



Consultation Paper

**The Future Provision of Telephony Services  
Under Universal Service Obligations**

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All responses to this consultation should be clearly marked:-  
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(current consultations), to arrive on or before 5:30pm on 11 May  
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Please note ComReg will publish all respondents submissions  
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## **1 Foreword by Commissioner**

On behalf of the Commission, I am pleased to publish this consultation on the future provision of Universal Service in Ireland. Universal Service is ultimately about social inclusion, allowing people in marginal areas or circumstances to avail of basic telephony services that most of us take for granted. In July 2003 Decision Notice D17/03<sup>1</sup> designated *eircom* as the Universal Service Provider for a 3 year period. As the end of this tenure is approaching it is now appropriate to address the coming period.

ComReg's approach to USO scope and designation is in accordance with the European Communities (Electronic Communications Networks and Services) (Universal Service and Users Rights) Regulations, S.I. 308 of 2003. These regulations transpose the European Universal Service and Users' Rights Directive.<sup>2</sup> ComReg would note that broadband was specifically excluded from the definition of Universal Service. This was reviewed by the European Commission in 2005, which decided to maintain this specification. Accordingly, this consultation refers only to narrowband connections.

ComReg's aim with regard to Universal Service is to ensure that basic fixed line services are available at an affordable price to all end users across Ireland.

ComReg wish to consult with users, industry and other interested parties so that an informed decision on the approach regarding the future provision of Universal Services can be made.

**Mike Byrne**  
**Commissioner**

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<sup>1</sup> The Future Framework for the Regulation of Universal Service in the Irish Market – Decision Notice D17/03

<sup>2</sup> Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (Universal Service Directive).

## 2 Introduction

The Commission for Communications Regulation (“ComReg”) is responsible for the regulation of the Irish telecommunications sector in accordance with national and EU legislation. One of ComReg’s functions is to determine the scope of the Universal Service Obligations (“USO”) for the Irish market and decide which undertaking(s) should be designated as the Universal Service Provider(s).

A USO obligation ensures that basic fixed line services are available to end users within Ireland at an affordable price. There are both social and economic grounds for the USO i.e. to provide services to help vulnerable users and those in remote locations whom the market might otherwise not choose to serve. The USO is focused on bringing benefits to those with low incomes who have difficulty in affording a telephone service, end users with disabilities who need particular services or facilities and those in rural locations for whom the actual cost of gaining access to service might otherwise be prohibitively expensive.

The existing framework has been in place since the 25 July 2003. This document seeks views as to how the requirement to ensure Universal Services should be implemented in the period following 24 July 2006. The specific aspects of Universal Services are:

- Provision of Access at a fixed location
- Directory Enquiry Services and Directories
- Public Pay Telephones
- Provision of Services to Disabled Users
- Affordability
- Control of Expenditure

In designating an undertaking(s) the Commission will take the following factors into consideration - market share, network reach, experience and ability to provide universal service. The Commission may also consider other relevant factors which may be identified in the course of this consultation. The Commission will also seek the consent of the Minister for Communications, Marine and Natural Resources regarding certain aspects of the requirements to be complied with by any designated undertaking. Once this process is complete ComReg will formally designate one or more undertaking(s) as the Universal Service Provider (USP) with specified obligations.

### 3 Background

#### 3.1 Review of Universal Service Obligations

On 25 July 2003 ComReg designated *eircom* as the USP for all elements within the Universal Service for a period of three years. In the intervening period some decisions have been taken which have a bearing on the requirements to be complied with in the future. In particular, Decision Notice D9/05<sup>3</sup> introduced a number of requirements related to the obligation to provide a connection to the public telephone network. These requirements were introduced following a public consultation and ComReg does not consider it appropriate to revisit the issue at this stage. These requirements will therefore remain in force and will apply to any future USP's. The requirements are as follows:

- The Universal Service Provider is required to treat all requests for connection at a fixed location to the public telephone network and for access to publicly available telephone services at a fixed location as reasonable, if the estimated expenditure involved in meeting the request is not greater than €7,000 and the applicant agrees to the payment of the standard connection charge.
- The Universal Service Provider is required to treat all requests for connection at a fixed location to the public telephone network and for access to publicly available telephone services at a fixed location as reasonable if the estimated expenditure involved in meeting the request is greater than €7,000 and the applicant agrees to the payment of the standard connection charge plus the amount by which the estimated expenditure exceeds €7,000.
- The Universal Service Provider shall use all reasonable endeavours to ensure that all connections to the publicly available telephone network are capable of a minimum data rate no lower than 28.8 Kbit/s.

#### 3.2 Universal Service Requirements

The current review of universal service provision is carried out in accordance with the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2003. These Regulations confer ComReg with the responsibility for making decisions in the following areas:

- The scope of the obligation to provide telephone lines to end users including requiring a capability to permit functional internet access
- The scope of the obligation to provide directory services including the telephone directory and directory enquiry services
- The scope of the obligation to provide public pay telephones
- Ensuring that disabled users have access to the above services on a basis similar to that enjoyed by other users

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<sup>3</sup> Universal Service Requirements-Provision of Access at a Fixed Location- Decision Notice D9/05

## The Future Provision of Telephony Services Under Universal Service Obligations.

- Designating undertaking(s) as the universal service provider(s) for the above services
- The provision of special tariff options for users
- Ensuring users can control expenditure through measures such as itemised billing and call barring.
- Deciding on issues related to the cost and funding of the universal service.

## 4 Market Development and Universal Service Provision

The purpose of this paper is to elicit information from stakeholders in relation to a number of questions regarding the scope of the USO, in particular, regarding the provision of access at a fixed location, provision of public pay telephones and measures to allow consumers control their telephony expenditure. In the following section a number of factors which ComReg believes are relevant to determining the scope of the USO are examined.

### 4.1 Developments in the Market

Customers can avail of increased choice in the fixed telecoms market with competing service providers offering varying levels of price and service to meet the differing requirements of end users. By the end of December 2005 *eircom* reported that over 200,000 of its Public Switched Telephone Network<sup>4</sup> (“PSTN”) and Integrated Services Digital Network (“ISDN”) lines were supplied on a wholesale basis to other operators for their own customers, an indication of growing indirect access competition in the market.<sup>5</sup> As at December 2005 there were 351<sup>6</sup> total authorisations with 302 being the total number of fixed and wireless authorisations.

A 2004 survey published by the EU Commission<sup>7</sup> estimated fixed line penetration in Ireland to be around 82%. Since then ComReg has itself commissioned a number of residential user surveys which suggest that fixed line penetration has declined to a level around 73%. However, subscription to a fixed line telephone service is generally higher among older consumers. ComReg’s last residential survey carried out in Q4 2005 found that 82% of 65-74 year olds had a fixed line at home.<sup>8</sup> *eircom* remains the major fixed line provider in the market, with a current estimated market share of 77% based on fixed line revenues.

Overall, the development of competition in the market provides greater opportunities for all or part of the universal service obligation to be provided by operators other than *eircom*. To this end, the Regulations provide that different operators or sets of operators may be designated to provide different elements of universal service and/or to cover different parts of the State.

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<sup>4</sup> PSTN is based on copper wiring and analogue voice data, whereas ISDN is a newer telephone network based on digital technology.

<sup>5</sup> *eircom*’s Q3 2005 results presentation

<sup>6</sup> [http://europa.eu.int/information\\_society/policy/ecom/doc/info\\_centre/studies\\_ext\\_consult/inra\\_year2004/report\\_telecom\\_2004\\_final\\_reduced.pdf](http://europa.eu.int/information_society/policy/ecom/doc/info_centre/studies_ext_consult/inra_year2004/report_telecom_2004_final_reduced.pdf)

<sup>7</sup> Markets 1,2,3,4,5 and 6 of the Relevant Markets Recommendation, 11 February 2003 C(2003) 497.

<sup>8</sup> [http://www.comreg.ie/\\_fileupload/publications/ComReg0608a.pdf](http://www.comreg.ie/_fileupload/publications/ComReg0608a.pdf)

## 4.2 SMP in Fixed Access & Calls Market

The regulatory framework requires that ComReg defines relevant markets appropriate to national circumstances, in accordance with the market definition procedure outlined in the Framework Regulations. In addition, ComReg is required to conduct an analysis of these relevant markets to decide whether or not they are effectively competitive and to act accordingly through the imposition of appropriate remedies. In the context of the Universal Service Obligation, the relevant defined markets are Markets 1-6<sup>9</sup> which include but are not limited to Access to the public telephone network at a fixed location.

In September 2004 ComReg issued two consultation papers<sup>10</sup> regarding the retail fixed calls market and the retail fixed narrowband access. These consultations arise from a review of markets identified by the European Commission as publicly available telephone services at a fixed location. These consultations resulted in two consultation responses<sup>11</sup> which were notified to the European Commission.

ComReg has recently informed industry and interested parties of its intention to issue a further consultation on the Market Reviews for the Retail markets. A number of months have elapsed since ComReg notified the European Commission on the review of the Retail Calls and Retail Access markets. These consultations will provide ComReg and interested parties with the opportunity to revisit and comment on the findings of these market reviews.

In considering the designation of an undertaking to provide connections to the public network and access to telephony services, it should not be regarded as self-evident that an undertaking designated as having Significant Market Power should be designated as the Universal Service Provider. Neither should it be regarded as automatic that a designated USP should be regarded as having SMP. These two issues are distinct from one another.

## 4.3 Disconnections

Universal service is not just about enabling people to be connected to a fixed telephone network, but it is also important that all end users who wish to remain connected to the fixed network can do so. In the context of Universal service, *eircom's* disconnection policy and the number of 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 due to

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<sup>9</sup> Commission Recommendation (2003/311/EC)

<sup>10</sup> Market Analysis: Retail Fixed Calls Market – Document No:04/95 and Market Analysis: Retail Fixed Narrowband Access Markets- Document No: 04/94

<sup>11</sup> Market Analysis: Retail Fixed Narrowband Access Markets (Response to Consultation and Decision Notice) Document No: 05/25 and Market Analysis: Retail Fixed Calls Market (Response to Consultation and Decision Notice) Document No. 05/26



inflexible debt management. Disconnections may also result for other reasons such as fraud or the deliberate non-payment of bills.

With regard to the relevance of disconnections to Universal Service, ComReg considers that this issue is appropriate in the context of enabling subscribers control their telephony expenditure. The level of disconnections may be a barometer of the effectiveness of the existing measures which facilitate such control. In addition to the measures contained in Section 12, the *eircom* disconnection policy (as set out in its Code of Practice for Complaint Handling<sup>12</sup>) which includes notification measures for subscribers who fall into payment arrears, has a positive effect by reducing the number of subscribers being disconnected from the network. Based on confidential information supplied by *eircom*, ComReg is satisfied that the current policy with regard to disconnection is appropriate.

#### 4.4 Trends in Housing Growth

In the past three years there has been significant growth in the number of new houses and apartments, and over 80,000 houses were built in 2005 alone<sup>13</sup>. During 2004 ESB Networks made 90,600 new connections which was a record number<sup>14</sup>. While some end-users may exercise a preference not to have a fixed line, as perhaps they are living in rented accommodation or prefer not to use both a mobile and fixed service, the majority of households still have a requirement for a fixed line.

The growth in new housing is characterised by the creation of satellite towns and building developments in suburbs and rural areas. Where a dwelling is in a rural area and/or is a one-off development, the provision of a telephone connection can be disproportionately expensive. In this connection, Decision Notice 09/05 stated that all requests for connection involving expenditure below €7,000 are to be considered reasonable and requests above €7,000 will still be considered reasonable providing the requesting party agrees to cover the excess connection costs above €7,000.

The growth in housing completions impacts the USO due to the increase in the number of homes seeking connections to the public switched telephone network and the resulting extension of the network to meet demand and fulfil Universal Service Obligations.

ComReg is aware of the increasingly common practice of developers entering into commercial agreements with non USO operators for the provision of telephony services for new developments. This has a bearing on any designated undertaking and is dealt with in more detail in section 7 of this paper.

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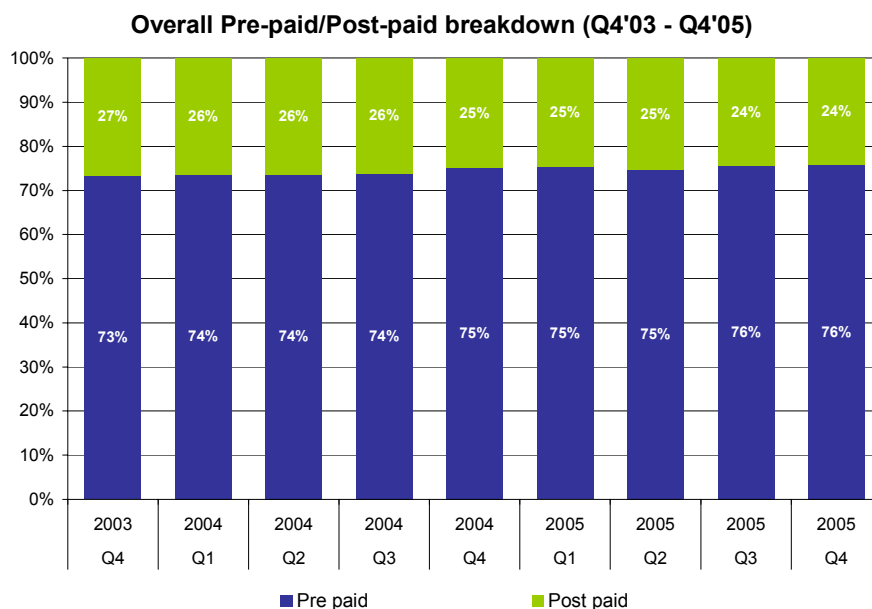
<sup>12</sup> Available on the *eircom* website at [www.eircom.ie](http://www.eircom.ie)

<sup>13</sup> <http://www.environ.ie/DOEI/DOEIPub.nsf/6fb57b90102ce64c80256d12003a7a0d/c95e07bbe0faf007802570ff00413e0e?OpenDocument>

<sup>14</sup> ESB Annual Report 2004 – [www.esb.ie](http://www.esb.ie)

#### 4.5 Mobile Penetration Rate

Since the previous examination of the Universal Service there has been a substantial increase in the mobile penetration rate and by the end of December 2005 mobile subscription penetration had reached 102%<sup>15</sup>. The subscriber penetration rate is based on the number of active SIM cards in the Irish market and it should be noted that subscribers may have more than one active SIM card. ComReg’s most recent residential survey in November 2005 found that 84% of adults aged 15-74 had a mobile phone. The proportion of pre-paid subscribers has remained relatively stable in the last two years at around 75% of all mobile subscribers as illustrated from Figure 1 below.



Source: Quarterly Key Data Questionnaire

Figure 1

The overall household penetration rate for fixed telephony in Ireland is approximately 73% based on an average of recent surveys commissioned by ComReg. A degree of substitutability may exist between fixed and mobile telephony services and many people on the basis of personal preference may choose to remain unconnected to the public telephone network. In the Universal Service context, if the percentage of the population without a telephone falls it is increasingly difficult to ascertain the exact reasons for this reduction. It is likely that there are a number of factors behind any reduction for example an increase in the number of people in rented accommodation or that people have a preference not to have a fixed line.

However, in a recent survey commissioned by ComReg, 44% of respondents did not agree that if the price levels for fixed and mobile phones were similar, it would encourage them to give up the fixed telephone at home. This indicates that there is still considerable demand for a fixed line in many households. This is supported by

<sup>15</sup> Quarterly key Data March 2006 Report – Document 06/15

the many market reviews conducted across the EU, which have found that mobile and fixed services are still in separate markets.

Overall, while mobile usage is increasing, it does not yet appear to be a very close substitute for fixed telephony service. In any case, irrespective of possible shifts in the market between personal preferences for fixed or mobile services, the Regulations require the provision of services at a fixed location.

**Q.1. What are your views on the factors identified above in considering Universal Service obligations? Are there other factors which need to be considered regarding the provision of Universal Service? Please give reasons for your answer**

## **5 Designation Period Duration**

In 2003, a period of 3 years was selected as the appropriate duration for all elements of Universal Service. An issue to be considered is what should be the appropriate period of designation.

Factors to be considered include:

- The overall legislative framework for universal services – what is the timetable for foreseen reviews to the framework?
- The ease and manner in which any changes to the scope of universal services which may result from a review by the European Commission may be introduced.

### **Legislative framework**

The legislative basis for the designation of an undertaking to provide universal services is the European Communities (Electronic Communications Networks and Services)(Universal Service and Users' Rights) Regulations 2003 – S.I. No. 308 of 2003. The Regulations came into effect on 25 July 2003. The foundation for the Regulations was Directive 2002/22/EC (the “Universal Service Directive”) of 7 March 2002, part of the overall framework for the regulation of the electronic communications sector published in the Official Journal of 24 April 2002. Discussions on the introduction of the framework had been initiated 2 years previously with the EU Commission publishing its proposals for a package of measures on 12 July 2000. In summary, a period of 3 years elapsed between the tabling of specific proposals by the EU Commission and the transposition into national legislation of the final Directives.

The EU Commission has initiated a review of the regulatory framework and invited views from stakeholders on possible changes to the five Directives that comprise the current framework (and to the Recommendation on relevant markets). Over 150 responses were received. The Commission can be expected to publish its proposals for legislative change sometime after June 2006. The expected timescale for national transposition can be based on a number of factors but the chief factor will be when the revised Directives are adopted. While this will be determined by the timescale of the EU institutions, ComReg considers the end of 2007 to be the most likely outcome. Assuming the same timescale for progression to national transposition would imply national implementation in mid 2009. If the adoption of the Directives is delayed, transposition would also be extended. Accordingly ComReg envisages that a new framework could be anticipated in the period mid 2009 to mid 2010.

### **Review of Scope of Universal Services**

Under the Directive, the EU Commission is required to periodically review the scope of universal service. The first report was presented in May 2005 and considered

that the scope of universal service should remain unchanged. The next review is scheduled for May 2008.

Should a review in 2008 recommend a change to the scope of universal services (or should the scope be amended as the proposed new Directives progress through the Council and Parliament) it would be desirable that the the flexibility to implement changes in Ireland at an early stage following transposition be retained.

Taking the above factors into account and for the purposes of this consultation, ComReg offers a preliminary view that the designation period should be for a period which extends beyond the anticipated date for transposition of any new framework, i.e. an approximate 4 year period ending on 30 June 2010. ComReg would be interested in considering the cases for alternative periods, either longer or shorter in duration.

**Q. 2. What are your views on the factors outlined above in the context of defining an appropriate designation period?**

## 6 Designation of the Universal Service Provider

The regulations require ComReg to designate one or more operators to guarantee the provision of the universal services as identified in section 3.2 to ensure that the whole of the State is covered. Different operators or sets of operators (undertakings) can be designated to provide different elements of universal service and /or to cover different parts of the state.

The Regulations and Directive makes clear that no provider of services should *a priori* be excluded from being designated. In most Member States the incumbent operator provides universal services, other operators may wish to take on the universal service responsibility and they may be able to supply it at a lower cost. The development of greater competition 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 *eircom*.

As previously identified a number of factors must be considered in designating an operator as the provider for each element of the universal service. This consultation extends an invitation to all undertakings to put themselves forward to provide all or part of the universal services. 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 detailed 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.

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

## 7 Provision of Access at a Fixed Location

A fundamental requirement of the Universal Service Obligation is that all “reasonable” requests for connection to the public telephone network are met by at least one operator. Therefore, *eircom* as the Universal Service Provider is currently required to satisfy any reasonable request to provide a connection to the public telephone network at any fixed location in the State.

Any connection provided by a designated undertaking must be capable of allowing end-users make and receive the following:

- Local, national and international calls
- Facsimile communications, and;
- Data communications at data rates that are sufficient to permit functional Internet access.

Over the past three years much work has been done in order to provide transparency regarding the criteria *eircom* use to assess the reasonableness of any request for connection. This culminated in Decision Notice D9/05<sup>16</sup> in September 2005. This Decision Notice addressed both connections to the public telephone network and provision of functional Internet access. Therefore this consultation will not revisit these issues but the requirements are restated for clarity.

Regardless of who will be the Universal Service Provider the following measures concerning connections and functional Internet access will therefore apply:

- The Universal Service Provider is required to treat all requests for connection at a fixed location to the public telephone network and for access to publicly available telephone services at a fixed location as reasonable if the estimated expenditure involved in meeting the request is not greater than €7,000 and the applicant agrees to the payment of the standard connection charge.
- The Universal Service Provider is required to treat all requests for connection at a fixed location to the public telephone network and for access to publicly available telephone services at a fixed location as reasonable if the estimated expenditure involved in meeting the request is greater than €7,000 and the applicant agrees to the payment of the standard connection charge plus the amount by which the estimated expenditure exceeds €7,000.
- The Universal Service Provider shall use all reasonable endeavours to ensure that all connections to the publicly available telephone network are capable of a reasonable minimum data rate no lower than 28.8 Kbit/s.

The fundamental requirement of Universal Service is that all reasonable requests for connection at a fixed location are met. There are many factors to be considered in ensuring the requirements of end-users are met.

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<sup>16</sup> Universal Service Requirements-Provision of access at a fixed location- connections to public telephone network and provision of functional Internet access –D9/05

In the majority of cases, the Universal Service provider should not have any significant difficulties in providing network connections throughout the country or defined territory within the State. *eircom* by virtue of its ownership of the public switched telephone network (PSTN) is capable of meeting the reasonable requests of end-users on a nation wide basis . In addition, *eircom* remains the major fixed line provider in the market, with a current estimated market share of 77% based on fixed line revenues. ComReg notes that many fixed-line operators which offer competing services with Carrier Pre selection and Wholesale Line Rental do so via *eircom*'s network. However, in some cases fixed-line operators offer competing services over their own networks especially at the corporate end of the market.

ComReg will carefully consider any representations it receives from interested parties for the provision of access to a fixed location throughout the State or a defined territory within the State. In the absence of compelling evidence which suggests that the contrary should be the case (including any expressions of interest from other operators) ComReg is of the preliminary view that the principal factors that resulted in *eircom* being designated as the USP in July 2003, remain present in 2006. As a consequence *eircom* is likely to be again designated as the USP with respect to the provision of access at a fixed location.

**Q. 3. What are your views in relation to the proposal above? Are there other factors which should be considered by ComReg in making this designation?**

### **7.1 Private Commercial Agreements**

ComReg is aware that developers have been entering into arrangements with non-USP operators for the provision of telephony services, often coupled with broadband and TV/Video content (triple play) for new developments. A number of interested parties, including consumers, have contacted ComReg in respect of the implications of this practice, particularly in terms of access to services from the USP or other operators. It is ComReg's view that commercial arrangements on these developments do not in themselves overrule the obligations of the USP and the USP must satisfy reasonable requests from users.

The USP should be able to meet all reasonable requests for access and connection, but ComReg recognises there may be circumstances where there are problems in meeting this obligation. In particular ComReg is aware of claims that some developers are denying physical access to operators who are not part of their own exclusive contracts. The claimed effect of this is to render impossible the provision or service by anyone other than the operator with the exclusive agreement. While the legal issues around this issue have not been fully tested, ComReg is interested in respondents' views as to how this matter should be dealt with.



**Q. 4. In your view what is the most appropriate way to deal with the situation described above?**

## 8 Directory Services

In the context of Directory Services the Regulations provide that a designated undertaking must ensure that a comprehensive directory of subscribers is made available to all end-users and is updated at least once a year **OR** that a comprehensive telephone directory inquiry service is made available to all end users, including users of public pay telephones.

To date, *eircom* as the designated undertaking has been providing both elements i.e. a telephone directory and a comprehensive directory enquiry service. In August 2005, ComReg withdrew the requirement on *eircom* to provide the directory in CD format due to low levels of demand for the product. Since the previous designation, the directory inquiry market has grown with Conduit also providing Directory Enquiry services. This leads ComReg to believe that directory enquiry services are being provided on a commercial basis. As Directory Enquiry services are now being provided on a commercial basis by two operators, end-users can exercise choice in terms of using these competing services. The question arises as to whether it is appropriate to include the Directory Enquiry element as a universal service requirement going forward. ComReg is also mindful of the Ministerial Policy Direction (No.5) in 2003 which provides as follows:

*“Where the Commission has discretion as to whether to impose regulatory obligations, it shall, before deciding to impose such regulatory obligations on undertakings in the market for electronic communications, examine whether the objectives of such regulatory obligations would be better achieved by forbearance from imposition of such obligations and reliance instead on market forces.”<sup>17</sup>*

The Regulations also state that the USP for directory services shall also maintain the National Directory Database (NDD) which is a record of all subscribers of publicly available telephone services in the State who have not refused to be included in the NDD. *Eircom* has built up a considerable level of experience in managing the NDD which is the foundation stone of all directories and directory enquiry services. In addition, following publication of S.I. No.535 of 2003 European Communities (Electronic Communications Networks and Services) (Data Protection and Privacy) Regulations 2003, the NDD has become basis for the “opt out” register for Direct Marketing Purposes.

As *eircom* customers make up the majority of subscribers included in the NDD, ComReg considers that *eircom* may be the most suitable undertaking to provide universal services in this area.

An issue to be considered with the paper telephone directory and on which ComReg has received some representations is whether subscribers should have the option of

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<sup>17</sup> The Minister’s reason for the policy direction was stated as follows:

*“It is the Minister’s view that market freedom can have a positive impact on the further development of the sector in terms of innovation, competition, customer choice and quality of service. Accordingly, regulatory obligations should only be imposed where they achieve these targets more effectively than reliance on market forces.”*

indicating a preference for receiving (or not receiving) the telephone directory. ComReg understands that it may be easier and more cost effective for the universal service provider to issue the telephone directory to every household instead of managing individual requests.

ComReg will carefully consider any representations it receives from interested parties for the provision of the comprehensive directory enquiry service or the telephone directory or both (and the maintenance of the NDD) throughout the State or a defined territory within the State. In the absence of compelling evidence which suggests that the contrary should be the case (including any expressions of interest from other operators) ComReg is of the preliminary view that the principal factors that resulted in *eircom* being designated as the USP in July, 2003 remain present in 2006 and that as a consequence *eircom* is likely to be again designated as the USP with respect to the provision of the printed telephone directory or of the directory enquiry service or both.

- Q. 5. What are your views in relation to the preliminary view that *eircom* should be designated as the universal service provider with respect to the provision of a subscriber directory and the directory enquiry element should it remain part of the universal service requirement? Are there other factors which should be considered by ComReg in making this designation?**
- Q. 6. Do you believe that the present provision of directory enquiry services meets the needs of end-users?**
- Q. 7. Do you think there is any benefit in removing the Directory Enquiry element from the Universal Service?**

## 9 Public Pay Telephones

The Regulations provide that a designated undertaking shall ensure that Public Pay telephones are provided to meet the reasonable needs of end-users in terms of geographical coverage, number of telephones, accessibility of such telephones to disabled users and the quality of services. The USO payphones cover those located on the street and in other public areas available to the public at all times (i.e. with unrestricted access).

Since the previous examination of the universal service there has been a dramatic increase in the uptake of mobile telephony, with mobile penetration currently at over 100% penetration. This is evidenced from figure 2<sup>18</sup> below which shows the fall in a number of public payphones across certain European countries<sup>19</sup>. The figure presents the percentage difference between the number of public payphones and mobile penetration rate in the period between the years 2000 to 2005.

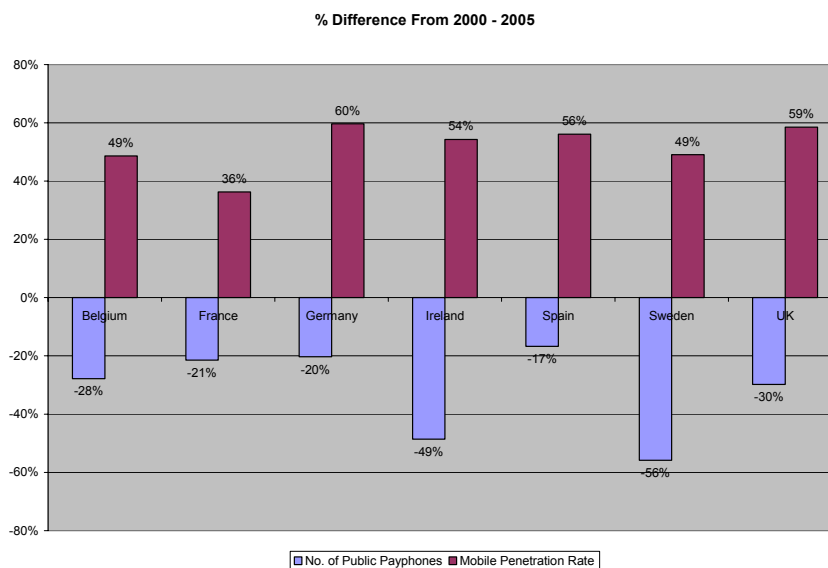


Figure 2: Public Payphones and Mobile Penetration

As a consequence of the growth in mobile telephony, some further reductions in the number of payphones in both urban and rural areas may be unavoidable due to a possible further fall in demand for Payphones. However, in carrying out any reduction in the number of USO Payphones, the Universal Service Provider must ensure that the USO is met. The number of USO payphones operated by *eircom* at the end of September 2005 was 4,095.<sup>20</sup>

<sup>18</sup> Cullen International, 2005

<sup>19</sup> To note this is likely to be influenced by the NRA, and linked to their regulatory obligations in terms of Universal Service Obligations.

<sup>20</sup> Information available on [www.eircom.ie](http://www.eircom.ie)

Despite the decline in use, payphones continue to provide a key service to many people and are important for reasons of social and economic inclusion. A public payphone is valued and needed by many people without a land line or a mobile phone or those away from home, or those whose mobile phone is out of credit, or those who for whatever reason choose to use a payphone instead of their mobile phone. It was identified from a consumer survey undertaken for ComReg<sup>21</sup> that the primary reason why respondents had used a payphone was that it was convenient. Other explanations were that respondents could not use their mobiles (e.g. no call credit, or coverage) or that it was less expensive than mobile or landline services. The results are set out in Figure 3 below.

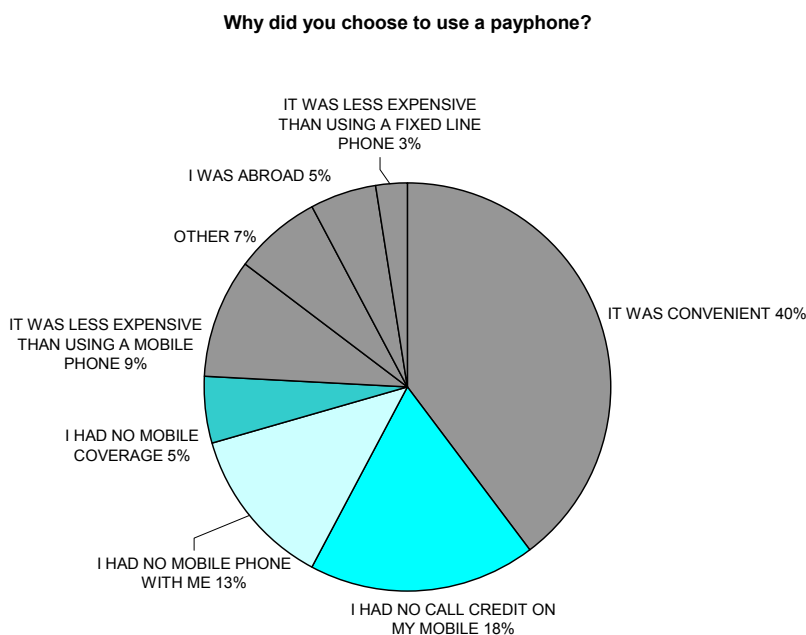


Figure 3

From the information received by ComReg as part of its market review, most publicly located payphones can facilitate a number of payment options, however all such payphones are coin enabled which is the most common means of payment for calls from payphones. This is supported by the ComReg survey which indicated that 80% of respondents who had made a call from a payphone had paid for it with coins (as opposed to 17% using a pre paid calling card, 2% using a credit card and 1% using another form of payment)<sup>22</sup>.

<sup>21</sup> Amárach Consulting Trends survey Wave 3 2005

<sup>22</sup> Amárach Consulting Trends survey Wave 3 2005

The definition of a Public Pay Telephone provided in the Regulations is “a telephone available to the general public for the use of which the means of payment may include coins, credit cards, debit cards or pre-paid cards, including cards for use with dialling codes. The current requirements oblige the USP to ensure where possible, that all public pay telephones provide for a number of payment means. In addition, it must be possible to make emergency calls free of charge from all public pay telephones.

The ubiquity of *eircom*'s 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 only provider to offer services over their own networks. Competing operators also provide services but they provide these services via the purchase of *eircom*'s wholesale products. This may prove problematic for competing providers to meet the Universal Service Obligations.

ComReg will carefully consider any representations it receives from interested parties for the provision of Public Pay Telephones throughout the State or a defined territory within the State. In the absence of compelling evidence which suggests that the contrary should be the case (including any expressions of interest from other operators) ComReg is of the preliminary view that the principal factors that resulted in *eircom* being designated as the USP in July, 2003 remain present in 2006 and that as a consequence *eircom* is likely to be again designated as the USP with respect to the provision of Public Pay Telephones.

**Q. 8. What are your views in relation to the preliminary view that *eircom* should be designated as the universal service provider with respect to the provision of public pay telephones? Are there other factors which should be considered by ComReg in making this designation?**

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

The Regulations provide for specific measures for users with disabilities. ComReg can specify obligations applicable to designated undertakings, for the purpose of ensuring that end-users with disabilities can enjoy access to and affordability of publicly available telephone services equivalent to that enjoyed by other end-users.

In July 2003 the following obligations were imposed on the USP with respect to the provision of services to users with disabilities.

### **For users that are hearing-impaired**

- Inductive couplers which allow users with a hearing aid set to connect the set 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 telephone rings.

### **For users that are hearing and/or speech impaired**

- A text Relay Service providing 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.
- A rebate scheme whereby, as a result of the time taken to make a text telephone call, equality of payment for deaf text telephone users can be assured.

### **For users with limited dexterity or mobility**

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

### **For users with restricted vision**

- Restricted vision telephones which can help people with restricted vision to find other numbers more easily.
- Braille billing free of charge.
- Special directory enquiry arrangements which allow those users unable to use the phone book because of a disability, to use a directory enquiry service free of charge.

In addition, the USP was required to develop and publish a code of practice for the provision of services to users with disabilities. This was developed and incorporates details of the services which it provides to comply with the mandatory requirements. The code of practice is available on the *eircom* website at [http://www.eircom.ie/bveircom/pdf/code\\_of\\_practice\\_disability.pdf](http://www.eircom.ie/bveircom/pdf/code_of_practice_disability.pdf)

ComReg notes that the mandatory set of obligations may be less than voluntary measures being taken by operators. ComReg's preliminary view is that the current set of obligations on the USP be maintained. Additional measures may well be taken by the USP and/or other operators, though ComReg would also be interested in views as to whether there should be a different set of mandatory obligations.

**Q. 9. What are your views on setting of requirements to ensure that the needs of users with disabilities are met? Is the current set of obligations appropriate, or should a larger or smaller set of obligations be imposed?**



## 11 Affordability

The Universal Service Regulations require designated undertakings to adhere to the principle of maintaining affordability for the set of Universal Services, that is, provision of access at a fixed location, directory enquiry, public payphones. In particular, affordability has to be maintained in rural and high cost areas, for vulnerable user groups such as the elderly and for users with disabilities. From the point of view of end users and the competitiveness of the economy generally, Irish communication costs should not exclude the most vulnerable in the community from making a minimum use of telephony services. While communications services are a basic necessity for all users, ComReg feels strongly that protections for vulnerable customers need to remain in place. These should aim to protect vulnerable customers from a rapid increase in overall bills.

At present, affordability is maintained by way of a number of different measures which include:

- within the price cap regime, notably, overall safeguard control on consumers' bills (on line rental and calls)
- the Department for Social and Family Affairs (DSFA's) Free Telephone Rental Allowance (FTRA); and
- Vulnerable Users scheme.

An overall basket price cap (on access and domestic calls considered together) of CPI – 0% has been imposed on *eircom* since February 2003. The maximum average price increase of the services subject to the cap is the rate of inflation.

After any final decision on the market reviews of the retail access and calls markets, ComReg may issue a consultation paper later this year relating to the review of the Price Cap Order<sup>23</sup>. If SMP is found in any or all of these markets ComReg will ensure that affordability considerations are borne firmly in mind on any decisions taken in relation to any future price cap controls.

Subsequent to introduction of a price cap in 2003, a "Vulnerable Users" scheme was introduced by *eircom* in June 2003. It is targeted at low users, including those who may qualify for the *eircom* social benefit scheme. Under this scheme, which is an optional scheme, increases in the size of vulnerable users' telephone bills where they have a relatively low usage will be limited. This scheme works as follows: if a user currently spends less than €10 a month on calls the scheme entitles the user to the first €6.46 worth of calls free. It should be noted that once a customer's bill is over €10 per month the call rates double after €5. All figures are inclusive of VAT.

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<sup>23</sup> The current price cap mechanism is set out in the Price Cap Order (Telecommunications Tariff Regulation Order 2003, S.I. 31 of 2003)

The Department for Social and Family Affairs also operates a number of schemes which are designed to protect vulnerable users (such as pensioners, widowers and defined disability groups) and ensures affordability for services. For example, the *eircom* social benefit scheme is targeted at consumers in receipt of the Department of Social and Family Affairs (DSFA) Telephone Allowance. The scheme provides users who qualify for the scheme with free line rental and credit of up to €1.21 towards calls each month.<sup>24</sup>

Pursuant to the Regulations ComReg may require the designated undertaking to apply common tariffs, including geographic averaging. ComReg is not proposing to change its previous requirement that that 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.

**Q. 10. Do you believe that the current measures outlined above provide suitable protection for vulnerable users? Alternatively, please comment on how additional protection could be best delivered or unnecessary requirements removed.**

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<sup>24</sup> Further details of this scheme is on the *eircom* web site:  
[http://www.eircom.ie/About/Activities/Sn1\\_pt19.pdf](http://www.eircom.ie/About/Activities/Sn1_pt19.pdf)

## 12 Control of Expenditure

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 unable to pay their bill and facing disconnection from the network. ComReg can make rules for the purposes of ensuring that subscribers are in a position to monitor and control expenditure. Measures which can be taken 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.
- **Introducing a spend threshold:** the ability to set a limit on the charges on your bill.
- **Phased Payment of Connection Fees:** the facility whereby consumers can pay for their connection fees on a phased basis.
- **Non-Payment of Bills:** a disconnection policy.

**When responding to the questions below, respondents should consider whether any benefits from the measures discussed are likely to exceed the cost of provision.**

### 12.1 Itemised Billing

*eircom* is required to provide a minimum level of itemised billing free of charge to subscribers who request this facility. The level of itemisation provides subscribers with a list of numbers called, call cost and duration, with subtotals by call type, line and equipment rental along with full details of any relevant discounts.

ComReg believes that the current level of itemised billing as provided is sufficient to allow consumers to verify their charges and assist them in the control of their expenditure, therefore ComReg does not believe this facility needs to be amended at this time.

**Q. 11. Do you agree with the approach regarding call itemisation above?**

### 12.2 Selective Call Barring

*eircom* currently offers call barring to Premium Rate Services free of charge to subscribers. 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:

- Premium Rate, International, Cross Channel and National
- Premium Rate, International and Cross Channel
- Premium Rate and International
- Premium Rate and Mobile

- All of the above

ComReg believes the call barring options available are reasonable in terms of enabling users to control their expenditure. ComReg remains unclear as to the necessity of having a charge for end-users who request this facility as a way of controlling expenditure, ComReg believes that end-users who wish to bar access to particular services should be able to do so without incurring a charge for such a request. ComReg does not propose to make any amendments to the call barring options at present but may do so in relation to the charges imposed for such services.

**Q. 12. Do you believe that the call barring options are reasonably sufficient to enable users to control their expenditure?**

**Q. 13. What are your views in relation to charges for availing of call barring options as a means of controlling expenditure?**

### **12.3 Setting of Spend threshold**

While the vulnerable users scheme assist those end-users spending less than €10 a month on calls, subscribers who are just outside the scope of this scheme may benefit from a mechanism that would enable them to limit the size of their telephone bill.

One such mechanism is a facility whereby a subscriber could set a credit limit on their account. This would work much in the same way as a credit card limit, however, once the limit is breached the subscriber would be informed and asked whether further outgoing calls should be permitted (i.e the subscriber would be empowered to decide on permissible usage).

**Q. 14. What are your views on the possibility of facilitating end-users to set a credit limit on their telephone account as an aid to control expenditure?**

### **12.4 Phased Payment for Connection Fees**

In the previous universal service review, phased payment for connection fees was introduced. The core aim of the Universal Service Obligation is to ensure that as many people as possible can get access to telephony services and the phasing of connection fees ensures that users are not inhibited from early connection because of an inability to pay the total connection charge in one payment. The scheme is implemented using a direct debit option. ComReg does not propose to make any changes to this program at this time.

**Q. 15. Do you believe that the option of spreading payment of connection fees is useful to enable subscribers to get connected to the network?**

### **12.5 Non Payment of bills**

There is an existing obligation on all operators to publish their disconnection policy as part of their Code of Practice on Consumer Complaint Handling. In the previous review ComReg considered whether the USP should have a more detailed disconnection policy however, it was decided that a balance had to be struck between protecting users from unwarranted disconnections and commercial interests.

ComReg is not proposing to amend *eircom*'s disconnection policy currently. Their disconnection policy provides if you do not pay your bill by the account due date *eircom* may restrict your ability to make and receive calls, however, while doing this *eircom* will endeavour to contact you to remind you that your bill is overdue.

**Q. 16. Do you believe that the current disconnection policy is reasonable?**

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

Pursuant to the Regulations a Universal Service Provider may seek to 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.

Regulation 11 (1) provides that “Where an undertaking designated as having an obligation under Regulation 3, 4, 5, 6, 8 or 9 seeks to receive funding for the net costs of meeting the obligation concerned, it may submit to the Regulator a written request for such funding.” Should ComReg receive a request from a designated operator, it will carefully assess that request. If funding is granted, such funding would be levied from the general telecoms sector.

## **14 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 30 March 2006 to 11 May 2006 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 subject matter of the consultation and publish a report in June 2006 on the consultation which will, inter alia summarise the responses to the consultation.

In order to promote further openness and transparency ComReg will publish all respondents submissions to this consultation, subject to the provisions of ComReg's guidelines on the treatment of confidential information – ComReg 05/24. We would request that electronic submissions be submitted in an-unprotected format so that they can be appended into the ComReg submissions document for publishing electronically.

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.

As it is ComReg's policy to make all responses available on its web-site and for inspection generally, respondents to consultations are requested to clearly identify confidential material and place confidential material in a separate annex to their response

Such Information will be treated subject to the provisions of ComReg's guidelines on the treatment of confidential information – ComReg 05/24

## Appendix A – Regulatory Impact Assessment

In this annex, ComReg engages in a regulatory impact assessment to consider whether the imposition of obligations is justified

ComReg would first point out that the Regulations give very little choice to ComReg about the basic issue of designating a Universal Service Provider (USP). Regulation 7(1) states “...the Regulator shall designate one or more undertakings, for such period as may be specified by the Regulator, to comply with an obligation referred to in Regulation 3, 4(1)(a), 4(1)(b), 4(3), 5 or 6 and, where applicable, Regulation 8(2), so that the whole of the territory may be covered.” As such, the act of designation for the various different aspects of universal service should be taken as a given.

On the issue of who the costs of any obligations would fall on, ComReg would note that if they are considered to be an unfair burden on any designated operator, then that operator may make an application for the costs of such a burden. If such costs are granted, they are funded from the industry as a whole. This provision means that there is an automatic protective mechanism for entities designated, thus ensuring that any one telecoms operator will not be negatively affected by being designated, but that instead the burden will be shared amongst a number of operators. Indeed, given the “goodwill” and various other benefits which may attend any USP, it is possible that the USP could be a net beneficiary. It is true that a USP applying for any funding, and ComReg assessing such an application, will involve some administrative costs, but they are likely to be very small compared to the overall costs and benefit involved.

On the issue of provision of fixed access, it is noted that the limit of €7,000 defined in D09/05 gives a USP further protection; any costs above this amount incurred in the provision of a connection will be paid for by the applicant. With regard to directory services, the maintenance of the National Numbering Database is funded by the licence fees for the provision of the information to directory enquiry service providers and printed directories. The printing and distribution of a paper directory obviously involves a direct cost but also confers advantage through paid for advertising and brand awareness. On the issue of public payphone availability, ComReg would note that a network of payphones is already extant, and it is unlikely that any increase in public payphones as a result of designation would result in their provision on non-commercial terms. A recent Information Notice issued by ComReg (06/14) clarified policy on removing public payphones for which there was no longer a clear need.

The above suggests that none of the three designations should place substantial costs on any single operator. Even if they did, as discussed near the start, a fund would ensure that the burden was spread throughout the industry. The total costs (considered as falling on the entire industry, and ultimately on all users of communications services) are likely to be limited in relation to the benefits from USO provision, which ensure access to communications at a reasonable cost for all



those living in the State. This access to information and communication services confers substantial social benefits throughout Irish society.

ComReg does have some discretion about some specific obligations to be included in any USO designation. In Sections 10, 11 and 12, it has considered a variety of specific issues relating to access for disabled users, affordability and control of expenditure. These may involve some net cost to the USP, and ultimately the industry, but in each case ComReg sees benefits to consumers from these provisions. These include giving consumers greater information and control over how they purchase telephony services. However, ComReg is interested to hear any views on whether the benefits of these measures are likely to outweigh any costs, preferably backed up by supporting material.

**Q 17 What are your views on the general approach taken in this regulatory impact assessment?**

## Appendix B – Legislation

The principle legislation governing the area of Universal Service is set out in:

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

Communications Regulations Act, 2002, No. 20 of 2002

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

## Appendix C – Consultation Questions

### List of Questions

**Q1: What are your views on the factors identified above in considering Universal Service Obligations? Are there other factors which need to be considered regarding the provision of Universal Service? Please give reasons for your answer**

**Q2: What are your views on the factors outlined above in the context of defining an appropriate designation period?**

**Q3: What are your views in relation to the proposal above? Are there other factors which should be considered by ComReg in making this designation?**

**Q4: In your view what is the most appropriate way to deal with the situation described above?**

**Q5: What are your views in relation to the preliminary view that *eircom* should be designated as the Universal Service Provider with respect to the provision of a subscriber directory and the directory enquiry element should it remain part of the universal service requirement? Are there other factors which should be considered by ComReg in making this designation?**

**Q6: Do you believe that the present provision of directory enquiry services meets the needs of end-users?**

**Q7: Do you think there is any benefit in removing the Directory Enquiry element from the Universal Service?**

**Q8: What are your views in relation to the preliminary view that *eircom* should be designated as the universal service provider with respect to the provision of public pay telephones? Are there other factors which should be considered by ComReg in making this designation?**

**Q9: What are your views on setting of requirements to ensure that the needs of people with disabilities are met? Is the current set of obligations appropriate, or should a larger or smaller set of obligations be imposed?**

**Q10: Do you believe that the current measures outlined above provide suitable protection for vulnerable users? Alternatively, please comment on how additional protection could be best delivered or unnecessary requirements removed.**

**Q11: Do you agree with the approach regarding call itemisation above?**

**Q12: Do you believe that the call barring options are reasonably sufficient to enable users to control their expenditure?**

**Q13: What are your views in relation to charges for availing of call barring options as a means of controlling expenditure?**

**Q14: What are your views on the possibility of facilitating end-users to set a credit limit on their telephone account as an aid to control expenditure?**

**Q15: Do you believe that the option of spreading payment of connection fees is useful to enable subscribers to get connected to the network?**

**Q16: Do you believe that the current disconnection policy is reasonable?**