



Commission for
Communications Regulation

Consultation Paper

Universal Service Requirements

Provision of access at a fixed location – connections to public telephone network and provision of functional Internet access

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All responses to this consultation should be clearly marked:-
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1 Foreword

The general Universal Service requirements (USO) are set out in the Universal Service Regulations¹. Under the Regulations, ComReg, with the consent of the Minister for Communications, Marine and Natural Resources, may specify requirements in relation to stated aspects of the USO. Following consideration of issues concerning aspects of the USO, ComReg is now proposing to set requirements in relation to (a) the reasonableness of requests for connections and (b) delivering functional Internet access.

The purpose of this consultation is to assess the views of interested parties concerning aspects of the obligation to provide connections to the public telephone network and access to publicly available telephone services. In ComReg document number 03/87, *eircom* was designated as the Universal Service Provider (USP)² for a period of 3 years to July 2006.

The measures that ComReg are proposing will, if implemented, mean a greater level of clarity and a realistic setting of expectations concerning the establishment of a threshold figure for requests for first-time connection to the telephone network, and the setting of a minimum data speed for Internet access. ComReg is also making a number of peripheral proposals where we are suggesting clearer timelines and improved communication to assist both consumers and *eircom*.

ComReg considers that the proposed requirements are essential if consumers are to have a transparent set of performance standards that they can expect as part of the Universal Service. For *eircom*, as the designated USP, the proposals will establish a set of requirements against which compliance with its obligations may be measured.

ComReg is now seeking the views of interested parties so that all opinions may be considered in the process of deciding on the specific requirements. In line with ComReg consultation procedures, a 4 week period is allowed for the submission of views.

Mike Byrne
Commissioner

¹ European Communities (Electronic Communications Networks and Services)(Universal Services and Users' Rights) Regulations 2003 – S.I. No. 308 of 2003

² <http://www.comreg.ie/fileupload/publications/ComReg0387.pdf>

2 Executive Summary

The Government has made the wider availability of broadband a national priority. ComReg has taken a number of initiatives to facilitate competition in the provision of Internet access, including the encouragement of wireless technologies. However the public telephone network has the greatest immediate potential for contributing to the mass availability of broadband. *eircom* currently has an investment plan which is focused on network renewal, maintenance and improvement to support DSL and improve network quality.

The purpose of this consultation paper is to outline ComReg's proposed approach to the setting of requirements in the related areas of providing connection to the telephone network and the data carrying capability of that connection for functional narrowband Internet access. It should be noted that the European Directive specifies the USO as being limited to a single narrowband connection.

ComReg wishes to obtain views from interested parties on these matters. ComReg is also proposing guidelines in relation to these areas. The guidelines, while not binding will in ComReg's view, be relevant in the context of considering complaints which may arise.

This consultation is being held prior to ComReg making final decisions on requirements for which it will seek the consent of the Minister.

ComReg is proposing a number of specific requirements regarding both the definition of "reasonableness" of requests for connection and the setting of a data rate to permit functional Internet access. Additionally, ComReg is proposing requirements regarding the quality of *eircom*'s provision of these services. In broad terms, the measures that ComReg is proposing are;

Request for connections:

- *eircom* will be required to consider all requests for connections as "reasonable" if the expenditure involved in meeting the request is less than a certain threshold. ComReg proposes that this threshold be €7,000;
- All such requests should be met within defined timescales and involve no more than a standard connection charge (currently €121.93 VAT inclusive);
- Requests for connections which involve expenditure by *eircom* in excess of €7,000 to be considered reasonable if applicant agrees to pay standard connection charge plus incremental costs above €7,000;
- *eircom* will be required to take full account of ComReg guidelines when dealing with requests for connections including:
 - provision of information to applicants in respect of requests for connection, and
 - the publication of supply times and the setting of performance targets for meeting reasonable requests.
- *eircom* will also be required, under Regulation 10 of the Universal Service Regulations, to publish information on its performance in meeting requests for connection.

Functional Internet Access

- Requirement for *eircom* to adopt 28.8kbit/s as a reasonable minimum data rate for functional Internet access;
- *eircom* will be required to take full account of ComReg guidelines when planning network build, providing individual connections to the network and when responding to requests to address service quality including:
 - meeting targets for the minimum number of telephone lines capable of meeting or exceeding the reasonable minimum data rate of 28.8kbits/s;
 - facilitating users who have legitimate doubts about the data capability of their telephone line and to establish procedures to diagnose individual lines, and
 - Where a user's telephone line is not capable of achieving the specified data rate, *eircom* to use all reasonable endeavours to ensure compliance.

3 Introduction

Under the Universal Service Regulations³, *eircom*, as the USP is required to satisfy any reasonable request to provide a connection to the public telephone network and access to publicly available telephone services at any fixed location within the State. It is a requirement that the connection provided is capable of allowing telephone calls, facsimile and data communications at data rates sufficient to permit functional Internet access.

The Universal Service Regulations also provide that ComReg, with the consent of the Minister for Communications, Marine and Natural Resources, may specify requirements to be complied with by the designated USP in relation to, *inter alia*, the reasonableness of requests for connection and access and functional Internet access.

The purpose of this consultation paper is to outline ComReg's proposed approach to the setting of requirements in these two areas and to obtain views from interested parties prior to making final decisions on the matter.

In addition, ComReg is also proposing guidelines which, in ComReg's view, will assist both consumers and *eircom* and which can provide some guidance in cases where disputes may arise between *eircom* and individual consumers. ComReg believes that the guidelines will strike an appropriate balance between the interests of end users and the costs of compliance to *eircom*.

³ Regulation 3 of the European Communities (Electronic Communications Networks and Services)(Universal Services and Users' Rights) Regulations 2003 – S.I. No. 308 of 2003 – See Appendix A

4 Defining Reasonable Request for Connection

4.1 Introduction

One of the recurring issues on which ComReg's Consumer Team receive enquiries and complaints relates to requests for connections to the telephone network. Members of the public have approached ComReg claiming inordinate delays in providing connections or what they believe is a refusal to meet the request through a failure to provide information as to when the connection will be provided. It should be stressed that on average, 82% of requests are met during the month of application or the following month. It should also be stressed that delays in providing some connections can be caused by factors largely outside *eircom*'s direct control such as obtaining wayleaves, planning permission, road-opening conditions, etc.

4.2 Developments to date

In order to adequately define what is meant by a 'reasonable' request, ComReg, in decision notice D17/03 published in July 2003 required *eircom* to submit, for ComReg's approval, the criteria that it would use to assess the reasonableness of requests for connection at a fixed location. It was recognised at that stage that a pre-defined cost threshold should be used in connection with defining the service to be received for the standard installation charge, currently €121.93 (inc. VAT). For requests above such a threshold, the applicant would be expected to meet the additional costs.

In April 2004, following discussions between ComReg and *eircom*, ComReg re-issued the direction to *eircom* to provide ComReg with its proposed policy for consideration. Such a policy was provided on a confidential basis on 2nd July 2004 and discussions continued with *eircom* on some aspects of the proposals prior to ComReg considering the appropriateness of the policy.

4.3 *eircom*'s proposals

Confidential Information

In the course of discussions with *eircom*, a number of *eircom*'s submissions to ComReg have been made in confidence and ComReg considers such information to be confidential.

ComReg has provided as much information and background in this consultation document as is practicable, whilst in tandem respecting the confidential nature of *eircom*'s submissions in response to ComReg's requests.

In its proposed policy, *eircom* specified a threshold amount which represented a limit of expenditure below which the standard connection charge would apply. *eircom* proposed that where expenditure in excess of that amount was necessary to connect the customer, the customer would meet the cost in excess of the threshold and to pay this sum in advance of any work being undertaken by *eircom*. *eircom* provided costings which it claimed supported its proposal and also stated that, by its estimate,

95% of first-time connections and 99% of all connections would be liable for the standard charge.

4.4 **Threshold for standard connection fee**

In setting an appropriate threshold level, ComReg believes that the cost of provision, while an important consideration, is not the sole factor; other issues such as general consumer interest should also be accorded a high degree of importance. ComReg therefore believes that the number of cases where payment of a higher connection charge may arise should be relatively limited. Whilst a relatively high proportion of the population are located in rural environments (which may give rise to higher connection costs compared to in urban locations) most of this extra cost is already reflected in the cost models that underpin *eircom*'s standard retail line rental charge. These cost models are based on representative sampling of *eircom*'s actual network, including remote locations. ComReg is therefore of a preliminary view that any threshold amount should be designed so as to impact on relatively few cases.

Q.1. Do you agree with the considerations which ComReg has outlined regarding the setting of a threshold? Please state why. If you disagree please give reasons. If there are any other considerations which should be taken into account by ComReg in setting a threshold, please provide your reasoning.

In reviewing *eircom*'s proposal ComReg is concerned that the focus of *eircom*'s proposals is based entirely on cost recovery and appears to exclude any other consideration such as those mentioned above. In addition, it is unclear if *eircom*'s proposals are consistent with other cost calculations such as those underpinning the cost of the local access network. Having considered the matter, ComReg suggests that a threshold of €7,000 be set, to cover the cost of connecting a customer to the *eircom* network. Such a threshold figure would be more likely to address these considerations in a balanced manner. On the basis of information available to ComReg on the costs of the local access network, ComReg believes that such a threshold is more likely to be consistent with other cost calculations and therefore to prevent over recovery.

Q.2. Do you consider that in order to provision a connection to the *eircom* network a €7,000 threshold is reasonable in the context of the Universal Service Obligation regarding the provision of access at a fixed location? If you disagree, please propose an alternative along with your reasoning.

In assessing the cost of connection, ComReg believes that only those costs that can be attributed to the individual customer should be measured i.e. the proposed threshold would apply only to the costs associated with connecting an individual customer to the *eircom* network using infrastructure that is not used, now or in the future, for the provision of service to other customers. Therefore only network elements dedicated to that individual customer would be considered when assessing whether or not the threshold was exceeded; the purpose of stating that only costs attributable to that individual customer is to ensure that those individuals are not subsidising *eircom*'s network expansion which would benefit future customers

situated in proximity who request service. The estimated cost of connecting a customer should also be based on the *least cost* technology to provide the required service, irrespective of the technology *eircom* choose to utilise in practice.

Q.3. Do you agree with measurement of the connection costs as proposed by ComReg? Please specify any alternative measurement and outline your reasoning.

Over time the number of customers impacted by a threshold set in monetary terms will change, as inflation and other factors alter the amount of infrastructure that can be provided for a given amount of money. ComReg believes that it would be desirable to take account of these factors, so that over time the proportion of customers impacted by the threshold does not increase. This could be achieved by expressing the threshold in terms of distance from existing network. It may also be possible to apply movements in an external index of costs to a monetary amount. At this stage, ComReg is not proposing any particular method.

4.5 **Impact of proposals on applicants**

Based on information provided by *eircom* on the cost range of applications for 2003, ComReg estimates that somewhere in the region of 0.13% of the total number of applications received for service, would exceed the proposed threshold of €7,000.

4.6 **Impact of proposals on eircom**

Based on information provided by *eircom*, ComReg does not believe that the proposed threshold of €7,000 would have a significant effect on the net cost to *eircom* of meeting the USO requirements. A regulatory impact assessment will be conducted as part of the final decision making process. *Please refer to Section 10.*

4.7 **Meeting requests where the threshold is exceeded**

If the estimated cost of meeting the request costs exceeds the pre-defined cost threshold, the user should be provided with information, as detailed below; ComReg notes that *eircom* has a duty under Regulation 9 of the Universal Service Regulations not to oblige a subscriber to pay for facilities or services that are not necessary or required for the service requested. In this respect, the provision of a detailed explanation of the estimated costs can provide the consumer with information to verify that this is the case.

Where agreement is reached between *eircom* and the customer on the total cost to *eircom* for the provision of access, installation should be provided at the standard connection charge, plus the incremental amount over and above the defined threshold figure. Where the consumer agrees to meet such charges, a timeframe for installation should be agreed with the consumer. Alternatively, if the consumer wishes to wait until network expansion occurs in their area he or she should be provided with a record/reference number for their order and an indication as to when service will be provided in the future.

ComReg notes that *eircom* already has introduced a ‘Phased payment scheme’ for connection fees, pursuant to ComReg’s direction D17/03. Therefore ComReg would expect in instances where the user has agreed to pay in excess of the standard connection charge, *eircom* should also develop a ‘phased payment’ option for users.

4.8 Timeframe for connections

ComReg believes that it is appropriate that performance targets are set against which actual performance may be measured concerning *eircom*’s performance in relation to the USO. ComReg does not believe that it is appropriate to have such performance targets set as mandatory requirements at this stage. The timescale for completing an individual order can be influenced by a number of factors and where an individual order is not met, the matter should be addressed by the *eircom* complaints handling procedure. If the matter remains unresolved having exhausted the complaints process, the customer may then refer the matter to ComReg who will investigate.

ComReg proposes the following performance targets to be met following receipt by *eircom* of a request:

- 60% of requests for service to be met within 4 weeks
- 80% of requests for service to be met within 8 weeks
- 90% of requests for service to be met within 13 weeks
- 95% of requests for service to be met within 26 weeks
- 100% of requests for service to be met within 52 weeks

As noted above, it is recognised that due to *force majeure* events or circumstances beyond *eircom*’s control, there may be some requests which cannot be met within the maximum timeframe of one year. ComReg will consider such events in the event that a complaint is received but does not believe that the possibilities of such incidents should influence the overall performance target.

ComReg considers it appropriate to propose, pursuant to Regulation 10(3) of the Universal Service Regulations, that *eircom* publish statistics, on a quarterly basis on their website, on their performance in meeting the above targets.

Q. 4. What are your views regarding the setting of performance targets for meeting requests for connection.

4.9 Communications with customers

Eircom’s current procedures for the provision of access were published in response to a ComReg request to provide greater transparency to customers. This procedure was published in April 2004, subsequent to ComReg decision notice D7/04 “Decision Notice on Universal Service –Future approach towards Provision of Access” The document is available from the *eircom* website at; www.eircom.ie/bveircom/pdf/USO_statement_270404.pdf.

On receipt of a request for access *eircom* currently categorise their orders in the following manner

- No survey required – standard connection – processed immediately
- Survey required – non standard connection

The trigger for a survey is where *eircom* identify that a full copper pair is not available to meet the user’s order. The purpose of the survey is to assess whether a network extension is required or whether service can be provided over the existing network.

Where the survey finds that a network extension is not required, the order is then classified as a standard order and processed immediately. On completion of the survey, where it is found that a network extension is required, the order is categorised as non-standard. This order is placed on the order handling system and is reviewed periodically by a network design manager to assess when network build can accommodate this order.

ComReg believes that applicants should be kept informed of the progress of their order, particularly where a survey is involved. While ComReg does not intend to specify how this should be achieved the proposed guidelines will contain a recommendation that *eircom* adopt procedures to achieve such an outcome. ComReg had stated these views on future policy in April 2004 in decision notice D7/04, when ComReg set out examples of principles to be incorporated in *eircom*’s policy on access.

4.10 **Additional proposed guidelines**

The additional guidelines relate to a basic principle that customers are kept adequately informed on the status of their order.

- Where a standard connection is envisaged, the user should be informed of this at the time of placing the order. If a survey is required, *eircom* should provide the user with a commitment date as to when the survey will be completed.
- For all orders it should also be made clear to the user how access is intended to be provided.

Q. 5. What are your views on information to be provided to the customer; should these issues be addressed in some other way? If so state what other options you consider appropriate and your reasons and justifications for them.

5 Functional Internet Access

5.1 Introduction

The Government has made the wider availability of broadband a national priority. ComReg has taken a number of initiatives to facilitate competition in the provision of Internet access, including the encouragement of wireless technologies. However the public telephone network has the greatest immediate potential for contributing to the mass availability of broadband. *eircom* currently has an investment plan which is focused on network renewal, maintenance and improvement to support DSL and improve network quality.

The European Directive specifies the USO as being limited to a single narrowband connection and does not extend to ISDN (see recital 8)⁴. The Directive avoided setting a minimum data rate for functional Internet access and left it to individual Member States to decide on the issue if there was a need to specify this. ComReg now proposes to define a data rate which *eircom* should aim to provide to all of its customers who request that their connection is capable of such speeds.

5.2 Factors affecting data speeds enjoyed by users

In setting a data rate, ComReg wishes to emphasise that the data speed which a user may experience on their PC may not match the capability of the telephone line. This can be as a result of a number of factors entirely unconnected with network or line capability. *Eircom's* responsibility under the USO regulations is confined to the data speed at the network termination point.

5.2.1 Extraneous factors

The provision by *eircom* of a telephone line capable of meeting a minimum data speed may have little effect, if the end-user experiences difficulties arising from any of the following factors;

- The capability of the Internet service provider's (ISP) terminal equipment
- The capability of the end user's modem, wiring and PC
- The transmission capability and the volume of traffic of various networks connecting the user to the ISP of the target material

As noted earlier, it is not *eircom's* responsibility to address these issues. While ComReg would expect an ISP's terminal equipment to be fit for purpose, equipment used by an end user is their sole responsibility. It should also be noted that the characteristics of networks located outside the State cannot be measured.

4

http://europa.eu.int/information_society/topics/telecoms/regulatory/new_rf/documents/1_10820020424en00510077.pdf

5.3 Developments in other EU Countries

Most EU Member States have not specified a binding data speed in the context of the Universal Service Obligations. The only exception to date is Sweden. Guidelines have been set in the UK but these are not legal obligations.

5.3.1 Sweden

On 15th January 2004, the Swedish regulatory authority, PTS, issued a report⁵ assessing the Internet access market in Sweden. Following this report, on 15th May 2004, the Swedish government issued a regulation, which requires connections to the fixed network to be capable of a minimum of 20 kbit/s.

5.3.2 UK

In July 2003, Ofcom issued guidelines which specified 28.8kbit/s as a reasonable minimum data rate. Subsequently in January 2005, Ofcom launched a review of the Universal Service Obligation including functional Internet access and have sought opinions regarding the future direction on a number of issues. In relation to the data rate for functional Internet access, Ofcom have not indicated a preference for changing the benchmark minimum of 28.8 kbit/s⁶.

⁵ <http://www.pts.se/Dokument/dokument.asp?ItemID=2930>

⁶ http://www.ofcom.org.uk/consult/condocs/uso/main_web.pdf

6 ComReg Proposals – Functional Internet Access (FIA)

6.1 Proposed data rate

ComReg is aware from consumer feedback that there are issues with data speed, mainly relating to the availability of broadband. While ComReg notes the national priority attached to broadband roll-out, under current legislation the provision of broadband is not part of the Universal Service Obligation. Accordingly ComReg considers that the data rate set for FIA should be the minimum which the vast majority of telephone subscribers should be able to enjoy. Having considered material supplied by *eircom* and having taken into account its plans for DSL-led investment, ComReg is proposing to recommend that *eircom*, in meeting its requirements under the USO provide 28.8 kbit/s as the reasonable minimum data rate for functional Internet access subject to the provisions below;

Q.6. What are your views on a reasonable minimum data rate of 28.8 kbit/s being set as a minimum target speed?

6.2 Network coverage

ComReg is aware from material supplied by *eircom*, that a significant number of *eircom* lines are not currently capable of meeting the proposed data rate. ComReg expects the DSL-led investment to improve the situation but not to a point where the entire network would be upgraded within the timeframe of the current USO (July 2006). ComReg believes that it is not appropriate to impose a requirement to enable all lines to achieve the minimum data rate as the necessary investment would be likely to divert resources away from other productive capital works. In particular, ComReg does not wish to cause any interruption in the commercial plans for broadband roll out. However, ComReg believes that *eircom* should publicly report on the numbers of lines which do not support the target data rate. As with the data rate itself, ComReg considers that there should be a general target set which *eircom* should strive to meet. Building on the current position, ComReg proposes that the following targets be adopted:

	Percentage of total installed telephone lines
End June 2005	93.0%
End Dec 2005	93.5%
End June 2006	94.0%

ComReg had considered the imposition of a binding requirement for 100% of lines to be capable of a reasonable minimum data rate of 28.8kbit/s but this raised issues including whether the increased benefits to consumers arising from the imposition of such a requirement could be commensurate with the cost to the USP and whether those benefits could be achieved in an more effective fashion. In both cases, it was felt that the benefit in terms of increased data speed for a specific number of users

would be negligible while the costs to *eircom* would be of such a scale as to likely divert investment funds from projects which would have a more beneficial consumer impact.

Q.7. What are your views regarding non-binding performance targets for the overall network in respect of minimum data rates?

6.3 Carrier Systems Equipment

ComReg considers that *eircom* can address network performance by reducing the reliance on “carriers”. In simple terms, carrier systems⁷ split a telephone line into two or more separate lines, in order to set-up new phone connections. This clearly limits the investment which *eircom* has to make to achieve extra capacity but can be an inhibiting factor in the achievement of faster data transmission rates.

ComReg believes that where carrier systems are inhibiting line capabilities, such devices should be removed. While *eircom* has indicated that 64 Kb Carriers can support a reasonable minimum data rate of 28.8kbit/s, ComReg believes that the continued use of carrier systems should be avoided in order to avoid potential problems in the roll out of broadband. Their future use should only be contemplated in a limited number of cases and only after a full evaluation of the future potential of the line capability.

Q.8. What are your views on the use of Carrier Systems Equipment? Should their future use be limited in the interest of DSL deployment? What should the position be where limiting new deployment might result in an applicant for service having to pay excess charges or in delaying the provision of a telephone line?

6.4 FIA Guidelines

To enhance the rights of consumers who require a telephone connection capable of functional Internet access, ComReg is proposing guidelines that *eircom* should take account of and against which ComReg will examine complaints where a user alleges that their telephone line is not capable of FIA.

As discussed in Section 5.2.1, the data speed experienced by the user can be influenced by a number of factors outside *eircom*'s control. Therefore, a standard “self-test” conducted by a user cannot give a reliable measurement as to the actual capability of the connection. However, such testing, if conducted over a reasonable period of time may give a general indication, which should trigger *eircom* to measure the line capability.

⁷ Also referred to as ‘Pairgains’, ‘Line sharing devices’ or ‘Splitters’

ComReg considers that any user who has serious doubts as to the line capability should be able to obtain a statement from *eircom* setting out the capability of their individual line. *eircom* should establish procedures to measure individual lines and provide such information to customers on request. ComReg considers it reasonable to expect such procedures to be in place no later than 30th June 2005.

Where the capability of the line at the network connection point is found to be below the FIA target rate, ComReg considers that it is reasonable to expect *eircom* to use all reasonable endeavours to remedy the situation including the removal of carrier systems equipment. ComReg would expect that such a scenario would arise in only a small number of cases as requests in respect of lines which do not meet the target data speed would be low, and a commitment by *eircom* to address requests would remedy the capability of the line except where there are technical or economic constraints.

Q.9. What are your views on the guidelines to apply in connection with functional Internet access? Are there other issues which should be specifically addressed by the guidelines?

7 Text of Draft Requirements

Based on the proposals outlined in this paper, ComReg is proposing the following requirements to be specified by ComReg under Regulation 3(4) of the Universal Service and Users' Rights Regulations are as set out below. This is a draft text only and, after taking into account views expressed and representations made, ComReg may amend the requirements, before seeking the Minister's consent;

Requirements

The Universal Service Provider is required to consider all requests for connection to the public telephone network and for access to publicly available telephone services as reasonable if the estimated expenditure involved in meeting the request is not greater than €7,000 and the cost to the applicant shall be the standard connection charge.

The Universal Service Provider is required to consider all requests for connection to the public telephone network and for access to publicly available telephone services as reasonable if the estimated expenditure involved in meeting the request is greater than €7,000 and the applicant agrees to the payment of the standard connection charge plus the amount by which the estimated expenditure exceeds €7,000.

The Universal Service Provider when estimating the expenditure involved shall base that estimate on the least cost technology involved and shall only include costs which can be attributed to the individual applicant.

The Universal Service Provider shall use all reasonable endeavours to ensure that all connections to the publicly available telephone network are capable of a reasonable minimum data rate no lower than 28.8 kbit/s.

The Universal Service Provider is required to take full account of ComReg guidelines when dealing with requests for connection to the public telephone network and for access to publicly available telephone services.

Guidelines

Requests for connections

The Universal Service Provider shall meet all requests for connections as promptly as possible and shall inform all individual applicants of the timeframe within which the request shall be met.

If it is not possible to inform an applicant of the timeframe for meeting the request because a survey is required, the applicant shall be informed of the timescale within which a survey will be carried out.

The Universal Service Provider shall adopt procedures to ensure that all applicants can receive or access information on the progress of their request for service.

The Universal Service Provider shall have regard to the overall performance targets⁸ for connections as follows:

- 60% of all requests to be met within 4 weeks of request
- 80% of all requests to be met within 8 weeks of request
- 90% of all requests to be met within 13 weeks of request
- 95% of all requests to be met within 26 weeks of request
- 100% of all requests to be met within 52 weeks of request.

The Universal Service Provider shall inform applicants how it is intended to meet the request.

The Universal Service Provider shall avoid the use of carrier systems on new connections to avoid potential problems in the roll out of broadband.

The Universal Service Provider shall only use carrier systems after a full evaluation of the future potential of the line capability and having taken into account of the applicant for service and all other potentially affected customers.

The Universal Service Provider shall inform all applicants of its code of practice for complaint handling in relation to disputes which may arise in connection with a request for connection.

Functional Internet Access

The Universal Service Provider shall have regard to the overall targets⁹ for total installed telephone lines capable of a reasonable minimum data rate of 28.8kbit/s or better as follows:

- 30 June 2005 – 93%
- 31 December 2005 – 93.5%
- 30 June 2006 – 94%

The Universal Service Provider shall provide a written statement stating the data carrying capability of a telephone line in response to any subscriber who has serious doubts as to the line capability. *eircom* may require the subscriber to conduct reasonable self-tests prior to it assessing the line.

The Universal Service Provider shall establish procedures to measure individual lines and to provide information to subscribers no later than 30th June 2005.

The Universal Service Provider shall use all reasonable endeavours, including the removal of carrier systems equipment, to address individual lines where the capability is found to be below the reasonable minimum data rate of 28.8 kbit/s.

⁸ The Universal Service Provider will be required to publish details on a quarterly basis of its record in relation to the above target. The format for such reporting shall be specified by ComReg when the requirement is formally set under Regulation 10 of the USO Regulations.

⁹ The Universal Service Provider will be required to provide ComReg with regular reports on its performance in relation to the above target.

Q.10. What are your views on the text of the draft requirements and the draft guidelines. Are there other issues which should be specifically addressed or issues which should be expanded upon? Please provide suggested alternative text?

8 Submitting Comments

All comments are welcome; however it would make the task of analysing responses easier if comments were referenced to the relevant question numbers from this document.

The consultation period will run from 3rd March 2005 to 6th April 2005 during which time ComReg welcomes written comments on any of the issues raised in this paper.

Having analysed and considered the comments received, ComReg will decide on the requirements and will then seek the consent of the Minister for Communications, Marine & Natural Resources as required by Regulation 3(4) of the Universal Service Regulations,

Following receipt of the Minister's consent ComReg will specify the applicable requirements and will publish a report on the consultation which will, *inter alia* summarise the responses to the consultation.

In order to promote further openness and transparency ComReg will publish the names of all respondents via the ComReg website; www.comreg.ie.

Please note ComReg will publish all submissions with the Response to Consultation, subject to confidentiality.

ComReg appreciates that many of the issues raised in this paper may require respondents to provide confidential information if their comments are to be meaningful. Respondents are requested to clearly identify confidential material and to include it in a separate annex to their response. Such information will be treated as strictly confidential.

9 Regulatory Impact Assessment

ComReg will complete a Regulatory Impact Assessment (RIA) as part of its decision making process. The RIA will be informed by submissions received in the course of the consultation and a report of the RIA will be given.

The RIA will aim to address issues such as the following, where appropriate;

- What will be the impact of the proposed measures on consumer welfare?
- What will be the impact of the proposed measures on the USP (*eircom*)?
- What will be the impact of the proposed measures on the overall telecommunications industry?
- Will the proposed measures impose an unfair burden on the USP?

Appendix A – Legislation

Extracts from the Universal Service Regulations

Regulations 3(1), 3(2) and 3(4) of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2003 provide:

Reasonable Request for Connections to the public telephone network.

3.(1) A designated undertaking shall satisfy any reasonable request to provide at a fixed location-

- (a) connections to the public telephone network, and*
- (b) access to publicly available telephone services.*

3.(2) Any connection provided by a designated undertaking shall be capable of allowing end-users to make and receive -

- (a) local, national and international telephone calls,*
- (b) facsimile communications, and*
- (c) data communications at data rates that are sufficient to permit functional Internet access,*

3.(4) The Regulator may, with the consent of the Minister, for the purposes of the services referred to in this Regulation, specify requirements to be complied with by a designated undertaking in relation to –

- (a) functional internet access, having regard to prevailing technologies used by the majority of subscribers and to technological feasibility,*
- (b) the reasonableness of requests for connection at a fixed location to the public telephone network and for access to publicly available telephone services at a fixed location pursuant to paragraph (1),*

Functional Internet Access

3. (4) The Regulator may, with the consent of the Minister, for the purposes of the services referred to in this Regulation, specify requirements to be complied with by a designated undertaking in relation to -

- (a) Functional Internet access, having regard to prevailing technologies used by the majority of subscribers and to technological feasibility.*

Appendix B – Consultation Questions

Q.1. Do you agree with the considerations which ComReg has outlined regarding the setting of a threshold? Please state why. If you disagree please give reasons. If there are any other considerations which should be taken into account by ComReg in setting a threshold, please provide your reasoning.

Q.2. Do you consider that in order to provision a connection to the *eircom* network a €7,000 threshold is reasonable in the context of the Universal Service Obligation regarding the provision of access at a fixed location? If you disagree, please propose an alternative along with your reasoning.

Q.3. Do you agree with measurement of the connection costs as proposed by ComReg? Please specify any alternative measurement and outline your reasoning.

Q. 4. What are your views regarding the setting of performance targets for meeting requests for connection.

Q. 5. What are your views on information to be provided to the customer; should these issues be addressed in some other way? If so state what other options you consider appropriate and your reasons and justifications for them.

Q.6. What are your views on a reasonable minimum data rate of 28.8 kbit/s being set as a minimum target speed?

Q.7. What are your views regarding non-binding performance targets for the overall network in respect of minimum data rates?

Q.8. What are your views on the use of Carrier Systems Equipment? Should their future use be limited in the interest of DSL deployment? What should the position be where limiting new deployment might result in an applicant for service having to pay excess charges or in delaying the provision of a telephone line?

Q.9. What are your views on the guidelines to apply in connection with functional Internet access? Are there other issues which should be specifically addressed by the guidelines?

Q.10. What are your views on the text of the draft requirements and the draft guidelines. Are there other issues which should be specifically addressed or issues which should be expanded upon? Please provide suggested alternative text?