



Commission for
Communications Regulation

Universal Service Obligation- Measures for disabled end-users, Terminal Equipment.

Submissions received from respondents

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1 DeafHear.

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DeafHear.ie

Services for Deaf & Hard of Hearing People

DeafHear Submission

to

ComReg's Public Consultation

on

**Universal Service Obligation-
Measures for disabled end-users;
Terminal Equipment**

DeafHear June 2015

1 Introduction.

1.1 DeafHear.

DeafHear is a national organisation that provides a range of specialist services to Deaf and Hard of Hearing people and advocates for better access to services in the wider community for Deaf and Hard of Hearing people. DeafHear's Vision is of an inclusive society where Deaf and Hard of Hearing people are fully integrated, with equality of opportunity and participation. DeafHear's role is to make this Vision a reality by promoting the equal rights of Deaf and Hard of Hearing people and enhancing their life opportunities.

1.2 Hearing loss.

One in six people have some level of hearing loss. Approximately one in a thousand people are profoundly Deaf and use Irish Sign Language to communicate. According to the HSE, 8% of adults have a 'disabling hearing loss' (270,000 adults in Ireland), and most of these people are older people with acquired hearing loss. By the age of 65, one third of people have a significant hearing loss. The fact that we are living longer and research has shown that many young people are damaging their hearing by using music playing devices at high sound levels, hearing loss is on the increase in the population. The World Health Organisation expects that in the coming decades hearing loss will be one of the top ten health burdens in developed countries.

1.3 Communication.

Communication is the key issue that affects people with hearing loss. It contributes to social isolation and negatively impacts on the health, social and economic status of people with hearing loss or deafness. For example, compared to hearing peers, older people with a mild hearing loss have twice the rate of dementia, people with moderate hearing loss 3 times the rate of dementia, and people with severe hearing loss 5 times the rate of dementia. People with hearing loss have double the rate of depression compared to hearing peers, while the negative impact of hearing loss on the quality of life of people has been found to be greater than that of cancer or heart disease.

The key to understanding these significant research findings is an appreciation of just how fundamental communication is to daily life: research consistently demonstrates that there is a strong correlation between access to communication with family, friends and society in general, and

quality of life, health status and well-being. Based on an analysis of the economic costs associated with deafness/hearing loss conducted in Australia, the annual cost to society of hearing loss in Ireland is €2.2billion. More than half of this cost is borne by the individuals affected in terms of loss of income, care costs and the costs of assistive technology. (For more information on these research findings see www.deafhear.ie).

1.4 Access to electronic communications.

Equivalent access to electronic communications is an extremely important issue for Deaf and Hard of Hearing people and their families. This is not only because electronic communications facilitate a range of communications that is vital to many aspects of the lives of all citizens in Ireland today, but also because access to these services has a critical role in ameliorating the impact of deafness on the quality of life of individual citizens with hearing loss. A large longitudinal study demonstrated that people with hearing loss who had access to assistive technology were much more independent and less likely to rely on formal community supports than those who had hearing loss but did not have access to assistive technology. In other words, there is a strong ethical and economic argument for ensuring insofar as possible that people who are Deaf or Hard of Hearing have equivalent access to electronic communications. As such, DeafHear believes that the aim of Regulation 17 to ensure such equivalence is well founded.

Access to terminal equipment is a key requirement for Deaf and Hard of Hearing people to be able to enjoy equivalent access to telecommunications. Many people who acquire a hearing loss, typically later in adult life, rely on terminal equipment with specific features in order to be able to continue to enjoy and make telephone calls. Such features include adjustable volume, speakers with high sound clarity, inductive couplers, loud ring tones, teleflash visual alerts.

2 ComReg's Proposed Measures and Questions.

2.1 Question 1: Do you agree that Eircom should be required, pursuant to Regulations 6 and 7 of the Regulations, to continue to provide the specific measures detailed in paragraph 13 for disabled end-users from 1 July 2015 to 31 December 2015?

DeafHear agrees that it is appropriate to continue to require Eircom to provide specialised terminal equipment. We do not believe that it is the case that phones available from service providers are generally accessible to people with hearing loss. While most phones available may have an inductive coupler, few have a visual alert facility, and although many have a volume control facility, this does

not mean that the volume and quality of the sound provided will be sufficient to meet the needs of a person with hearing loss. The sale by Eircom of over 4,000 units of the Big Tel and 9000B phones in 2014 bear this out.

It is important to have regard to the fact that many hearing aid users are elderly and may not use a 'T' switch (or inductive coupler). Also, many elderly people with hearing loss do not use hearing aids, so an amplified telephone with high quality sound is essential for them to be able to continue to make phone calls.

2.2 Question 2: Do you have further information on reasons as to why Eircom or another USP should be obliged to continue to provide specific terminal equipment post 31 December 2015?

DeafHear believes that all undertakings, not just Eircom, should be obliged to provide a certain number of phone products that are suitable for use by Deaf and Hard of Hearing people. This would be consistent with the principle of equivalence in providing access to accessible terminal equipment, and providing access in terms of choice and price.

The volume in sales of specialised terminal equipment demonstrate the need for a measure to ensure that such equipment is available to customers. In fact DeafHear believes that sales of such equipment would be higher if customers were more aware of what was available to them. In fact we believe that the information provided on undertakings websites about specialised terminal equipment for people with hearing loss is presently less than satisfactory.

We also believe that customers should be able to request such equipment where a service provider is providing a handset as part of a 'bundle', so that Deaf and Hard of Hearing people are not faced with the full additional cost of purchasing separately a specialised phone that meets their needs.

While we note that ComReg's research indicates that the handsets Eircom are required to provide are widely available from multiple stores and online, this may involve placing an additional cost on the customer concerned; this status quo may not continue to be the case, thus placing customers who need this equipment in a vulnerable position; and such suppliers are not necessarily operating under the regulation of ComReg, with the associated consumer protections e.g. the opportunity for disabled customers to test terminal equipment.

2.3 Question 3: *Do you have any comments on the Draft RIA?*

As noted in the RIA, DeafHear agrees with ComReg that it should seek more insights in respect of ongoing monitoring of the provision of specialised terminal equipment. This should include examining the impact of the change in Eircom's practice whereby such equipment can no longer be purchased online; the opportunity to test terminal equipment and the provision of information making customers aware of this facility. With regard to the withdrawal of online purchasing of terminal equipment by Eircom, it is somewhat perverse that a customer who requires a specialised phone in order to make phone calls, now is faced with the alternative of purchasing the phone that they need by making a call to 1901!

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DeafHear June 2015

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2 Eircom Group.

eircom Group

Response to ComReg Consultation Paper:

**Universal Service Obligation – Measures for disabled end users;
Terminal Equipment**

ComReg Document 15/52



25 June 2015

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.

1 Process matters

Before addressing the substance of the consultation eircom would like to air its concerns regarding the consultation process itself. The current designation in respect of Terminal Equipment was imposed by ComReg on 7 July 2014 (the 2014 Decision¹). The 2014 Decision set an expiry date of 30 June 2015. It is therefore disappointing that ComReg has chosen to schedule this consultation in mid-June only a few days away from the expiry of the of the designation period.

This has in turn resulted in a very short consultation period as noted at paragraph 45 of this consultation: *“The consultation period will run 11 June 2015 to 25 June 2015. This short period is due to the expiration date of 30 June 2015 of the current measures (D09/14) and previous discussions on this matter at the Forum.”* eircom would offer three observations in this regard:

- The consultation was in fact issued on the afternoon of 12 June, not 11 June, and consequently ComReg is purporting in paragraph 45 to offer a consultation period that is longer than is in fact the case. The inaccuracy is concerning.
- The consultation period, in effect 9 working days, is incredibly short. In eircom’s view consultation periods should be at least 4 weeks and ideally should be longer. Shorter periods may be justified in the case of a very serious issue which has arisen recently and that requires urgent attention.
- ComReg seeks to justify the short consultation period ‘*due to the expiration date of 30 June*’ and ‘*discussions on this matter at the Forum.*’ eircom does not accept these as valid justifications for an incredibly short consultation period. The expiration date was established by ComReg almost a year ago and ComReg was aware of it in its planning. The last Forum meeting was on 30th April, over a month and a half ago. The minutes from that meeting demonstrate that there was no material discussions or notes of developments in respect of Terminal Equipment at that Forum, the matter having been fully discussed at previous meetings and in previous consultations.

eircom is concerned by the lateness in the day of this consultation and the two other parallel consultations (ComReg 15/51 and ComReg 15/53) related to Universal Service Obligations (USO) regarding measures for disabled users. It has been an unfortunate feature of the USO regime in recent years that a number of important consultations have been scheduled by ComReg close to expiry dates leaving no real opportunity for meaningful consideration by stakeholders. Indeed in the current situation ComReg has allowed itself only 3 working days to consider the responses to this consultation before deciding whether to let the current Designation lapse on 30 June or impose a new Designation. eircom expects that proper consideration will be given by ComReg to the views of respondents.

¹ Decision D09/14, ComReg 14/70

2 Response to Consultation Questions

Q.1 Do you agree that Eircom should be required, pursuant to Regulation 6 and 7 of the Regulations, to continue to provide the specific measures detailed in paragraph 13 for disabled end-users from 1 July 2015 to 31 December 2015?

eircom does not agree.

ComReg proposes to re-designate eircom as Universal Service Provider (USP) in respect of providing terminal equipment to meet the specified needs of disabled end users for a period of 6 months to 31 December 2015. ComReg's rationale for the re-designation is set out at paragraph 23 of the consultation. *"ComReg is inviting a further opportunity to provide information on any reasons as to why Eircom or another USP should be obliged to continue to provide specialised terminal equipment post 31 December 2015."* In effect ComReg is rolling over the obligation on eircom pending any information arising from this consultation that has not previously been considered.

It is stated that *"In September 2014, a meeting of the Forum had a preliminary discussion on the specific measures for disabled end-users provided by Eircom as the USP, including terminal equipment and its take-up."*² This suggests that the initial discussions regarding Terminal Equipment commenced in September 2014. However the reality is that discussions have been ongoing for a much longer period as highlighted the 2014 Decision: *"During the meeting of November 2013 and again in June 2014 there was an initial discussion regarding the continued need for the USP to supply specialised terminal equipment, however, no real preliminary view was formed. It was noted that the terminal equipment, handsets, are sold to consumers and therefore they are offered commercially by Eircom."*³

It is stated in paragraph 16 of the current consultation that at the Forum meeting in September 2014, *"the disability representative groups made the following points:*

- *That most land line (not-dect phones) had the necessary couplers built in for those end-users that are hard of hearing.*
- *although such (specialised) handsets were generally available, there would be concern if an entity (eircom) was not obliged to supply them.*
- *some disabled end-users would not be able to access or use online purchasing facilities or may have difficulty accessing other stores selling accessible equipment in towns and cities and therefore they proposed that the handsets should continue to be provided by the USP, as a safety net."*

It is interesting to note that the disability representative groups acknowledge that Terminal Equipment is generally available in the first two bullet points. The third bullet points seeks to suggest that eircom has some inherent advantage as a distributor of Terminal Equipment. We do not consider this to be the case. It is important to note that eircom has used online and Customer Care channels during the preceding periods in which it has been designated as the USP. These specialised devices have not been generally supplied through high street stores by eircom. Indeed, eircom did not have any high street stores for many of the years during which it has had USO in respect of terminal equipment. Terminal Equipment however is available from many alternative Retailers on the 'High Street' and online. eircom

² Paragraph 9, ComReg 15/52

³ Paragraph 20, ComReg 14/70

would also observe that at least one disability representative group, Deaf Hear⁴, is an important alternative supplier of specialist equipment in addition to many Retailers.

Stakeholder discussions on the subject matter of this consultation have been on-going for over a year and a half. It is also notable that there were only two respondents to the previous consultation in 2014⁵; eircom and NCBI. NCBI made no reference to the matter of specialised terminal equipment⁶. It seems to eircom that there has been ample opportunity to provide justification for the perpetuation of this USO, however all the evidence presented to date points to a lack of justification and hence ComReg should come to a clear conclusion now that the USO designation should not be continued. As ComReg itself observes, *“ComReg’s research indicated the handsets that Eircom are required to provide are widely available from multiple retail stores and online”*⁷ [emphasis added]. There is no market failure and hence there is no need for regulations to be imposed on eircom or any other entity in relation to Terminal Equipment. ComReg should finish this consultation process and take no further action, concluding that there is no longer a justification to impose a designation. To do otherwise is an inefficient use of resource and contrary to ComReg’s duties as an evidence based regulator as there is no objective basis for the on-going maintenance of the Terminal Equipment designation.

Q.2 Do you have further information on reasons as to why Eircom or another USP should be obliged to continue to provide specific terminal equipment post 31 December 2015?

eircom should not be obliged now or in the future to continue to provide specific terminal equipment. There is no market failure that needs to be addressed as highlighted in our response to question 1.

Q.3 Do you have any comments on the Draft RIA?

eircom has reviewed the draft Regulatory Impact assessment (RIA). Based on the information presented in the RIA ComReg has reached a conclusion that is inconsistent with the facts. At paragraph 42 ComReg confirms that its *“research indicated the handsets that Eircom are required to provide are widely available from multiple retail stores and online.”*⁸

ComReg considers three options in the RIA. ComReg rejects option 1, no undertaking designated on the basis that *“Should ComReg not require any undertaking to provide specialised terminal equipment, there is a danger that disabled end-users may not be able to source equipment to meet their needs.”*⁹ It is not clear how ComReg can seek to rely on this statement as a basis for rejecting option 1 when ComReg itself has undertaken research and concluded Terminal Equipment is *“widely available from multiple retail stores and online”*.

ComReg rejects option 2, designation of eircom for a substantive period of time, on the basis that *“there is a danger that disabled end-users’ needs may change and/or the obligation*

⁴ <https://www.deafhear.ie/DeafHear/productList.html?who=11&pageNum=2>

⁵ Universal Service Obligation – Measures for Disabled End-Users;- ComReg 14/54

⁶ http://www.comreg.ie/_fileupload/publications/ComReg1470s.pdf

⁷ Paragraph 42, ComReg 15/52

⁸ ComReg goes on to observe in paragraph 42 that *“ComReg, however, notes that all handsets are obliged to comply with EN standards which may be monitored by ComReg’s Spectrum Compliance team.”* It is not clear why ComReg makes this statement.

⁹ Paragraph 38, ComReg 15/52

becomes unnecessary".¹⁰ eircom would agree that option 2 should be rejected because the obligation has already become unnecessary.

ComReg proposes that option 3, maintain a designation on eircom for a short period of time, should be adopted as *"it allows for any insights in respect of ComReg's ongoing monitoring to be evaluated and incorporated in any further decision on this aspect."*¹¹ For the reasons already set out in this response eircom does not agree that this is a justifiable option. ComReg has had over a year and a half to consider this matter since the 'preliminary' discussion in the Forum and has produced its own evidence that terminal Equipment is widely available in the marketplace. ComReg should finish this consultation process and take no further action, concluding that there is no longer a justification to impose a designation.

Q. 4 Do you have any comments on the substance or the drafting of the draft Decision Instrument? If necessary, please provide a marked up version of the draft Decision Instrument, indicating what changes you believe are appropriate and why.

Without prejudice to eircom's position that a further designation on eircom is not justified. eircom has reviewed the text of the draft Decision Instrument. eircom takes exception to Section 4 of the draft Decision Instrument. Section 4 seeks to preserve the USO regime that was in place prior to the proposed decision. However D09/14 is a time bound Decision which will expire on 30 June 2015. As such Section 4 should be deleted as it is not lawful.

~~"4. CONTINUATION OF OBLIGATIONS~~

~~*All other obligations imposed on the USP by ComReg in relation to its universal service obligations, which were immediately in force prior to the effective date of this Decision and Decision Instrument, shall continue to have full force and effect."*~~

¹⁰ Paragraph 39, ComReg 15/52

¹¹ Paragraph 40, ComReg 15/52