



Commission for
Communications Regulation

Response to Consultation

The Future Provision of Telephony Services Under Universal Service Obligations

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1 Foreword

On behalf of the Commission for Communications Regulation (“ComReg”), I am pleased to present our Response to Consultation on the Future Provision of Telephony Services under Universal Service Obligations which follows Consultation 06/16. I wish to thank the 11 respondents who provided views in relation to this paper.

In this paper ComReg is also publishing the text of the proposed decisions and, before seeking the consent of the Minister for Communications, Marine and Natural Resources, will consider submissions from interested parties on the text.

ComReg’s approach to the scope and designation of the Universal Service Obligation (“USO”) 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 Directive¹.

ComReg’s aim with regard to Universal Service is to ensure that basic fixed line telephony services are available at an affordable price to all end-users in the State.

In the Consultation Document 06/16 and on other occasions, ComReg drew attention to the fact that Broadband is specifically excluded from the definition of Universal Service. ComReg also notes that a review of the scope of Universal Service by the European Commission in 2005 and 2006 decided to maintain this exclusion.

Comreg notes the submissions included a detailed response from the National Disability Authority (NDA), and while the Draft Decision ensures disabled users will have access to telephony services, ComReg will establish a Forum to ensure the needs of disabled users are made known to all telecoms operators and to encourage the provision of such services by all service providers.

The new Universal Service regime will remain in place for a four year period ending in June 2010. It is hoped that this updated regime will lead to greater clarity in relation to the specific obligations and result in increased transparency for users.

Mike Byrne
Commissioner

¹ 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

ComReg is responsible for the regulation of the Irish electronic communications sector in accordance with national and EU legislation. One of ComReg's functions is to determine the scope of the Universal Service Obligation ("USO") for the Irish market and decide which undertaking(s) should be designated as the Universal Service Provider(s) ("USP").

This Response to Consultation follows Consultation document 06/16, "*The Future Provision of Telephony Services under Universal Service Obligations*" as issued on the 30th March 2006. In that document ComReg sought views on how to treat the specific aspects of the USO as follows:

- The designation period
- Which operator(s) should be designated as USP(s)
- Provision of access at a fixed location
- Directory services
- Public pay telephones
- Provision of services to disabled users
- Affordability
- Control of Expenditure

In designating an undertaking ComReg also took the following factors into consideration: market share; network reach; experience and ability to provide a Universal Service. Before making a formal designation and specifying requirements, ComReg, in accordance with the Regulations, will seek the consent of the Minister for Communications, Marine and Natural Resources.

Eleven responses to the Consultation were received which have been helpful to the Commission in deciding on the scope of the USO, the designated undertaking and designation period. The respondents were:

- ALTO
- BT Ireland
- *eircom*
- General Systems
- Ireland Offline
- John Noone
- Joe O'Neill
- John McFeely
- National Disability Authority
- Rehab
- Vodafone

3 Background

3.1 Review of Universal Service

During the last designation period some decisions were taken which have a bearing on the future requirements of the USP in meeting obligations. In particular Decision Notice D9/05² introduced a number of requirements related to the obligation to provide a connection to the public telephone network. Those requirements were introduced in 2005 following a public consultation and it is not deemed appropriate to revisit the issue at this stage. Accordingly, those requirements will remain in force and will continue to apply to the obligations to be met by the future USP. 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 28.8Kbit/s.

3.2 Universal Service Regulations

The current review is carried out in accordance with the European Communities (Electronic Communications Networks and Services)(Universal Service and Users' Rights) Regulations, 2003. The Regulations place the responsibility on ComReg for making decisions in the following areas:

- The scope of the obligation to provide telephone lines to end-users including its capability to provide functional Internet access – this was addressed by Decision Notice D9/05 outlined above.
- The scope of the obligation to provide directory information 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.
- Designating undertakings(s) as Universal Service Provider(s) for the above services.
- Ensuring that services are affordable for users.

² Universal Service Requirements – Provision of Access at a Fixed Location – Decision Notice D9/05.

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- Ensuring that 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 Consultation paper set out a number of factors relevant to determining the scope of the USO. The purpose of the Consultation paper was to obtain views from stakeholders in relation to these factors, 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. These factors included:

- **Developments in the Market** – The development of competition in the market provides greater opportunities for all or part of the USO to be fulfilled by operators other than the incumbent.
- **Significant Market Power (“SMP”) in Fixed Access & Calls Market** – ComReg believed that in considering the appropriateness of designating 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 USP. Neither should it be regarded as axiomatic that a designated USP should be considered as having SMP. These two issues are distinct from one other.
- **Disconnections** – ComReg considered that the question of disconnections was relevant in the context of subscribers’ ability to control their telephony expenditure. ComReg believes that the level of disconnections may be an indicator of the effectiveness of existing measures which facilitate such control, although many other factors also affect the level of disconnections.
- **Trends in Housing Growth** – In the past three years there has been significant growth in the number of new houses and apartments. The growth in housing completions impacts on 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 the USO.
- **Mobile Penetration Rate** – In the period since the previous designation for Universal Services there has been a substantial increase in the mobile penetration rate. By the end of 2005 mobile subscription penetration had reached 102%³. The subscriber penetration rate is based on the number of active SIM cards in the Irish market. However it should be noted that subscribers may have more than one active SIM card. The overall household penetration rate for fixed telephony in Ireland is approximately 73% based on an average of recent surveys commissioned by ComReg. Overall, while mobile usage is increasing, it does not yet appear to be a close substitute for fixed telephony services. Irrespective of possible shifts in the market between fixed and mobile services based on individual preferences, the Regulations require the designation of an undertaking for the provision of services at a fixed location.

ComReg asked whether the above factors were relevant in considering the scope of universal service and whether there were other issues that should be considered.

³ Quarterly key Data March 2006 Report – Document 06/15

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

4.1 Views of Respondents

This section summarises the views of respondents as expressed in their submissions.

eircom considered that the scale of activity in housing construction and household formation since the last review of universal service required a specific economic analysis by ComReg in order to reach a valid conclusion on the effectiveness and reasonableness of the current USO regime. *eircom* stated that according to the 2002 census⁴ there were 1.287 million households in the country. By 2005, the Department of the Environment estimated that the total national housing stock had reached over 1.6 million units. While allowing for over 200,000 houses built in the period 2003-2005 and allowing for housing obsolescence factor of .0007% this suggested a large number of unoccupied houses mainly in rural areas. These were predominately summer houses that generate little revenue for any operator following disproportionately high service provision costs.

According to *eircom*, over 30% of the national housing stock has been built in the last 10 years. Detached houses constitute 46% of the national housing stock, semi-detached houses account for 27%, terraced houses for 20% and apartments represent 6% of total stock. While apartment construction has grown rapidly it is significantly behind other EU countries. Close to one third of the national housing stock is made up of once off housing, i.e. detached housing in the open countryside. Against this background, the competitive nature of the telecommunications industry has a particular significance. Unlike other utilities, e.g. the ESB, which could reasonably assume all household connections would result in service use, *eircom* could not assume that houses to which access infrastructure is constructed, would in the event, agree to use a fixed line. *eircom* also stated that the percentage of houses that use only mobile telephony stood at approximately 25% and is increasing annually.

eircom stated its support for the principle of Universal Service, and accepted its wider responsibilities in the provision of certain services. *eircom* called upon ComReg to take the specific national conditions cited above into consideration when designating the USP and implementing universal service policy generally, including any estimation of net cost of the USO to be conducted.

BT Ireland submitted that the incumbent, *eircom*, still operated and controlled the ubiquitous copper access network and it was impossible that an alternative would be

⁴ 2002 Census of Population, Volume 13 CSO.

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established in the foreseeable future. For this reason BT Ireland maintained the USO
should remain with *eircom*.

ALTO stated that, overall, ComReg had examined the correct factors for review. In relation to designating a provider, it was most important to examine the markets for provision of fixed calls and access. Though there was not necessarily a link between SMP and designating a USP, the market analysis carried out in these markets provides directly relevant information for designating a provider of USO services. Though many consumers might not consider that narrowband internet access was sufficient, ALTO stated that at present this was the extent of the requirement under the regulatory framework, however, this might change by 2010.

Vodafone submitted that the factors identified by ComReg were relevant in considering USO. Vodafone agreed with ComReg that fixed and mobile communications services were presently in separate markets. The key factor in this regard was the additional functionality provided by mobile services relative to fixed services, with mobility as the key differentiator for the former.

Mr John Noone submitted that the factors mentioned in the Consultation Document were fair, but believed there was one glaring omission – the high failure rate for Broadband on Irish phone lines.

The National Disability Authority (NDA) recommended that ComReg consider the specific implications of new technology such as Broadband and mobile telephones for disabled users and also consider the population of people with disabilities in Ireland and their varied needs in terms of physical, sensory, intellectual and mental disabilities as a factor in the provision of universal service.

4.2 Commission's Position

The majority of respondents agreed that the factors identified in the Consultation were relevant and appropriate in considering the USO.

eircom in its response indicated that the growth in housing, especially once-off housing in rural locations, and the growth in mobile penetration should be taken into consideration by ComReg when designating the USP. ComReg in its assessment has considered these issues and believes that the Universal Service Provider should not have significant difficulties in providing network connections throughout 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 nationwide basis. *eircom's* 2006 annual report states that over 42,000 new homes signed up for *eircom's* fixed line service over the year, indicating that *eircom* is very capable of continuing to supply new homes with fixed line services as the number of homes continues to expand. Moreover, the vast majority of these new connections are relatively low cost: in 2005 ComReg carried out an analysis of the number of applications for connections to the *eircom* network in order to set the Reasonable Access Threshold of €7,000. ComReg estimated that 0.13% of the total number of applications received for service would exceed the threshold of €7,000. ComReg considers that this figure represents a small proportion relative to the overall number

Universal Service Obligations of connections. Consequently ComReg maintains the position that the threshold strikes a good balance between the interests of the majority of consumers in keeping costs down and the needs of applicants in remote areas.

In addition, while ComReg recognises that there has been growth in the mobile sector since the previous USO designation, the definition of the USO with respect to access as set out in the Regulations requires that connections to the public telephone network and access to publicly available telephone services are provided at a fixed location. ComReg interprets this as the provision of access to a premises. This view was supported by one respondent who agreed that mobile and fixed communication services were currently in separate markets. They believed that mobility of mobile services was the key differentiator.

One respondent believed that, as *eircom* still operated and controlled the copper access network, it was impossible that an alternative nation-wide provider would be established in the foreseeable future. For this reason they believed the USO should remain with *eircom*. This is a view that ComReg has taken into account and it is one with which ComReg agrees.

A number of respondents raised the issue of Broadband and mobile communications in their responses to this paper. In 2005, the EU Commission issued “Communication from the Commission to the Council, the European Parliament, The European Economic and Social Committee and the Committee of the Regions, on the review of the scope of the Universal Service in accordance with Article 15 of Directive 2002/22/EC⁵”. This document analysed in much detail, amongst others, Broadband and Mobile in the context of the Universal Service Obligation. The outcome of this paper was that neither Broadband nor mobile services would be included in the current scope of the Universal Service. A further Communication issued in April 2006⁶ following consideration of views received in relation to the 2005 document confirmed the position regarding the scope of Universal Services. This is a restatement of the position as set out in the Directive and in particular in Recital 8 which clarifies that the requirement to provide a connection at a fixed location is limited to a single narrowband network connection.

Issues addressing the cost of USO are dealt with in Section 12.

⁵ COM (2005) 203 of 24 May 2005

⁶ COM (2006) 163 Final of 17 April 2006

5 Duration of USO

In 2003, a period of 3 years was selected as the appropriate duration for all elements of Universal Service. The Consultation considered what the appropriate duration of the USO should be on based on a number of factors as follows:

- **The overall legislative framework** – The EU Commission has initiated a review of the framework and invited views from stakeholders on possible changes to the five Directives that comprise the current framework. The EU Commission is expected to publish its proposals for legislative change sometime in July 2006. The expected timescale for national transposition will be based on a number of factors but the chief factor will be the date of adoption by the EU institutions of the revised Directives. While this will be determined by the timescale of the institutions, ComReg considers the end of 2007 as the most likely date. ComReg envisages that a new framework at national level could therefore be anticipated in the period mid 2009 to mid 2010.
- **Review of the Scope of the USO** – 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 finalised in April 2006 and considered that the scope of Universal Service should remain unchanged. The next review is scheduled for May 2008.

Taking the above factors into account, ComReg offered a preliminary view that the duration of the USO should be for a period ending on 30 June 2010, which would extend beyond the anticipated date for transposition of any new framework.

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

5.1 Views of Respondents

This section summarises the views of respondents as expressed their submissions.

eircom supported ComReg's preliminary view that the duration of the USO should be for a period which extends beyond the anticipated date for national transposition of any new framework i.e. an approximate four year period ending on 30 June 2010. *eircom* maintained however, that ComReg Decisions introducing requirements related to certain aspects of the USO, such as the Reasonable Access Threshold, be reviewed and revised on a periodic basis.

BT Ireland agreed with ComReg's proposal to set a four year period for the duration of the USO as it had little confidence that access would change significantly over that time. In addition, the company recognised that there was always the safeguard that ComReg can review specific issues as necessary during this period.

ALTO also agreed that the duration of the USO should be for a number of years, and that it made sense to link the designation period to the expected time for the next set of Regulations to come into effect. It considered, however that to “Lock-up” consideration of the issues until 2010 was too long. ComReg should allow for a revision or review within this period if required.

Vodafone believed that the period should be no greater than 3 years.

The NDA believed that given the likelihood that a revised Universal Service Directive may be transposed into Irish Law some time between 2009 and 2010, the proposed timeframe seemed reasonable.

Rehab considered that the period should be shorter and that ComReg should preempt transposition by early assignment of a USO on a revised basis.

5.2 Commission’s Position

The majority of respondents agreed with ComReg’s view that the designation period should extend beyond the anticipated date for transposition of any new framework, i.e. a period ending on 30 June 2010. The period of designation is without prejudice to ComReg’s rights and obligations to regulate the market and to further review the requirements during the period as appropriate. As requested by a number of respondents, ComReg will keep implementation of the USO under review and may publish a mid term review during 2008.

<p>Decision No. 1. The Designation period will be for the period commencing on 25 July 2006 and ending on 30 June 2010.</p>
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6 Provision of Access at a Fixed Location

The Consultation assessed the scope of the USO with regard to meeting the reasonable requests of end-users for access. A fundamental requirement is that any reasonable request for connection to the public telephone network is satisfied by the designated USP. The Consultation described what ComReg considered appropriate in determining which undertaking would be capable of meeting this obligation throughout the State. Connections provided under the obligation should support

- Local, national and international calls;
- Facsimile communications and;
- Data communications at data rates sufficient to permit functional Internet access. As noted earlier, Recital 8 of the Directive makes clear that the connection required is limited to a single narrowband connection

Over the past three years much work has been done in order to provide transparency regarding the criteria used to assess the reasonableness of any request for connection. This resulted in Decision Notice D9/05⁷ in September 2005 which addressed both connections to the public telephone network and the provision of functional Internet access. The current consultation did not revisit these issues but merely restated the requirements for clarity.

When considering who should be designated as the USP for the provision of access and services, it is important that the USP 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 nationwide 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. Furthermore over 95% of total fixed narrowband connections are provided, directly or indirectly, over *eircom's* network.

The Consultation stated that, in the absence of compelling evidence which might suggest the contrary to be the case (including any expressions of interest from other operators), ComReg was 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* was likely to be again designated as the USP with respect to the provision of access at a fixed location. Views on the following question were sought.

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

6.1 Views of Respondents

eircom submitted that the paper did not contain any substantive review of the framework and sought simply to roll over the current arrangement, which was unsupported by any cost-benefit analysis or a Regulatory Impact Assessment. It maintained that there was no economic or market analysis justification presented to support the ComReg proposal to re-designate *eircom*. The sole rationale presented was that, by virtue of its ownership of the PSTN, *eircom* was capable of meeting the reasonable requests of end-users on a nationwide basis. In addition, *eircom* considered as a “wholly inadequate approach” ComReg reliance on the fact that *eircom* remained the major fixed line provider in the market.

BT Ireland agreed that *eircom* should remain as the designated USO provider, as the incumbent still operated and controlled the copper access. It would be impractical and uneconomic for other operators to lay a new national access infrastructure in the foreseeable future. The company believed it would also be environmentally unwelcome.

ALTO stated that the current arrangement to meet the cost above the €7,000 threshold seemed appropriate as this scheme was relatively new and was consulted on prior to its introduction. ALTO was not aware of any deficiencies having been highlighted with the scheme.

Vodafone was in agreement with ComReg, in that any operator providing universal service should display technical competence and have an established process for fault management, etc. However, Vodafone did not hold a specific view in relation to the specific targets proposed by ComReg.

Mr John Noone stated that the current functional internet access rate was acceptable i.e. that ComReg did not make any requirement for the USP to have a minimum data rate but considered that a minimum data rate should be ISDN at 64k. In the circumstances it considered 28.8k (with no line splitting) as the very bare minimum this data rate should be set at.

The NDA, while agreeing with the preliminary view that the principal factors that resulted in *eircom* being designated as the USP in July 2003 remained present in 2006, believed that *eircom's* performance under the existing USO should be considered as a factor in its re-designation.

6.2 Commission's Position

The majority of respondents agreed with ComReg's assessment that *eircom* should be designated as the USP.

In accordance with Regulation 7 of the Universal Service Regulations, ComReg is required to designate one or more undertakings “so the whole of the territory may be covered”. Therefore, in considering the designation of an undertaking to provide connections to the public network and access to telephony services, the ability of the network operator to meet the requirements for the delivery of services as they are defined within the scope of the USO is clearly important.

ComReg considered which operator would be most suitable in order to meet the needs of end-users on a nationwide basis so that the needs of end-users could be met without significant difficulty. *eircom* is still by far the largest fixed-line operator; the latest figures from ComReg's Quarterly Report indicate that, in Q1 2006, *eircom* had a total market share of 76% of narrowband fixed line revenues.⁸ While this represents a reduction of 4% from 12 months previously, it leaves *eircom* with a substantial market position, far in excess of any other operator. Moreover, *eircom* maintains an extremely high share, in excess of 95%, of PSTN access lines, which are the main way residential consumers access fixed-line telephony services.⁹

If any other fixed-line operator were to be designated, it would start from a much lower customer base, and crucially, would not have ownership of the PSTN network. It would consequently be in a weaker position to respond to reasonable requests, thus implying consumers could suffer longer timescales in obtaining connections, and might have to face higher costs. It should also be noted that no other operator expressed any interest in being designated for this function. It should also be noted that mobile access, though offering service on a national basis, does not meet the legal requirement of access at a fixed location, while many alternate wireless providers do not have national licenses, and none have roll-out at a national level. Accordingly, designating any operator providing these services would not be a feasible option.

Therefore ComReg remains of the view that the undertaking which owned the PSTN would be best placed to meet the reasonable requests of end-users on a nationwide basis. It is also apparent from the absence of any expressions of interest that no other operator was capable or willing to provide a universal service. We would also note that in the Executive Summary of *eircom's* response to the Consultation document, it stated that "*eircom is willing to accept ComReg's proposal that eircom be re-designated as the USP provided that the universal service obligation (USO) imposed is proportionate and aligned with the principles of the European Union Universal Service Directive and that eircom has the necessary right to comply with the obligation in a cost-effective manner*".

With regard to the reasonable access threshold and the minimum data rate for functional internet access as mandated in Decision Notice D9/05, the Consultation did not revisit these issues but merely restated the requirements for clarity. Therefore they remain separate from this Decision Notice and will be reviewed as required. However, we believe that they provide the USP with the clarity and ability to comply with the obligation in a cost-effective manner.

Accordingly, ComReg remains of the view that the principal factors that resulted in *eircom* being designated as the USP in July 2003, remain present in 2006. ComReg therefore believes that *eircom* should be designated as the Universal Service Provider for the forthcoming period.

⁸ See Document O6/28.

⁹ See Document O5/25. ComReg's data indicates that this figure remains accurate at the time of issue of this document.

**Decision No. 2. In accordance with Regulation 7 of the European Communities (Electronic Communications Networks and Services)(Universal Service and Users' Rights) Regulations, S.I. 308 of 2003, *eircom* is designated as the Universal Service Provider with obligations under Regulation 3.
This Designation shall take effect on 25 July 2006 and apply throughout the State ending on 30 June 2010.**

6.3 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 residential 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. It is claimed that the effect of this is to render impossible the provision of service by anyone other than the operator with the benefit of the exclusive agreement. While the legal issues around this issue have not been tested, ComReg sought 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?

6.4 Views of Respondents

eircom highlighted that it no longer enjoyed statutory wayleave rights, or rights of entry to land, as an "essential service" provider as it previously had under the Telegraph Acts 1863 to 1916, as amended by the Postal and Telecommunications Services Act 1983. *eircom* stated that it was reliant on the voluntary co-operation of third parties to allow access to private property for it to fulfil its USO. *eircom* thus could not accept that it could be found in breach of its USO in areas where the owners of private property refused the necessary access to it. If *eircom* was not obliged to provide unreasonable requests for access, then it must follow that it was not obliged to provide impossible requests for access, for example, where *eircom* was denied access to private property and no longer had a statutory wayleave. Even if that were not the case, there would be no purpose in finding *eircom* in breach, because there was nothing *eircom* could do to remedy the situation. In addition, *eircom* said that it would write to the Department of Communications, Marine and Natural Resources regarding its view on the deficiency of the Communications Act 2002. *eircom* also called on ComReg in the interim to issue regulatory guidelines to

the industry including property developers in particular concerning the implications for the USO.

BT Ireland's view was that the access seeker and access provider should be allowed to try to reach a commercial agreement. Where this failed and a formal regulatory dispute was triggered, then ComReg should seek to establish a fair and reasonable outcome which enabled consumers to avail of universal service. BT Ireland's view was that the consumer should have the right to be able to receive universal services.

ALTO believed that exclusive arrangements should not impact on the USO designation. The general obligation to provide access throughout the country would remain, however, in the particular circumstance where the USP was denied physical access to the building to install the access line, then the services could not be provided. This was not due to a fault on behalf of the USP, and could not reasonably be held in breach of the obligation, for so long as the USP had made all reasonable attempts to gain access.

Vodafone was concerned about the current practice of exclusive contracts between developers and fixed operators and welcomed ComReg's comments on this issue. It saw an increase in this trend and had serious concerns as to how this would impact on the USO in the future. This practice had a negative effect on the competitive consumer market. However it was unclear how an operator would be able to provide universal services to customers if they were legally restricted from gaining access to a customer's premises.

Mr John Noone believed that ComReg should work with planning authorities to ensure that all new developments were wired by the relevant developer. Companies including the USP, could then tender for the provision of a service.

Ireland Offline said it had received reports of difficulties consumers had with residents of some apartment complexes being unable to install antennae and so being unable to access wireless broadband, with the only option (for broadband) being to take a bundled TV/phone/broadband service from the sole supplier. It considered that if a developer refuses access to the USP, it should automatically have to assume the obligations which the USP has in relation to that development.

The NDA considered that denying physical access to the USP raised significant concerns regarding the accessibility of non-USP services to people with disabilities. Non-USP providers had limited legal obligations regarding people with disabilities and did not have the same requirements for providing access to fixed line services for people with disabilities. The Universal Service Directive was enacted to ensure that all end-users, including people with disabilities, had access to publicly available telephone services. The NDA was of the view that ComReg should use its powers to ensure access to fixed line services for all end-users on a universal service basis.

6.5 Commission's Position

ComReg welcomes the views from respondents with regard to the issue of commercial agreements between developers and non USP operators.

The Regulations make it clear, through the qualification that requests for connection to the public telephone network and access to publicly available telephone services be “reasonable”, that the entitlement to universal service is not absolute. However, it is ComReg's view that the USP should have to demonstrate in each case that is brought to ComReg's attention what has been done in the attempt to provide connection and access. The USO should also satisfy ComReg, where these efforts have failed, that the request could be considered as not being reasonable. In ComReg's view, the USP's efforts should at a minimum include, but would not be limited to, the following:

- Initiate commercial negotiations to access the network of operator with the exclusive access agreement.
- Initiate commercial negotiations to share physical infrastructure with the physical infrastructure provider and request ComReg to intervene under Section 57 of the 2002 Act.
- Assess and pursue as appropriate alternative technical options to meet reasonable requests for access, for example with Fixed Wireless Access.
- If the above efforts fail to allow *eircom* satisfy the request the USP might seek ComReg's intervention in accordance with Regulation 6 of the Access Regulations.

Accordingly, if the USP could demonstrate that it had followed the steps as outlined above and had still not obtained connection and access or the price of obtaining connection and access was above the reasonable access threshold of €7,000 and the applicant did not agree to pay the excess expenditure, the particular request could be regarded as not reasonable.

7 Directory Services

With regard to 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 directory inquiry (“DQ”) service is made available to all end-users, including users of public pay telephones.

To date, *eircom* as the USP has been providing both elements i.e. a telephone directory and a comprehensive DQ service. Since the previous designation, the DQ market has grown. In addition to *eircom*'s service, Conduit and, more recently, Numbers Direct, provide such a service. This leads ComReg to believe that DQ services are being provided on a commercial basis. The consultation questioned the appropriateness of including a DQ element as component of the USO going forward.

The Regulations provide 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 considerable experience in managing the NDD which is the foundation for all directories and DQ services. As *eircom* customers make up the majority of subscribers included in the NDD, ComReg considered that *eircom* might be the most suitable undertaking to provide this obligation.

In the Consultation, ComReg stated that it was of the preliminary view that, in the absence of compelling evidence which suggested the contrary to be the case (including any expressions of interest from other operators), the principal factors that resulted in *eircom* being designated as the USP in July 2003, remained present in 2006. ComReg therefore stated that *eircom* was likely to be again designated as the USP in respect of the provision of the printed telephone directory or of the DQ service or both.

In the Consultation, the following question was asked:

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?

7.1 Views of Respondents

eircom stated that it remained committed to providing and maintaining a quality subscriber directory and believed that this element should remain part of the universal service requirement. In contrast, as ComReg had stated itself, the provision of DQ services was increasingly being offered on a commercial basis with

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an increasing number of players. Accordingly, *eircom* called for the directory enquiry element to be removed from the scope of the universal service.

BT Ireland supported the distribution of paper telephone directories and over the next four years, with the growth of broadband, stated that it expected to see greater availability of on-line directories. BT Ireland supported the view that *eircom* should be designated as the USO for maintaining the NDD.

ALTO believed that *eircom* should continue to be designated as the provider of a directory. It said that the vast majority of subscribers with directory entries were *eircom* customers.

Vodafone agreed with ComReg's preliminary view.

The NDA made several recommendations with regard to directory services, as follows

1. A directory of subscribers should be provided on request, and free of charge in a range of alternative formats (including CD-Rom and over the Internet) to users with a disability,;
2. Electronic formats of the directory should be accessible to all users and should comply with WAI's WACG 1.0 standard;
3. All USP directory enquiry staff should receive training and guidelines on dealing with customers with disabilities, and in particular on the PIN-number system for directory enquiries; and
4. The USP should provide a directory enquiry service using SMS text messaging to facilitate deaf people and people with hearing impairments.

7.2 Provision of DQ Service

In the Consultation, the following question was asked:

Q. 6. Do you believe that the present provision of directory enquiry services meets the needs of end-users?

eircom stated that it believed that the current service met the needs of end-users for basic DQ services. While *eircom* believed the market for basic DQ was falling, volumes remained significant and there was steady positive customer feedback on the service. Furthermore, *eircom* noted that only a small proportion of the current 4.2 million mobile subscribers had been made available for inclusion in the NDD. This, it said, did not seem to align with the policy objective of directory enquiry services covering fixed and mobile customers. *eircom* believed there was a need to address this imbalance.

BT Ireland was not aware of any major issues with DQ, however, it considered it important that pricing be kept at a reasonable level. High DQ pricing in other countries had been a major issue, even with significant competition.

Vodafone stated that it believed that the present provision of DQ services met the needs of end-users.

Mr John Noone believed that the present provision of directory enquiry services met the needs of end-users.

In the Consultation, the following question was presented :

Q. 7. Do you think there is any benefit in removing the Directory Enquiry element from the Universal Service?

eircom agreed with the removal of the DQ element from the USO. Directory Enquiries was a service of convenience and the law of supply and demand would determine whether a service continued. The customer would support a DQ service they felt best fulfilled their needs. Removal of the directory enquiry service element from the USO would ensure that there were no obligations to provide a service in a scenario where customers did not want it, or no longer perceived it to be essential or relevant.

BT Ireland supported the principle that regulation should be discontinued where it was no longer required. In the case highlighted where there was now competition in the limited area of DQ services, ComReg should evaluate that market to decide whether the competition was competitive or merely prospectively competitive. If prospectively competitive ComReg should look to what was needed to sustain such competition going forward, and evaluate the impact of deregulation.

ALTO saw no practical difference in whether the current DQ designation was continued or not. The services were available to all users on the same basis, there was no geographic differentiation of the service, and retail tariffs were not subject to regulation. If the designation was removed, it was unlikely that *eircom* would discontinue the service. By the same token, the current designation of *eircom* as USO provider of a DQ service did not seem to place any restrictions or cost on *eircom*, so its continuation in the current form should not raise any objections.

Vodafone's opinion was that the provision of DQ Services was competitive and therefore the obligation should be relaxed or revoked.

Mr John Noonr did not think there was any benefit in removing the DQ element from the Universal Service element.

7.3 Commission's Position

ComReg agrees with the majority of respondents that the DQ market appears increasingly competitive. ComReg is of the view that currently the needs of end-users appears to be met by a number of service providers active in the market, including *eircom*. The entry of new operators suggests that the market contains realistic opportunities and will, for the foreseeable future, be served on a commercial basis. ComReg would also point out that irrespective of the state of competition for the DQ market, the Regulations do not require that both a DQ service and a paper telephone directory be set as a USO requirement. Therefore ComReg believes that the DQ element should no longer be part of the USO.

ComReg considers that the USO regarding the production of a comprehensive telephone directory should continue to be fulfilled in the same manner as previously employed, i.e. that the USP will continue to provide the printed telephone directory free of charge to all end-users. In addition, the USP for directory services is also required to maintain the NDD. The comments regarding an alleged imbalance with the current level of mobile subscribers included in the NDD, do not raise a matter of direct relevance to the current decisions. However, ComReg notes that all subscribers to publicly available telephone services have a right to an entry in a directory and a DQ service. Subscribers also have the right not to be included i.e. to be ex-directory. It is understood by ComReg that mobile subscribers are automatically denoted as ex-directory, i.e. not included in the NDD, unless they express a contrary preference.

Given that *eircom* customers make up the majority of subscribers included in the NDD, ComReg considers that *eircom* is the most suitable undertaking to provide these services on a universal service basis.

With regard to the specific requirements of people with disabilities, ComReg is supportive of the general thrust of the NDA recommendations. In the context of alternative directory formats, *eircom* currently provide a searchable on-line directory. This is provided without the need for regulatory intervention. A similar facility is provided by another service provider. In 2003 ComReg required the USP to make directories available on CD Rom. Subsequently, due to an absence of sustained demand, ComReg agreed to an *eircom* request to withdraw this requirement in August 2005 having consulted with the NDA. In the circumstances, ComReg does not believe there is any merit in re-mandating this requirement until there is a proven demand for the product.

Regarding the format of the online search facility, ComReg considers that all service providers should endeavour to follow best practice in respect of accessibility of their websites. ComReg will pursue this topic in discussion with its proposed industry wide forum – See Section 9 - and consequently considers that it would be premature to set a specific regulatory requirement on the USP in advance.

The issues raised in relation to staff training and awareness are addressed in Section 9.

The use of SMS technology for directory enquiries has previously been reviewed by *eircom* and benchmarked throughout Europe. Take-up was found to be very low due to service limitations. A critical limitation is the need for a query to be very precise in order to return correct information. ComReg is not therefore proposing to set such a requirement as part of a USO obligation.

Decision No 3. In accordance with Regulation 7 of the European Communities (Electronic Communications Networks and Services)(Universal Service and Users' Rights) Regulations, S.I. 308 of 2003, *eircom* is designated as the Universal Service Provider with obligations under Regulation 4. The USP will be required to:

a) Provide to end-users a comprehensive printed directory of subscribers, free of charge and updated at least once a year, based upon information supplied to it in accordance with the National Directory Database.

b) Keep a record (to be known as the National Directory Database) of all subscribers of publicly available telephone services in the State, including those with fixed, personal and mobile numbers who have not refused to be included in that record and allow access to any information contained in such a record to any such other undertaking or any person in accordance with terms and conditions approved by ComReg.

8 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. 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 USO designation there has been a dramatic increase in the uptake of mobile telephony and by the end of 2005 mobile subscription penetration had reached 102%. 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 people without a land line or a mobile phone; by those away from home, those whose mobile is either out of credit, battery power or coverage area or those who for whatever reason, choose to use a payphone instead of their mobile phone. A consumer survey undertaken for ComReg¹⁰ identified convenience as the primary reason why respondents used a payphone. Other explanations given 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 1, below.

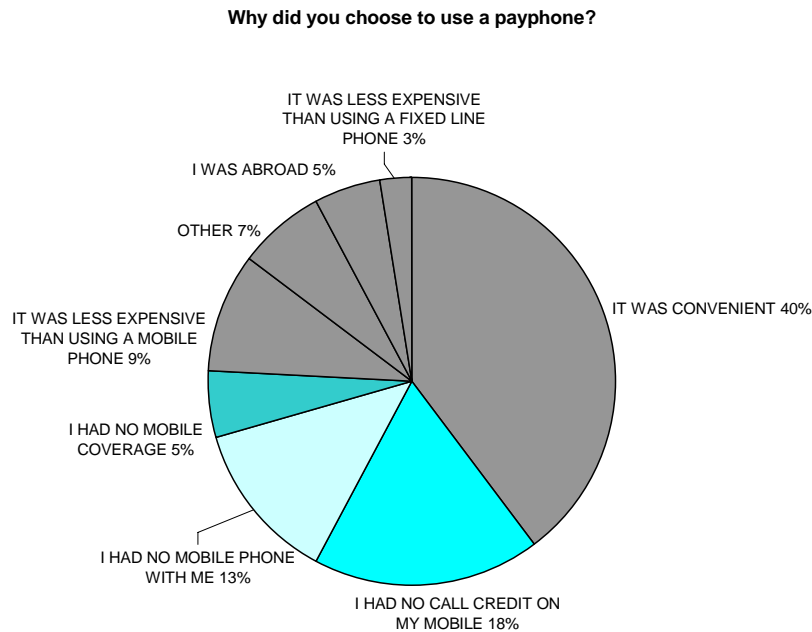


Fig. 1

¹⁰ Amárach Consulting Trends survey Wave 3 2005 ComReg Doc 05/86A

The definition of a public pay telephone provided in the Regulations is “a telephone available to the general public for use of which the means of payment may include coins, credit cards, debit cards or pre-pay 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.

ComReg expressed the preliminary view in the Consultation that, in the absence of compelling evidence which suggested the contrary to be the case (including any expressions of interest from other operators), the principal factors that resulted in *eircom* being designated as the USP in July 2003, remain present in 2006, and as a consequence in the consultation ComReg stated that *eircom* was likely to be again designated as the USP with respect to the provision of public pay telephones.

In the Consultation, the following question was put to stakeholders:

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?

8.1 Views of Respondents

eircom stated that it believed that the inclusion of the provision of public pay telephones in the scope of the USO was no longer necessary. This opinion was based on market facts and its experience within the payphone market. *eircom* stated that there was a high cost in providing, servicing and maintaining payphones and *eircom* maintained that it was an unfair burden to place on one operator. According to *eircom*, the payphone market continued to decline at about 25% to 30% per annum. This, coupled with a mobile penetration rate of over 100%, led *eircom* to the conclusion that public payphones should not be included within the USO.

Another factor of concern to *eircom* was the timeframe for this designation of three to four years for the payphone market. This period appeared to *eircom* to be too long and based on current revenues/costs, it was not inconceivable that *eircom* would have no option but to withdraw from the payphone business within this period. At a minimum, *eircom* believed that any obligations relating to the provision of public payphones needed to be continually reviewed and changed to reflect a current balance between social needs and the cost of provision.

The requirement for the provision of public payphones as included in the current Directive dated back to the Open Network Provision Directives of the 1990s. Since then, mobile phones had revolutionised the way consumers communicated while on the move. The Internet was now providing the second revolution of voice telephony on the move, as VOIP service providers enabled nomadic access to voice calls from any PC with Internet access.

BT Ireland agreed with ComReg's views regarding the provision of public payphones.

ALTO maintained there was a continuing requirement that public payphones be provided and that *eircom* should be the designated provider in this respect. *eircom* was the largest provider of public payphones, and was the only undertaking that has the ubiquitous network necessary to meet the requirement. Any other undertaking would still be dependent on *eircom* to meet the requirement.

Vodafone agreed with ComReg's views regarding the provision of public payphones.

Mr John Noone believed that given the scale of the *eircom* network and the difficulty of other providers gaining access to this network, *eircom* should continue to be the USP for public payphones.

The NDA indicated that it would like *eircom* to provide a planned programme with annual targets for ensuring the availability of at least one fully accessible public payphone in all locations with a public payphone.

They stated that all accessible payphones should meet the following criteria:

- All users, including users with wheelchairs, buggies or mobility aids, must be able to get to the public payphone without hindrance.
- All users, including users with wheelchairs, buggies or mobility aids, must be able to reach all the controls, inputs and outputs of the public payphone.
- All users, including users with visual impairment and limited dexterity, must be able to operate all the payphone controls, inputs and outputs.
- All users, including users with sensory and cognitive disabilities, must be able to perceive the operation of controls, inputs and outputs from the public payphone.

8.2 Commission's Position

ComReg does not agree with *eircom's* assertion, based on the cost of provision and the mobile penetration rate, that public payphones should not be a USO requirement. While ComReg recognises that the mobile penetration rate may have contributed to reductions in the usage of payphones, public payphones continue to provide a key service to many people and are important for reasons of social and economic inclusion, as demonstrated in ComReg's survey results. In addition, payphones provide a crucial means of communication for Ireland's immigrant population, with over a third of non-Irish nationals reporting they had used a payphone within the last three months¹¹.

¹¹ Unpublished research data for Amárach Consulting survey Q4 2005

There are still nearly 10,000 payphones in the State, with over €18 million being spent on calls from payphones in 2004. Over 55% of these are private payphones, not fully accessible to consumers on a 24-hour basis. However, recent survey evidence¹² gathered by ComReg suggests that the majority of those who have used a payphone in the last 3 months have used a payphone located on the public street rather than a private one. Moreover, the survey results referenced earlier indicate that 40% of consumers used payphones because they were convenient. It should be remembered that, although there is a mobile penetration rate of over 100%, some consumers do not have mobiles. Forty-nine percent of those who used payphones did so because they had no mobile with them, no coverage or call credit, or wanted to make cheaper calls from a payphone. This suggests payphones are still considered important by consumers, and, when allied with the volume of use of public payphones, leads ComReg to the belief that there is continuing value in retaining payphones within the USO.

The ubiquity of *eircom's* network is relevant in the context of the provision of Public Pay Telephones. The ability to provide payphones throughout the State is clearly dependent on that ubiquity and is reflected in the fact that *eircom* is the only provider to offer services over their own network. Competing operators also provide services but they do so via the purchase of *eircom's* wholesale products. This may prove problematic for competing providers to meet the Universal Service Obligations.

ComReg notes *eircom's* concern regarding the period of designation and a view that they may have to withdraw from the market. This underlines the case for inclusion of the provision of public payphones within the USO if the service will not or cannot be provided on a commercial basis. It should be noted however that in March 2006 ComReg issued Information Notice 06/14 "Universal Service Obligation – Removal/Relocation of Public Pay Telephones". This document provided for procedures which facilitated the removal of payphones where there was demonstrated low utilisation and therefore a lack of reasonable need for a public payphone in that particular location.

ComReg welcomes the majority of respondents support for its preliminary view that *eircom* should be designated as the USP for Payphones.

With regard to the NDA's view regarding accessibility of public payphones, issues regarding placement and design appear more appropriate to be addressed within the planning framework than as measures for ComReg to impose and enforce. *eircom* has confirmed that it is willing to consider the NDA's recommendations and has, independently of the USO framework, been attempting to progress some aspects e.g. wheelchair access. In addition, acoustic coupling, different coloured keypads, user volume control are currently provided.

The case for the replacement of payphone kiosks in order to make them accessible to all disabled persons has not been coupled with evidence of demand for the service. In addition, it appears to ComReg that such a programme would likely be

¹² Amárach Consulting survey Q4 2005 ComReg Doc 06/08A

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prohibitively expensive in the absence of sufficient demand. It should also be noted
that local authority approvals would be necessary.

Decision No. 4. In accordance with Regulation 7 of the European Communities (Electronic Communications Networks and Services)(Universal Service and Users' Rights) Regulations, S.I. 308 of 2003, *eircom* is designated as the Universal Service Provider with obligations under Regulation 5 i.e. to ensure that public payphones are provided to meet the reasonable needs of end-users in terms of geographical coverage, the number of telephones, and the quality of services.

9 Provision of Universal Service to Disabled Users

The Regulations provide for specific measures for users with disabilities. ComReg may 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 with disabilities.

For users that are hearing-impaired

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

ComReg considered that the current set of obligations on the USP should be maintained, notwithstanding that additional measures might well be taken by the USP and /or other operators. ComReg sought the views of interested parties as to whether there should be a different set of mandatory obligations.

In the Consultation, the following question was put to stakeholders:

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?

9.1 Views of Respondents

eircom stated that it believed that the current requirements and *eircom*'s provision of the USO were meeting the needs of the disabled community adequately. In the case of special directory services, *eircom* stated that it believed that these obligations should be maintained while allowing for active controls to ensure that those availing of the service were genuinely in need of the service. *eircom* called for the removal of the obligation to provide text relay service as there was a small and declining demand for this service.

BT Ireland stated that it agreed with the ComReg view that the current obligations should be maintained.

ALTO believed the current schemes for the provision of service to people with disabilities met the needs of users.

Vodafone agreed with ComReg's views and believed that the current obligations were appropriate.

The NDA submission contained a large number of detailed proposals and recommendations. The NDA noted the existing measures but was critical of their adequacy and the availability of information both through *eircom*'s website and customer service staff. It recommended that "Design for All" principles be applied to the development of new services. It also recommended that the range of accessible domestic telephones be expanded. The NDA also recommended that standards be set and monitored in respect of specific services.

Rehab raised a number of specific issues in relation to on-going consultation and development of the USO. It also recommended guidelines as to the content of a code of practice for the USP, including accessible language, ongoing monitoring and the establishment of disability service forum

Mr John Noone said that it believed that the current options were sufficient.

9.2 Commission's Position

Other than the NDA and Rehab, respondents generally believed that the current obligations were sufficient.

In relation to this issue, ComReg notes the view of the NDA and Rehab regarding the importance of services which are outside the scope of the USO, e.g. broadband and mobile. The NDA submission identified a large number of areas where services for people with disabilities could be improved or provided if not available. ComReg

agrees that the general matters identified should be advanced wherever possible. In this regard, ComReg intends to convene a forum where all service providers and representatives of people with disabilities can discuss initiatives to improve the provision of relevant services. ComReg's objective as an outcome of such a forum would be the adoption of measures by service providers on a non-regulated basis. ComReg's commitment to providing such a forum and pursuing a number of issues are contained in the Department of Communication, Marine and Natural Resources recently published draft Sectoral Plan 2006-2009 prepared under the Disability Act 2005.

Such a forum will be conducted in relation to a broader set of services and not confined to the limited USO set; nor shall it be confined to fixed line services. A further outcome is planned to be the provision and dissemination of comprehensive information on the availability of relevant services. While there are considerable services available from operators, frequently there can be a lack of awareness among interested parties including friends and relatives of people with disabilities. ComReg believes that more could be done to address this issue.

In other jurisdictions the provision of such services is not solely on the basis of USO requirements but form part of general obligations e.g. in the UK all service providers have requirements. However the regulatory structure is different in the UK and it is not proposed to refer to such specifics in the paper. ComReg is not currently persuaded that regulatory measures to impose requirements on service providers are warranted where such measures may be provided without regulatory imposition. However this position will be reconsidered should the market not prove capable of delivering such services.

In relation to specific services which the NDA recommended, ComReg notes that most are encompassed by the existing Code of Practice and does not propose adding substantially to the specific requirements.

ComReg does not agree with *eircom* that the obligation relating to the text relay service should be removed. Before this could be contemplated, there would be a need for consultation with users of the services and an assessment of the adequacy and practicality of alternative means of access.

Where there are perceived shortcomings in the provision of information, ComReg will set specific requirements regarding information to be provided on the USP's website. *eircom* does not share the NDA's views regarding operator training. ComReg is satisfied that the company is willing to discuss these and to consider specific suggestions and advice which the NDA may have with regard to its customer facing staff. Accordingly ComReg will not impose a specific requirement at this stage.

Decision No. 5. The USP will be required to provide the following specific services

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.

For users unable to use the phone book because of a disability

- Special Directory Enquiry arrangements to allow the use of directory enquiry services free of charge

The USP shall provide a dedicated section of its website, accessible from the homepage, with information on the services it provides which are of particular interest to people with disabilities.

The USP shall maintain a Code of Practice concerning the provision of services for people with disabilities and shall periodically review and, where appropriate, amend the Code in consultation with the NDA and other representative bodies.

10 Affordability

The Regulations require designated undertakings to adhere to the principle of maintaining affordability for Universal Services. 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. While communications services are a basic necessity for all users, ComReg feels strongly that protections for vulnerable customers need to remain in place.

Currently, affordability is maintained by way of a number of different measures which include

- Within the price cap regime, overall safeguard control on consumers' bills (on line rental and calls);
- The Department for Social and Family Affairs Free Telephone Rental Allowance ("FTRA"); and,
- Vulnerable User Scheme.

Pursuant to the Regulations, ComReg may require a USP to apply common tariffs, including geographic averaging. In the Consultation paper, ComReg did not propose to change its previous requirement 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.

ComReg sought the views of respondents regarding the current measures to ensure their ongoing suitability in meeting the needs of vulnerable users.

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.

10.1 Views of Respondents

eircom said that it believed that the current measures were adequate.

eircom stated that affordability was maintained by way of a number of different measures, which included

- Within the price cap, there is an overall safeguard control on customers' bills (on line rental and calls). 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 is therefore limited to the rate of inflation, so that fixed line telecommunications can not become less affordable relative to other goods.
- The FTRA, which ensures line rental, handset rental and a call allowance is made available free of charge to almost all old age pensioners, and those in

receipt of disability pensions. A substantial number of these customers have high use levels and avail of other discount schemes in addition to DSFA allowances.

- The Vulnerable User Scheme is targeted at low users and is an optional scheme with a reduced line rental charge. If a user spends less than €10 a month on calls, the user is granted a rebate of 52 cent per month on rental, and the first €5 worth of calls are free. Once the normal value of calls made exceeds €5, call rates double so that the call saving is reduced to €4 at a nominal value of €6, a €2 saving at a nominal value spend of €8.
- Finally, *eircom* stated that ComReg had imposed an obligation of geographic averaging on *eircom's* prices. *eircom* noted that ComReg did not propose to change this requirement at this time, but urged ComReg to examine whether potential harmful distortions might result in the future, in particular during the period of the proposed designation.

eircom considered that the combined effect of the existing schemes in Ireland was currently adequate to protect the needs of those ComReg has decided to protect and do so at a the minimum cost. *eircom* therefore did not propose any significant change at this time.

BT Ireland agreed with ComReg's views that the current obligations should be maintained.

ALTO believed that the current schemes met the needs of vulnerable users.

Vodafone agreed with ComReg's views and believed that the current obligations are appropriate. It was Vodafone's belief that obligations should be reviewed in conjunction with a new USP tenure.

Mr John Noone believed the current requirements are sufficient.

Rehab considered that the USP should, in consultation with statutory agencies, develop a targeted package of measures to increase the affordability of services that it provides.

Ireland Offline raised issues relating to line rental and the price cap which are not relevant to the subject matter of the current consultation. It noted however that the Vulnerable User Scheme is not widely advertised or known, and consequently has had a low take-up.

10.2 Commission's Position

ComReg welcomes the views from all respondents that the current requirements are sufficient in meeting the needs of end-users. Having considered these views, ComReg therefore does not propose to make any changes to the current requirements.

ComReg is aware of the FTRA which is available to almost all pensioners and those in receipt of disability pensions. While this scheme addresses affordability issues in

a substantial manner, and ComReg notes that other fixed line operators offering Wholesale Line Rental (WLR) services other than the USP also offer this scheme, the features of the allowance are not determined by ComReg.

The Vulnerable User Scheme is an optional scheme which has a low utilisation currently and does not appear to have high consumer awareness. Therefore, ComReg is of the opinion that there is potential to increase the uptake of the scheme. Although ComReg is not currently proposing to make any changes to the scheme, ComReg may review this scheme in tandem with any future work on the retail price cap (should such a cap be found necessary) in a separate consultation. Any decisions taken then will be in the context of whether, if there is a control on retail prices, further measures are necessary to ensure affordability of services for consumers.

11 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 face unnecessary disconnection from the network. The Consultation sought views with regard to several different mechanisms aimed at ensuring consumers are in a position to control their expenditure as follows:

11.1 Itemised Billing

eircom is required to provide a minimum level of itemised billing free of charge to subscribers who request this facility. ComReg believes that the current level of itemised billing as provided is sufficient to allow consumers exercise the option to verify their charges and assist them in the control of their expenditure. The Consultation sought views from respondents regarding the current requirements

Q. 11. Do you agree with the approach regarding call itemisation above?
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11.1.1 Views of Respondents

eircom said that it agreed with the current approach regarding call itemisation.

BT Ireland agreed with the current industry approach for itemised billing

ALTO agreed that the current scheme met the needs of end-users.

Vodafone agreed with the current approach regarding call itemisation.

Mr John Noone agreed that the current level of safeguards were good but referred to the mobile telecoms area where providers could give contract customers a current balance on request from their handset. This was much better than a retrospective breakdown of charges where a user suspected their bill might be high at the end of the month.

11.1.2 Commission's Position

ComReg welcomes the views from all respondents that the current facility with regard to itemised billing is sufficient in terms of enabling subscribers control their expenditure.

Therefore, in light of the widespread agreement that the current arrangements are appropriate, ComReg does not propose to make any changes to the itemised billing requirement at this time.

11.2 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 recurring charges. The Consultation while accepting the availability of options, questioned the necessity of having a charge associated with such a facility as follows:

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?

11.2.1 Views of Respondents

eircom considered that the call barring options were sufficient to enable users control their expenditure. *eircom* stated that it developed the call barring facility as there was a need for this service and it was being used by customers in controlling their expenditure. However, there was an associated cost in providing this service. The benefit to the customer of call barring was likely to exceed the cost of activating this service due to the overall saving made by them. In addition, *eircom* also stated that as it had SMP in this market and an obligation of cost orientation of charges; if this service was offered free of charge, *eircom* would be in breach of this obligation.

BT Ireland's view was that call barring had been used successfully for many years to control expenditure. In cases of persistent non-payment of bills, it could provide a step in the procedure before disconnection. However, operators must maintain the right to directly disconnect customers for major breaches of contract.

The application of call barring required an activity to be conducted, both for the application and removal of the barring. BT Ireland believed that it should be the choice of the provider as to whether to directly make a charge to the customer, or whether to average the charge into general costs. Not all customers would avail of the barring feature, hence some might argue cost causation should apply, i.e. those that use the service should pay for it.

ALTO maintained that the current options included five different levels of call barring, and were not aware of a requirement to change these at the present time. ALTO believed that it would be wise for ComReg to leave open the possibility of reviewing these options during the term of the next USO designation, in response to a specific requirement.

Vodafone agreed with the ComReg position on call barring options and considered that the current options are sufficient to control expenditure.

Mr John Noone believed the number of options were sufficient to enable consumers control their expenditure. However, they believed that it was counter productive to charge people who block calls.

The NDA was of the view that access to call barring free of charge should be in place for all domestic subscribers. The provision might limit the number of situations where users find themselves unable to pay their bills.

Ireland Offline categorised the call barring charges as a “fine imposed on users” and wanted the practice to stop.

11.2.2 Commission's Position

The majority of respondents agreed that the range of call barring options is sufficient to enable subscribers to control their expenditure.

Respondents were divided with regard to the charging mechanism for call barring. However, *eircom's* charging must be cost orientated and ComReg will continue to ensure that the charges adequately reflect the costs involved.

In view of the general view expressed that current arrangements are, for the most part, satisfactory, ComReg does not propose to impose any additional obligations with regard to the call barring options or charges at this time.

11.3 Setting of Spend Threshold

While the Vulnerable Users Scheme assists 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.

The consultation suggested a mechanism whereby a subscriber could set a credit limit on their account. Respondents were asked to state their views with regard to this mechanism.

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?

11.3.1 Views of Respondents

eircom maintained that it had already addressed expenditure control for customers as there were a number of cost restricting products available that allow customers to control their spending:

- Customers could view their latest bill (via the Internet).
- Customers could avail of monthly billing
- A “call calculator” was available on the *eircom* website, and it assisted customers budgeting call spend and to determine costs.
- Availability of the Vulnerable User Scheme.

- Call barring services
- Development of Call barring.

eircom stated that the functionality to offer a spend threshold service did not currently exist in its network billing system. It anticipated that the costs involved in developing and introducing such a system would be substantial.

BT Ireland had some sympathy with the concept of a spend threshold. However, it stated that there was little evidence as to whether fixed line customers would use such a service in sufficient volumes to make the development viable. BT Ireland considered that it should be an operator's commercial choice as to whether to support this feature. BT Ireland believed that ComReg needed to provide greater justification and supporting evidence to validate the need for such a service feature.

ALTO offered the opinion that the proposal to allow subscribers to set a threshold of spending was, to some extent, already provided by calling card products. The Association was not aware of how much development work would be required in order to provide the proposed facility and would be concerned that there was not sufficient demand for this facility to justify it becoming a mandatory requirement. This would need to be examined in detail before the requirement was mandated.

Vodafone maintained that the provision of a service to facilitate control of customer's expenditure was a commercial decision.

Mr John Noone thought it was an excellent idea and should be implemented.

Ireland Offline also supported the concept of a spend threshold.

The NDA was of the view that a credit limit scheme for subscribers would a positive option to assist customers control their expenditure. If implemented, such a facility would need to be available through a range of accessible formats, such as via voice telephone information, but also in writing, via SMS text messaging and electronically.

11.3.2 Commission's Position

ComReg notes the views offered in relation to the proposal. While the concept is supported by some of respondents, ComReg notes that overall respondents were not persuaded that the proposal would have practical effect or that it would be easy or inexpensive to implement. Having considered these views and in view of the availability of other possibilities to control expenditure, ComReg is not proposing to require this facility at present.

11.4 Phased Payment for Connection Fees

In the previous Universal Service review, phased payment for connection fees was introduced. The core aim of the USO is to ensure that as many people as possible can obtain access to telephony services and the phasing of connection fees ensures that users are not inhibited from early connection because of inability to pay the total connection charge in one payment. The scheme is implemented using a direct debit

option. In the Consultation, ComReg did not propose making any changes to the program.

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?

11.4.1 Views of Respondents

eircom did not agree that allowing spread payments associated with the connection fee had been useful in enabling subscribers to connect to the network. *eircom* said that the demand for this option had been low. The concept of spread payments allowed the customer to control expenditure and to enable maximum connections to the network. With the introduction of monthly billing and other expenditure control devices, the customer could control their bill on a continuous basis. There were also substantial costs associated with providing this service, consequently *eircom* believed that spread payments were not necessary.

BT Ireland believed that it should be the operator's choice as to whether to allow the spreading of the connection charges, rather than making it mandatory.

ALTO believed that the option would continue to be useful for some customers, and should not be changed at this time.

Vodafone believed that spreading connection charges should again be a commercial decision.

Mr John Noone believed that the spreading payment option was useful.

NDA maintained that the spreading of the connection fee over a number of payments was a positive step towards including people in the telephone network. As identified in the consultation paper the initial connection fee could be prohibitive to potential subscribers on low income.

11.4.2 Commission's Position

Views on this aspect of the Consultation were clearly mixed. On balance and despite a low take-up, ComReg believes that the facility is important to those who take advantage of its availability in order to secure a connection to the network. Therefore, ComReg does not propose to remove this obligation at this time.

11.5 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 Consultation ComReg did not propose making any amendments to *eircom's* existing disconnection policy.

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

11.5.1 Views of Respondents

eircom considered that the current disconnection policy was reasonable. It said that a disconnection policy was required to minimise *eircom*'s exposure to bad debt as such a policy struck a balance between facilitating customers and protecting revenues.

BT Ireland agreed that the current disconnection policy is satisfactory.

ALTO maintained the current disconnections policy and their implementation in practice provided a measured response to the non payment of bills, while also allowing for protection of commercial interests.

Vodafone believed the current disconnection policy was reasonable.

Mr John Noone believed the current disconnection policy was fair.

The NDA would like to see the development of specific guidelines to protect vulnerable people with disabilities from disconnection and assign these under the Universal Service Obligation.

11.5.2 Commission's Position

ComReg is satisfied that *eircom*'s current disconnection policy is reasonable.

Regarding the NDA recommendations, ComReg is supportive of the proposition that vulnerable users be afforded protection from avoidable disconnection but believes that this is available through the general disconnection policy. Should specific measures be considered appropriate for certain categories of users, ComReg believes that these should be available to all vulnerable users and not confined to those who are customers of the USP. This issue will be further considered in the forum set up to address the needs of disabled users.

The NDA raised as a specific issue in disconnections, the failure on the part of a vulnerable customer being able to access billing information through not receiving communications in the optimum format. Through its analysis of consumer contacts, ComReg has found that there has not been a disproportionate number of disconnections due to users' difficulties with communication formats. However, ComReg would encourage the provision of such options by the USP and by other providers. *eircom* currently provides braille billing and also provides e-mail alerts to the issuing of bills. There are also measures which users can take to ensure against disconnection through non-attention to bills, such as Direct Debit.

12 Costing and Financing of Universal Service

Under the Regulations a USP may seek to receive compensation for the net cost of meeting the USO obligation concerned where, on the basis of a net cost calculation, ComReg determines that the undertaking in question is subject to an unfair burden.

Once an operator is designated as the USP they may request that ComReg determine if the USO represents an unfair burden. Any such request should be accompanied with any information that the USP considers would be considered necessary for ComReg to make a rational and informed assessment.

Upon receipt of any such request ComReg will determine if the information supplied is sufficient before commencing the assessment process. If the information is sufficient ComReg will inform the USP, if the information supplied is not sufficient, ComReg will inform the USP of this and indicate what information ComReg would require.

It should be noted that ComReg is obliged to publish its calculations and conclusions in this regard.

Notwithstanding the above, in its response to the Consultation, *eircom* made a formal request to ComReg for compensation for the net cost of meeting the USO. ComReg has specifically engaged with *eircom* in relation to this issue. As this issue is outside the strict parameters of this Decision, it is not proposed to address it further in this document.

Appendix A – Regulatory Impact Assessment

Consultation Issue

In the Consultation Paper, ComReg engaged in a regulatory impact assessment (RIA) to consider whether the imposition of obligations was justified. It was proposed that the obligations were proportionate and justified, as they would not involve any significant administrative cost, and any designated USO would have the opportunity to apply to be compensated for any unreasonable burden through a USO fund, hence ensuring any obligations imposed were reasonable.

Views of Respondents

None of the respondents replied to the question concerning the RIA in the Consultation.

Commission's Position

ComReg believes that the views expressed in the Consultation remain valid and also considers that the obligations proposed do not impose unreasonable regulatory burdens. However, ComReg details again the reasons why it considers this to be the case. In this RIA, ComReg is paying close attention to both National and International best practice, and specifically, to recent Guidelines on Regulatory Impact Assessment issued by the Department of the Taoiseach.¹³

ComReg would first point out that, as discussed in this Decision, the Regulations confer no legal discretion to ComReg about the basic issue of designating a 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.*” The option of **not** making any designation is not therefore available, and, as such, the act of designation for various different aspects of universal service should be taken as a given.

In relation to the issue of whether any designation will impose excessive regulatory costs, ComReg would note that if any designation is considered to be an unfair burden on any designated operator, then that undertaking may make an application for funding in respect of such burden. If such costs are granted, they will be funded from the industry as a whole. This provision means that there is an automatic protective mechanism for designated operators, thus ensuring that any one 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

¹³ See “RIA Guidelines: How to conduct a Regulatory Impact Analysis”, October 2005, www.betterregulation.ie

other benefits which may accrue to 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 ComReg believes that they are likely to be very small compared to the overall costs and benefits involved.

In relation to the issue of providing 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. This strikes a reasonable balance between operators and consumers as to who bears the cost of provision.

With regard to directory services, the maintenance of the NDD is cost-neutral as the operation of the NDD is funded by the licence fees for the provision of the information to DQ service providers and printed directories. ComReg also notes that the removal of the obligation to maintain a directory inquiry service will lower any regulatory compliance cost. The printing and distribution of a paper directory clearly involves a direct cost but it also confers advantages through paid-for advertising and the creation and reinforcement of brand awareness.

In relation to the issue of public payphone availability, ComReg notes that a network of payphones is already extant, and it is unlikely that any modest 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 ComReg's policy in relation to the removal of public payphones for which there was no longer a clear need. As such, the retention of public payphones within the scope of the USO would seem to add no substantive incremental cost to any operator, and the Information Notice provides a procedure for the removal of non-commercial payphones.

The above suggests that none of the 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 basic telephony services at a reasonable cost for all end-users in the State. This access to information and communication services confers substantial social benefits throughout Irish society.

ComReg has also specified measures relating to access for disabled users and for control of expenditure. In the absence of specific information which would enable a definitive calculation, ComReg recognises that these measures may involve some net cost to the USP, and ultimately the industry, but in each case ComReg sees benefits to consumers, particularly disabled consumers, from these measures. ComReg notes, however, that there are no direct obligations imposed on affordability; should any be imposed at a later date, due attention will be given the regulatory impact of these. The measures for disabled users involve relatively minor levels of cost. In terms of the benefits they bring to disabled users, allowing access to communication services which would otherwise be very difficult to obtain, it would seem clear to

ComReg that any regulatory costs (which if found to represent an unfair burden would be met by the industry as a whole) are justified by the benefits.

The effect of key proposals on interested parties are summarised in the following set of tables:

1. The designation of *eircom* as the provider of fixed access.

Proposal/Alternative	<i>eircom</i>	OAOs	Consumers
Designating <i>eircom</i> as provider of fixed access	Requirement to provide access can impose cost but protected through (a) fund for any unreasonable burden; (b) limit of €7,000.	No direct costs, though some costs if a fund established. However, this spread across all industry thus should not impose significant burden.	Gain for consumers in that all consumers will have right to communications at reasonable cost.
Designating an alternative operator	Possible fall in direct compliance cost, but possible loss through removal of any USO brand recognition. Also, if fund established for USO, <i>eircom</i> likely to pay significant costs of this.	High direct costs and disruption in rolling-out network and/or gaining access for any designated USO. This may be lessened by compensatory fund, but likely to have high costs spread across industry.	Access to communications, but possible delay and disruption in ensuring reasonable access in any transition period.
No designation	No legal ability not to designate.	No legal ability not to designate.	No legal ability not to designate.

2. The designation of *eircom* as the provider of a paper directory and the removal of directory inquiries from the USO.

Proposal/Alternative	<i>eircom</i>	OAOs	Consumers
No designation	No legal ability not to designate at least one option.	No legal ability.	No legal ability.
Designation of paper directory only	<i>eircom</i> currently responsible for NDD and the provision of paper directories, and likely to be able to continue at low-	Any cost of a fund as a result of this obligation spread over entire sector.	Consumers guaranteed free paper directory, thus ensuring good information available to consumers.

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Proposal/Alternative	<i>eircom</i>	OAOs	Consumers
	cost. Again, possibility of a fund protects against unreasonable burden.		
Designation of paper directory and directory inquiries	Directory inquiry obligation not necessary as (a) consumers have information through paper directory anyway; (b) directory inquiries being provided on commercial basis.	OAOs can access NDD to provide directory inquiries on a commercial basis if they wish.	Already have information through paper directory, but can still access directory inquiries, as competing services being supplied on a commercial basis

3. The designation of *eircom* as the USP for payphones.

Proposal/Alternative	<i>eircom</i>	OAOs	Consumers
No designation	Legal problems with total withdrawal of obligation, though possibility of withdrawing it in certain areas. Allows <i>eircom</i> to consider payphone service on purely commercial grounds.	No effect	Risks consumers not being able to facilitate payphones which evidence indicates they find useful. Possibly high risk for consumers in remote areas.
Designating <i>eircom</i>	May require <i>eircom</i> to incur costs to maintain network, but <i>eircom</i> protected by (a) possibility of a fund to cover any unreasonable burden; (b) Information Notice defines policy in relation to the	Minimal cost, unless fund to support cost, but that spread throughout sector.	Consumers guaranteed access to public payphones on an ongoing basis – evidence suggests such access is valued.

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Proposal/Alternative	<i>eircom</i>	OAOs	Consumers
	removal of public payphones for which there was no longer a clear need.		
Designating another operator	No effect.	Possible high cost to other operator, given no other operator has such an extensive network, with likely knock-on effect of fund throughout sector.	Guaranteed access, but possible problems associated with transition and ensuring network of new USO fully operational on geographic basis.

4. The designation of *eircom* as the USP for providing services for disabled users.

Proposal/Alternative	<i>eircom</i>	OAOs	All Consumers	Disabled Consumers
No designation	Prevents any ongoing costs being incurred should <i>eircom</i> decided to withdraw current levels of service.	No real effect	Generally reduces level of consumer services	Risks disabled consumers being provided with no basic level of service – severe social loss
Designating <i>eircom</i>	Some costs, but <i>eircom</i> protected through (a) the fact that these measures are currently in place, ensuring any extra cost associated with provision should be limited. Also, possible benefits to <i>eircom</i> for being recognised as providing such services; (b) the possibility	No real effect	Higher level of consumer service benefits and gives confidence to all consumers	Provides disabled consumers with basic level of service and the confidence to know that will be maintained.

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Proposal/Alternative	<i>eircom</i>	OAOs	All Consumers	Disabled Consumers
	of a fund to compensate for any unreasonable burden.			
Designating other operator	Not practical option, given <i>eircom</i> already designated as USO for fixed-line and payphones			

Appendix B – Draft Decision

1. STATUTORY FUNCTIONS AND POWERS GIVING RISE TO DECISION

1.1 This Decision, made by the Commission for Communications Regulation (“ComReg”), relates to the provision of Universal Services in the Irish telephony market and is made:

- I. Having regard to sections 10 and 12 of the Communications Regulations Act 2002;
- II. Having regard to the functions and powers conferred upon ComReg under and by virtue of Regulation 7(1) of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2003 (“the Regulations”); and
- III. Having taken account of the representations of interested parties submitted in response to document No. 06/16.

2. DESIGNATION OF UNIVERSAL SERVICE PROVIDER

Provision of Access at a Fixed Location

2.1 In accordance with Regulation 7 of the Regulations, *eircom* Ltd. is hereby designated as the Universal Service Provider (“the USP”) for the purpose of complying with the following obligations, as provided for by Regulation 3 of the Regulations.

2.2 The USP shall satisfy any reasonable request to provide at a fixed location:

- (a) Connections to the public telephone network; and
- (b) Access to publicly available telephone services.

2.3 The USP shall comply with the requirements in relation to the obligations referred to in section 2.2 hereof, as set out in ComReg Decision D9/05 of 7 September, 2005.

Directory Services

2.4 In accordance with Regulation 7 of the Regulations, *eircom* Ltd. is hereby designated as the USP for the purpose of complying with the following obligations, as provided for by Regulation 4 of the Regulations.

2.5 The USP shall do the following:

- (a) Ensure that a comprehensive printed directory of subscribers, based upon data kept and provided in accordance with paragraph (b) of this section, is made

Universal Service Obligations available to all end-users free of charge, and is updated at least once in each year; and

(b) Subject to Regulation 14 of the European Communities (Electronic Communications Networks and Services)(Data Protection and Privacy) Regulations 2003, keep a record (to be known as the National Directory Database) of all subscribers of publicly available telephone services in the State, including those with fixed, personal and mobile numbers, who have not refused to be included in that record, and allow access to any information contained in such record to any other such undertaking or any person in accordance with terms and conditions approved by ComReg.

Public Pay Telephones

2.6 In accordance with Regulation 7 of the Regulations, *eircom* Ltd. is hereby designated as the USP for the purpose of complying with the following obligations, as provided for by Regulation 5 of the Regulations.

2.7 The USP shall do the following:

(a) 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;

(b) Ensure that it is possible to make emergency calls from a public pay telephone using the single European emergency call number “112” and any national emergency call number that may be specified by ComReg, in each case free of charge and without the necessity to use coins or cards or any other means of payment;

(c) Ensure that users of its public pay telephones have access to a directory enquiry service;

(d) Where possible, ensure that all public pay telephones provide for a number of payment means; including coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialling codes; and

(e) Subject to prior approval by ComReg, publish its processes for the removal/relocation of public pay telephones.

Specific Measures for Disabled Users

2.8 In accordance with Regulation 7 of the Regulations, *eircom* Ltd. is hereby designated as the USP for the purpose of complying with the following obligations, as provided for by Regulation 6 of the Regulations.

2.9 The USP shall do the following:

(a) Provide a dedicated section of its website, accessible from the homepage, containing comprehensive information in relation to the services it provides which are of particular interest and relevance to people with disabilities;

(b) maintain, operate, monitor and ensure its own compliance with a Code of Practice concerning the provision of services for people with disabilities and shall periodically review and, where appropriate, amend the Code of Practice in consultation with the NDA and other representative bodies;

(c) The USP shall provide the following specific services:

For users who 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; and
- 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; and
- 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; and
- 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; and
- Braille billing free of charge.

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For users unable to use the phone book because of a disability

- Special Directory Enquiry arrangements to allow the use of directory enquiry services free of charge.

Geographically Averaged Pricing

- 2.10 As provided for by Regulation 8 (3) of the Regulations, *eircom* Ltd., as the USP, shall apply geographically averaged prices throughout the State for the services referred to in this Decision.

Control of expenditure

- 2.11 As provided for by Regulation 9 of the Regulations, *eircom* Ltd., as the USP, shall do the following:
- (a) Provide, on request, a minimum level of itemised billing to customers free of charge;
 - (b) Provide selective call barring facilities for outgoing calls to national, mobile, international and premium rate numbers. The call barring facility in respect of premium rate numbers shall be provided free of charge to users;
 - (c) Maintain and publish its scheme to allow for the phased payment of connection fees; and
 - (d) Maintain and publish its disconnection policy in connection with non-payment of bills.

3. EFFECTIVE DATE AND DURATION

- 3.1 This Decision is effective as of 25 July, 2006 and shall remain in full force until 30 June, 2010, unless otherwise amended by ComReg.

Appendix C – Comments and Next Steps

Comments in relation to the text of the draft decisions as set out in Appendix B will be fully taken into account by ComReg before finalising the text. At this stage it is not intended to take into account further representations in respect of substantive issues which have already been consulted upon. Because of the timescale within which designation must be made, comments on the text should be sent so as to arrive in ComReg no later than 3pm on Monday 10 July 2006. Comments should preferably be sent by e-mail and set out any proposed amendment to the text and the basis on which ComReg should consider such amendment. Comments may also be sent by fax or by post but in all cases it will be the sender's responsibility to ensure timely receipt by ComReg.

Contact details:

For comments to be sent by e-mail:

e-mail address: retailconsult@comreg.ie

Subject line must be completed as: "Response to ComReg Doc 06/29"

For comments to be sent by fax:

Fax no: +353-1-804 9680

Leading page should be highlighted as "Response to ComReg Doc 06/29"

For comments to be sent by post

Address is Commission for Communications Regulation,

Abbey Court,

Irish Life Centre,

Lower Abbey Street,

Dublin 1.

Envelope must be marked "Response to ComReg Doc 06/29"

Following its taking into account comments received in relation to the texts, ComReg will finalise the decisions and then seek the consent of the Minister for Communications, Marine and Natural Resources to certain aspects of the decisions, as required by the Regulations. Final decisions cannot issue until receipt of such consent.