



Commission for
Communications Regulation

Universal Service - Provision of Public Payphones

Review of Usage Threshold for Removals

Consultation

Reference: ComReg 16/43

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Date: 27/05/2016

Additional Information

All responses to this consultation should be clearly marked:

“Reference: Submission re ComReg 16/43” as indicated above, and sent by post, facsimile, e-mail or online at www.comreg.ie (current consultations), to arrive on or before 5pm on June 24th 2016, to:

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Please note ComReg will publish all respondents' submissions with the Response to this Consultation, subject to the provisions of ComReg's guidelines on the treatment of confidential information – ComReg 05/24.

Legal Disclaimer

This Consultation is not a binding legal document and also does not contain legal, commercial, financial, technical or other advice. The Commission for Communications Regulation is not bound by it, nor does it necessarily set out the Commission's final or definitive position on particular matters. To the extent that there might be any inconsistency between the contents of this document and the due exercise by it of its functions and powers, and the carrying out by it of its duties and the achievement of relevant objectives under law, such contents are without prejudice to the legal position of the Commission for Communications Regulation. Inappropriate reliance ought not therefore to be placed on the contents of this document.

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1. Executive Summary

- 1 In this consultation document the Commission for Communications Regulation (“**ComReg**”) is seeking the views of stakeholders on the level of usage below which public pay telephones (“**public payphones**”) provided under the universal service obligation can be removed.
- 2 In 2014 we designated Eircom Limited (“**Eir**”) as the Universal Service Provider (“**USP**”) for public payphones for a period of 4 years.¹ We also decided that the number of public payphones in operation at that time should be maintained by Eir, unless their usage fell below a certain level.² If their usage did fall below a certain level however, Eir was permitted to remove them. These usage levels ensured that consumers who used public payphones could still have access to them, whilst permitting Eir to remove public payphones for which there was no longer a reasonable need.
- 3 Although the designation for payphones remains in place until 30 June 2018, we stated that we would review the usage thresholds below which Eir is permitted to remove universal service payphones, by 30 June 2016.
- 4 We have now completed the preliminary phase of our review and **we are proposing to maintain the current usage thresholds** which we set out in ComReg Decision No. D08/14. The preliminary view in this consultation therefore is that there should be no change to the current regime in relation to usage under which public payphones can be removed.
- 5 Our proposal takes account of the latest data which Eir has provided to us and also, the following:
 - The volumes and duration of calls from public payphones;
 - The continued use of public payphones for Freephone calls; and
 - The number of public payphones throughout the country and their number payphones by county.
- 6 We look forward to receiving responses from interested parties in relation to our proposal. We will fully take into account responses we receive before making our final decision.

¹ ComReg Document No. 14/69 and ComReg Decision No. D08/14: “*Provision of Public Pay Telephones- Universal Service: Scope and Designation*”, July 7 2014 (“**ComReg Decision No. D08/14**”).

² See ComReg Decision No. D08/14 as contained in Appendix 1.

2. Background

- 7 Under the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011 (the "**Regulations**")³ the USP (currently Eir) must, to comply with its Universal Service Obligations ("**USO**") ensure that public payphones⁴ are provided in order to meet the reasonable needs of consumers in terms of the geographical coverage, the number of public payphones, accessibility to consumers with disabilities, and quality of service. Public payphones which are required under the USO are those located on the street and in other public areas. They must be available to the public at all times.
- 8 On 7 July 2014, we designated Eir as the USP for the provision of public payphones for a period of 4 years. This was primarily because of Eir's geographical ubiquity, its experience, and its capability.
- 9 Accordingly, this consultation does not concern itself with the designation of the USP for the provision of public payphones. It is solely concerned with reviewing the threshold for usage, below which the USP is permitted to remove public payphones.
- 10 Eir is not required to retain and therefore, is permitted to remove public payphones on a single site where:
- i. there is evidence of anti-social behaviour; or
 - ii. usage in the previous 6 months was low, i.e. the average usage is less than 1 minute per day and the average usage to Freephone numbers and ECAS is not more than 30 seconds of these minutes;⁵ or
 - iii. there is more than 1 payphone on the site and the combined average does not meet the low usage standards; or
 - iv. it is requested by a Local Authority.
- 11 ComReg Decision No. D08/14 permits Eir to remove existing public payphones based on usage. This is because we considered usage levels to be the most appropriate measure of the reasonable needs of consumers.

³Regulation 5 of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011 (the "**Regulations**").

⁴Regulation 2 (2) of the Regulations defines a public pay telephone as: "...a telephone available to the general public for the use of which the means of payment may include coins, credit cards, debit cards, or prepayment cards including cards for use with dialling codes."

⁵Subject to it being in working order for the previous period – see Annex 3.

- 12 Public payphones continue to be used and we wish to ensure that the applicable threshold level is set appropriately for the next 2 years.
- 13 This consultation thoroughly reviews current public payphone usage in order to determine an appropriate usage level for the remaining 2 years of the public payphone USO.

3. Payphone Trends

- 14 Usage of public payphones has been in steady decline. Eir is currently the only operator of public payphones in Ireland. Primarily because of the growth in mobile telephony and a decline in demand for the use of public payphones (urban and rural) reducing their numbers may be unavoidable.
- 15 Although usage is declining, some public payphones do continue to provide a basic voice telephony service to many people. We believe the reasons why consumers still use public payphones are likely to include:
- Consumers either could not use their mobile (e.g. they had no call credit or no mobile coverage or due to no battery or lost or forgotten phone).
 - Consumers who have their own landline or mobile, but they use a public payphone when they have no alternative means of making a call, or for privacy reasons.
 - Consumers have no landline/mobile phone e.g. the most vulnerable in society, such as the homeless.
- 16 Since Eir was designated as the USP in 2014, there has been a large decrease in the overall number of public payphones in Ireland. This is due to a combination of declining demand and the rules and processes which we have put in place that allow for their gradual removal by Eir.
- 17 There are just under 900 public payphones remaining in Ireland. This is a decrease of over 30% from 1,300 public payphones in July 2014. Prior to this, the largest decrease in recent years was in 2009 when Eir undertook a rationalisation project that reduced the number of public payphones from approximately 3,500, to just over 1,500.
- 18 Public payphone removals in the last 18 months have not been confined to remote or rural locations. They have also occurred in urban centres and towns throughout Ireland, as illustrated by **Figure 1**.

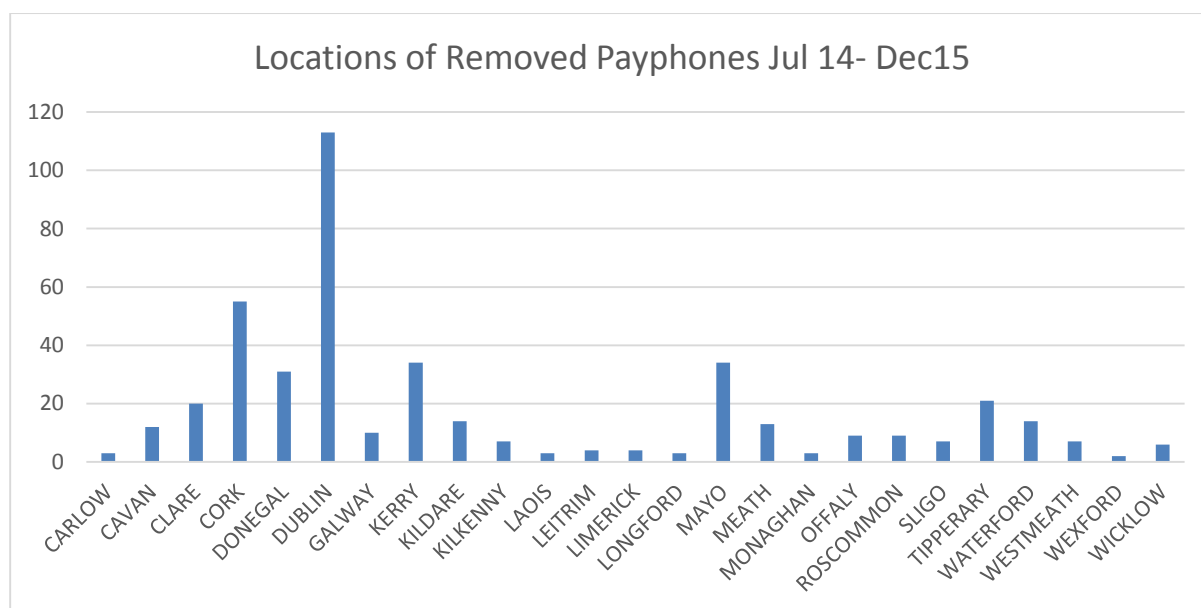


Figure 1 – Payphones removed: July 2014 – December 2015

- 19 Although **Figure 1** shows that a significantly higher number of public payphones were removed in Dublin, this is primarily due to the large number of public payphones in that county. As illustrated by **Figure 4 below**, 32% of remaining public payphones are in County Dublin.
- 20 Public payphones may be particularly valued by disadvantaged and vulnerable consumers. Usage data supplied by Eir shows that calls continue to be made from public payphones e.g. to 1800 numbers and to emergency call answering services (“**ECAS**”) as well as to local, national, and mobile numbers. Customers may also use public payphones for the reverse charge calls service and for pre-paid phone cards.
- 21 Freephone calls from public payphones are the result of reverse charge calls, pre-paid calling card services, and calls to helplines. The nature of calls to Freephone numbers means that the call may be of a sensitive nature and the calling party may not want anyone to know the call has been made. In Consultation 13/119⁶ ComReg found that 26% of Freephone calls from payphones were to a helpline.
- 22 At this time, public payphones continue to provide a vital service in society. As the following graph illustrates, a large percentage of calls from public payphones are to Freephone numbers: in most months, calls to Freephone numbers account for more than 50% of calls, as illustrated by **Figure 2**.

⁶ ComReg Document 13/119, “Provision of Public Pay Telephones, Universal Service: Scope and Designation”, December 19 2013

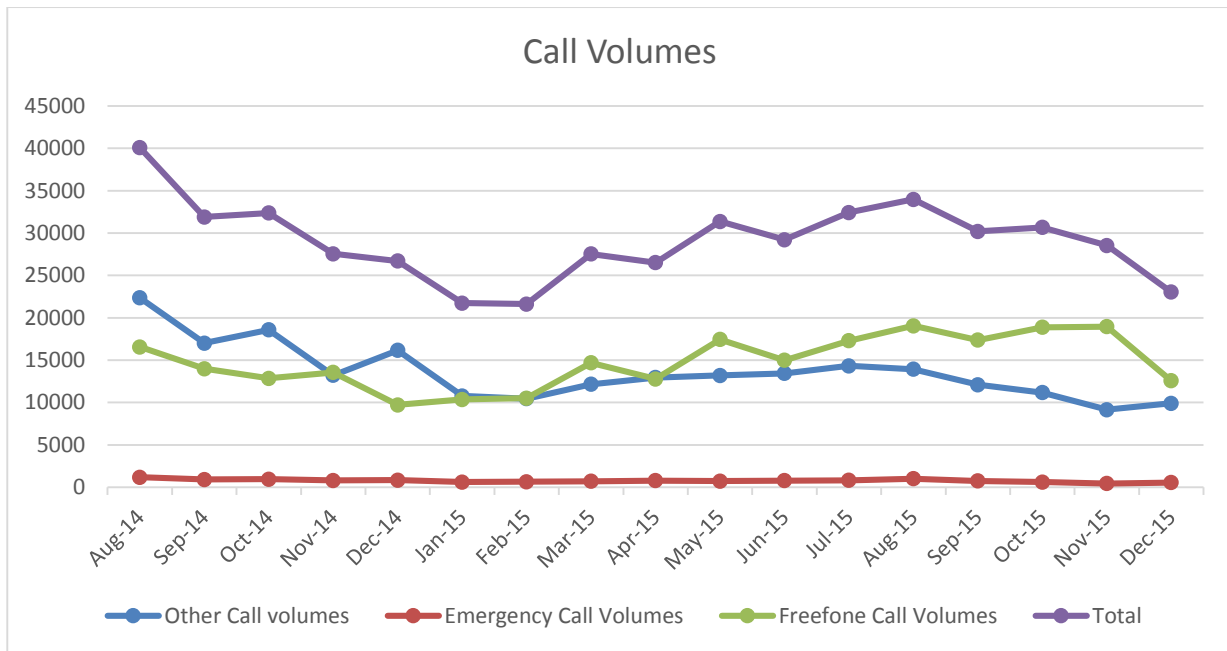


Figure 2 – Total Call volumes for all payphones: August 2014 – December 2015

- 23 **Figure 3** illustrates that the decline in public payphone use has slowed somewhat in the last year (particularly, when we take account of seasonal effects).
- 24 On average, less than 1 call per day with an average duration of 1 - 2 minutes was made from public payphones⁷ in 2014/15. While usage varies substantially by public payphone (some payphones have a lot of usage whereas others have little or no usage) the majority of those remaining have less than 2 minutes usage per day – as illustrated by **Figure 3**.
- 25 Public payphone calls to ECAS accounted on average for less than 1 call per month in the period.
- 26 However, **Figure 4** illustrates that of the approximately 900 payphones remaining, a majority (640) have less than 1 minute of usage per day; 118 have 1 - 2 minutes usage per day; while the remainder have more than 2 minutes (up to a maximum of about 25 minutes per day).

⁷ Based on all public payphones, many of which had low usage and have since been removed.

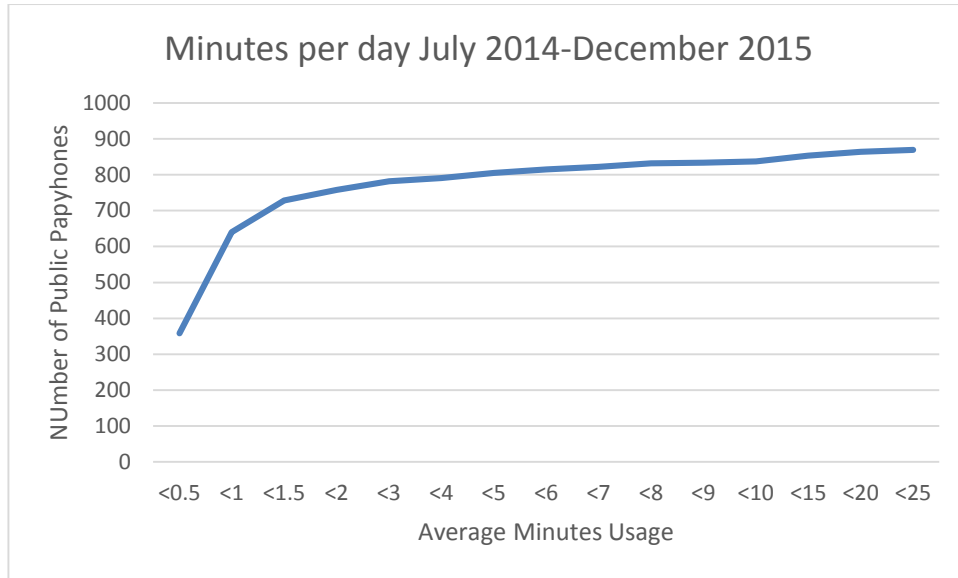


Figure 3 – Average usage of current public payphones

27 **Figure 4** illustrates that under the current usage level of 1 minute per day, a large number of public payphones could be removed by Eir in the future.⁸ If Eir chooses to remove these public payphones, there would be some counties which would no longer have public payphones.

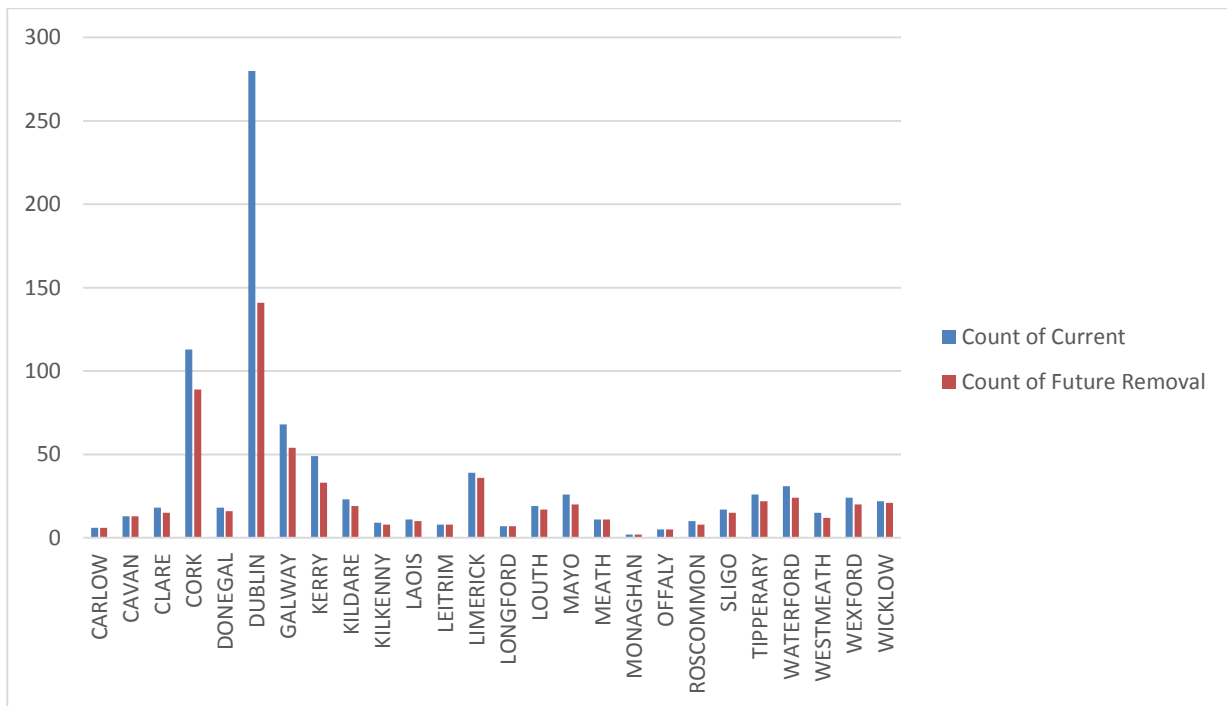


Figure 4 – Current public payphones by county (as at December 2015) and potential future removals

⁸ This does not take the ECAS and Freephone threshold into account and hence, actual permitted removals may be lower.

28 The public payphones which would remain do however continue to be used. Indeed, the average usage of these public payphones has *increased* over the last 12-18 months. This is possibly due to the removal of other public payphones that had been in their vicinity.

Options Available to ComReg

29 We need at this time to consider whether the usage levels which we set in ComReg Decision No. D08/14 should be amended.

30 The current usage threshold of 1 minute per day (with no more than 30 seconds of these to ECAS and Freephone) means that based on average usage⁹ as illustrated in **Figure 5** below, Eir could remove approximately 71% of the remaining public payphones, if it chose to.

31 As discussed in paragraph 17, following the designation of Eir as the USP for the provision of public payphones in 2014, it removed approximately 30% of public payphones. We are of the view that Eir could remove further payphones under the current threshold. However, in response to a request for details of any plans it had to remove public payphones in the next 12 months, Eir stated that: *“There are no payphones identified at this present time however eir continuously review payphones in terms of their usage as it is obliged to do in the interest of efficiency.”*¹⁰

Average Minutes per day from USO Payphones	# USO Payphones that Eir could decide to remove	% Total USO payphones
45 seconds	535	62%
1 minute	621	71%
2 minutes	697	80%

⁹ Based on July 2014 – December 2015 data.

¹⁰ Response to 13D information requirement dated 11 March 2016.

Figure 5 - Current profile of payphone usage

- 32 Any amendments to the usage thresholds should ensure that public payphones continue to be provided where they are currently used (and hence needed) by consumers while also allowing for those payphone with low usage (not needed) to be removed so that unnecessary costs are not incurred.
- 33 One of our options would be to **increase** the threshold which would permit the removal of a larger number of public payphones. **Figure 4** illustrates that if the threshold were to increase to 2 minutes (and maintaining the condition that calls to ECAS and Freephone numbers should account for not more than 30 seconds of these minutes) only 1 in 5 public payphones would remain. This could result in there being less than 200 payphones remaining in Ireland.
- 34 As is demonstrated in **Figure 3** above, increasing the level above 2 minutes would result in very few public payphones remaining as only a very small number of payphones have usage of more than 3 minutes per day. Increasing the threshold to 5 minutes may have a similar effect to removing the obligation to provide public payphones.
- 35 Another option would be for us to **maintain** the usage threshold at its current level. An average of 1 minute of calls per day from a public payphone was set as the usage threshold in 2014. At that time, we considered that this indicated low usage (and that consequently, it did not appear that the public payphone was required to meet the reasonable needs of the public). A threshold of an average of 1 minute per day would ensure that public payphones which are used more regularly could be retained. Where the usage of public payphones is at a low level – but primarily for calls to Freephone and ECAS numbers – Eir would not be permitted to remove them at this time as we are of the preliminary view that they continue to be needed by consumers, particularly those who are vulnerable.
- 36 At current usage levels, this could result in the removal of approximately 71% of the remaining public payphones.
- 37 A further potential option would be for us to **decrease** the threshold. As set out in Figure 4 above, decreasing the threshold to 45 seconds per day could result in 62% of public payphones being removed. Decreasing the threshold would mean that we could no longer permit some public payphones to be removed, which could have been removed under the 2014 threshold level, but could still result in 2 in 3 public payphones being removed.
- 38 We remain of the view that public payphones that are still used by consumers (particularly vulnerable consumers) to make Freephone and the ECAS, should not be removed.

- 39 We also have no evidence available to us at this time to suggest that the usage threshold level should be increased or decreased.
- 40 We note that Eir has not to date removed all of the public payphones that it could remove under the current threshold. We are of the preliminary view that the usage thresholds which we set in 2014 remain appropriate and we therefore propose to maintain them for 2 years that remain of Eir's USO as public payphone provider. This would mean that Eir could still remove public payphones where usage is low (indicating that the public payphone is *not* required to meet the reasonable needs of the public).
- 41 Where average usage of the public payphone is extremely low i.e. less than 30 seconds per day, we are proposing that it can be removed, regardless of what types of call the public payphone has been used to make.
- 42 Where public payphones are being used predominantly by vulnerable users, the percentage of calls from these to Freephone and the ECAS would be high and therefore, the condition that no more than 30 seconds of the payphone minutes should be to the ECAS and Freephone should also be maintained.
- 43 We believe that this obligation will allow for the removal of public payphone service where usage is low and that it should also result in a reduction in the costs to Eir of the uneconomic provision of the USO.
- 44 Where these usage criteria are met, the entire payphone kiosk may be removed (unless interested parties want the kiosk left in place for other purposes) and not only the payphone unit. This would prevent the kiosk becoming subject to vandalism or anti-social behaviour.
- 45 However, while we can mandate a USP to provide public payphones and set the conditions under which they may be removed, we cannot require the removal of public payphones. This is a commercial decision for Eir to make.
- 46 We are of the preliminary view that maintaining these usage levels will ensure that the reasonable needs of consumers are met without resulting in additional costs to Eir and that therefore, ComReg Decision No. D08/14 (see Annex 1) does not need to be amended at this time.

Q. 1 Do you agree with our preliminary view that the usage threshold levels should be maintained at the levels set in D08/14? Please give reasons to support your view.

4 Draft Regulatory Impact Assessment (RIA)

- 47 A RIA is an analysis of the likely effect of a proposed new regulation or regulatory change. It helps identify regulatory options, and should indicate whether or not a proposed regulation is likely to have the desired impact. The RIA should also in certain cases suggest whether regulation is or is not appropriate. The RIA is a structured approach to the development of policy, and analyses the probable impact of regulatory options on different stakeholders.
- 48 Our approach to RIA is set out in our Guidelines published in August 2007.¹¹ In conducting this RIA, we take account of the RIA Guidelines,¹² adopted under the Government's Better Regulation programme.
- 49 A RIA should enable us to determine the impact of any regulatory change or new regulation, and should assess the alternatives to regulation- such as no intervention, self-regulation or performance based regulation amongst others. RIAs aim to identify areas where regulation can be reduced.
- 50 A RIA should identify the impact of the various options on stakeholders, on competition and on consumers and also the key risks associated with each option. RIAs therefore increase transparency of decision making and ensures the best possible outcome for stakeholders, consumers and competition.
- 51 We are not required by the Communications Regulation Act 2002 to consult upon or conduct a RIA for the purposes of this consultation or our final decision. This is because we are not imposing regulatory obligations on Eir or other industry participants.
- 52 Nonetheless, we have decided to consult upon and to conduct a RIA because of the continued importance of public payphones to certain sections of the public and in order to help us to better take account of the potential impacts on end-users as a result of the gradual removal of public payphones.

¹¹ComReg Document No. 07/56 & 07/56a.

¹²http://www.taoiseach.gov.ie/eng/Publications/Publications_2011/Revised_RIA_Guidelines_June_2009.pdf

Step 1: Describe the Policy Issue and identify the Objectives

53 We are reviewing the current public payphone usage levels to assess whether or not the current levels should be amended or maintained. Payphone numbers have declined in recent years, as have the volumes of calls. However we are of the view that payphones continue to provide a vital service to consumers, particularly to disadvantaged and vulnerable consumers.

54 We committed to complete a review the usage levels by 30 June 2016.

Step 2: Identify and Describe the Regulatory Options

55 ComReg identified the following regulatory options which may be adopted in order to meet the objectives set out above.

- **Option 1 Maintain the Current Usage Threshold:** The USP may remove public payphones subject to the conditions set out in Decision D08/14.
- **Option 2 Amend the Current Usage Threshold by:**

Option 2(a) Increase the Current Threshold: The USP may remove public payphones subject to an increased usage threshold.

Option 2(b) Decrease the Current Threshold: The USP may remove public payphones subject to a decreased usage threshold.

Steps 3 & 4: Determine the impacts on stakeholders and competition

56 In order to determine the impact of each of the options, the impact on industry, consumers and other stakeholders are set out below.

Measure Proposed	Impact on Industry		Impact on Consumer		Impact on other Stakeholders
	Costs	Benefits	Costs	Benefits	
<p>Option 1</p> <p>Current Usage threshold is Maintained</p>	<p>Eir may incur costs for the physical removal of public payphones, however maintenance costs would decrease.</p> <p>Where net costs results in an unfair burden industry may be required to contribute to in respect of sharing of any unfair burden</p> <p>USP may lose the brand benefit of having its logo displayed on phone boxes throughout the country.</p>	<p>Eir could benefit from the removal of uneconomic public payphones & may therefore benefit from reduced costs resulting in reduced net cost claim.</p> <p>71% of payphones could be removed.</p> <p>Potential for reduced maintenance costs due to reduced number of payphones</p> <p>Net cost will reduce over time however not as quickly as if the threshold was increased.</p>	<p>In some areas, all public payphones may be removed. However, the number of calls made from these payphones is low and so the consumer impact is minimised.</p> <p>Vulnerable consumers and consumers who wish to use payphones may no longer have access to service that they currently use.</p> <p>Large number of payphones may be removed.</p>	<p>Consumers living in areas where payphones have become the location for anti-social behavior may benefit from their removal.</p> <p>Some payphones remain; these may be primarily in urban locations.</p> <p>Vulnerable consumers may still be able to use payphones, once average usage is above the threshold and Freephone calls do not account for more than 30 seconds of these calls.</p>	<p>Local Authorities may benefit from reduced cleaning costs (where kiosks are physically removed). No longer negative impact on streets where public payphone usage is source of anti-social behaviour.</p> <p>Pavement space can be used for bicycle stands/information points</p> <p>Eir is the only provider of public payphones in the state and hence there is no competitive impact of maintaining the threshold.</p>
<p>Option 2 (a)</p> <p>Increase Current Usage threshold</p>	<p>Eir may incur costs for the physical removal of public payphones, however maintenance costs would decrease.</p> <p>USP may lose the brand benefit of having its logo displayed on phone boxes</p>	<p>Eir could benefit from the removal of uneconomic public payphones & would therefore benefit from reduced costs resulting in reduced net cost claim.</p> <p>For a 2 minute threshold 80% of payphones could be</p>	<p>In some areas, all public payphones may be removed. Consumers needing to make calls in certain locations may now need to find alternative means of making calls.</p> <p>Vulnerable consumers and consumers who wish to use</p>	<p>Consumers living in areas where payphones have become the location for anti-social behavior may benefit from their removal.</p> <p>Some payphones remain; these may be primarily in urban</p>	<p>Local Authorities may benefit from reduced cleaning costs (where kiosks are physically removed)</p> <p>No longer negative impact on streets where public payphone usage is source of</p>

Measure Proposed	Impact on Industry		Impact on Consumer		Impact on other Stakeholders
	Costs	Benefits	Costs	Benefits	
	<p>throughout the country.</p> <p>Where net costs results in an unfair burden industry may be required to contribute to a fund, however this may decrease if the threshold is increased.</p>	<p>removed.</p> <p>Potential for reduced maintenance costs due to reduced number of payphones</p> <p>Net cost will reduce over time.</p>	<p>payphones no longer have access to service that they currently use.</p> <p>Additional Payphones may be removed subject to increased usage criteria, very few payphones are likely to remain.</p>	<p>locations.</p> <p>Vulnerable consumers may still be able to use payphones, once average usage is above the threshold and Freephone calls do not account for more than 30 seconds of these calls.</p>	<p>anti-social behaviour.</p> <p>Pavement space can be used for bicycle stands/information points.</p>
<p>Option 2(b) Decrease Current Usage threshold</p>	<p>Eir may incur costs for the physical removal of public payphones, however maintenance costs would decrease.</p> <p>USP may lose the brand benefit of having its logo displayed on phone boxes throughout the country.</p> <p>Where net costs results in an unfair burden industry may be required to contribute to a fund, however this may decrease if the threshold is increased.</p>	<p>Eir could benefit from the removal of uneconomic public payphones & may therefore benefit from reduced costs resulting in reduced net cost claim</p> <p>62% of payphones could be removed.</p> <p>Potential for reduced maintenance costs due to reduced number of payphones</p> <p>Net cost will reduce over time, however not as quickly as if the threshold was maintained or increased.</p>	<p>Obligation may exceed reasonable need and the benefit of some payphones is in doubt due to low usage.</p> <p>In some areas, all public payphones may be removed. However, the number of calls made from these payphones is low and so the consumer impact is minimised.</p> <p>Vulnerable consumers and consumers who wish to use payphones may no longer have access to service that they currently use.</p>	<p>Consumers living in areas where payphones have become the location for anti-social behavior may benefit from their removal.</p> <p>Some payphones remain; these may be primarily in urban locations.</p> <p>Vulnerable consumers may still be able to use payphones, once average usage is above the threshold and Freephone calls do not account for more than 30 seconds of these calls.</p>	<p>Local Authorities may benefit from reduced cleaning costs (where kiosks are physically removed)</p> <p>No longer negative impact on streets where public payphone usage is source of anti-social behaviour.</p> <p>Pavement space can be used for bicycle stands/information points.</p>

Step 5: Assess the Impacts and choose the best option.

- 57 Usage data as supplied by Eir shows that calls continue to be made from payphones. Payphones continue to be used to make calls to 1800 numbers and to emergency services as well as to local, national and mobile numbers. Furthermore, customers also use payphones for the reverse charge calls service and for prepaid phone cards. Payphones are often used by consumers to make Freephone calls many of which are to helplines.
- 58 Consumers therefore continue to rely on public payphones to make calls and if the usage threshold is increased, we are of that view that many of these payphones would be removed (subject to the other criteria), leading to detriment to consumers who continue to use these payphones. Increasing the threshold to 2 minutes could result in 80% of public payphones being removed, leaving approximately 170 public payphones in the State.
- 59 If we maintain the thresholds at the current level, this would allow for the removal of approximately 71% of remaining public payphones.
- 60 We therefore remain of the view that maintaining the usage thresholds as set out in ComReg Decision No. D08/14 is unlikely to result in a disproportionate cost burden and for the reasons set out above Option 1 would best achieve our objectives. Therefore we consider that Option 1 is the best option.
- 61 For regulation to be effective, we must ensure that compliance with obligations can be monitored and, where necessary enforced. Our compliance functions include monitoring ongoing compliance with obligations, enforcing existing obligations, and handling formal disputes. We will monitor and enforce compliance with any public payphone obligations in line with these functions.

5 Submitting Comments

- 62 The consultation period will run from Friday May 27th 2016 to Friday June 24th 2016, during which time we welcome written comments on any of the issues raised in this paper. It is requested that comments be referenced to the relevant question numbers from this document.
- 63 Once we have analysed and considered the comments received, we will publish a decision, as appropriate. In order to promote further openness and transparency, we will publish all respondent's submissions to this consultation, subject to the provisions of ComReg's Guidelines on the Treatment of Confidential Information – ComReg 05/24. We would request that electronic submissions be submitted in an unprotected format so that they can be appended into the ComReg submissions document for publishing electronically.
- 64 We appreciate that some of the issues raised in this paper may possibly require respondents to provide confidential information if their comments are to be meaningful.
- 65 It is our policy to make all responses available on our website and for inspection generally, respondents are requested to clearly identify confidential material and place such material in a separate Annex to their response.
- 66 We will have regard to the provisions of our "Guidelines on the Treatment of Confidential Information."¹³

¹³ ComReg Decision No. 05/24.

Annex: 1 Decision Instrument D08/14

1. STATUTORY FUNCTIONS AND POWERS GIVING RISE TO DECISION

1.1 This Decision and Decision Instrument, 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 Regulation Act 2002;
- ii. Pursuant 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 2011 (“the Regulations”);
- iii. Having regard to Regulation 5(2) of the Regulations;
- iv. Having taken account of the representations of interested parties submitted in response to ComReg Document No. 13/119 and 14/27; and
- v. Having regard to the analysis and reasoning set out in ComReg document No. 14/69.

2. DESIGNATION OF UNIVERSAL SERVICE PROVIDER

Public Pay Telephones

2.1 In accordance with Regulation 7 of the Regulations, Eircom Limited and its subsidiaries, and any undertaking which it owns or controls, and any undertaking which owns or controls it and its successors and assigns (“Eircom”) is hereby designated as the Universal Service Provider (“USP”) for the purpose of complying with the following obligations, as provided for by Regulation 5 of the Regulations.

2.2 The USP shall do the following:

- i. 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 or other access points, accessibility to disabled end-users and the quality of services by retaining and maintaining the current USO public pay telephone phones except in accordance with the criteria for permissible removal specified in section 4 of this Decision Instrument.
- ii. Ensure that it is possible to make emergency calls from a public pay telephone using the single European emergency call number “112”, the National emergency call number “999” 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.

- iii. Ensure that users of its public pay telephones have access to a directory enquiry service.
- iv. Ensure that all public pay telephones provide appropriate payment means;

Geographically Averaged Pricing

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

3. CONTINUATION OF COMREG DECISIONS

3.1 All other decisions imposed by ComReg in relation to 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. Such obligations include, without limitation, those set out in the following:

- i. ComReg Decision No. D9/05.
- ii. ComReg Decision No. D02/08.
- iii. ComReg Decision No. D04/11.

4 REMOVAL OF PUBLIC PAY TELEPHONES

Criteria for permissible removals

- 4.1 The USP is permitted to remove a public pay telephone on a single site where:
- i. there is demonstrable evidence that the removal of the public pay telephone is necessary as the public pay telephone concerned is a focus for anti-social behaviour; or
 - ii. the usage in the previous six months of the public pay telephone (while in reasonable working order) has been low, indicating an absence of “reasonable need” in that location, where “low” is considered to mean:
 - Average Usage (including local, national, international, emergency calls, DQ calls, Freephone calls and reverse charge minutes) for the previous six months is less than 1 minute per day and
 - Average minutes for the previous six months to Freephone numbers and Emergency Services combined is not more than 30 seconds of these minutes;

or

- iii. there is more than 1 public pay telephone on the site and the average usage across all of the public pay telephones on the single site does not meet the low usage standards as set out in 4.1(ii); in such instances the USP shall ensure 1 public pay telephone remains on the single site; or
- iv. it is requested by a local authority.

4.2 For the purposes of the above a “single site” means one or more payphones located within 100 meters of each other or within a line of sight which includes either side of a road or on any adjacent roads, and “average usage” is determined based on the previous 6 months usage.

Notification requirements

3.3 The USP must notify ComReg eight (8) weeks in advance of any public pay telephone removal

- i. This notification to ComReg should contain at a minimum:
 - Details of the proposed public pay telephone to be removed
 - Proposed date of cessation of service and for removal of public pay telephone
 - Details of which of the above criteria have been met and how
 - Demonstrative evidence that the public pay telephone was in full working order, i.e. within reasonable repair standards, for 6 months prior to its removal except in cases where it has been repeatedly vandalised.
 - Usage reports for the relevant six month period, in a format specified by ComReg.

3.4 The USP must post a notice on the public pay telephone for a minimum period of six (6) weeks in advance of the proposed removal, to clearly inform users of the intention to remove the public pay telephone and include the proposed date of cessation of service and for removal of public pay telephone.

3.5 Notification should also be posted on the USP’s website.

4. REVOCATION

5.1 ComReg Document 06/14¹⁴ is hereby revoked.

¹⁴ Information Notice “Universal Service Obligation –

5. EFFECTIVE DATE AND DURATION

6.1 This Decision and Decision Instrument is effective from 7 July 2014 until 30 June 2018, unless otherwise amended by ComReg.

KEVIN O'BRIEN

CHAIRPERSON

THE COMMISSION FOR COMMUNICATIONS REGULATION

THE 7th DAY OF JULY 2014

Annex: 2 Legal Basis

Regulation 5 of the European Communities (Electronic Communications Network and Services) (Universal Service and Users' Rights) Regulations 2011 ("USO Regulations") states:

5. (1) A designated undertaking shall ensure that public pay telephones or other public voice telephony access points are provided to meet the reasonable needs of end-users in terms of the geographical coverage, the number of telephones or other access points, accessibility to disabled end-users and the quality of services.

(2) The Regulator may, with the consent of the Minister, specify terms and conditions applicable to the provision of public pay telephones or other public voice telephony access points for the purpose of ensuring that the requirements specified in paragraph (1) are met.

(3) Where the Regulator determines, after consultation with the Minister and having regard to views expressed to it under a public consultation carried out in accordance with Regulation 26, that there exists a sufficient number of public pay telephones or other public voice telephony access points in any geographic area to satisfy the reasonable needs for such service in that area, taking into account the population density in such geographic area and the state of development of the communications market in that area, the Regulator may decide not to designate an undertaking under Regulation 7 for the purpose of paragraph (1) in relation to that area or a specified part of that area, as the case may be.

(4) (a) The Regulator shall conduct a review of any decision it makes under paragraph (3) as and when it considers appropriate.

(b) Where the Regulator makes a decision that the number of public pay telephones or other public voice telephony access points is no longer sufficient to serve the reasonable needs for such services in that area, the Regulator may designate an undertaking under Regulation 7 as having an obligation under paragraph (1) in respect of public pay telephones or other public voice telephony access points in that area.

(5) An undertaking providing public pay telephones shall 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 the Regulator, in each case, free of charge and without the necessity to use coins or cards or any other means of payment.

(6) Any undertaking providing public pay telephones shall ensure that the users of those telephones have access to a directory enquiry service referred to in Regulation 4.

(7) An undertaking that fails to comply with—
(a) a requirement of paragraph (1), (5) or (6), or
(b) a term or condition specified under paragraph (2),
commits an offence.

(8) In proceedings for an offence under paragraph (7) it is a defence to establish that—
(a) reasonable steps were taken to comply with the relevant requirement, term or condition,
or
(b) it was not possible to comply with the relevant requirement, term or condition.

Annex: 3 Payphone working order calculation

67 For the purposed of monitoring QoS in respect of public payphones and in particular to identify the number of payphones which are in working order in any given time period the following calculation is used:

Public Pay Telephones in Full Working Order

This figure shall be collected by Eir and calculated for each Data Collection Period as the proportion of Public Pay Telephones in Full Working Order for whole Hours. The figure for each Data Collection Period shall be calculated as follows:

Proportion of Public Pay Telephones in Full Working Order (%) =

$$100 - \left(\frac{\text{Number of Hours out of service} + \text{number of hours with limited service}}{(\text{Average no. of Public Pay Telephones for the Data Collection Period}) * (\text{No. of days in the Data collection period}) * 24} \right) * 100$$

The average number of Public Pay Telephones for the Data Collection Period is also provided by Eir to ComReg for publication.