



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Universal Service Requirements Provision of access at a fixed location (AFL USO): Interim designation

NON-CONFIDENTIAL

Consultation

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An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

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Additional information

All responses to this consultation should be clearly marked: "Reference: Submission re ComReg 21/66 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 29th 2021, 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

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1. AFL USO Interim Designation

1.1 Background

- 1 The Universal Service Regulations¹ provide that a designated undertaking shall satisfy:
 - any reasonable request to provide at a fixed location a connection to the public communications network;
 - any reasonable request for the provision of a publicly available telephone service over the network connection referred to at paragraph 1 that allows for the originating and receiving of national and international calls;
 - A designated undertaking that provides a connection to the public communications network shall ensure that the connection is capable of supporting voice, facsimile and data communications at data rates that are sufficient to permit functional Internet access, having regard to the data rates that are sufficient to permit functional Internet access.
- 2 In July 2016, pursuant to Decision D05/16, ComReg designated Eircom Limited (“eir”) as the Universal Service Provider (“USP”) for access at a fixed location (“AFL USO”) for a period of five years, from 29 July 2016, which designation remains in full force and effect until 30 June 2021, unless amended by ComReg (“current designation”).
- 3 Considering the forthcoming expiration of the current designation, ComReg has undertaken a detailed review of AFL USO to ascertain the continued need for an AFL USO beyond 30 June 2021 and has issued a consultation “Universal Service Requirements, Provision of access at a fixed location (AFL USO) Consultation and draft Decision” (“AFL USO extant Consultation”)².

1.2 AFL USO extant Consultation

- 4 In its AFL USO extant Consultation, ComReg formed the following preliminary views:
 - While the market has evolved since the last designation, the level of change is not sufficient to negate the need for an AFL USO. Therefore, ComReg is of the

¹ Regulation 3 of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011, S.I. 337 of 2011 (“Universal Service Regulations”)

² ComReg Document No.21/51 (“AFL USO extant Consultation”)

preliminary view that there is a need for an AFL USO(s) for Ireland, post 30 June 2021.

- ComReg considers that QoS is an important aspect of AFL, accordingly ComReg is of the view it is important that the QoS performance is maintained. Therefore, at this time, ComReg will continue to monitor QoS performance for any designated undertaking and ComReg will continue to publish QoS trends. ComReg will shortly commence a review on QoS as may be appropriate.
- ComReg is considering maintaining the AFL USO and designation for a maximum period of 24 months considering the transition from Universal Service Regulations 2011 to the forthcoming transposition of the EECC.
- However, ComReg proposes to keep under review any AFL USO and designation in light of the transposition of the EECC and changes in the market. Accordingly, we propose to commence a review where:
 - (i) changes in market conditions and technological developments are such that ComReg deems it appropriate to do so, or
 - (ii) 6 months after DECC has concluded the transposition of the Code into national law, whichever is the earlier.

On foot of this review, we will decide if we need to commence a new consultation process in relation to AFL USO in the State and we will publish an information notice regarding this.

- Furthermore, ComReg is of the view that any individual elements of the USO could be reviewed within this proposed designation period if the circumstances justify it (for example, price increases may create affordability issues arising with connection/ rental or the costs of calls or other circumstances, or issues may arise in relation to disconnections policy or reasonable access request or thresholds).
- ComReg is inviting expressions of interest from undertakings for this proposed designation. However, in the absence of expressions of interest, it is ComReg's preliminary view to continue eir's current designation as USP for AFL for a period of 24 months, unless amended to ensure there is a USP for the provision of AFL USO during the transition period ("until transposition of the Code has occurred").
- Although particular obligations to be placed on any USP(s) for the provision of the AFL USO could differ in different geographic areas, we propose that any AFL USO designation should cover the entire State.

- 5 ComReg is of the preliminary view, in the extant Consultation, that the scope and obligations currently in place in respect of AFL USO should be retained (D05/16) for an interim period beyond 30 June 2021. eir's current designation as USP with AFL USO is due to expire on 30 June 2021 and ComReg has published AFL USO extant Consultation where it has set out the preliminary views that AFL USO needs to be maintained beyond 30 June 2021. The deadline for submission of Consultation responses is 24 June 2021. ComReg is cognisant that it needs time to fully consider the responses to AFL USO extant Consultation.

1.3 Scope of this Consultation

- 6 ComReg is of the preliminary view that the current designation (ComReg D05/16) should continue in advance of ComReg being able to fully consider the responses to AFL USO extant Consultation. ComReg's preliminary view that the USO needs to be maintained beyond 30 June 2021 has been set out in the AFL USO extant Consultation, which supports the need for an AFL USO post 30 June 2021.
- 7 Therefore, in light of the above and having regard to:
- the forthcoming expiration of the current designation of eir as USP with AFL USO,
 - ComReg's preliminary views in the AFL USO extant Consultation that AFL USO is still required,
 - to avoid potential consumer harms arising from any potential lacuna period between the end of the current designation period (30 June 2021) and ComReg making a final decision on the future of the need for AFL USO,
 - allow ComReg to fully consider stakeholders responses to the AFL USO extant Consultation,

ComReg is of the preliminary view that it needs to maintain the current AFL USO (D05/16) set out in Section 12 of Decision Instrument (D05/16) for an interim period of a maximum of 4 months. In the circumstances, ComReg considers that it is necessary to maintain the current AFL USO designation on eir, until the 30th day of October 2021 or until the date on which ComReg has made a final decision on the future need for a designation of a USP for AFL USO, having considered the responses to the AFL USO extant Consultation, whichever is the earlier.

- 8 The current Quality of Service (“QoS”) regime set out in ComReg Document No. D02/19³ is coming to an end on 30 June 2021. Accordingly, ComReg intends to continue to monitor USP adherence with QoS while it considers the future requirements for an associated AFL USO QoS. ComReg considers that QoS is an important aspect of AFL, accordingly ComReg is of the view it is important that the QoS performance is maintained. Therefore, at this time, ComReg will continue to monitor QoS performance for any designated undertaking and ComReg will continue to publish QoS trends. ComReg will shortly commence a review on QoS as may be appropriate.
- 9 ComReg will issue Information Requests (in accordance with Section 13D(1) of the communications Regulation Act 2002 (as amended)) requiring the USP to provide to ComReg such information, including reports as ComReg considers necessary to carry out its functions. ComReg will rely on its statutory information gathering powers to obtain the necessary information during the relevant designation period, at this time.
- 10 ComReg may separately, from time to time, request other relevant reports.
- 11 This Consultation therefore seeks stakeholders’ views on ComReg’s proposal for an interim designation of eir as the USP for AFL USO for the period 1st of July 2021 to 30th October 2021 or, until the date that ComReg makes a final decision on the future need for a designation of a USP for AFL USO (the extant Consultation), whichever is the earlier.

Q. 1 Do you agree with ComReg’s preliminary view that it is appropriate to maintain the current AFL USO designation on eir (D05/16) by way of an interim designation for the period 1st July 2021 to 30th October 2021, or until the date that ComReg makes a final decision on the future need for a designation of a USP for AFL USO, whichever is the earlier? Please provide reasons to support your view.

- 12 The timeframes for receipt of submissions to this Consultation paper is 29 June 2021 at 5pm.
- 13 When ComReg has considered the responses received to this Consultation, ComReg will issue a decision.

³ [Universal Service Requirements – Provision of access at a fixed location \(AFL\) – Quality of Service \(QoS\) | Commission for Communications Regulation \(comreg.ie\)](#)

2. Draft Decision Instrument

1. STATUTORY FUNCTIONS AND POWERS

- 1.1. This consultation and draft Decision and draft Decision Instrument is hereby made by The Commission for Communications Regulation established under Communications Regulation Act 2002 (as amended) (“the Act”) section 6 of the Act (“ComReg”) for the purposes of imposing obligations, requirements, and specifications for the provision of the universal services in the State.
- 1.2. This consultation and draft Decision and draft Decision Instrument is made:
- i. Pursuant to and having regard to the functions and objectives of ComReg set out in sections 10 and 12 of the Act and Regulations 12, 13 and 16 of the European Communities (Electronic) Communications Networks and Services) (Framework) Regulations 2011;
 - ii. Pursuant to the functions and powers conferred upon ComReg by Regulations 3, 7, 8, 9, and 10 of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011;
 - iii. Having regard to The European Electronic Communications Code – EECC Directive (EU) 2018/1972 (“the Code”); and Directive 2009/136/EC;
 - iv. Having pursuant to section 13 of the Act, complied with the Ministerial Policy Directions where applicable;
 - v. Having had regard to the views of interested parties, including Undertakings and the submissions they made in response to ComReg Document No. xx/xx; and
 - vi. Having had regard to the analysis and reasoning set out in ComReg Document No. 21/66, and Decision X (which shall, where the context admits or requires, be construed together with this Decision Instrument).

2. APPLICATION AND SCOPE

- 2.1. This Decision Instrument amends Section 12.1 of ComReg Decision D05/16 Universal Service Requirements Provision of access at a fixed location (AFL USO) D05/16 by substituting “1st of July 2021 to 30th October 2021 or until the date that ComReg makes a final decision on the future need for a designation of a USP for AFL USO, whichever is the earlier” for “30th June 2021”, unless amended by ComReg.
- 2.2. For the avoidance of doubt ComReg Decision “ComReg Response to Consultation and Decision Provision of access at a fixed location (AFL USO)” (D05/16) remains in full force and effect until 30th October 2021 or until the date that ComReg makes a

final decision on the future need for a designation of a USP for AFL USO, whichever is the earlier, unless amended by ComReg.

3. EFFECTIVE DATE, AND DURATION AND REVIEW:

- 3.1. This Decision and Decision Instrument is effective from 30/6/2021 (“the Effective Date”).

GARRETT BLANEY

CHAIRPERSON THE COMMISSION FOR COMMUNICATIONS REGULATION

Made on this the XX day of XX 202X

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