



Commission for  
**Communications Regulation**

## Decision Notice

### **The Future Framework for the Regulation of Universal Service in the Irish Telecommunications Market**

#### **Provision of Telephony Services to Users**

<b>Decision No:</b>	<b>D17/03</b>
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## **1 Foreword**

On behalf of the Commission, I am pleased to present our Decision Notice on the Future Framework for the Regulation of Universal Service in the Irish Telecommunications Market.

In our Response to Consultation, 03/68 (18<sup>th</sup> June 2003) ComReg signalled its intention to designate eircom as the Universal Service Provider for the provision of telephone connections, directory services and payphones throughout the State, in light of new obligations set out under the new EU framework. At that time, it was not possible to complete the designation process as the USO Directive was not yet transposed into Irish legislation. The Minister for Communications, Marine and Natural Resources, Mr. Dermot Ahern, T.D., has since signed the Universal Service regulations which come into effect on 25<sup>th</sup> July, 2003.

Many of the obligations relating to Universal Service are required under national law and ComReg has limited discretion in implementing these measures. In many cases where discretion exists, it requires Ministerial consent which has been granted. This Decision Notice gives effect to the positions set out in ComReg document 03/68.

I look forward to working with eircom and other interested parties to ensure a speedy and effective implementation of the measures contained in this paper.

**Etain Doyle**  
**Chairperson**  
**Commission for Communications Regulation**

## 2 Introduction

The Commission for Communications Regulation (“ComReg”) is responsible for the regulation of the Irish telecommunications sector in accordance with national and EU legislation. One of ComReg’s functions is to determine the scope of the universal service obligations for the Irish market and to decide what organisation(s) should be designated as the universal service provider(s).

This Decision Notice follows the Response to Consultation document 03/68, “The Future Framework for the Regulation of Universal Service in the Irish Telecommunications Market” as issued in June and should therefore be read in conjunction with that document. In that paper, ComReg signalled its intention to designate eircom as the Universal Service Provider (USP) with specific obligations once the necessary regulations had been made.

The decisions set out in this paper are being made in accordance with the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations, S.I. 308 of 2003, which were signed by the Minister for Communications, Marine and Natural resources on 21<sup>st</sup> July 2003. These regulations transpose the European Universal Service and Users’ Rights Directive<sup>1</sup>.

ComReg’s approach to USO scope and designation has been made in the context of the final text of the regulations.

### 2.1 Ministerial Consent

As with the old framework (pre 25<sup>th</sup> July 2003), the Universal Service and Users’ Rights Regulations provide that ComReg has responsibility for deciding on the scope of the universal service obligations and designating the universal service provider(s).

Under the new regulations, the consent of the Minister for Communications, Marine and Natural Resources is required in relation to a number of aspects concerning the scope of the USO. These consent areas were highlighted in the Response to Consultation.

Following the publication of document 03/68, ComReg sought Ministerial consent with respect to the positions taken within that paper. The Decisions now contained within this Decision Notice have therefore been made having obtained Ministerial consent, where appropriate.

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<sup>1</sup> Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive)

### **3 Scope of the Obligations and Designation of the USP**

Apart from some implementation timeframes, ComReg maintains its position as set out in its Response to Consultation 03/68 with respect to the obligations to

- the provision of access at a fixed location
- the provision of directory enquiry services and directories
- the provision of public pay telephones
- the provision of specific measures to ensure that disabled users have access to services
- affordability for users
- designation of the USP

Appropriate directions to give effect to these obligations and the designation of the USP are set out below.

#### **3.1 Provision of Access at a Fixed Location**

ComReg maintains its position as set out in its Response to Consultation 03/68 with respect to the obligation to provide access at a fixed location.

##### **Direction 1**

In accordance with Regulation 3 of the European Communities (Electronic Communications Networks and Services)(Universal Service and Users' Rights) Regulations, S.I. 308 of 2003, a USP designated under Regulation 7 shall have the following obligations.

- (a) The USP shall satisfy any reasonable request to provide, at a fixed location, connections to the public telephone network and access to publicly available telephone services.
- (b) Any connection provided by a designated USP shall, taking into account prevailing technologies used by the majority of subscribers and technological feasibility, be capable of allowing end users to make and receive (i) local, national and international telephone calls, (ii) facsimile communications and (iii) data communications at data rates that are sufficient to permit functional Internet access.

- (c) Where the USP denies any reasonable request made under (a) above it shall inform the person making the request of his or her right to pursue the dispute resolution procedures in accordance with the regulation 28 of the Universal Service Regulations of 2003.
- (d) The USP shall, on or before 24th October 2003, submit clear requirements to ComReg for the purpose of assessing the reasonableness of requests for connection at a fixed location to the public telephone network and for access to publicly available telephone services pursuant to paragraph (a) above. The requirements shall be agreed with ComReg and subsequently published by the USP.
- (e) The USP shall, on or before 24th October 2003, submit to ComReg the terms and conditions upon which a connection under paragraph (a) above will be provided. The terms and conditions will be approved by ComReg and subsequently published by the USP.
- (f) The USP shall incorporate any requirements that are established under paragraphs (a), (d) and (e) above as part of a published policy statement/customer charter regarding the provision of all services falling within the scope of the Universal Service Obligation, including the provision of services to disabled users and those with special needs. ComReg shall specify a timeframe for publication after consultation with the USP.

On the matter of functional internet access, the USP shall

- (g) on or before 24th October 2003, develop a statement which sets out the range of factors which can affect its network performance (and are within its control) and therefore the speeds enjoyed by internet users.
- (h) on or before 24th October 2003, inform ComReg of the number and location of connections to the public telephone network that employ carrier systems/pairgain devices.

- (i) following further discussions with ComReg, develop a plan for addressing network performance issues that affect the speeds enjoyed by internet users. ComReg shall specify a timeframe for the development of this plan and any actions that may follow, including further specific measures regarding functional internet access.

The USP shall publish the information in paragraph (g) as part of its published policy statement/customer charter.

Paragraph (h) above is deemed necessary given the impact that Carrier Systems have on the matter of functional internet access.

### **3.2 Directory Inquiry Services and Directories**

ComReg maintains its position regarding the obligation to provide directory and directory enquiry services as set out in its Response to Consultation 03/68.

For clarification purposes, the obligation regarding the provision of a directory enquiry service relates to a national directory enquiry service. The USP may charge end users for the CD Directory. However, ComReg will review this matter with respect to the provision of the CD directory to disabled end users.

#### **Direction 2**

In accordance with Regulation 4 of the European Communities (Electronic Communications Networks and Services)(Universal Service and Users' Rights) Regulations, S.I. 308 of 2003, a USP designated under Regulation 7 shall have the following obligations.

- (a) The USP shall, based upon data provided to it in accordance with paragraph (c) below, provide to end users, free of charge, a comprehensive printed directory of subscribers. The printed directory shall be updated at least once a year.
- (b) The USP shall, based on the data provided to it under paragraph (c) below, ensure that a comprehensive telephone directory enquiry service is made available to all end users, including users of public pay telephones.

A directory or directory enquiry service under paragraphs (a) and (b) above shall comprise, subject to Regulation 8 of the European Communities (Data protection and Privacy in Telecommunications regulations, 2002 (S.I. No. 192 of 2002), all subscribers of publicly available telephone services in the State including those with fixed, mobile and personal numbers, who have not refused to be included in such directories.

(c) Subject to Regulation 10 of the European Communities (Data Protection and Privacy in Telecommunications) Regulations, 2002 (S.I. No. 192 of 2002), the USP shall keep a record (to be known as the National Directory Database) of all subscribers of publicly available telephone services in the State, including those with fixed, personal and mobile numbers who have not refused to be included in that record, and allow access to any information contained in such a record to any such other undertaking or any person in accordance with terms and conditions as may be specified by it and approved by ComReg.

(d) The USP shall make a comprehensive directory of subscribers under paragraph (a) above available on CD format to any end user requesting it in accordance with terms and conditions to be approved by ComReg.

The USP shall provide ComReg with a proposal for the introduction of a CD version of the directory of subscribers, backed by a clear project plan (and costing information) on or before 24th October 2003. These shall be approved by ComReg.

### **3.3 Public Pay Telephones**

ComReg maintains its position as set out in its Response to Consultation 03/68 with respect to the obligation to provide public pay telephones.

#### **Direction 3**

In accordance with Regulation 5 of the European Communities (Electronic Communications Networks and Services)(Universal Service and Users' Rights) Regulations, S.I. 308 of 2003, a USP designated under Regulation 7 shall fulfil the following obligations with respect to the provision of public pay telephones.



The USP shall ensure that public pay telephones are provided to meet the reasonable needs of end-users in terms of the geographical coverage, the number of telephones and the quality of services.

The USP shall ensure the accessibility of such telephones to disabled users, in accordance with any measures that may be required by ComReg in accordance with Regulation 6 of the Universal Service and Users' Rights Regulations 2003.

The USP shall ensure that it is possible to make emergency calls from a public pay telephone using the single European emergency call number "112" and any national emergency call number that may be specified by ComReg in each case free of charge and without the necessity to use coins or cards or any other means of payment.

The USP shall ensure that users of its public pay telephones have access to a directory enquiry service referred to in Regulation 4 of the Universal Service and Users' Rights Regulations 2003.

Where possible, the USP shall ensure that all public pay telephones provide for a number of payment means including coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialling codes.

The USP shall comply with the following terms and conditions with respect to the provision of public pay telephones.

(a) The USP shall publish the following information on a quarterly basis:

- Total Number of USO payphones by county<sup>2</sup> and further disaggregated according to whether they are single or multiple public pay telephone sites.
- Total Number of USO Payphones removed/re-sited and/or installed in a period. Such information shall be disaggregated according to whether the payphones are located at single or multi-sites and by county.

The first set of data shall be published for the period October to December 2003 within one month after the end of this period.

(b) On or before 24th October 2003, the USP shall provide to ComReg for approval,

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<sup>2</sup> Given commercial considerations ComReg maintains the right to seek further information, as appropriate.

- an annual statement for the period October 2003 to September 2004 on its public pay telephone strategy, including any rationalisation plans.
  - processes with regard to removal/re-siting of public pay telephones, including specifications for the notice of removal/re-siting.
  - processes for considering any requests for public pay telephone installation.
  - escalation process in the event any areas of dispute arising under the above.
- (c) Where, in accordance with Regulation 6 of the Universal Service and Users' Rights Regulations 2003, criteria have been established covering disabled users access to payphones, the USP shall publish information regarding the number of payphones meeting such criteria.
- (d) Subject to any installation, removal or re-siting guidelines that are approved by ComReg, the USP should not remove or re-site any public pay telephones and/or cease to provide service to such telephones, where it would result in the complete removal of a public pay telephone from a site (this does not include any public pay telephones whose removal has already been notified under the existing removal process).
- (e) The USP shall inform ComReg where it proposes to remove a single public pay telephone. An appropriate process for this shall be approved by ComReg.
- (f) The USP shall maintain adequate records regarding the removal/re-siting/installation of public pay telephones to ensure compliance with any of the above procedures can be monitored, as appropriate.

The criteria set out in (a) to (f) will be approved by ComReg prior to their publication and shall be listed on the USP's website in an easily identifiable location. ComReg will liaise with the USP to discuss the detail regarding the implementation of these measures. Performance figures shall be published quarterly and validated against any targets that may be established by ComReg in accordance with Regulation 10 of the Universal Service and Users' Rights Regulations 2003.

### 3.4 Specific Measures for Disabled Users

ComReg maintains its position concerning specific measures for disabled users as set out in its Response to Consultation 03/68.

#### **Direction 4**

In accordance with Regulation 6 of the European Communities (Electronic Communications Networks and Services)(Universal Service and Users' Rights) Regulations, S.I. 308 of 2003, a USP designated under Regulation 7 shall have the following obligations with respect to the provision of services to disabled users.

For users that are hearing impaired:

- Inductive couplers which allow users with a hearing aid set to connect it to their telephone in order to allow them to hear incoming speech clearly.
- Amplifier phones which allow the user to increase the volume of incoming speech.
- Teleflash Visual Alert which shows a flashing light, or makes a loud noise when the phone rings.

For Users that are hearing and/or speech impaired:

- A Text Relay Service which provides for the receipt and translation of voice messages into text and the conveyance of that text to the textphone of customers of any operator, and vice versa.
- A rebate scheme whereby, as a result of the time taken to make a text telephone call, equality of payment for deaf text telephone users can be assured.

For users with limited dexterity or mobility:

- Push button telephones with speed and automatic redial buttons to allow pre-programmed numbers (typically the most called) or last called numbers to be dialled without having to re-enter the number.
- Hands free/loudspeaker phones which mean that the handset does not need to be used at all.

For users with restricted vision:

- Restricted vision telephones which can help people with restricted vision to find other numbers more easily.

- Braille billing free of charge.
- Special directory enquiries which allows those unable to use the phone book because of a disability to use a directory enquiry service free of charge.

The USP shall develop and publish, in consultation with appropriate representative bodies and with the approval of ComReg, a Code of Practice governing its provision of services to disabled users. Such a Code shall set out its policy for the provision of such services, and include details regarding any special schemes offered and the availability of services. The USP shall, on or before the 26<sup>th</sup> September 2003, submit a detailed project plan to ComReg for the development and publication of the above code.

The USP shall submit proposals to ComReg as to how its directory enquiry service can be made available to Minicom users.

ComReg reserves the right, following consultation with the USP and other appropriate bodies, to require the introduction of additional measures to improve the accessibility of services to disabled users.

### **3.5 Affordability for Users**

ComReg maintains its position regarding affordability for users, as set out in the Response to Consultation 03/68.

#### **Direction 5**

In accordance with Regulation 8 of the European Communities (Electronic Communications Networks and Services)(Universal Service and Users' Rights) Regulations 2003, a USP designated under Regulation 7 shall offer geographically averaged prices throughout the State for the services falling within the scope of the Regulations 3, 4, 5 and 6.

Any specific circumstances where geographic averaging may not apply will be approved by ComReg.

### **3.6 Designation of the Universal Service Provider**

ComReg maintains its position regarding designation, as set out in the Response to Consultation 03/68.

#### **Direction 6**

In accordance with Regulation 7 of the European Communities (Electronic Communications Networks and Services)(Universal Service and Users' Rights) Regulations, S.I. 308 of 2003, eircom is designated as the Universal Service Provider with obligations under Regulations 3, 4, 5, 6 and 8 as specified in this Decision Notice.

The Designation shall take effect on 25<sup>th</sup> July 2003 and apply throughout the State for a period of three years.

## 4 Control of Expenditure

ComReg maintains its position concerning measures to allow users to control expenditure as set out in its Response to Consultation 03/68.

### 4.1 Itemised Billing

#### Direction 7

In accordance with Regulation 9 of the European Communities (Electronic Communications Networks and Services)(Universal Service and Users' Rights) Regulations, S.I. 308 of 2003, a USP designated under Regulation 7 shall provide, on request, a minimum level of itemised billing for free. The current requirements regarding the minimum level of itemised billing are set out in Decision Notice D09/01, Document 01/53, Itemised Billing by Telecommunications Operators.

### 4.2 Call Barring

#### Direction 8

In accordance with Regulation 9 of the European Communities (Electronic Communications Networks and Services)(Universal Service and Users' Rights) Regulations, S.I. 308 of 2003, a USP designated under Regulation 7 shall provide selective call barring facilities for outgoing calls to National, Mobile, Premium Rate and International Calls. The premium rate call barring facility shall be free of charge for users.

The USP shall, on or before 24th October 2003, submit a detailed proposal to ComReg as to how the issue of an unbundled mobile call barring facility can be dealt with. ComReg may, in accordance with Regulation 9 of the Universal Service and Users' Rights Regulations 2003, specify further action as may be required.

### 4.3 Phased Payment of Connection Fees

#### Direction 9

In accordance with Regulation 9 of the European Communities (Electronic Communications Networks and Services)(Universal Service and Users' Rights) Regulations, S.I. 308 of 2003, a USP designated under Regulation 7 shall introduce a

scheme to allow for the phased payment of connection fees via direct debit within six months following designation.

The terms of such a scheme shall be agreed with ComReg prior to their publication by the USP.

#### **4.4 Non-Payment of Bills**

##### **Direction 10**

In accordance with Regulation 9 of the European Communities (Electronic Communications Networks and Services)(Universal Service and Users' Rights) Regulations, S.I. 308 of 2003, a USP designated under Regulation 7 shall publish its disconnection policy as part of its Code of Conduct for Handling Consumer Complaints<sup>3</sup>.

The USP shall augment the current level of information within its disconnection policy so as to clarify consumer expectations and bring greater transparency to the disconnection process. The additional level of information, timing and manner of publication shall be agreed with ComReg on or before the 25<sup>th</sup> November 2003 following designation.

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<sup>3</sup> The current requirements regarding the non-payment of bills are set out in Decision Notice D13/01, Document 01/67, Codes of Conduct for the Handling of Consumer Complaints by Telecommunications Operators.

## 5 Quality of Service

ComReg maintains its position concerning quality of service measurement as set out in its Response to Consultation 03/68.

### **Direction 11**

In accordance with Regulation 10 of the European Communities (Electronic Communications Networks and Services)(Universal Service and Users' Rights) Regulations, S.I. 308 of 2003, a USP designated under Regulation 7 shall

- (a) publish adequate and up to date information concerning its performance in relation to the provision of universal services, based on the quality of service parameters, definitions and measurement methods set out in Annex III of Directive 2002/22/EC and shall supply such information to the Commission.
- (b) Subject to any data protection considerations, publish adequate and up to date information concerning its performance in relation to the provision of universal services to disabled users, where relevant parameters have are developed.

The requirements in relation to (a) are to be fulfilled according to the methods as specified under the Measuring Licensed Operator Performance (MLOP) regime as established under ComReg Document 00/04.

ComReg may develop performance targets for the provision of universal services, following consultation with the USP and further bodies as appropriate.



## **6 Regulatory Impact Assessment**

### **6.1 RIA Consultation**

In the Response to Consultation Document 03/68 ComReg indicated that it would complete an RIA in tandem with the Decision Notice that will give effect to the positions set out in document 03/68. With this in mind, ComReg invited comments on the proposals set out therein.

### **6.2 Summary of Respondents Views**

Six responses were received which have been helpful to the Commission. The respondents were:

- eircom
- Ireland Offline
- 4 individuals

The responses are available for inspection at the Office, excluding any confidential material that respondents have specifically asked to be withheld.

In general, respondents raised issues that had been dealt with in ComReg's Response to Consultation 03/68. Five respondents, who mainly commented on the issue of functional internet access, considered that the proposed approach was inadequate in light of user needs. They felt that a specific minimum bit rate should be set. Concern was also expressed about the issue of carrier systems/line splitters. It was felt that more action should be taken to ensure that users are informed where they exist and that they should be removed by the USP upon request.

The other respondent felt that ComReg's proposed approach to implementing USO regime was burdensome, increased the extent of the existing obligations and they rejected many of ComReg's positions as set out in document 03/68. Concern was expressed that a number of measures that were currently provided on a 'voluntary' basis were now being made requirements under the USO regime. Issues were raised about the timing of the designation process and the timeframes around the implementation of a number of 'extensions' to the USO. ComReg's position on the establishment of a cost/fund mechanism was deemed unacceptable and they indicated that they would, after further study, be submitting a submission on the net cost of USO provision. The respondent also provided its views on a methodology for RIA along with references to best international practice in this area.

### **6.3 ComReg's Response**

In view of the comments provided by this respondent, ComReg has, in certain cases, decided to amend implementation timeframes. Aside from that, the proposed positions regarding USO as set out by ComReg in document 03/68 remain unchanged within this Decision Notice. Issues regarding the calculating of any net cost of universal service provision will be considered if and when appropriate in line with the provisions in the regulations adopted by the Minister.

As regards an approach to RIA, the OECD<sup>4</sup> has stated that there is no single desirable system for the implementation of RIA in all countries at all times. Institutional, social, cultural and legal differences between countries require differing systems.

In addition, in his Response to Consultation on the Ministerial Policy Directions<sup>5</sup>, the Minister for Communications, Marine and Natural Resources recognised that the benefits of RIA must be reconciled with the need for swift regulatory action where appropriate.

ComReg's position regarding the regulatory impact of the Universal Service Obligations is set out at appendix 2.

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<sup>4</sup> OECD Reviews of Regulatory Reform, Regulatory policies in OECD Countries, 2002

<sup>5</sup> Public Consultation Process on Draft Policy Directions to the Commission for Communications Regulation, February 2003

## 7 Next Steps

ComReg will shortly meet with eircom to discuss the implementation of the measures set out within this Decision Notice and to provide any clarifications that may be necessary. While the main obligations take immediate effect, further development of specific measures is required as specified in the Decision Notice. The timetable for the development of these additional areas is summarised below.

	<b>Additional Measures</b>	<b>Date for Delivery by eircom</b>
<b>Provision of Access at a Fixed Location</b>	Development of requirements for assessing the reasonableness of requests	To ComReg by 24 <sup>th</sup> October 2003
	Develop terms and conditions for access	To ComReg by 24 <sup>th</sup> October 2003
	Publish statement on factors affecting network performance	To ComReg by 24 <sup>th</sup> October 2003
	Inform ComReg of number/location of carrier systems	To ComReg by 24 <sup>th</sup> October 2003
	Develop a network plan to address network performance issues	To be specified by ComReg
	Develop and Publish Customer Charter	To be specified by ComReg
<b>Directories and Directory Enquiry Services</b>	Proposals for the introduction of a CD version of the telephone directory for users	To ComReg by 24 <sup>th</sup> October, 2003
<b>Public Pay Telephones</b>	Publication of Information on public pay telephones	Quarterly, first period to be published Q4 2003
	Publish an annual statement on public pay telephone strategy	To ComReg by 24 <sup>th</sup> October, 2003
	Processes for removal/re-siting/installation of public pay telephones including an escalation process in the event of disputes	To ComReg by 24 <sup>th</sup> October, 2003
<b>Measures for Disabled Users</b>	Project Plan for the development of a code of practice for the provision of Universal Services to disabled users	To ComReg by 26 <sup>th</sup> September, 2003
<b>Control of Expenditure</b>	Proposal for the introduction of an unbundled mobile call barring facility	To ComReg by 24 <sup>th</sup> October, 2003
	Introduction of a scheme for the phased payment of connection fees	26 <sup>th</sup> January, 2003
	Development of existing disconnection policy	25 <sup>th</sup> November, 2003

## Appendix 1 – Legislation

The principle legislation governing the area of Universal Service include, *inter alia*,

European Communities (Electronic Communications Networks and Services)  
(Universal Service and Users' Rights) Regulations, S.I. 308 of 2003

Communications Regulation Act, 2002, No. 20 of 2002

Directive 2002/22/EC of the European Parliament and of the Council of 7 March  
2002 on universal service and users' rights relating to electronic communications  
networks and services (Universal Service Directive)

## Appendix 2 –Regulatory Impact Assessment

### 7.1 Introduction

This Appendix, in addition to those considerations already outlined in the Report on Consultation 03/68, reviews the regulatory impact of the decisions relating to Universal Service Obligations (USO) as set out in the main body of this document in light of their particular nature. ComReg has, in undertaking this review, had regard to the general legislative environment including, the Regulatory Objectives as set out in section 12 of the Communications Regulation Act 2002, and, as appropriate, the Ministerial Directions of February 2003<sup>6</sup>.

The impact of the decisions is set out, where appropriate, in general terms relating to the section 12 objectives – including the promotion of competition, the completion of the single market, and the promotion of users’ interests, all in a proportionate and a technology-neutral manner – and relevant Ministerial directions.

In his Response to Consultation on the Ministerial Policy Directions<sup>7</sup>, the Minister for Communications, Marine and Natural Resources stated that the benefits of RIA must be reconciled with the need for swift regulatory action, where appropriate.

As regards an approach to RIA, the OECD<sup>8</sup> has stated that there is no single desirable system for the implementation of RIA in all countries at all times. Institutional, social, cultural and legal differences between countries require differing systems.

### 7.2 General Comments

This consultation and regulatory process commenced well in advance of the Ministerial policy direction on RIA. Notwithstanding this, and in line with general ComReg policy, we have assessed the impact of such obligations as are imposed to the extent possible and in the light of the particular nature of the decisions being made at this stage.

Whilst USO is of fundamental regulatory concern, many of the obligations imposed on designated USPs are imposed not by ComReg but by national law i.e. under the USO Regulations 2003. Much of the overall impact results from the underpinning legislation rather than the regulatory decisions setting out the technical or administrative manner of its realisation.

Accordingly, the overall impact of the decisions taken by ComReg set out in this Decision Notice, is limited. The reason is that ComReg has limited discretion to impose obligations under the USO Regulations 2003 and, decisions mainly either specify a particular method of implementation or require the maintenance of the

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<sup>6</sup> Directions by the Minister for Communications Marine and Natural Resources to the Commission for Communications Regulation under s. 13 of the Communications Regulation Act 2002, 21<sup>st</sup> February, 2003

<sup>7</sup> Public Consultation Process on Draft Policy Directions to the Commission for Communications Regulation, February 2003

<sup>8</sup> OECD Reviews of Regulatory Reform, Regulatory policies in OECD Countries, 2002

status quo. In a number of instances, publication/dissemination of information is required, which will have a useful impact on the protection of user rights, and may over time help stimulate competition in the provision of some or more of the services.

There are also a number of decision areas where the status quo is preserved but options are left open for future review and / or further decision making. Where options are left open, the impact cannot currently be stated and we do not therefore seek to do so in this document.

Also the impact of certain decisions can only be considered in a broader context. For example, on affordability, the decision intimately links such questions to the price cap – where a prior decision is already in place.

Concerning the internal market, while the development of specific Universal Service regimes is dependent on national circumstances, ComReg cooperates with other NRAs through the Independent Regulators Group (IRG) and the European Regulators Group (ERG). So far, in relation to USO matters, this cooperation has led to the development of Principles of Implementation and Best Practice in particular areas, for example, Itemised Billing, Call Barring and Disconnection.

Before addressing the specific decisions, there is one theme that is common to several areas that is worthy of highlighting. This relates to the publication by the USP of information or to prepare and agree standard terms and conditions to achieve a particular obligation or to provide users with the necessary level of consumer protection. The requirement to publish information or apply standard terms strengthen users' power relative to the USP and generally promotes their interests but does so in ways that are not detrimental to competition, preclude efficient investment or innovation, jeopardise industry sustainability, or inhibit the development of the single market. Normal market forces should lead to the same level of user protection in a fully competitive environment. In terms of competitive impact, this is largely neutral. Users' gain some additional power; service providers are unaffected. In this context, publication or the setting of standard terms are not considered onerous or disproportionate. Proposals of this type are all technology neutral in their impact.

### **7.3 Specific Decisions**

Bearing in mind the general comments and exclusions listed above and in light of the particular nature of these decisions, we have outlined below a review of each of the relevant headings.

#### ***7.3.1 The Scope of the Universal Service Obligation***

##### **7.3.1.1 Service at a fixed location – reasonable requests**

At this time, ComReg has not sought to be specific about which requests would be considered reasonable. Instead the USP is required to develop a test for reasonableness, publish information of assistance to users and to develop and agree standard terms with ComReg. These publication requirements and the development of standard terms are not onerous yet contribute to the achievement of user protection objectives. As such the impact of the decision as described in the main

document is considered to be positive in terms of consumer protection and neutral for competition.

It is further noted that, because the USP is able to have an input into what may or may not be considered reasonable, it can also draw attention to investment issues when making its representations to ComReg. This element of the USO also deals specifically with basic telephony service at a fixed location. The USO is designed to ensure that users have access to basic telecommunications services, therefore innovative services are not restricted by these proposals.

#### 7.3.1.2 Service at a fixed location – functional internet access

ComReg does not seek to prescribe a definition of ‘functional’ at this time. Instead the USP is required to publish information of assistance to users, develop and agree standard terms and to develop plan to address network performance issues. As such the impact of the decision is considered to be minimal at this time. In summary the decision is positive in terms of achieving user protection objectives without significant competitive impact.

#### 7.3.1.3 Directories and Directory Enquiry Services

ComReg has exercised limited discretion in this area. The obligation remains largely the same as that currently in place, apart from requiring directory information to be available for a charge to users on CD (save potentially for disabled users). This is assessed to promote user interests without any significant competitive impact. Otherwise the status quo is maintained.

#### 7.3.1.4 Public Pay Phones

The USP will not be bound by specific deployment targets but will be required to introduce a number of procedures relating to provision of information, re-siting, installation and removal of payphones. As such the impact of the decision contributes to the achievement of user protection without negative impacts on competition. Otherwise the status quo is maintained.

#### 7.3.1.5 Services to Disabled Users

ComReg has chosen to exercise its discretion and specify more precisely certain measures that should be taken for hearing, speech, mobility and sight impaired users and to develop these as appropriate. *eircom* notes in its response that, in general, it already meets these requirements. The proposals directly address the requirement to protect the interests of disabled users, providing information to them as to their rights. There is therefore little impact on competition.

### **7.3.2 Designation of a Universal Service Provider**

ComReg proposes to designate *eircom* as the sole USP for all elements of the USO in all parts of the state. The position of *eircom* in the Irish market for electronic communications services means that its market share and network ubiquity make it the clear choice for USP. In the mobile market (whilst convergence is progressing) fixed and mobile service cannot yet be regarded as fully substitutable products. Designation in the manner set out is necessary if the objectives of the USO regulations are to be achieved.

The decision also maintains the status quo.

### **7.3.3 Affordability**

In general affordability is addressed through the price cap mechanism (see general comments above). *eircom* currently offer geographically averaged prices. The obligation now being imposed by ComReg should therefore have no additional impact. In summary the decision maintains the status quo so there will be no impact on competitors or users to the extent that no change to the current arrangement is imposed.

### **7.3.4 Control of expenditure**

With the exception of measures concerning phased payment of connection fees, other obligations are a continuation of those under the existing framework. In particular the obligations involve itemised billing, selective call barring, the development of options allowing connection charges to be phased and the preparation of a disconnection policy. These proposals are positive in terms of promoting user interests, are in line with common European practice and are without significant competitive impact. In the majority of cases the decision maintains the status quo.

### **7.3.5 Quality of Service**

ComReg requires the USP to publish performance data including that specific to disabled users, where measures are developed. The impact of this is considered to contribute to the specific objective of protecting disabled users but does so in a manner that does not have a significant impact on competition. ComReg also intends to develop performance targets following consultation with the USP and other interested parties. As these are not determined, any possible impact cannot be assessed at this time.

### **7.3.6 Costing and Financing USO**

Mechanisms are provided for in the Regulations with regard to costing and financing of USO. As ComReg does not in this paper propose specific or additional action at this time impact is not addressed.