access seeker requires additional further development time it is not reasonable that the pace of the removal of regulatory obligations should be dictated by the slowest mover. Inefficient access seekers should not be propped up by prolonged regulation in competitive markets. In that context, ComReg's justification for the first 9 months of the sunset period is ultra-vires. Indeed, even under ComReg's concurrent competition powers such a proposal is unjustified and it could not in the context of identifying a competitive market then seek to protect certain operators in that market. As set out by Bishop & Walker "*it is important to remember that the purpose of competition law is to protect competition not competitors*". As such, neither under regulation nor competition law powers does ComReg have the vires to introduce or prolong restrictions

¹ Paragraph 5.3

in a competitive market. Consequently, there is no basis for the initial 9 month (of the 18 month total) sunset period proposed.

11. The second 9 month period is presented by ComReg as the period required for access seekers to migrate to alternatives. eir understands that ComReg's estimate of the number of working days required to migrate is based on the volume of lines in service at the end of Q3 2021 for the largest access seeker and as at Q3 2021 a full migration for that access seeker would take \times [REDACTED] \times . This equates to less than 8 months. As ComReg observes² "*there is nothing preventing Access Seekers starting migrations earlier if they have the VoIP platform and capacity available together with the necessary processes to support migrations at scale*". Consequently the maximum sunset period that could be justified on this basis is 8 months with base volumes as at Q3 2021.
12. As ComReg is aware the fixed voice line base has been falling quarter on quarter for many years with the rate of attrition growing over time. According to the QKDR fixed line data made available by ComReg the PSTN access path base fell by 3.3% between Q2 2021 and Q3 2021. If we assume the Decision is made towards end Q2 2022 and that this quarterly attrition rate continues to apply³ then the required migration period (assuming commencement on 1 July) falls to around 7 months⁴.
13. Taking the above into account, in particular the conclusions in paragraphs 10 and 12, the maximum sunset that can be justified on ComReg's own approach is 7 months.

Proposed rollback obligation

14. ComReg states⁵ "*Together with having issued a direction under Regulation 18 of the Access Regulations, ComReg also proposes to attach a condition to the provision of Access during the sunset periods prior to the withdrawal of remedies in the Relevant FACO Markets*".
15. The proposed obligation is to provide an emergency rollback in addition to the changes to the bulk migration process imposed by ComReg in the Direction. ComReg seeks to justify the proposed obligation⁶ on the basis "*that Eircom proposed to ComReg as part of the*

² Paragraph 5.19

³ A conservative assumption when the attrition rates has been observed to grow quarter on quarter.

⁴ Noting that there is an ongoing natural attrition which means that the total volumes to be migrated in the period will be less than the volume on 1 July.

⁵ Paragraph 5.32

⁶ Paragraph 5.33

dialogue leading to the 2021 Draft Decision, a new automated rollback procedure to enable Access Seekers to roll back to the original service settings within one business day for as long as the un-jumpering task remains outstanding and a technician has not been dispatched to carry this task out.” ComReg is incorrect to state that the dialogue was in the context of the 2021 draft Decision. This matter had not previously been consulted upon and was therefore outside of the market review process. The dialogue occurred in the context of ComReg’s separate process to impose the Direction and was offered as an alternative to ComReg’s proposed approach (which ComReg rejected). ComReg cannot hold that dialogue out as justification for the proposed obligation or to infer the obligation is a minimal burden and to seek to enshrine such discussions in the Direction or Decision.

16. The proposed obligation is conditional on the unjumpering task not being completed and requires additional logic to be built into the order handling process over and above the complexity introduced by the Direction. As was explained to ComReg at the time open eir Wholesale does not have real time access to the workbooks of field technicians and consequently does not have a real time view of the state of the unjumpering activity. There will be periods of time where the network inventory is out of synch with the physical state of the network.
17. The proposed obligation is expressed in the draft Decision that the rollback must take place within one business day of the Access Seeker’s request, where the un-jumpering task remains outstanding. As drafted it would seem that the rollback obligation could be triggered at any point between receipt of the migration order and the unjumpering being completed. This may be complex to implement given the existing system limitations referred to above. Given that this is intended to be an emergency rollback should the access seeker’s VoIP provisioning failed at the time of migration, eir believes that a better and more proportionate approach would be to limit availability of the rollback option to within 1 working date of the migration order being placed. This means that open eir can establish a business rule that no unjumpering takes place during the first working day and thereby mitigates the risk of issues arising with out of synch inventory.
18. Thus if the proposed obligation is to be imposed proportionately the draft Decision text must be amended to read: *“During the PSTN and ISDN FRA/PRA Sunset Period, in respect of any line migrated from SB-WLR or POTS-based NGA (VUA or Bitstream), Eircom shall provide an escalation process (either manual or automatic) enabling it to rollback the line to the original SB-WLR or POTS-based NGA service within one business day of the Access*

Seeker's request to migrate the line to a standalone broadband service, where the un-jumpering task remains outstanding".

19. If eir's requested change is agreed by ComReg we believe that the proposed 5 month implementation date can be achieved. If the conditionality is not simplified per our request then additional complexity will require a longer implementation window.

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Vodafone Response to Consultation

Wholesale Fixed Access and Call Origination

Version: [Non- Confidential]

Non-Confidential

Introduction

Vodafone welcome the opportunity to respond to this further ComReg consultation on Wholesale Fixed Access and Call Origination – ComReg document number 2210.

ComReg Overall Conclusion

ComReg's conclusion is that continued ex ante regulation of the three Retail Fixed Telephony Service markets are no longer warranted stating there is evidence of barriers to entry being sufficiently eroded over time, including on the basis of operators being able to self-supply managed VoIP over broadband. In the absence of competition problems in the RFTS market ComReg conclude there is no reason to examine FACO market competition and the retention of remedies in this market.

The position is that Service Providers can compete on a forward-looking basis given the sufficient availability of NG broadband.

Vodafone Comment

We do not propose to go into further analysis or restate in detail the reasons why we may disagree with this position, be that on substitution, the inclusion of Virgin, regional considerations, the timeframe for rollout of the National Broadband Plan and other factors. It is accepted in NGN broadband areas VoIP options are available to customers. It is also clear, however, that [CONFIDENTIAL TEXT REMOVED]

Taking into account the Commission position and outcome from this further ComReg consultation the primary concern for Vodafone is that there is sufficient time (Sunset Periods) to invest to ensure the different grades of VoIP options are available for our consumer and business customers and that migration can be effectively and managed according to our customer needs.

Proposed Sunset Periods

Supply of regulated services	Sunset	Product
Continue Existing Supply of Services at existing price	12 months	ISDN BRA
	18 months	PSTN, ISDN FRA and ISDN PRA
Complete new orders at existing price	2 months	ISDN BRA
	9 months	PSTN, ISDN FRA and ISDN PRA

During the sunset periods proposed access would be maintained.

Consultation Question:

Question 1: Having regard to the Withdrawal Decision and ComReg's analysis in this Consultation do you agree with the proposals set out in this Consultation. Please provide evidence in support of your response.

Vodafone Comment

In reply, Vodafone has focused solely on sunsets by Product and order type.

- **New Supply:** All sunsets for new supply for all products, while challenging, are accepted.
- **Existing Supply PSTN, ISDN FRA and ISDN PRA:** The sunsets for existing customers are very challenging. While longer timeframes would be preferred Vodafone does not propose to comment further.
- **Existing Supply ISDN BRA:** In inputting to consultation the only slight amendment that Vodafone request is on ISDN BRA. In our view the sunset should, where feasible, align with existing supply for other products.

For ISDN BRA the main challenge is the development of an alternative service for existing customers in a 12-month period. The business customers using BRA may well choose basic managed VoIP services however some customers will require more sophisticated bespoke solutions including support, call handling, network admin, QoS etc. The profiling of customers to understand requirements and migration planning while developing alternative supply is complex.

[CONFIDENTIAL TEXT REMOVED] Notwithstanding the supply constraints on NTUs and the downward trends in service numbers we would request the supply for existing services should, where feasible, align with the 18-month timeframe on PSTN, ISDN FRA and ISDN PRA services.

Vodafone agree this should be supported, where feasible. It is acknowledged there are issues in supply of NTU so, outside 12 months, where in the remaining 6 months service issues arise requiring replacement NTUs it may not be possible to support.

The additional benefit of aligning the sunset is the message is clear for business customers. A mixed message on changes to existing supply for business customers with differing product mixes has the potential to confuse.

Vodafone welcomes the opportunity to respond on this matter and trusts ComReg will give consideration to the points raised above on sunset periods.

ENDS

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