



Commission for  
**Communications Regulation**

## Consultation Paper

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

<b>Document No:</b>	<b>02/116</b>
<b>Date:</b>	<b>19<sup>th</sup> December, 2002</b>

All responses to this consultation should be clearly marked:-  
“Reference: Submission re ComReg 02/116” as indicated above,  
and sent by post, facsimile or e-mail, to arrive on or before 5pm  
on, 11<sup>th</sup> February 2003, to:

**FREEPOST**  
**Ms. Louise Power**  
**Commission for Communications Regulation**  
**Irish Life Centre**  
**Abbey Street**  
**Dublin 1**  
**Ireland**

**Ph: +353-1-8049600 Fax: +353-1-804 9680**  
**Email: [louise.power@comreg.ie](mailto:louise.power@comreg.ie)**

## TABLE OF CONTENTS

<b>1</b>	<b>Forward by the Chairperson .....</b>	<b>2</b>
<b>2</b>	<b>Introduction .....</b>	<b>3</b>
<b>3</b>	<b>Background .....</b>	<b>5</b>
3.1	Existing Universal Service Obligations .....	5
3.2	EU Legislative Developments .....	6
3.3	Future National Legislative Framework .....	7
<b>4</b>	<b>Market Developments and Universal Service Provision.....</b>	<b>9</b>
4.1	Overall Telephony Penetration Rate .....	9
4.2	Disconnection Trends.....	9
4.3	Developments in the Market .....	11
4.4	Trends in Housing Growth .....	11
<b>5</b>	<b>Scope of the Universal Service Obligation .....</b>	<b>13</b>
5.1	Provision of Access at a Fixed Location .....	13
5.2	Directory Enquiry Services and Directories .....	17
5.3	Public Pay Telephones.....	19
5.4	Provision of Universal Service to Disabled Users .....	23
<b>6</b>	<b>Designation of the Universal Service Provider .....</b>	<b>26</b>
6.1	Consideration of the Issues .....	26
6.2	Proposed Approach .....	26
<b>7</b>	<b>Affordability .....</b>	<b>30</b>
<b>8</b>	<b>Control of Expenditure.....</b>	<b>32</b>
8.1	Consideration of the Issues .....	32
8.2	Proposed Approach .....	32
<b>9</b>	<b>Quality of Universal Service.....</b>	<b>36</b>
9.1	Consideration of the Issues .....	36
9.2	Proposed Approach .....	36
<b>10</b>	<b>Costing and Financing of Universal Service .....</b>	<b>38</b>
10.1	Consideration of the Issues.....	38
10.2	Proposed Approach.....	38
<b>11</b>	<b>Submitting Comments .....</b>	<b>41</b>
<b>12</b>	<b>Appendix 1 – Indicative Work Plan for Universal Service and End User Issues.....</b>	<b>42</b>

## **1 Forward by the Chairperson**

I am pleased to announce this consultation on the future regulatory framework for the provision of Universal Service in Ireland. People's ability to get access to a basic set of telephone services is important for full social and economic inclusion in society. That is why, in Ireland and in other countries, the concept of universal service exists in the form of a regime that provides that every person can receive a basic set services, at an affordable price. The obligation to provide these services is currently placed on eircom and includes, amongst other things, obligations in relation to the provision of basic telephone lines, payphones and directory services.

Following the recent adoption by the EU of the new Directive on Universal Service and End Users' rights and the subsequent publication by the Department of Communications, Marine and Natural Resources of draft transposing regulations, it is now timely to address the question of developing the future regulatory framework for the provision of universal service in Ireland. ComReg intends to utilise this consultation to focus the issues regarding universal service provision and, based on the comments received, to publish a report which will propose a defined universal obligation which will apply in future, along with an approach to designation.

I wish to consult with users, industry and other interested parties so that the Commission can make an informed decision on an approach regarding the provision of Universal Service. Comments from consumers are particularly welcome given the potential impact for ComReg policy in this area to impact on the delivery, choice and quality of services to end users.

**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 the Commission’s functions is to determine what organisation(s) should be designated as the provider(s) of universal service in the Irish telecommunications market.

In Ireland, the concept of universal service currently provides that every person can reasonably expect to receive a basic set of services no matter where they live, at an affordable price. These services include the provision of a basic telephone line, the phone book and directory enquiry services, along with the provision of public payphones. The requirement to provide these services is currently placed on eircom.

Notwithstanding the development of the concept of universal service, other telecommunications operators offer competitive services which can be availed of by individuals. Indeed, eircom may offer services more sophisticated than those covered by the universal service obligation, but as it currently stands, anybody in Ireland can get a basic set of services (as defined under the USO) at an affordable price from eircom.

The Department of Communications, Marine and Natural Resources has issued a consultation<sup>1</sup> on draft legislation which transposes the recently adopted EU Directive on Universal Service and End Users’ Rights. The draft regulations entitled the “European Communities (Electronic Communications) (Universal Service and Users’ Rights) Regulations, 2002” will, once they come into force, provide the basis for developing the future regulatory framework for Universal Service in Ireland.

Given the significant body of work involved in deciding upon the scope of universal service including any designation, along with the requirement to notify the European Commission of the names of designated providers by 24<sup>th</sup> July 2002, ComReg considers it timely to commence work on a preliminary basis in light of the draft regulations proposed by the Department. It follows, therefore, that any positions arising from ComReg’s consultation will need to take into account possible changes in the regulations which may arise as a result of the Department’s consultation process.

The Commission now wishes to consult with users, industry and other interested parties so that an informed decision can be made regarding an approach to the provision of Universal Service. This consultation paper deals with those elements of the new Universal Service regulations which will lead to the placing of obligations on operator(s) designated as the Universal Service provider.

A further consultation will issue shortly which will deal with those other aspects of the regulations concerning obligations which may be applied to all operators in the interests of protecting end users.

---

<sup>1</sup> Consultation is available at <http://www.dcmnr.gov.ie/files/cmUSO.doc>

The Department's draft regulations deal with the provision of a defined basic set of services to all end users (the concept of universal service) and, in this regard, a number of obligations fall to be fulfilled solely by the universal service provider(s). The draft regulations also set out a number of obligations, mainly geared towards the protection of end users, which must be met by all operators.

This consultation paper deals only with those obligations falling on the universal service provider. This includes:

- Designation of the universal service provider
- Services Falling within the scope of the universal service obligation – provision of a telephone line, directory information services and payphones
- Provision of service to disabled users
- Affordability of universal service
- Measures to allow users control expenditure
- Quality of universal service
- Costing and financing of universal service

The paper seeks to raise issues with respect to universal service provision and to list considerations and solicit views which will influence ComReg's future approach in this area. ComReg intends to utilise this consultation to focus the issues regarding universal service provision and, based on the comments received to publish a report which will propose a defined universal obligation which will apply in future along with an approach to designation. An outline timetable and work plan is set out in Appendix 1.

In accordance with the draft legislation, the aforementioned process requires the consent of the Minister for Communications, Marine and Natural Resources in relation to particular aspects of universal service.

The Commission invites comments from interested parties on this consultation paper by 11<sup>th</sup> February 2002 . The procedure for so doing is set out at Section 11 of this paper.

This consultative document does not constitute legal, commercial or technical advice. The Commission is not bound by it. The consultation is without prejudice to the legal position of the Commission or its rights and duties to regulate the market generally

## 3 Background

### 3.1 Existing Universal Service Obligations

Under existing legislative provisions<sup>2</sup> the Director was required to designate one or more fixed operators to guarantee the provision of a minimum set of services, to designate the geographic area or areas of the State in which the universal service obligation applies along with the services to which the designation refers.

In May 1999 eircom (then Telecom Éireann) was designated<sup>3</sup> by the Director as the universal service provider having regard to

- its share of the fixed telephone and network services market
- the ubiquity of its network
- its allocation of numbers from the national numbering plan and its significant experience in the provision of universal directory services

The existing universal service obligations placed on eircom can be broadly summarised as follows.

- to ensure that any request, in so far as the fixed operator considers it reasonable, by a person for connection to the fixed public telephone network at a fixed location and access to fixed public telephone services, is met,
- to ensure that one or more subscriber directories, setting out all subscribers of public telecommunications networks, including those with fixed, mobile and personal numbers, and who have not refused to be included in such directories, are available to users of any such networks in a form approved of by the Director, whether printed or electronic, or both, and are updated at least once in each year, and
- to keep a record of all subscribers in the State, including those with fixed, mobile and personal numbers, and who have not refused to be included in that record, and allow access to any information contained in such record to any person requesting such information”,
- to provide public pay telephones in sufficient numbers, taking into account the population density in the geographic area or areas designated by the Director to satisfy all reasonable needs for such services throughout such area or areas.

These obligations apply to the whole of the State for an unspecified period.

---

<sup>2</sup> Regulation 3(2) of the European Communities (Voice Telephony and Universal Service), Regulations, 1999 (S.I. No. 71 of 1999).

<sup>3</sup> ODTR Document 99/31, Designation of Universal Service Provider, Decision Notice D3/99

### 3.2 EU Legislative Developments

A new EU regulatory framework was adopted by the Council of the European Union on February 14<sup>th</sup> 2002 for the provision of electronic communications throughout the internal market. The new framework consists of a package of Directives which reflect technological and economic changes and which attempt to further harmonise the regulation of electronic communications. These include,

- universal service and users' rights relating to electronic communications networks and services (Universal Service Directive)
- a common regulatory framework for electronic communications networks and services (Framework Directive)
- authorisation of electronic communications networks and services (Authorisation Directive)
- access to, and interconnection of, electronic communications networks and associated facilities (Access Directive)
- processing of personal data and the protection of privacy in the electronic communications sector (Data Protection Directive).

All Member States are now obliged to adapt national legislation implementing this 'telecoms package' by 24 July 2003 except for the Data Protection Directive which has to be implemented before 31 October 2003<sup>4</sup>.

Of particular relevance to this consultation is the Directive on Universal Service and End Users' Rights which aims to ensure the availability throughout the EU of good quality services through effective competition and choice and to deal with circumstances in which the needs of end-users are not satisfactorily met by the market. The Directive requires Member States to place obligations on designated network operator(s) to ensure that a defined minimum set of services (Provision of Access at a Fixed Location, Directory Enquiry Services and Directories, Public Pay Telephones) of specified quality are available to all, independently of their geographical location, at an affordable price. New provisions clarify that the scope includes access to data communications such as Internet via the public telephone network from a fixed location, while addressing affordability and control of expenditure.

Measures for disabled users and those with special needs are reinforced while clarifying that measures can be implemented, including specific tariff schemes, for those on low incomes or with special needs. The ability to monitor quality of service by designated operators is also strengthened. The framework also includes a specific process for reviewing the scope of universal service obligations with a view to changing or re-defining the scope.

---

<sup>4</sup> The Data Protection Directive 2002/58/EC was published in the Official Journal on 31 July 2002 after the publication of the other directives.

At the same time, the Directive provides for a more efficient means of designating operators with universal service obligations, for calculating any net costs of providing universal service and for any necessary compensation of undertakings. Member States are required to find the most efficient means of guaranteeing universal service obligations, including giving all undertakings an opportunity to fulfil obligations.

Once the Universal Service Directive is transposed into Irish legislation the regulatory framework for universal service will have to be updated to reflect its provisions. This may, for example, involve changes to the nature of the services falling within the scope of the universal service, the area to which the designation applies or indeed the universal service provider.

### **3.3 Future National Legislative Framework**

The Department of Communications, Marine and Natural Resources has issued a consultation<sup>5</sup> on draft legislation which transposes the Universal Service Directive, in particular, the “European Communities (Electronic Communications) (Universal Service and Users’ Rights) Regulations, 2002”.

The regulations deal with measures concerning the provision of universal service and the protection of end users. As this consultation only focuses on the measures dealing with universal service provision, this section only sets out the legislative obligations in this regard.

As with the current framework, the Commission has responsibility for deciding on the scope of the universal service obligations and designating the universal service provider(s). As set out below, in certain cases, the consent of the Minister for Communications, Marine and Natural Resources is required. The current review of universal service is being carried out in light of the proposed draft legislation, and a summary of the main provisions in relation to universal service are set out below. Under the draft regulations ComReg is, amongst other things, responsible for deciding on the following.

- the scope of the obligation to provide telephone lines to end users, including its capability to provide functional internet access<sup>6</sup>.
- the scope of the obligation to provide directory information services including the telephone directory and directory enquiry services<sup>6</sup>.
- the scope of the obligation to provide public payphones<sup>6</sup>.
- ensuring that disabled users have access to the above services on a basis similar to that enjoyed by other users<sup>6</sup>.
- designating operator(s) as the universal service provider for the above services.
- ensuring that services are affordable for users<sup>6</sup>.

---

<sup>5</sup> Consultation is available at <http://www.dcmnr.gov.ie/files/cmUSO.doc>

<sup>6</sup> Consent of the Minister for Communications, Marine and Natural Resources is required.



- ensuring users can control expenditure through such measures such as itemised billing and call barring
- ensuring availability of information regarding the quality of service and setting of performance standards
- deciding on issues related to the cost and funding of universal service

The full draft legislation is available on the Department's website at <http://www.dcmnr.gov.ie/files/cmUSO.doc>.

## **4 Market Developments and Universal Service Provision**

The purpose of this section is to inform readers' considerations of the consultation questions regarding the scope and level of the USO, in particular, regarding the provision of payphones and the introduction of measures to allow consumers to control their telephony expenditure.

### **4.1 Overall Telephony Penetration Rate**

Overall household penetration rate for fixed telephony in Ireland is just below 85%. Mobile telephony penetration rates are currently at 77%<sup>7</sup>. Of those that don't have a fixed line phone, a number will not require one or who are moving between houses and in the process of having a telephone installed. Although there may be differences between geographical areas and between income groups, the combination of fixed and mobile penetration rates point to a relatively high level of level of penetration.

Since the previous examination of universal service there has been a dramatic uptake of pre-paid mobile telephony. Mobile telephony penetration rates have increased from 30%<sup>7</sup> in 1999 to 77%<sup>8</sup> today. Of these, pre-pay mobile subscribers accounts for approximately just over two thirds. Although pre-pay per minute charges are relatively high in comparison to fixed telephony, the service is attractive to individuals who wish to maintain a tight control on their expenditure, to those with poor credit ratings or who do not wish or are unable to enter into a contractual commitment. In addition, given that it is a mobile service it is suitable for people who move regularly between short term rented accommodation. Overall, they do suit the lifestyles of many people who still remain unconnected to the fixed network and depending on personal preference a degree of substitutability may exist between fixed and mobile telephony services.

In a universal service context, if the percentage of the population without a telephone falls, it is increasingly difficult to identify those that remain and the reasons behind that situation. In addition, given fixed telephony penetration rates and the pervasiveness of pre-paid mobile telephony it is becoming more difficult to identify who remains unconnected to a network.

### **4.2 Disconnection Trends**

A disconnection policy generally sets out the path leading to the termination of a service for the non payment of a bill. In the interest of ensuring transparency with regard to disconnections, ComReg has required<sup>9</sup> all operators to publish their disconnection policy in their Codes of Practice for Handling Consumer Complaints. Typically, such a policy involves contacting all customers to notify them of arrears, outlining the consequences for non payment and giving them a fair and reasonable chance of paying their bill. The option of a repayment plan

---

<sup>7</sup> FT Mobile Communications, August 1999

<sup>8</sup> ODTR Quarterly Key Data, Document 02/106b, December 2002

<sup>9</sup> ODTR Document 01/67 Codes of Conduct for the Handling of Consumer Complaints by Telecommunications Operators, Decision Notice D13/01

together with a temporary bar on outgoing calls to prevent further debt accumulation may also feature where a customer is experiencing genuine difficulty in paying a bill.

In a universal service context, eircom’s disconnection policy and the actual disconnections under it have an impact on the number of persons connected to the fixed network. Universal service is not truly universal if many people are left without access to a telephone because of inflexible debt management and disconnection. Disconnections may also result, however, in cases of fraud or deliberate non payment of bills. ComReg would be concerned if the number of disconnections was increasing, but the number needs to be viewed in the context of the underlying reasons for disconnection. The figures below outline the total percentage of access lines disconnected from the eircom network for the period July 2001 to June 2002. The figures represent the percentage of the total number of residential lines disconnected<sup>10</sup> in the period and do not include cessations where, for example, the customer moves house or changes telephony company.

	July-Sept 01	Oct-Dec 01	Jan-Mar 02	Apr-Jun 02
<b>Gross Disconnections</b>	3.4%	3.2%	2.5%	2.26%
<b>Net Disconnections</b>	0.6%	0.5%	0.15%	0.17%

The gross number of disconnections, which indicates the number of times that customers have been disconnected from the network, has fallen by approximately 33% over the period. This would appear to suggest that eircom’s disconnection policy (as set out in their Code of Conduct for Handling Consumer complaints), which includes notification measures for customers who fall into payment arrears, has a positive effect by reducing the number of customers being disconnected from the network.

In addition, net disconnection rates (which exclude those customers who are subsequently reconnected following payment of their outstanding bill) have also decreased by 71% over this period. Net disconnections accounted for 0.17% of all those connected to the network in the period indicating a decrease in the number of people being left without a connection to the fixed network following disconnection. The fact that a number of customers are being left without a connection may reflect the position that consumers’ payment options are limited especially in the case where a consumer is experiencing genuine difficulty in paying their bill. For example, a pre-pay service may assist here along with other measures to minimise the risk of getting into debt and thereby avoiding disconnection in the first instance. Such measures are discussed in Section 8 in the context of Control of Expenditure. However, it may also suggest that some of these people may have no intention of paying.

<sup>10</sup> For the purpose of the statistics presented above, a disconnection for non payment is an action taken by the operator to prevent the customer from making out-going and receiving incoming calls where the operator considers the customer has failed to pay sums due for the telephony service provided. Other cessations such as where the customer for example, moves house, dies, changes telephony company or any other customer initiated cessation is not counted as disconnections for the purpose of this measure.

While the publication of a high level disconnection policy may have contributed to lower number of disconnections, the figures still suggest a proportion of people are being disconnected from the eircom network for non-payment of bills. However, the number of people being left without access permanently would appear to be declining.

### **4.3 Developments in the Market**

Today, consumers are faced with increased choice in the fixed telecoms market with competing players offering varying levels of price and service to meet customers' differing needs. As at November 2002, ComReg had issued 46 General and 40 Basic licences to operators wishing to provide telecom services in Ireland. Excluding eircom, this has facilitated the entry of 41 alternative operators offering business and residential customers a variety of competitive voice and data services. Currently, these alternative operators account for approximately 21%<sup>11</sup> of the Irish fixed-line market.

According to ComReg's residential consumer survey (February 2002), consumer awareness of the potential benefits of competition has improved substantially with 34%<sup>12</sup> of households now believing that there are savings to be made by changing their telecoms supplier. 43% of households have been approached by a company, other than eircom, offering an alternative home telecommunications service.

Overall, the development of competition in the market provides greater opportunities for all or part of the universal service obligations to be provided by operators other than the former incumbent.

### **4.4 Trends in Housing Growth**

Since the previous universal service designation in May 1999, there has been significant growth in the number of new housing and apartment completions. Part of this growth is characterised by the extension of building developments into the suburbs and rural areas. In certain circumstances, the location of a house can make the provision of a telephone connection prohibitively expensive and a reasonable approach must be taken when evaluating the cost implications in this regard.

The growth in housing completions impacts the universal service obligation due to the increase in the number of homes seeking connections to the telephone network, and depending on location, the resulting extension of networks by operators to meet demand and fulfil those universal service obligations.

---

<sup>11</sup> ComReg Document 106b/02, Irish Communications Quarterly Market Review – December 2002

<sup>12</sup> ComReg Residential Survey, February 2002

**Q. 1. Do you agree that the factors identified above are relevant in considering the scope and level of universal service obligations ? Are there other factors which need to be considered regarding the provision of Universal Service ?**

## **5 Scope of the Universal Service Obligation**

The regulations set out the three main elements of universal service to be provided, namely,

- Provision of Access at a Fixed Location
- Provision of Directory Enquiry Services and Directories
- Provision of Public Pay Telephones

The above services are to be accessible to disabled users. Each of these elements of universal service are discussed below with a view to assisting ComReg in deciding as to how the legislative obligations are to be applied in practice.

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

A fundamental requirement of universal service is that all “reasonable” requests for connection at a fixed location to the public telephone network and for access to publicly available telephone services at a fixed location are to be met by at least one operator. The connection, as well as being able to support local, national, international and facsimile calls must also be capable of supporting data communications at bit rates that are sufficient to permit functional internet access, taking into account prevailing technologies used by the majority of subscribers and technological feasibility.

ComReg can, with the consent of the Minister, specify requirements to be complied with in relation to the above services(local, national, international and facsimile calls), in particular, regarding

- functional internet access, having regard to prevailing technologies used by the majority of subscribers and to technological feasibility
- the reasonableness of requests for connection to the network and for access to the abovementioned services
- the terms and conditions upon which such a connection and access is provided

#### *5.1.1 Consideration of the Issues*

The question arises as to what requirements, if any, the Commission should make regarding the obligation to meet reasonable requests for connection to the fixed network (including the terms and conditions), and the functional internet access requirement.

Broadly speaking, the principle of the universal service provider being required to meet all reasonable requests for a connection to the telephone network remains largely unchanged under the new regulations. This requirement is, in accordance with the Directive, limited to a single narrowband connection and does not extend to the Integrated Digital Services Network (ISDN).

In the majority of cases, the Universal Service provider should not have any significant difficulties in providing network connections throughout the country. However, in some remote areas the provider may not have a network presence and the cost of building out the network to meet this obligation may not be 'reasonable' in light of that standard installation charges (currently €129.99) that apply to new connections. As a consequence, any attempt to describe this concept in relation to the supply of standard services cannot be absolute.

However, the specification of general requirements regarding the reasonableness of requests for access may be of benefit in ensuring that consumers are specifically aware of the terms and conditions upon which it is provided.

ComReg has sought information from eircom regarding its current policy for determining the reasonableness of requests for access and it is intended that information in this regard will be published in early January.

Furthermore, it is considered that there should be no constraints on the technical means by which the connection is provided, allowing for wired or wireless technologies. Indeed, the emergence of fixed wireless access technologies may make provision in these areas easier and less costly than relying on traditional 'pole and hole' means and allows a higher proportion of the population to enjoy the benefits of universal service. Broadly speaking, the provision of access using wireless technologies should not compromise the quality of the services being provided.

Given the growth in dial-up Internet access over recent years, the speed of data transmission over the network has become of increasing importance, particularly where it involves access to e-commerce or to e-government services. In a universal service context, the issue of social exclusion becomes relevant, particularly if the services being accessed by the majority come to be seen as essential for full social and economic inclusion. In this regard, the regulations require that the connection must be capable of supporting 'functional' Internet access. Functional is described in the recital 8 of the Universal Service and End Users' Rights Directive as speeds of up to 56kbits/sec (current legislation<sup>13</sup> requires that a connection must be capable of transmitting data via modems at 2,400 bits per second), however, it is explicitly recognised that the data rate is dependent on a number of factors which include the level of network development, modem speeds, the subscriber's terminal equipment, the given application for which a connection is being used, and the ISP connection. Flexibility is also required to cater for situations where wireless technologies are used to deliver universal service to a higher proportion of population.

---

<sup>13</sup> Annex I (Part 1) of Directive 97/33/EC of 30 June 1997 of the European Parliament and of the Council on interconnection in telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network Provision (ONP).

## 5.1.2 Proposed Approach

### 5.1.2.1 Requests for Access

A key component of the universal service access obligation is the term ‘reasonable request’. Broadly speaking, this means that all people in the State, irrespective of their location, should have the same level access to that enjoyed by other users. As stated earlier any attempt to describe this concept in relation to the supply of standard services cannot be absolute. However, the question arises as to whether there is benefit in establishing requirements governing the obligation to meet reasonable requests for access. From time to time, ComReg receives complaints regarding the provision of telephone lines, however, in the main these are ultimately resolved with the operator concerned.

The Commission considers that the publication of clear requirements around this area would provide a high level of transparency for users in their dealings with the universal service operator. This could, for example, involve the following.

- The terms and conditions upon which a connection to the network and access to service will be provided.
- Situations where the provision of lines will automatically occur (say to premises where lines are already present).
- Situations where ComReg can require the provision of a line.
- What uses might be covered by this USO obligation (telephony or other uses such as home alarms).
- How issues such as a planning permission, way leaves or equipment security affect the obligation to provide access.
- The types of property (permanent residences or businesses or temporary sites) covered by the USO.
- Instances where the use of wireless or other technologies might be appropriate.
- A basis upon which a determination regarding the reasonableness of a request for access can be made in light of whether the service can be supplied in an effective, efficient and economic manner.

If requirements governing access are deemed appropriate, it is suggested that they could be captured as one element of a wider Policy Statement dealing with all aspects relating to universal service. In this scenario, the relevant operator would be required to develop and publish a ComReg approved policy statement as to how it will deliver all services under the USO. Such a policy would provide consumers with a clearer understanding of the universal service obligation, the role of the provider, along with situations within which the service would be delivered.

The Commission would welcome views on this matter, particularly from users, including any suggestions as to what requirements might be put in place. If deemed appropriate, ComReg would propose to engage further with the US provider to develop the Code and may consult further on the matter.



**Q. 2. Do you agree with the approach to establish clear requirements regarding the obligation to meet ‘reasonable’ requests for access ? What requirements might be appropriate ?**

**Q. 3. Do you agree with the proposal that such requirement should be incorporated in a published Policy Statement dealing with the delivery of all services under the USO ?**

#### 5.1.2.2 Functional Internet Access

Turning to the question of the capability of the telephone line, the question arises as to whether it is appropriate to require that a narrowband PSTN connection be universally capable of supporting a specific data rate given the range of factors which can affect its functionality. These include

- the level of network development
- the subscribers terminal equipment
- modem speeds
- the given application for which a connection is being used
- capacity at the ISP

The clear aim of the legislative functional internet access requirement is to support the development of internet usage amongst consumers and small businesses in Ireland (larger businesses tend to rely on ISDN or leased lines). While the aim of stimulating internet utilisation will not be met by setting a specific connection speed alone, it is clear that the legislative requirements with respect to functional internet access are designed to ensure that connections are brought up to the speeds enjoyed by the majority of subscribers, so that it supports sufficient access to the internet. This may be achieved through a combination of both of the following means.

- Requiring that PSTN connections are capable of supporting a minimum bit rate. This may involve a stepped approach whereby specific functional internet access targets are set and must be achieved over a period of time. An average and minimum bit rate could be specified as an alternative.
- Requiring the Universal Service provider to publish a statement setting out the factors which can reasonably affect the performance of its PSTN network and thus the data rate available to the end user.

Given that internet access has become an increasingly important tool for facilitating education, ComReg also suggests that secondary schools could be targeted in the first instance. This could be used to encourage the development of the internet as a teaching tool.

Respondents should note, that were a specific bit rate to be required, this would have to be set having regard to the overall capability of the network, including technical constraints. In addition, where a universal service obligation (such as

meeting a functional internet access requirement) gives rises to net costs and an unfair burden on the operator concerned, the costs may be recoverable through an industry funding mechanism which ultimately may involve costs being passed on to consumers in terms of increased prices.

The Commission would like to receive views as to how best to achieve the functional internet access aims with a view to ensuring that the connection is brought up to the speeds enjoyed by the majority of subscribers, so that it supports sufficient access to the internet.

Given that the obligation to meet all reasonable requests for access at a fixed location may continue to fall to eircom, the Commission would like to receive a detailed analysis from them regarding their network capabilities in light of a functional internet access requirement.

**Q. 4. Do you agree that the specification of requirements setting a specific bit rate and the publication of a network performance statement by the universal service provider ? What bit rates might be appropriate ?**

**Q. 5. Is a stepped and targeted approach appropriate ?**

**Q. 6. Do you think there is benefit in establishing a flat rate product to encourage the use of the internet as a learning tool within national secondary schools ? Are there alternative approaches or considerations that should be taken into account ?**

## **5.2 Directory Enquiry Services and Directories**

The draft regulations require that a number of obligations are in place in relation to directory information services. These are:

- That at least one comprehensive telephone directory is to be available to end-users in a form approved by ComReg, whether printed or electronic, or both, and is updated at least once a year.
- At least one comprehensive telephone directory enquiry service is also to be available to all end-users, including users of public pay telephones.

In addition, a record of all subscribers in the state should be kept for the purpose of providing the universal phone book and directory enquiry service. This should also be made available to any undertaking requesting access subject to specific terms and conditions.

The directories and records should also comply with the relevant data protection legislation.

### 5.2.1 *Consideration of the Issues*

The principal issues to be considered here concern the provision of the telephone directory, a directory enquiry service and the operation of a national directory database containing the telephone numbers of subscribers which facilitates the provision of the aforementioned services. The main question arising is whether the telephone directory should also be provided in CD format and whether a charge should apply.

Directory information (telephone book) and directory enquiry services (118XX telephone directory enquiry services) have been identified in the draft regulations as essential tools for publicly available telephone services. The obligations arising under the draft regulations remain largely the same as those currently in place and the Commission does not envisage any major changes in the scope of the universal service directory obligations going forward.

The current obligation is fulfilled by eircom and involves the provision of a comprehensive printed directory and a national and international directory enquiry service. eircom must also maintain a complete listing of all subscriber numbers (subject to relevant data protection legislation) which is fulfilled through the operation and maintenance of the National Directory Database (NDD). This information is then used to publish the universal phonebook and operate a universal directory enquiry service.

For the purpose of facilitating the provision of directory information services, all licensees are required to submit their subscribers' information to the NDD (subject always to applicable data protection laws). Access to the NDD is available to third parties wishing to provide a directory information service by way of a licence agreement (at a cost) and ComReg has established a regulatory framework for this purpose<sup>14</sup>. A Directory Information Services Forum was established in 2001 to address any issues with regards to the operation of the NDD. This has recently been reconvened and any further operational issues are being addressed within this Forum.

### 5.2.2 *Proposed Approach*

At this stage, the Commission do not envisage any major changes to the scope of the directory services element of the universal service obligation. Such obligations would include:

- The provision of a comprehensive printed directory of subscribers to all end users free of charge and at least one a year
- The provision of a comprehensive national and international telephone directory enquiry service to all end users, including users of public pay telephones
- To keep a record of all subscribers of publicly available telephone services in the State, including those with fixed, personal and mobile numbers

---

<sup>14</sup> Issues regarding the provision of directory services under the universal service obligation were addressed in the Report on Consultation 01/19 entitled "*The Market for Directory Information Services and Products in Ireland*".

The above obligations would need to be fulfilled in light of relevant data protection legislation.

The question arises as to whether the subscriber directory, as well as being provided in printed format, should be made available in electronic formats. eircom currently provides online web access to directory information. However, paper based or online directories may not meet the needs of business consumers who wish to search information more rapidly and extract information for particular business uses. Businesses may, therefore, be willing to pay for a directory in electronic and CD format given the added convenience and flexibility it offers. The Commission is considering making the provision of the subscriber directory in CD format part of the universal service obligation, however, views from such consumers, in particular business consumers, would be welcome in this regard.

- Q. 7. Do you agree that the obligations as outlined above should continue to apply in the manner ? Do you believe there is merit in having the telephone directory provided in CD format?**
- Q. 8. Are there any other considerations with respect to the scope of the directory services obligation ?**

### **5.3 Public Pay Telephones**

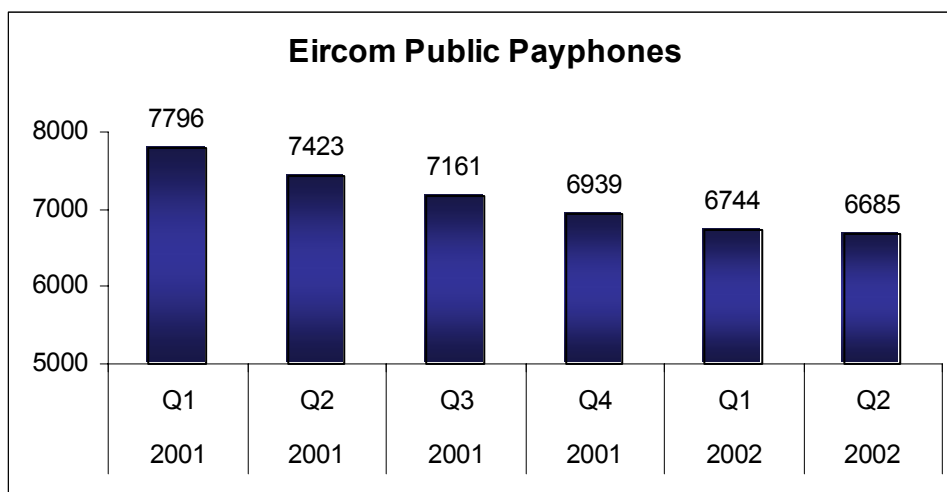
Under the draft regulations, ComReg can impose obligations on undertakings in order to ensure that public pay telephones are provided to meet the reasonable needs of end-users in terms of the geographical coverage, the number of telephones, the accessibility of such telephones to disabled users and the quality of services.

ComReg may specify terms and conditions, with the consent of the Minister for Communications, Marine and Natural Resources, to ensure the above requirements are met.

#### *5.3.1 Consideration of the Issues*

Payphones continue to provide a key service to many people and are important for reasons of social and economic inclusion. It is important, therefore, that the future regulatory framework for public payphones continues to balance the needs of users with those of public payphone providers.

Since the previous examination of universal service there has been a dramatic uptake of pre-paid and post paid mobile telephony. In these changing market conditions payphone revenues have steadily declined. As a consequence, some further reductions in the number of payphones in both urban and rural areas may be unavoidable. The number of public payphones operated by eircom is set out below.



Source: Measuring Licensed Operator Performance Programme

To date, ComReg has not been overly prescriptive in the area of payphone provision. While a few EU countries have opted for prescribed targets per head of population, ComReg has dealt with the issue through a licence condition requiring that the public in the area are notified regarding any proposed removal of payphones.

Where it is intended to remove a public payphone, the operator is currently required to display a notice for a period of 60 days at the relevant site. ComReg encourages the operator to consider local representations that may arise as a result of the notice to withdraw the payphone.

A public payphone operator must ensure that telephones are equipped with apparatus to enable their use by people with hearing impairments. The operator's licence also states that all public pay telephones supplied by the licensee should display notices indicating:

- the minimum charge for connection, call charge information and permissible methods of payment;
- location of the Public Pay Telephone;
- the statement that emergency calls can be made without charge;
- a statement whether or not incoming calls can be received; and
- contact information in the event of service complaints

The issue now arises as to whether a more formal approach is required for payphone provision under the universal service obligation, in particular, whether the establishment of rules is appropriate.

### 5.3.2 Proposed Approach

Working from the existing universal service payphone base, the question arises as to how best ensure that the reasonable needs of users are met in the future.

The ubiquity of eircom's fixed telephone network is relevant in the context of the provision of public pay telephones. The ability to provide public pay telephones throughout the country is clearly dependent on that ubiquity and is reflected in the fact that eircom is the largest provider of public payphones throughout the State. In its recent review of the Price Cap<sup>15</sup>, ComReg conducted an analysis of competition in the Irish payphone market. It was concluded that while competition exists in the private payphone market, eircom remains the largest single provider of public payphones on public property.

The definition of payphones in a universal service context is a key consideration. The draft regulations currently define a payphone as follows.

*“a telephone available to the general public for the use of which the means of payment may include coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialling codes.”*

The Commission believes that further clarification on the above definition is needed in a USO context. In this regard, it is considered that a 'public' payphone means a payphone that is available for use by the general public. The payphone can be located on the street or in other public places that are open to the general public e.g. train stations, airports etc when that place is open for the public to enter. This does not include payphones located on private premises which have a restricted usage by the general public (such as restaurants, bars, rented accommodation). The Commission considers that this provides a robust definition of a 'public' payphone in a USO context.

Within this definition, the Commission is conscious of the need to ensure that the position regarding 'uneconomic' payphone provision is not masked within the total number of available payphones being provided by the universal service provider. In other words, in looking at a requirement to provide a total number of public payphones, one must also ensure that this is met not only through their provisioning in high revenue locations. In the context of the above payphone definition, the Commission proposes to establish a ratio or quota system that establishes an appropriate balance between economic and uneconomic payphone locations.

Over the last two years, eircom has embarked on a payphone rationalisation programme designed to reduce the number of uneconomic payphone kiosks. As a general rule, the rationalisation effort has focussed on multiple site payphones and a single site payphone presence has been maintained at most sites. During this period ComReg have received a small number of complaints regarding the removal of payphones, however, this principally related to the removal of single site payphones. eircom's current payphone rationalisation policy focuses reducing uneconomic multiple site payphone sites to single payphone sites and on the removal uneconomic internal (non-USO) payphones. Many of the USO multiple payphone installations, that have been deemed uneconomic were installed at a time when factors such as the penetration of mobile phones and changes in fixed line penetration were less of a consideration. In this changing

---

<sup>15</sup> ODTR Document 02/96, Review of the Price Cap on Certain Telecommunications Services – Consultation III

market a degree of rationalisation is inevitable. However, while the obligation on eircom to provide public payphone coverage must be reasonable, ComReg recognises that public payphones provide an important social function particularly in remote rural areas and this should be a key consideration for eircom when formulating public payphone policy.

Taking these factors into account and, using the existing payphone base as a starting point, the Commission considers it is necessary that any future changes to the number and coverage of payphones are carefully monitored. With this in mind, it is proposed that eircom provides ComReg with information regarding any changes in public payphone strategy and, in particular, detail on how any changes will impact on the number and coverage of public payphones.

ComReg proposes to require that eircom publicly provide it with an annual statement on payphone strategy for approval which would include:

- total public payphone numbers by location – payphones by county and location within each county
- number and location of payphones adapted for use by persons with disabilities
- existing public payphone rationalisation policy
- criteria/considerations for removal and installation of public payphones.

In addition, the operator should provide ComReg with sufficient advance notification of planned changes in public payphone strategy. A sufficient notification period would allow for a period of consultation with ComReg, and would allow for further consultation with interested parties, if appropriate. ComReg also considers that the above breakdown of payphone numbers by location should be further disaggregated by revenues (to be provided to ComReg, not to be made publicly available).

In order to achieve greater transparency it is further proposed that the universal service payphone provider publishes information on public payphone provision via its website which should reflect the areas covered in the payphone policy and be updated on a quarterly basis.

One further consideration regarding the removal of public payphones is the requirement for consultation with interested parties. Under conditions in their licence, public payphone operators must place a 60 day notice on any payphone that is being removed or re-sited. The Commission considers that the current practice regarding the notification by eircom of its intention to remove or re-site a payphone works well provided there is consideration given to any representations received. The Commission feels however that the notification process can be further improved by laying down more formal procedures to be followed when removing or re-siting of payphones. This, for example, could set out the notification and representation process, the specific instances where consent of the Commission would be required, whether single site USO public payphones would only be subject to the guidelines etc. If, on foot of this paper, it is deemed necessary to put more formal guidelines in place, the Commission will seek to

develop public guidelines with the US provider, which may involve further consultation.

- Q. 9. Do you consider that the public payphone definition outlined above provides a workable solution in a USO context? In the context of this definition do you agree with the proposal to establish a ratio or quota system to establish an appropriate balance between economic and uneconomic payphone locations?**
- Q. 10. Do you agree with the Commission’s proposal that eircom should publish an annual statement on its public payphone strategy in light of the USO obligations which will be established? What areas should be covered in such a strategy?**
- Q. 11. Do you agree with the Commission’s proposal that eircom should publish information on public payphone provision to allow the validation of performance against its published payphone strategy statement ?**
- Q. 12. Do you agree with the proposal to establish formal procedures around the removal or re-siting of public payphones? What should be contained in such procedures ?**

## **5.4 Provision of Universal Service to Disabled Users**

Under the Directive, specific measures can be taken to ensure disabled users enjoy access to and affordability of publicly available telephone services equivalent to that enjoyed by other end users.

### *5.4.1 Consideration of the Issues*

The universal service legislation is designed to ensure that all members of society can enjoy the benefits available from modern telecommunications in Ireland. Accessibility to telecommunications services, in particular, those covered by universal service obligations, and to the information society as a whole has the potential to greatly enhance the quality of life for people with a disability. The draft legislation requires that opportunities are available for customers with special needs to have reasonable access to services. Typically, this involves the provision of one or more of the following facilities for users (services which are currently provided by eircom).

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 provides facilities 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.
- The time taken to make a text telephone call is longer than that needed to make an ordinary call. To ensure equality of payment for deaf text telephone users, eircom fund the STEP rebate scheme. This provides text telephone users with a rebate of up to 70% on text phone call charges per bill.

For users with limited dexterity or mobility:

- Push button telephones with speed and automatic redial buttons 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 mean that the handset does not need to be used at all.

For users with restricted vision:

- Restricted vision telephones are push button telephones with a raised dot on the central number (5) which can help people with restricted vision to find other numbers more easily.
- Braille billing is the facility to allow users to receive their bills in Braille for free.
- 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.

In developing products and services for the disabled eircom consult directly with disability groups such as the National Association for Deaf people and the National Council for the Blind. eircom also meet with individual consumers on an ongoing basis in order to design better ways for delivering products and services.

#### 5.4.2 *Proposed Approach*

The Commission considers that the services listed above should continue to be provided by eircom under new universal service obligation.

In addition, the Commission considers that a free priority fault repair service would be of benefit to disabled users and is proposing the establishment of such a scheme. This would provide priority treatment in the event of a fault occurring to people with disabilities.

In order to ensure a high level of transparency for users, it is suggested that the measures outlined above could be captured in an eircom Code of Practice governing the accessibility of services to disabled users.

The Commission is mindful that disabled users should be able to realise the benefits of competition in the Irish telecommunications market. In this regard, the Commission would welcome views as to whether and how other non-universal service operators should be required to provide any of the above services that are currently provided by eircom.

**Q. 13. Do you agree that the services above should form part of the universal service obligation ? Are there other considerations to be taken into account ?**

**Q. 14. Do you agree with the proposal to establish a code of practice around provision of telecommunications services to disabled users?**

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

The draft regulations require the Commission to designate one or more operators to guarantee the provision of the universal services as identified in Section 5 so that the whole of the State can be covered. Different operators or sets of operators can be designated to provide different elements of universal service and/or to cover different parts of the State. The designation must be carried out using an efficient, objective, transparent and non-discriminatory designation mechanism, whereby no undertaking is a priori excluded from being designated. The designation methods must ensure that universal service is provided in a cost-effective manner.

### **6.1 Consideration of the Issues**

The universal service operator responsibility is usually assigned to the incumbent carrier, simply because it has built up an extensive network during its period as a single provider. It does not mean that it is necessarily the most efficient operator in providing the universal service. Given that other operators may wish to take on the universal service responsibility, they may also be able to supply it at a lower cost. The development of greater competition and choice in the Irish market since the previous designation may provide greater possibilities for all or part of the universal service obligations to be provided by operators other than those with significant market power.

While the draft regulations do not preclude the designation of different undertakings to provide the network and service elements of universal service, it is incumbent upon the Commission to take into account an operator's ability and willingness to accept all or part of the obligations. For example, the placing of universal service obligations on new-entrants might have the effect of discouraging competition.

Additionally, as competition develops further, more operators may be interested in becoming the universal service provider. In this regard, the period for which any designation should apply is also a consideration.

Furthermore, while the USO has to cover the whole of the State, this does not preclude the area to which the USO applies being subdivided into a number of geographical areas within the State.

It is also important that the universal service obligations are fulfilled in the most efficient fashion so that users generally pay prices that correspond to efficient provision.

### **6.2 Proposed Approach**

As identified above, a number of factors must be considered in designating an operator as the provider of each element of universal service (PSTN access, directory services, payphones). It is also a requirement of the regulations that there should be consultation on which operators are the designated universal service providers. This consultation will therefore include an invitation for other

organisations to put themselves forward to become Ireland's designated universal service provider.

Any expressions of interest should be accompanied by the following.

- An outline of technical competence and expertise in providing the service concerned
- An outline as to how the proposed obligations as set out in this paper will be fulfilled including a full description as to how the service(s) will be provided.
- Procedures for connection, fault management, the provision of information to consumers and the handling of complaints.
- Performance standards for the services being provided, including details of any customer service guarantees.

If expressions of interest are received the Commission will consider how to advance matters further and may outline an approach in the response to this consultation.

While competition in the market has developed since the last USO designation in 1999, at this stage, it is considered that this does not materially affect the possibility of changing the current designation. ODTR Document 02/53 "Significant Market Power in the Irish Telecommunications Sector" re-confirmed eircom's designation as having SMP in the public fixed telephony services market with a market share of 86%. Eircom also remained designated as having SMP in the public fixed telephony networks market with a market share of 88%. Eircom therefore has the largest share in the fixed telephony services and networks markets. ComReg will shortly be commencing work on the market review process as envisaged under the EU Framework Directive and, subject to its completion timeframe, will take the findings of this review into account with respect to a universal service designation.

The question of designating the provider(s) for each element of universal service is further discussed below. In general, having regard to eircom's market share, the ubiquity of its network and its considerable experience in providing the directory and payphone services, the Commission would propose, subject to their being no prior expressions of interest, to re-confirm the existing universal service designations in light of the new obligations which stem from the draft regulations.

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

The Commission considers, that eircom, by virtue of the ubiquity of its network, is the only operator with the ability to meet the universal service obligation with respect to meeting all reasonable requests on a nation wide basis for access at a fixed location to the PSTN network.

The Commission therefore propose to reconfirm eircom as the USO provider in this regard.

**Q. 15. Do you agree with the proposal above ? Are there other factors which should be considered by the Commission in making this designation**

#### 6.2.2 *Directory Information Services*

The draft regulations allow for the separation of the elements of directory information service provision and therefore, it may be possible for separate interested parties to meet the other directory elements of the USO, namely the provision of a directory enquiry service or the printed telephone directory. The information for the operation of these services would be based on information obtained from the NDD. Barriers to entry in the Directory services market are lower and operators may be interested in providing certain elements of the universal service obligations with respect to directory services. The Commission will consider any representation by an interested party for the provision of the comprehensive directory enquiry service or the comprehensive telephone directory or both.

Notwithstanding the above, it is clear that eircom has built up a considerable level of experience in managing the National Directory Database and there have been no major difficulties regarding its operation which impact the market. In addition, following the publication of S.I. 192 of 2002 (Data Protection and Privacy in the Telecommunications Regulations 2002) the NDD has become the 'opt out' register for Direct Marketing Purposes. This has a number of implications for the operation of the NDD which are currently being dealt with by an industry forum (Directory Information Service Forum). Given the development programme for the NDD that lies ahead it may not be considered prudent to change the designation at this time. In the absence of any expressions of interest, the Commission propose to re-confirm eircom as the universal service NDD operator.

Eircom customers also make up the majority of subscribers included in the paper directory and this, coupled with their experience in publishing the directory and providing directory enquires services, places them in the best position to meet the universal service obligations in this area. The Commission also proposes, subject to there being no expressions of interest from other parties, to re-confirm eircom as the universal service provider with respect to the provision of a subscriber directory and directory enquiry service.

**Q. 16. Do you agree with the proposal above to re-confirm eircom as the universal service provider with respect to the provision of a subscriber directory and directory enquiry service. ? Are there other factors which should be considered by the Commission in making this designation**

#### 6.2.3 *Public Pay Telephones*

The position set out in Section 6.1 in relation to the ubiquity of eircom's fixed telephone network is relevant in the context of the provision of public pay

telephones. The ability to provide public pay telephones throughout the country is clearly dependent on that ubiquity and is reflected in the fact that eircom is the largest provider of public payphones throughout the State. Indeed, it was concluded in ODTR document 02/93 “Review of the Price Cap on Certain Telecommunications Services – Consultation III” that eircom remains dominant in the provision of public payphones on public property.

The Commission therefore proposes to re-confirm eircom’s designation as the universal service provider for public payphones.

**Q. 17. Do you agree with the proposal above to re-confirm eircom’s designation as the universal service provider for public payphones? Are there other factors which should be considered by the Commission in making this designation ?**

#### 6.2.4 *Geographic Area and Period of Designation*

The Commission considers that the universal service designation(s) should apply for an indefinite period, leaving to its discretion as to when it is next to be reviewed. However, recognising the benefits to the industry of limiting uncertainty, it is envisaged that changes in market conditions may be such that the next universal service review is likely to take place in three to five years. The EU Directive on Universal Service and End Users’ Rights provides for the European Commission to review the scope of universal service in light of social, economic and technological developments. Therefore, if warranted, there may be need for a review at an earlier date.

The question arises as to what geographic areas of the State the universal service obligations should be applied. The telecommunications licensing regime operated by ComReg applies to the entire geographic region of the State. In addition, the designations made by the Director in relation to Significant Market Power<sup>16</sup> also apply to the entire State. Furthermore, market data to inform this designation and that data is not available by any sub-geographic region in the State at this time. The Commission therefore considers that the universal service obligations should be applied to the geographic area of the State.

**Q. 18. Do you agree with the Commission’s proposal that the universal service obligations should be applied to the geographic area of the State? Are there other factors which should be considered by the Commission in this regard ?**

**Q. 19. Do you consider that the USO designation should apply for an indefinite period with a review to take place in the next three to five years ?**

---

<sup>16</sup> Significant Market Power in the Irish Telecommunications Sector - Decision Notice D08/02; ODTR Document Number 02/53

## 7 Affordability

The regulations generally set out affordability as being related to the information which users receive regarding telephone usage expenses as well as the relative cost of telephone usage compared to other services, and is also related to their ability to control expenditure. The aim of ensuring affordability is to be achieved by imposing obligations on undertakings designated as having universal service obligations.

ComReg is obliged to monitor the evolution and level of retail tariffs of services falling under the USO, in particular, in relation to national consumer prices and income. ComReg can also require that those designated with universal service obligations should provide special options or packages to those on low incomes or with special social needs to ensure that they are not prevented from accessing or using the publicly available telephone service.

ComReg can also make rules requiring designated undertakings to apply common tariffs, including geographical averaging, throughout the State. The conditions in relation to the aforementioned schemes are to be fully transparent, non-discriminatory and published.

### 7.1.1 Consideration of the Issues

Affordability is an important element of universal service and in Ireland this is maintained through mechanisms such as the Price Cap. The current price cap which has been in place since January 2000 and is currently under review provides that *eircom* must reduce charges to consumers by 8 per cent before inflation every year for that period. Certain specific safeguards have been included in the Price Cap to ensure affordability is maintained. At present the lower quartile cap under the Price Cap regime, first introduced in 1996, protects low use customers from rapid increases in their overall bills. This is currently being reviewed in a consultation on the Price Cap<sup>17</sup> in which ComReg is seeking views on the introduction of an alternative scheme. Under this scheme, *eircom* would provide €5 worth of free national/local calls for €22.50 per month, with no line rental charge. If a customer exceeded the free call allowance, they would pay local/national call charges at double the standard rate, though in cases where their usage was so much higher than €5 worth, that they would have been better off under the normal *eircom* terms, the size of their bill would be restricted to a normal bill plus a €1 handling charge. The average participant bill would not exceed CPI-0, which is in line with the current cap on the lower quartile bill (please note that comments on the scheme should be forwarded in response to the price cap consultation, and not this consultation)

The Commission considers that there is a need to ensure that the basic elements of telecoms services which form universal service should be provided at geographically averaged prices so that they are available to all consumers at the same price throughout the country. In general, this principle has the advantage of

---

<sup>17</sup> Consultation 02/96 *Review of the Price Cap for certain Telecommunications Services* is the third in a series of consultations on the Price Cap

ensuring that the benefits of competition in areas of the country where operators face strong competition are extended throughout the country. However, it is not entirely without negative effects on the market and, at the margin, it might force operators to price higher in areas of low cost than they might otherwise do.

In light of the discussions in Section 5.1 regarding the meeting of reasonable requests for connection to the PSTN and, depending on the approach adopted, it may be possible that in certain exceptional circumstances that installation costs beyond a certain point may have to be borne by the end user. In these situations geographic averaging may not apply.

#### *7.1.2 Proposed Approach*

As stated above affordability is an important element of universal service not only from the point of view of ensuring affordable tariffs for consumers but also that they are in a position to monitor and control their expenditure (see Section 8).

From the point of view of users and the competitiveness of the economy generally, Irish communications costs must not exclude the most vulnerable in the community from accessing telephony services. The Commission feels strongly that protections for vulnerable customers need to be place. These should aim to protect vulnerable customers by ensuring that they can gain access to telephony services. Pending the outcome of the Price Cap consultation, ComReg does not intend to propose any additional measures at this time. This position may be reviewed in light of the response received to the review of the Price Cap which are due by the 10<sup>th</sup> January 2003.

ComReg considers that the benefits of geographical averaging in terms of the impact on non-competitive areas outweigh the relatively minor impact on prices in low cost areas. Currently, prices throughout the State are geographically averaged and as part of this consultation ComReg proposes to place an obligation on operators designated with universal service obligations to geographically average prices for the relevant universal services.

**Q. 20. Do you agree with the proposed approach on the affordability of tariffs ?  
Are there other factors which should be taken into consideration ?**

**Q. 21. Do you agree with the proposal to geographically average prices ? If so, please explain your reasoning.**



## 8 Control of Expenditure

The draft regulations provide that ComReg can make rules for the purpose of ensuring that subscribers monitor and control expenditure and avoid unwarranted disconnection from the network. Measures which can be introduced include

- **Itemised Billing:** a minimum level of itemised billing to be provided to consumers free of charge.
- **Selective Call Barring:** the ability of the subscriber to bar outgoing calls of defined types or to defined numbers free of charge.
- **Pre-Payment Systems:** a facility to allow consumers to pay for access to and usage of the network/services on pre-paid terms.
- **Phased Payment of Connection Fees:** the facility whereby consumers can pay for their connection fees on a phased basis.
- **Non-Payment of Bills:** measures to cover disconnection in the event of the non-payment of bills (in effect, a disconnection policy).

ComReg can waive the requirement to provide the above measures if they are deemed to be widely available.

### 8.1 Consideration of the Issues

In addition to the question of affordability of tariffs, ComReg believes that it is also imperative that subscribers are able to monitor and control their expenditure in order to ensure that they do not find themselves in the situation where they are unable to pay their bill and as such face possible disconnection from the network. Whilst the measures above will be of benefit to all subscribers, they would be particularly important in the case of those on low incomes or with special social needs.

At this point, ComReg wishes to receive views as to how to approach the measures designed to ensure subscribers can control expenditure. Some measures are already offered by the USO operator, however, others are not.

It is likely that ComReg will utilise the responses to this part of the consultation to focus the issues and to decide what measures may be appropriate. Further public consultation may be appropriate.

### 8.2 Proposed Approach

#### 8.2.1 *Itemised Billing*

Following a decision<sup>18</sup> by ComReg in July 2001, eircom is required to provide a minimum level of itemised billing free of charge to subscribers who request this facility. Free itemised billing is also available electronically on-line to subscribers who register with eircom. The level of itemisation provides subscribers with a list

---

<sup>18</sup> ODTR Document 01/53, Itemised Billing by telecommunications operators, Response to Consultation and Decision Notice D09/01

of numbers called, call cost and duration, with subtotals by call type, line and equipment rental along with full details of any relevant discounts. All calls below a certain level (6.35 cent including VAT) are grouped together.

Research<sup>19</sup> carried out by ComReg in March 2002 showed that 55% of consumers are aware that they can get a basic level of itemised billing from eircom free of charge. The Commission believes that the current level of itemisation as provided is sufficient to allow consumers to verify and control their expenditure and does not believe that this needs to be amended at this time.

The Commission considers that subscribers could be aided in their monitoring and control of expenditure in 'near' real time, rather than having to wait until they receive a bill. Such an additional facility could, for example, provide subscribers with the current level of expenditure since their previous bill. ComReg is aware that such a facility is provided by some operators and would wish to ascertain views as to whether it may be of further benefit in assisting subscribers to monitor telephony usage and control expenditure.

**Q. 22. Do you agree with the approach regarding call itemisation above ?**

**Q. 23. Do you believe there is merit in a facility to allow users to monitor expenditure in 'near' real time ? What issues might the introduction of such a facility give rise to ?**

### 8.2.2 Call Barring

eircom currently offers call barring to Premium Rate Services free of charge to subscribers. Restoration of normal service is also free of charge. A range of other call barring options are also offered subject to payment of a set up fee and ongoing rental charges. These include the following:

- National and Mobile
- Premium Rate
- International
- All of the above

The draft legislation refers to a subscriber's ability to bar outgoing calls of defined types or to defined numbers free of charge. The question arises as to whether the call barring options should be provided free of charge for customers who find themselves in payment difficulties. ComReg considers that one possibility is the introduction of a limited service packages to those customers who find themselves in difficulty paying a bill. If a consumer has run into payment difficulty as a consequence of calls to a particular type of service, call barring could be offered free of charge with the ability to receive incoming calls remaining for a limited period. Access to these services could be restricted until such a time as a customer has discharged their debt or for a pre-determined

---

<sup>19</sup> Irish Communications Market Quarterly Review

limited period. They would then be offered the chance to continue with call barring at the standard charge.

**Q. 24. Do you agree with the approach regarding call barring above ? Do you believe there is merit in the establishment of a facility to allow subscribers facing payment difficulties to avail of call barring facilities free of charge? What issues might the introduction of such a facility give rise to ?**

### 8.2.3 Pre-payment systems

At present, while prepayment systems are not currently available from eircom, there are a variety of pre-paid account and call card options available in the Irish market which can enable consumers to control their call expenditure. These typically involve the purchase of a call card of particular monetary value and the access of telephony services via a freephone number.

An alternative to a pre-paid system is a facility whereby the subscriber may be able to set a pre-determined level of call expenditure with the USO provider. This would be the amount of money a customer would expect to spend on calls during each bi-monthly billing cycle. This would be jointly agreed between eircom and the customer and eircom would advise the customer when this level had been reached and therefore help with budgeting. A further variant of such a scheme, could involve the development of an internet pre-paid product, whereby the subscriber could purchase a pre-paid card which would allow a specified amount on time online. This offers the user the ability to control expenditure on a specific service thereby providing greater certainty.

The Commission would particularly wish to receive responses from users as to the potential usefulness and demand for the pre-paid products as outlined above.

Given the wide availability of prepaid products in the market, and the possibility of the introduction measures identified above and in earlier, ComReg is considering limiting the provision of pre-payment systems to the services identified above.

**Q. 25. Do you agree with the approach to limit the requirement to offer pre-payment systems ?**

**Q. 26. Do you believe there is merit in the establishment of a facility to allow subscribers set a predetermined level of expenditure and/or a pre-paid internet product? What issues might the introduction of such a facility give rise to ?**

### 8.2.4 Phased Payment of Connection Fees

eircom, the universal service provider, does not currently offer the facility for subscribers to spread the payments for PSTN connections over a period of time.

The main benefit of such a facility is that it allows certain subscribers, who by virtue of the level of the up front cost, might not ordinarily get connected.

Prior to a decision regarding the introduction of such a facility ComReg would wish to carry out further work regarding level of consumer demand for such a product and to discuss the practical implications regarding its implementation with the provider concerned.

ComReg will utilise this consultation to obtain views from respondents as to the relevant merits of such a scheme. In addition, during the first quarter of 2003, ComReg will be carrying out consumer research as part of its quarterly survey programme. Feedback on a phased connection fee payment scheme will be sought as part of this survey.

**Q. 27. Do you agree with the approach regarding the facility for subscribers to spread the payments for PSTN connections over a period ? Do you believe there is merit in the establishment of such a facility? What issues might the introduction of such a facility give rise to ?**

#### 8.2.5 *Non-Payment of Bills*

ComReg has previously required<sup>20</sup> that all operators should set out their disconnection policy in their published Codes of Practice for Handling Consumer Complaints. The US Directive, although generally dealing with universal service obligations, clearly allows the extension of the obligation to publish a disconnection policy to all operators (Article 29(3)). Currently, eircom and all other OLOs publish their policy in relation to non payment of bills by subscribers. The Commission consider that this obligation should continue.

As set out in Section 4.2, a number of people are still being disconnected from the network, despite the existence of a disconnection policy. The question arises as to whether the universal service operator, by virtue of its status as such, should have a more elaborate disconnection policy in order to keep as many subscribers as possible connected to the network. ComReg considers that this should be the case and proposes to engage with the relevant operator to develop it further. The policy should provide customers with a wider appreciation of the service being provided, how to pay for the service, the consequences of non payment and the value of discussions with the company should payment difficulties arise. The policy should set standards, clarify expectations and bring greater transparency. It is important to note that this obligation is not intended to promote a ‘no disconnections’ policy.

**Q. 28. Do you agree with the approach regarding the non-payment of bills ? Do you believe there is merit in the USO provider having a more developed policy? What issues might such a policy deal with ?**

---

<sup>20</sup> ODTR Document 01/67 Codes of Conduct for the Handling of Consumer Complaints by Telecommunications Operators, Decision Notice D13/01

## 9 Quality of Universal Service

Under the draft regulations, universal service providers are required to publish adequate and up-to-date information concerning their performance in the provision of universal service, based on the quality of service parameters, definitions and measurement methods set out in Annex III of the Directive. To name but a few, these include measures such as supply time for initial connection, fault repair time and bill correctness complaints. ComReg can make rules specifying additional quality of service parameters and lay down performance targets for the provision of services falling under the USO.

### 9.1 Consideration of the Issues

ComReg currently monitors quality of service performance for the delivery of services by operators to consumers. This includes the universal service provider. Such results are published bi-annually in the Measuring Licensed Operator Performance programme, the most recent edition of which is ODTR Document 103/02<sup>21</sup>. ComReg considers that this publication meets most of the requirements of the draft legislation, however, further work may be required to develop additional quality performance measures to cover areas such as the provision of services to disabled users and the setting of performance targets.

### 9.2 Proposed Approach

Through the existing Measuring Licensed Operator Performance programme the USO operator provides data on total orders, faults and complaints managed within each quarterly measurement period. Under the draft legislation ComReg may specify additional parameters, to assess the quality of service in relation to disabled end-users. This would require isolation of performance data around specific services currently measured within the existing performance parameters. Section 5.4.1 outlines specific services that are currently provided by eircom to meet the needs of disabled end-users. Performance measurement in relation to the provision of some these services may prove useful for disabled end-users. For example,

- text relay services;
- braille billing;
- free directory enquiry service;
- a priority fault repair service (if this is established)

ComReg proposes therefore that quality of service performance parameters in the existing Measuring Licensed Operator Performance programme are refined to provide disabled end-users with specific data on services relevant to their needs.

The draft legislation also allows ComReg to set performance targets in relation to provision of USO services. At present, ComReg has not defined any performance targets outside the need to provide reasonable access to services. eircom

---

<sup>21</sup> See ComReg website for details.

currently offer performance standards around line installation, fault clearance and appointment dates. However, ComReg considers that there is merit in developing specific performance measures around the provision of USO services.

Examples of some standards set by other European regulators below are set out below. It should be noted that these are examples only and actual performance targets will involve more detailed consultation between ComReg and the USO provider.

<b>Parameter</b>	<b>Example Target</b>
Supply Time for initial connection	95% in 13 days
Fault rate per 100 lines	13.5 per 100
Fault Repair Time	95% in 48 hours
Billing Correctness complaints	Maximum 2%
Response Time for Directory Enquiry	90% in 20 seconds
Response Time for Operator Services	90% in 20 seconds
Number of payphones in full working order	> 95%

**Q. 29. Do you agree with the proposal to provide additional quality of service performance data on services relevant to the needs of disabled consumers and end-users?**

**Q. 30. Do you believe there is merit in the establishment of performance targets for the USO operator? What targets might be appropriate?**

## **10 Costing and Financing of Universal Service**

Pursuant to the draft regulations a universal service provider may receive compensation for the net cost of meeting the USO obligation concerned where, on the basis of such net cost calculation, ComReg determines that the undertaking in question is subject to an unfair burden. The draft regulations provide principles for calculating the net cost of universal service, in accordance with Annex IV, Part A, of Directive 2002/22/EC respectively.

### **10.1 Consideration of the Issues**

EU and national legislation does not require the creation of a mechanism to finance universal service providers unless the net cost of the USO creates a competitive disadvantage to the operator in question. ComReg is required to assess whether a specific financing mechanism is justified, taking account of the market benefit which accrues to the organisation providing universal service. According to the draft regulations, the method for the calculation of the net cost of universal service provision must take full account of all the non tangible benefits (i.e., indirect benefits) associated with the provision of universal service, such as, marketing and brand recognition; ubiquity.

ComReg may determine on the basis of audited costs of universal service that universal service financing is not required, either because specific universal service obligations do not result in a net cost, or that either (i) the net cost does not represent an unfair burden for the operator (s) concerned or (ii) it does not justify the administrative costs of a specific financing scheme.

In Directive 2002/22/EC the rules concerning the financing of universal service obligations are substantially the same as existing rules, some new principles, such as that of least market distortion, have been introduced. Under the new draft Regulations ComReg will be obliged to set up a mechanism to share any financial burden resulting from the cost of universal service provision amongst market players where it determines that the net cost of meeting the USO represents an unfair burden. If appropriate, compensation will be funded by a sharing mechanism administered by ComReg or by a body independent from the undertakings designated by ComReg.

ComReg does not rule out the possibility of seeking competitive tenders for the USO obligation. Introducing competition into the provision of universal service in this way could help ensure that universal service is provided by the operator(s) with the lowest costs thereby minimising the contributions by all operators required to pay into the universal service fund.

### **10.2 Proposed Approach**

There are a number of questions that ComReg will need to consider in relation to any national scheme for costing and financing of universal service. These are listed in the questions below. They relate to a number of issues including:

1. Allocation of the USO through competitive tendering.
2. The calculation of the net cost of universal service.
3. Determination of whether any net cost is an unfair burden.
4. Mechanisms for financing USO, including the determination of who contributes and how costs are shared between contributors.

ComReg would welcome respondents' initial views on these matters. ComReg expects to issue a more detailed consultation on specific proposals once the relevant Statutory Instrument is finalised and in the light of responses to this consultation.

- |  |
|--|
| <p><b>Q. 31. Should competition for the provision of universal service be introduced?</b></p> <p><b>Q. 32. What criteria, if any, should an operator be required to meet to be allowed compete to provide universal service? What should be the frequency of any competition in the provision of universal service?</b></p> <p><b>Q. 33. Is there any competitive advantage to the provision of universal service? If not, what might constitute an “unfair burden”?</b></p> <p><b>Q. 34. Does the USO confer any benefits on the universal provider? e.g. brand awareness etc.</b></p> <p><b>Q. 35. Which non-tangible benefits should be taken into account and how should they be assessed? Suggestions for valuing other forms of benefit are also welcome.</b></p> <p><b>Q. 36. When should there be a USO net cost sharing mechanism? What should be the basis for establishing a methodology for the calculation of the net cost of universal service with the aim of creating a universal service fund?</b></p> <p><b>Q. 37. Who should contribute to the financing of universal service? Should certain categories of operators (for example, below a certain threshold and or market share) or certain components of the universal service be excluded from the cost sharing arrangements?</b></p> <p><b>Q. 38. What should be the preferred allocator of the costs of USO? e.g., volume of traffic, turnover, number of calls, other?</b></p> |
|--|



**Q. 39. For which types of services within the scope of universal service<sup>22</sup> should competitive mechanisms be introduced, if at all, and which type of mechanism?**

**Q. 40. What sort of mechanism(s), if any, would be useful or relevant to introduce competition in the provision of certain universal services?**

---

<sup>22</sup> Basic connection, public payphones, directories and directory enquiry services

## **11 Submitting Comments**

All comments are welcome, however it would make the task of analysing responses easier if comments were referenced to the relevant question numbers from this document.

The consultation period will run from 19<sup>th</sup> December, 2002 to 11<sup>th</sup> February 2003 during which the Commission welcomes written comments on any of the issues raised in this paper.

Having analysed and considered the comments received, ComReg will review the position and publish a report in March on the consultation which will, inter alia summarise the responses to the consultation.

In order to promote further openness and transparency ComReg will publish the names of all respondents and make available for inspection responses to the consultation at its Offices.

ComReg appreciates that many of the issues raised in this paper may require respondents to provide confidential information if their comments are to be meaningful. Respondents are requested to clearly identify confidential material and if possible to include it in a separate annex to the response. Such information will be treated as strictly confidential.

**Commission for Communications Regulation**

**19<sup>th</sup> December, 2002**

## 12 Appendix 1 – Indicative<sup>23</sup> Work Plan for Universal Service and End User Issues

<b>Universal Service Scope and Designation– Consultation process timeline</b>	
<b>Activity</b>	<b>Date</b>
Issue date for Universal Service consultation – Stage 1	19 <sup>th</sup> December 2002
Final date for responses to Stage 1 consultation	11 <sup>th</sup> February 2003
Issue date for response to consultation/decision notice/further consultation <sup>24</sup> (stage 2)	21 <sup>st</sup> March 2003
Final date for response to Stage 2 Consultation on Designation	30 <sup>th</sup> April 2003
Issue date for Final Decision Notice	19 <sup>th</sup> June 2003
Notification to the European Commission of the name(s) of designated Universal Service provider(s)	25 <sup>th</sup> July 2003

<b>Universal Service Costing and Funding– Consultation process timeline</b>	
<b>Activity</b>	<b>Date</b>
Possible Consultation on USO Cost and Funding	14 <sup>th</sup> April 2003
Final date for responses to consultation	25 <sup>th</sup> May 2003
Issue date for Final Decision Notice	15 <sup>th</sup> July 2003

<b>End users rights – Consultation process timeline</b>	
<b>Activity</b>	<b>Date</b>
Issue date for consultation on end users rights	31 <sup>st</sup> January 2003
Final date for responses to the consultation	14 <sup>th</sup> March 2003
Issue report on consultation outlining future work programme	25 <sup>th</sup> April 2003

<sup>23</sup> This timetable is predicated on the transposition of the EU USO Directive into national legislation.

<sup>24</sup> Further consultation may be necessary and it is envisaged that this would issue in tandem with any response/decision to stage 1 consultation