



Commission for  
**Communications Regulation**

# Universal Service Obligation – Measures for Disabled End-Users

## Submissions received from respondents

### Submissions Document

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**An Coimisiún um Rialáil Cumarsáide**  
**Commission for Communications Regulation**

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## Submissions received from respondents

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# 1 Eircom Group.

**eircom Group**

**Response to ComReg Consultation Paper:**

**Universal Service Obligation – Measures for Disabled End-Users**

**ComReg Document 14/54**



**23 June 2014**

**DOCUMENT CONTROL**

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The comments submitted to this consultation are those of Meteor Mobile Communications Ltd. (MMC) and eircom Ltd (eircom) collectively referred to as eircom Group.

## Introduction

eircom is very conscious of the need to address the requirements of disabled users and the importance of the principle of equivalence as a cornerstone of the regulatory framework. As the Universal Service Provider (USP) eircom appreciates the role that the Universal Service Obligation (USO) has played in meeting these needs. It has also become apparent that the USO must evolve to keep pace with market developments as it has become clear that technological developments have been a key enabler of access for disabled users. This has given rise to the need for a thorough review of each element of this USO in order to determine whether each should remain and if so in what form.

Such a review is lacking in this consultation and eircom reiterates the serious concerns that we raised in response to the recent consultation on the Provision of Access at a Fixed Location<sup>1</sup> in respect of the administrative approach adopted by ComReg.

ComReg has stated that the approach to this consultation has two purposes:

- 1. the continuation of the measures contained in D07/128 which have not been subsumed by D04/14, until ComReg, along with the members of ComReg's Disability Forum, have completed an evaluation of the continued necessity and appropriateness of the remaining measures.*
- 2. the continuation of the measures contained in D07/129 which will be replaced by equivalent measures contained D04/14, until the required date of compliance with D04/14 has been reached (see Section 5 for the Draft Decision Instrument).*

Our concerns arise with respect to both as ComReg's stated objective is to achieve the continuation of existing obligations, whereas its first objective should be the identification of a continuing need followed by a determination of the best means of satisfying such need. Instead ComReg seeks to perpetuate historical obligations in the absence of comprehensive analysis.

Article 3(2)11 of the Directive<sup>2</sup> requires that "*Member States shall determine the most efficient and appropriate approach for ensuring the implementation of universal service, whilst respecting the principles of objectivity, transparency, non-discrimination and proportionality. They shall seek to minimise market distortions, in particular the provision of services at prices or subject to other terms and conditions which depart from normal commercial conditions, whilst safeguarding the public interest.*"

Article 33 (1) of the Directive requires that "*Member States shall ensure as far as appropriate that national regulatory authorities take account of the views of end-users, consumers (including, in particular, disabled consumers), manufacturers and undertakings that provide electronic communications networks and/or services on issues related to all end-user and consumer rights*

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<sup>1</sup> The Provision of telephony services under the Universal Service Obligation Access at a Fixed Location  
ComReg Document 14/48

<sup>2</sup> Directive 2002/22/EC Of The European Parliament and of the Council of 7 March 2002 on Universal Service and Users' Rights Relating to Electronic Communications Networks and Services (Universal Service Directive)

*concerning publicly available electronic communications services, in particular where they have a significant impact on the market.*

The legislation is clear that Member States must actively undertake analysis (we referred to this in the Access consultation as “positive analysis”) and consult on this analysis in order to determine what is necessary and seek to apply a balanced regime from the perspective of both the USP and end users. Once again ComReg’s proposed approach is to simply rollover eircom’s designation, entailing the full set of obligations simply because ComReg has allowed insufficient time to consult on the matter, contrary the requirements of the regulatory framework.

The draft Decision appears to be founded almost entirely on the pressing need for a Decision before the current designation expires on the 30<sup>th</sup> of June 2014, relying on the usage statistics provided by eircom and “*In light of the on-going discussion and consultation on these specific measures provided by the USP*”<sup>3</sup>. eircom does not consider the presentation of the 13<sup>th</sup> of November and the related discussion at that forum and occasional discussions at other forum meetings qualify as adequate consultation on a matter of such importance to disabled users. ComReg commits “*to consult further with respect to the obligations listed at paragraph 25 to ensure they are necessary, appropriate and meet the current needs of end-users with disabilities*”<sup>4</sup>, something which ComReg should have concluded by now.

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<sup>3</sup> Paragraph 13 of ComReg 14/54

<sup>4</sup> Paragraph 26 of ComReg 14/54



## Response to Consultation Question

Q1 Do you agree that Eircom should be required, pursuant to Regulation 6 and 7 of the Regulations, to continue to provide specific measures for disabled end-users from 1 July 2014 to 30 June 2015? Please provide detailed reasons and supporting evidence for your view.

Eircom does not agree that it should be required to be the USO on the basis that ComReg has not carried out the necessary analysis and therefore cannot properly consult on the measure. Absent these two pillars, there is no robust evidence to allow the Minister to determine whether the elements of the USO can be justified. This is not to say that eircom believes that the facilities that it currently provides as USP should immediately be withdrawn, rather, we seek to highlight that the requirement has not been justified and should be the subject of an immediate review within the next six months.

We referred in the introduction to this response, to the positive impact that technological advancements are having with respect to equivalence. In its response to the ComReg Consultation 13/58<sup>5</sup> the National Disability Association (NDA) stated that “Mobile phone technology has had a huge impact on the ability of disabled end-users to communicate and engage with their fellow citizens” while also noting that “Disabled end-users are, however, among the poorer members of society...It follows that there is an increased likelihood that disabled end-users are more likely to be pre-paid customers because they have to budget their call costs more closely.” This raises the question as to the focus of the USO. Historically it has been grounded in fixed technologies and through the persistent rolling-over of the obligation from one designation period to the next, the relevance of the obligation has not been sufficiently addressed.

As demonstrated by the representatives of disabled users, both from a features and cost perspective, mobile technology would appear to be more generally accessible and should therefore be considered as a medium for the USO. Ideally the focus should be shifting to more general obligations and while the Decision<sup>6</sup> accompanying this consultation is certainly a step in the right direction, serious consideration of the current market and technologies must form the backdrop to a proper review of the remaining USO elements.

### Specialised Equipment

ComReg notes in paragraph 10 of the consultation that fixed terminal telephone equipment that caters for disabled users' requirements are sold commercially by eircom. This overlooks the fact that such devices are sold commercially on the high street and may be offered by other service providers. This calls into question the need for a USO in respect of terminal equipment. As highlighted by Age Action in its response to the previous consultation on Equivalence, “currently 11.7%<sup>7</sup> of the population are aged 65 years and over. This percentage is expected to increase significantly in the future as like most countries we are experiencing rapid population ageing”. This represents a substantial market of 535,393 people, a market which is expected to double in size over the next two decades. This suggests that such a market, given its size and potential<sup>7</sup>, is likely to be well served in the absence of any USO that address terminal equipment.

<sup>5</sup> ComReg Consultation 14/52s; Electronic Communications:- Proposed Measures to Ensure Equivalence in Access and Choice for Disabled End-Users – Submissions Document

<sup>6</sup> ComReg Decision D04/14: Measures to Ensure Equivalence in Access and Choice for Disabled End-users

<sup>7</sup> Central Statistics Office (2012) Census 2011: Profile 2- Older and Younger. Downloaded from: <http://www.cso.ie/en/census/census2011reports/census2011profile2-olderandyounger/>

In paragraph 20 of the consultation ComReg quotes the figures provided by eircom stating “that, between January 2013 and September 2013, a combined total of 3,401 end-users accessed specialised equipment for customers with hearing impairment and/or limited dexterity or mobility”. ComReg fails to take account of the fact that such equipment is available from suppliers other than eircom. This highlights the requirement for a thorough analysis of these needs and how they are being served. ComReg cannot rely solely on data provided by eircom as this will merely result in a circular exercise that will likely perpetuate obligations unnecessarily.

### **Text Relay**

ComReg refers to a 10% increase in the average monthly demand for the voice to text aspect of the national text relay service, while the text to voice average monthly usage fell by 13% and subscriptions decreased by 8%. However these movements should come with a health warning given the very low volumes with just 73 registered users in November 2013 and 266 messages per month<sup>8</sup>. In light of the very low levels of usage, eircom welcomes the proposed review of the text relay service in the context of recent developments in respect of the equivalent service in the UK. This review is overdue.

### **Special Directory Enquiries Service**

eircom continues to meet its obligation to offer the 196 Special Directory Enquiries service, providing access to OAOs that originate calls to the service while noting that OAOs are not obliged to avail of eircom’s wholesale service and are free to source this elsewhere.

### **ComReg’s Conclusions**

ComReg concludes that *“based on the compliance confirmation date for D04/14, the statistics provided by Eircom in its presentation of November 2013 and the need to maintain the USO that are not covered by D04/14, ComReg is of the preliminary view that if it does not direct an undertaking (USP) to provide all of these measures, from July 2014 and to allow for the transitional period with respect to ComReg Decision D04/1420, it could be detrimental for the disabled end-users that rely on the services.*

The claimed need has not been properly demonstrated and as highlighted above and there is evidence to suggest that at least some of the needs may now be addressed through commercial offerings. Furthermore it is highly unsatisfactory that these obligations should be re-instated for a further 12 months while relying at least in part on the justification that *“eircom is already providing all of the measures listed above, some of which are provided on a commercial basis, and because the cost is estimated to be low”*. eircom acknowledges that this particular aspect of the USO gives rise to lower costs relative to other obligations however this does not detract from the onus upon ComReg to robustly demonstrated the need and justify the associated cost in the case of each element of the USO.

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<sup>8</sup> Combined sent and received monthly average for the 9 months to September 2013

## **2 NCBI (the National Sight Loss Agency).**



# NCBI

## Working for People with Sight Loss

### Response to ComReg Consultation 14/54 Universal Service Obligation – Measures for disabled end-users

June 2014

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#### About NCBI

NCBI (the National Sight Loss Agency) [www.ncbi.ie](http://www.ncbi.ie) is a not-for-profit charitable organisation that provides support and services to people of all ages who are blind and vision impaired throughout the country.

Our vision is for people who are blind and vision impaired to have the same opportunities, rights and choices as others to fully participate in society. Our mission is to enable people who are blind and vision impaired to overcome the barriers that impede their independence and participation in society.

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#### Introduction and background

NCBI welcomes this opportunity to input into ComReg's consultation on the Universal Service Obligation – Measures for disabled end-users. Equitable access to communications services is essential for the economic and social inclusion of people with disabilities and should be a central pillar of any telecoms policy. Although inadequate as a general mechanism, in the absence of equal access and choice to communications services generally, the USO remains an important tool to ensure that at least one service meets certain minimum standards for people with disabilities.

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## NCBI response to consultation question

**Q.1. Do you agree that Eircom should be required, pursuant to Regulation 6 and 7 of the Regulations, to continue to provide specific measures for disabled end-users from 1 July 2014 to 30 June 2015?**

NCBI agrees with this. To fall back from this position would be inexcusable.

However, NCBI's view is that the concept of a universal service provider is now outdated. By its very nature, USO is an attempt to ensure that there exists a single service that goes some limited way towards affording equal access to all end-users. The very fact that it designates only a single service as requiring accessibility is incompatible with the concept of equal choice. The very fact that it only implements minimal requirements towards making even that service fully accessible is incompatible with the concept of equal access.

What is needed for equal access and choice is full accessibility of all services. This is the intention of the EU Directive and associated Regulation 17. Despite the mandate that this regulation has given to ComReg, we have seen very little progress in this area and the proposals put forward in the recent consultation on equal access and choice were wholly inadequate. In particular, they are failing to address the changing nature of access to communications services through the internet and mobile channels. We look forward to frank and detailed discussions of this issue.

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