



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Universal Service Fund Application 2015-2016

Information Notice

Reference: ComReg 21/18

Version: Final

Date: 12/03/2021

An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

1 Lárcheantar na nDugaí, Sráid na nGildeanna, BÁC 1, Éire, D01 E4X0.
One Dockland Central, Guild Street, Dublin 1, Ireland, D01 E4X0.
Teil | Tel +353 1 804 9600 Suíomh | Web www.comreg.ie

1. The Universal Service Regulations¹ provide that where an undertaking (a Universal Service Provider, or “USP”) is designated as having an obligation (a Universal Service Obligation, or “USO”) to provide a universal service, it may submit to the Commission for Communications Regulation (“ComReg”) a written request to receive funding for the net costs of meeting the USO. ComReg is then required to determine, based on a net cost calculation, whether the cost of meeting the USO represents an unfair burden on the USP.
2. eir, as the designated USP, may submit applications for USO funding in accordance with ComReg’s extant Decision D04/11² (“D04/11”). D04/11 sets out how the USP, should they so choose, is to make an application, including how the net cost (after intangible benefits) is to be calculated, and sets out principles and methodologies to apply to ComReg’s assessment as to whether a positive net cost associated with meeting the USO provision, if any, represents an unfair burden on the USP.
3. The funding application being assessed in consultation document, document number 21/17, was submitted by eir on 31 March 2017 (in respect of the 2015-2016 financial year³) in which eir claimed a positive net cost of €12,861,430 (eir’s “2015-2016 USO funding application”).
4. It is for eir to ensure that it has taken the necessary steps in advance of submitting any application for funding, to ensure compliance with its obligations under the Regulations and D04/11. eir’s obligations include the requirement to have the relevant USO direct net cost models underpinning eir’s USO funding applications to ComReg as a whole, including all calculations, data, spreadsheets, the model summary and the individual net cost models (Area, Customer, Payphone, Directories, and Disabled End Users’ Services) in place. The responsibility for the development of a new Customer Model based on the 2016 Copper Access Model resides with the USP, eir, in particular, where it seeks to exercise its right to submit USO funding applications.
5. On receipt of a request ComReg must publicly consult on any application for funding received with all interested parties to ensure both transparency and that ComReg has before it all relevant information before progressing its decision making.
6. The assessment methodology set out in D04/11 is an extant legally binding requirement on both the USP and ComReg. ComReg is obliged to apply the decision in proceeding with its assessment of the 2015 – 2016 USO funding application. While eir has appealed

¹ The European Communities (Electronic Communications Networks and Services) (Universal Service and User’s Rights) Regulations 2011.

² ComReg Document 11/42, D04/11 “*Decision on the Costing of universal service obligations: Principles and Methodologies*”, 31 May 2011.

³ eir’s financial year runs from 1 July to 30 June.

ComReg's assessments of unfair burden made for previous years⁴ and that appeal is still pending, decision D04/11 has not been stayed by a court.

7. It is important to provide certainty to stakeholders about the scale of the net cost claimed by eir and hence the potential scale of industry contribution if it were found to be an unfair burden. ComReg therefore has adopted preliminary views on the 2015 – 2016 USO funding application based on the methodology laid out in D04/11. These views cover both the net cost assessment and the unfair burden assessment.
8. ComReg has engaged an external consultant, TERA Consultants (“TERA”) to advise ComReg on the methodology and calculations used in the direct net cost element of eir's funding application, and to review these against the direct net cost principles, methodologies and calculations in D04/11 and is included as Annex 4 of the consultation document (the “Direct net cost Report 2015-2016”).
9. To assess whether any positive net cost represents an unfair burden on eir, ComReg engaged expert consultants Oxera to apply the relevant decisions in D04/11 to eir's 2015-2016 USO funding application and to provide expert advice as to whether the net cost of €12,861,430 claimed in eir's 2015-2016 USO funding application represented an unfair burden on eir. The resulting further Oxera report is entitled the “Unfair Burden Report 2015-2016” and is included as Annex 4 of the consultation document (the “Unfair Burden Report 2015- 2016”).
10. In light of Oxera's reports, ComReg has assessed eir's 2015- 2016 USO funding application in line with the principles and methodologies prescribed in D04/11. ComReg has adopted preliminary views on the funding application that cover both the net cost assessment and the unfair burden assessment. ComReg is of the preliminary view that the positive net cost does not represent an unfair burden on eir. Transparency and consultation are essential for ComReg to progress its decision making as far as possible and ComReg welcomes responses from all stakeholders to the questions set out in the consultation document (document number 21/17 and in Annex 1). ComReg will review and fully take into account all responses it receives and, will proceed giving due consideration to the legal context.

⁴ 2010-2015 USO funding application decisions: D05/19 “Assessment of eir's 2010-2011 Universal Service Fund Application Assessment of the net cost and unfair burden for the period 2010-2011”; D06/19 “Assessment of eir's 2011-2012 Universal Service Fund Application Assessment of the net cost and unfair burden for the period 2011-2012”; D07/19 “Assessment of eir's 2012-2013 Universal Service Fund Application Assessment of the net cost and unfair burden for the period 2012-2013”; D08/19 “Assessment of eir's 2013-2014 Universal Service Fund Application Assessment of the net cost and unfair burden for the period 2013-2014”; D09/19 “Assessment of eir's 2014-2015 Universal Service Fund Application Assessment of the net cost and unfair burden for the period 2014-2015”.