



Commission for
Communications Regulation

The provision of telephony services under the Universal Service Obligation Submissions to Part 2 of Consultation 14/48s

NON-CONFIDENTIAL

Submissions to Consultation

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An Coimisiún um Rialáil Cumarsáide
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Submissions Received from Respondents

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1 ALTO

alto

alternative operators in the communications market

**Consultation: The provision of telephony services under the
Universal Service Obligation - Ref: 14/48 - Part 2**

Submission By ALTO

Date: August 8th 2014

ALTO is pleased to respond to the Consultation: The provision of telephony services under the Universal Service Obligation – Ref: 14/48 – Part 2.

ALTO responded to ComReg’s previous consultation on this subject on the 16 June 2014.

ALTO welcomes this opportunity to comment on this wide ranging and complex consultation and has already made some general comments in its previous response, which should be considered in detail before considering ALTO’s responses to the questions set out in detail below.

Response to Consultation Questions:

Q. 7. In the context of the future scope of AFL for the three to five years after the interim period, do you agree with ComReg’s preliminary view in respect of the current Reasonable Access Threshold (“RAT”) on the USP(s)?

Please give reasons to support your point of view

A. 7. ALTO agrees with ComReg’s preliminary view that after the interim period the RAT obligations may be reviewed in light of the other obligations outlined in Clause 5.20.

Q. 8. In the context of the future scope of AFL for the three to five years after the interim period, do you agree with ComReg’s preliminary view that it is not appropriate to alter FIA?

Please provide reasons to support your view

A. 8. ALTO does not agree that it is appropriate to maintain the current FIA regime. Any USP should be designated to provide functional broadband at a rate of any new access request should not only get a voice service but also broadband connectivity that is a minimum of 2MB without the RAT threshold being increased.

Q. 9. In the context of the future scope of AFL for the next three to five years after the interim period, do you agree with ComReg's preliminary view not to include Broadband in the scope of AFL USO?

Please provide reasons to support your view.

A. 9. ALTO submits that it do not agree with the non-inclusion of broadband within the AFL USO scope.

Q. 10. In the context of the future scope of AFL for the three to five year period after the interim period, do you agree with ComReg's preliminary view that the QoS performance targets should remain unchanged with consideration of other aspects in respect of the provision of AFL USO?

Please give reasons to support your point of view.

A. 10. ALTO requests that ComReg urgently reviews all of the antecedents and the USP compliance with performance targets linked to Question 10, above.

ALTO does not agree that the current scenario is ideal or providing QoS required by users in the year 2014.

ALTO members aspirations lie in seeking a 99% QoS target range for fault repair within 5 days and line faults per 100 lines to be less than 10.

Q. 11. In the context of the future scope of AFL for the three to five year period after the interim period, do you agree with ComReg's preliminary view with respect to Geographically Averaged Pricing?

Please give reasons to support your view.

A. 11. ALTO agrees with ComReg's preliminary view in relation to geographically averaged pricing.

Q. 12. In the context of the future scope of AFL for the next three to five year period after the interim period, do you agree with ComReg's preliminary views in respect of affordability measures, control of expenditure measures and terms and conditions to be provided by the USP? Do you have any further proposals in respect of these areas? Please give reasons to support your view.

A. 12. ALTO agrees with ComReg's preliminary view in relation to affordability measures, control of expenditure and terms and conditions.

Q. 13. Do you agree with ComReg's preliminary view that, for the next designation period, the USP for AFL USP should be designated for the entire State?

Please give reasons to support your view.

A. 13. Insofar as it is necessary to answer this consultation, and given ComReg's initial views expressed in the consultation document, ALTO agrees with and supports this view.

Q. 14. Do you agree with the approach and conclusions in this draft regulatory impact assessment? Please give reasons to support your view.

A. 14. The currently available RIA seems only addresses the interim designation and as such, ALTO takes no issue with the RIA as published.

Should the RIA subsist for the longer than the indicative designation, ALTO cannot agree with that RIA as it does not address QoS or GAP properly as both substantive areas would be affected if an alternative provider is designated as a USP, or if ComReg ever widens the scope of USO to encompass all providers.

ALTO

8th August 2014

2 Eircom Group

eircom Group

Response to ComReg Consultation Paper:

**The Provision of telephony services under the Universal Service
Obligation**

Access at a Fixed Location

ComReg Document 14/48



08 August 2014

DOCUMENT CONTROL

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Executive Summary

eircom is concerned by ComReg's administrative approach in respect of determining the Universal Service Obligation (USO) Scope and Designation of Access at a Fixed Location (AFL). We are disappointed that ComReg has dismissed the matters raised in our response to Part 1 of this consultation paper without any meaningful or adequate analysis.

The points raised in our response to Part 1 remain relevant to the forward looking consideration of the AFL USO and we are re-submitting our response to Part 1 accordingly and ask that the matters raised be properly assessed.

eircom is also concerned that the administrative process is confused and needs to be corrected to ensure a proper strategic review of the AFL USO is undertaken. Such a review is overdue since 2010.

ComReg's originally intended approach in Part 2 is questionable as it seeks to invite expressions of interest to provide a service whilst the specification of the service is still subject to consultation. This is not a logical process. Interested parties need to understand what is required before making proposals.

However we welcome ComReg's recognition in ComReg 14/71, issued after the current consultation, of the need to undertake a proper review and commitment to properly review the period of designation and by implication the scope of AFL USO. We also welcome ComReg's commitment that the subcomponents of the AFL USO will be further reviewed.

eircom requests ComReg to rapidly progress a proper process to establish any future requirement for the AFL USO. This should be structured logically to determine:

- i) the scope and duration of any future AFL USO taking into account critical factors such as:
 - The inter-relationship with the NBP
 - Changing consumer preferences for the consumption of narrowband services on other platforms
 - The extent to which the availability of multiple platforms and retail providers in geographic areas renders the need for an AFL USO obsolete in those areas
- ii) the requirements and sub-components of any future AFL USO.
- iii) the development and execution of a robust procurement process to tender the selection of the USP
 - The tender process should have sufficient detail on what is required of prospective suppliers and how tender responses will be assessed
 - The tender process for AFL USO should be considered in conjunction with the NBP given that the NBP will be de facto a funded USO for high-speed broadband that will deliver voice telephony as an application off the broadband platform. In that context, eircom is of the view, and is on the record, that it considers that the current AFL USO should be discontinued within the NBP footprint.
 - The procurement process should only be executed once the USO AFL is fully defined following completion of steps i) and ii)

eircom looks forward to further substantial engagement with ComReg during this important strategic review. eircom requests that ComReg publishes a timetable for its review so that stakeholders may prepare their resources to ensure effective engagement in the strategic review.

Response to Consultation

eircom is concerned by ComReg's administrative approach in respect of determining the Universal Service Obligation (USO) Scope and Designation of Access at a Fixed Location (AFL).

On 16th May 2014 ComReg issued consultation ComReg 14/48. This was a two part consultation. Part 1, with a response deadline of 13th June 2014, related to ComReg's proposed approach to imposing an interim designation because ComReg had left insufficient time to do anything else prior to the expiry of the USO designation on 30th June. The second part of the consultation, Part 2 with a response deadline of 8th August 2014, requested expressions of interest from parties interested in becoming the Universal Service Provider and requested views on the potential scope of the AFL USO.

In its response to the Part 1 consultation and Decision D10/14 (ComReg 14/71) ComReg re-imposed the AFL USO on eircom for an 18 month interim period. Despite receiving seven representations raising a wide range of concerns, it is surprising to note that ComReg made no changes to its Part 1 proposals. As such the re-designation was a rollover of all existing obligations. Whilst ComReg states (para. 2.5) that it has considered the responses to Part 1, ComReg's supporting analysis is missing from the response to consultation document. In many instances ComReg notes a few selective points from the responses and then simply concludes that it remains of its preliminary view. eircom is disappointed with the lack of rigour applied by ComReg. eircom has already submitted views in its Part 1 response on many of the issues that ComReg suggests should be considered in Part 2. Whilst we are disappointed that ComReg has not properly considered our views in the context of the interim designation we are firmly of the view that these matters continue to be relevant for consideration of the future of AFL USO. For ease of reference eircom is re-submitting its response to Part 1 as part of this consultation response. Our response to Part 1 should not be considered as a definitive expression of eircom's position and eircom reserves the right to raise additional matters during the review process.

In our response to Part 1 (resubmitted in appendix 1 of this response) we highlighted our concerns regarding the overall approach adopted by ComReg and the lack of any meaningful review since 2006. ComReg's approach in Part 2 is also questionable as it seeks to invite expressions of interest to provide a service whilst the specification of the service is still subject to consultation. In Part 2 ComReg also sets out its intended comparative selection process at a very high level. This proposed process has never been consulted on and is insufficient for a procurement process of this magnitude.

eircom is also concerned by the confused nature of the ComReg process in terms of the scope and designation of AFL USO after the interim period. As noted above the Part 2 approach, inviting expressions of interest whilst the service definition is subject to consultation, is illogical and flawed. Expressions of interest are more likely to be forthcoming if the service to be provided is clearly defined.

ComReg sets out what appears to be a revised process in the Response to Consultation and Decision. At paragraph 2.1 and 2.2 of the response to consultation it is stated: *"When ComReg has considered the responses of Part 2 of Consultation 14/48 regarding the scope of AFL USO beyond the interim period and when it has assessed any expressions of interest received, ComReg will consult further."* *"In this context, ComReg has also decided, as soon as practicable, to commence a review process, including a public consultation, in respect of a review of the requirements in relation to the requests for connection, pricing and quality of service (QoS) measures."* At paragraph 3.48 ComReg states that it has decided not to make a *"decision in respect of the period of designation necessary after the interim period. This will be the subject of further consultation."*

eircom welcomes ComReg's decision to properly review the period of designation and by implication the scope of the USO designation. We also welcome ComReg's decision to conduct a full review of the subcomponents of the AFL USO to the extent they may be relevant. ComReg's decisions in terms of further consultation in ComReg 14/71 effectively render the current Part 2 consultation obsolete as the majority of consultation questions cover the very topics to be subject to further review.

We note the substantial effort being deployed by DCENR to progress the National Broadband Plan to procure universal broadband services. A similar level of analysis should be applied to the procurement of universal narrowband services. As we have highlighted on a number of occasions, both elements of universal service (narrowband and broadband) should be progressed in a coherent and joined up manner.

eircom requests ComReg to rapidly progress a proper process to establish any future requirement for the AFL USO. This should be structured logically to determine:

- i) the scope and duration of any future AFL USO taking into account critical factors such as:
 - The inter-relationship with the NBP
 - Changing consumer preferences for the consumption of narrowband services on other platforms
 - The extent to which the availability of multiple platforms and retail providers in geographic areas renders the need for an AFL USO obsolete in those areas
- ii) the requirements and sub-components of any future AFL USO.
- iii) the development and execution of a robust procurement process to tender the selection of the USP
 - The tender process should have sufficient detail on what is required of prospective suppliers and how tender responses will be assessed
 - The tender process for AFL USO should be considered in conjunction with the NBP given that the NBP will be de facto a funded USO for high-speed broadband that will deliver voice telephony as an application off the broadband platform. In that context, eircom is of the view, and is on the record, that it considers that the current AFL USO should be discontinued within the NBP footprint.
 - The procurement process should only be executed once the USO AFL is fully defined following completion of steps i) and ii)

eircom looks forward to further substantial engagement with ComReg during this important strategic review. eircom requests that ComReg publishes a timetable for its review so that stakeholders may prepare their resources to ensure effective engagement in the strategic review.

Response to Consultation Questions

eircom will address questions 7, 8, 10, 11 and 12 together.

Q.7 In the context of the future scope of AFL for the three to five years after the interim period, do you agree with ComReg's preliminary view in respect of the current Reasonable Access Threshold ("RAT") on the USP(s)? Please give reasons to support your point of view

Q.8 In the context of the future scope of AFL for the three to five years after the interim period, do you agree with ComReg's preliminary view that it is not appropriate to alter FIA? Please provide reasons to support your view

Q.10 In the context of the future scope of AFL for the three to five year period after the interim period, do you agree with ComReg's preliminary view that the QoS performance targets should remain unchanged with consideration of other aspects in respect of the provision of AFL USO? Please give reasons to support your point of view.

Q.11 In the context of the future scope of AFL for the three to five year period after the interim period, do you agree with ComReg's preliminary view with respect to Geographically Averaged Pricing ? Please give reasons to support your view.

Q.12 In the context of the future scope of AFL for the next three to five year period after the interim period, do you agree with ComReg's preliminary views in respect of affordability measures, control of expenditure measures and terms and conditions to be provided by the USP? Do you have any further proposals in respect of these areas? Please give reasons to support your view

In the Part 2 consultation it was ComReg's view that each of the components of the USO in terms of Reasonable Access Threshold (RAT), Functional Internet Access (FIA), Affordability and Geographically Averaged Pricing (GAP) elements, Network Quality of Service measures (QoS), and Control Of Expenditure should be carried over unchanged, or in some cases ComReg indicated that consideration may given to additional obligations for example in respect of additional QoS targets, and imposing restrictions on the USP's ability to maintain a mandatory direct debit policy.

Our response to Part 1 set out eircom's reasons why we did not consider it appropriate for the components of the USO to simply be rolled over by ComReg for the interim period. As such we have already registered the fact that we do not agree with ComReg's proposals in respect of the future scope of the AFL.

eircom notes that following review of the Part 1 responses ComReg has acknowledged the need to undertake a review, including a public consultation, as soon as practicable and in the interim period in respect of the RAT (para. 4.64), FIA (para 4.86), GAP (4.99), and QoS (4.117). eircom considers it would also be appropriate for the Control of Expenditure¹ measures to be included in the forthcoming review to ensure a comprehensive approach.

¹ For the avoidance of doubt eircom does not agree with ComReg's preliminary view "*that any terms and conditions which may limit end-users' access to universal service should be addressed and in this context ComReg may consider specification in respect of the USP's terms and conditions upon which connection and service are provided.*" Mandatory Direct Debit is standard industry practice and does not in eircom's view act as a barrier to access narrowband services. We do not consider it acceptable that ComReg may consider specifications regarding conditions which may limit access. ComReg must substantiate any concern it may have and objectively justify any regulatory burden it seeks to impose.

eircom is disappointed by the manner in which ComReg dismissed the points raised by eircom in its response to Part 1 without any assessment of the merits of the points presented. We look forward to further engagement with ComReg's reviews of the USO components and ask that the points raised in our response to Part 1 be fully considered. For ease of reference eircom is re-submitting its response to Part 1 as part of this consultation response (see Appendix 1). Our response to Part 1 should not be considered as a definitive expression of eircom's position and eircom reserves the right to raise additional matters during the review process.

Q.9 In the context of the future scope of AFL for the next three to five years after the interim period, do you agree with ComReg's preliminary view not to include Broadband in the scope of AFL USO? Please provide reasons to support your view.

eircom does not agree with ComReg's preliminary view. As highlighted earlier in this response we do not consider it tenable for ComReg on the one hand and Government on the other to maintain national policy in respect of universal narrowband and broadband services in isolation of each other.

Q.13 Do you agree with ComReg's preliminary view that, for the next designation period, the USP for AFL USP should be designated for the entire State? Please give reasons to support your view.

eircom does not agree with ComReg's preliminary view. As noted above, and acknowledged in ComReg 14/71 published after this consultation was issued, there is a need for a proper strategic review to be conducted in respect of any AFL USO. eircom welcomes ComReg's decision to properly review the period of designation (para. 3.41 and 3.48 of ComReg 14/71). The inter-relationship with the NBP will be a significant factor when considering the period of designation as will be the increasing shift of consumer consumption of narrowband services off the PSTN platform. The availability of multiple platforms and retail providers in geographic areas arguably renders the need for an AFL USO obsolete in those areas. Consequently any review of the period of designation will also have to consider the geographic scope of the AFL USO. It is conceivable and logical, should some need for a future AFL USO be identified, that the geographic scope of such need would diminish over time taking into account the evolution of the market generally and the impact of the NBP specifically in rural areas. We look forward to further engagement in these issues.

eircom would like to take this opportunity to request ComReg to clarify its position with regard to the appropriateness of mobile services to satisfy the AFL USO. ComReg states in the Part 2 consultation (para. 5.76) *"While current mobile services accessed by a mobile handset only do not meet the requirements for access at a fixed location, AFL can in principle be provided by a mobile ECS provider."* It would be helpful if ComReg could set out the reasons why current mobile services do not meet the requirements for AFL. As we highlighted in our response to Part 1, *"It is clear that there are only 5% of households in Ireland that are reliant on fixed access, whereas 41% of Irish households are reliant on mobile access. This seriously calls into question ComReg's continued focus on the eircom fixed network for the provision of basic telephony services in the context of universal service."*

41% of Irish households are reliant on mobile services at their fixed locations. 41% of Irish households must therefore consider that current mobile services do meet the requirements for access at a fixed location. This fact strongly suggests that the AFL USO service definition must be revisited if it excludes current mobile services.

3 Magnet Networks

USO Part 2

Magnet Networks Limited welcomes the two pronged approach that ComReg have taken in relation to an interim designation and a more long term designation. This approach will give certainty to both industry and the end user in relation to where to turn to gain access to telephony.

Question 7

Magnet Networks Limited (hereinafter 'Magnet') agree with ComReg's preliminary view that after the interim period the RAT obligations may be reviewed in light of the other obligations outlined in Clause 5.20.

ComReg have identified that it is necessary for the USP designate to look at alternative infrastructures that are capable of supplying fixed telephony other than a PTSN copper line. Magnet also believes that keeping accurate cost evaluation and cost breakdown records is very important. It is also important that the reason one technology is chosen over another is recorded. It is necessary to record what the decision making process is in relation to access. It is even more imperative that the reasons for believing the access request exceeds the RAT is recorded

Question 8

Magnet does not agree that it is appropriate to maintain the FIA. The reason is that based firstly on Comreg's own quarterly report dial up is now redundant , down by over 20% in 1 year until end of Q1 2014 (ComReg Publication 14/61) and is not an effective access to the internet. Also, nowadays, functions that people want to do on the internet require a minimum of 2MB. Thus, keeping FIA at 28.8kbps is not enough to allow an individual access to the internet. Thus going forward, the USP should be designated to provide functional broadband at a rate of any new access request should not only get a voice service but also broadband connectivity that is a minimum of 2MB without the RAT threshold being increased. Magnet believes that 2mb broadband can be supplied within the RAT Threshold.

Question 9

As above Magnet do not agree with the non-inclusion of broadband within the AFL USO scope. Magnet has outlined the reasons above.

Question 10

Magnet takes umbrage with the statement of 5.44 that "Eircom has now achieved the majority of the targets set..". Surely, it is necessary to have the incumbent achieve all of their targets set 6 years ago by now. Magnet believes that the targets set are minimum requirements and thus should be exceeded rather than just attained. Magnet does not agree with the QoS targets continuing as is, Eircom should continue to improve and thus, Magnet believes that ComReg should set further more stringent QoS. This more stringent QoS may be implemented like the historic PIP's on a sliding scale over numerous years. Magnet would like to see 99% fault repair within 5 days and line faults per 100 lines to be less than 10. As these QoS are over Eircom's entire network, with the NGA upgrade these targets are reasonable as lines with faults are being repaired as NGA is being rolled out.

Question 11

Magnet agrees with ComReg's preliminary view in relation to geographically averaged pricing.

Question 12

Magnet agrees with ComReg's preliminary view in relation to affordability measures, control of expenditure and terms and conditions.

Question 13

Magnet based on the GAP pricing than it is necessary that the new USO has complete national scope.

However, if it is a not Eircom with the designation how does that affect the GAP and the recovery of costs across an average of its national customer base.

Question 14

As the RIA seems to only relate to the interim designation Magnet has no issue with the RIA.

However, if this RIA is for the longer term designation then Magnet does not agree with the RIA as it fails to address, how QoS, GAP would be affected if an alternative provider is designated to have a universal service obligation.

4 UPC Communications Ireland Ltd



**UPC Ireland Response to: ComReg 14/48;
Consultation and Draft Decision on the
provision of telephone services, under the
Universal Service Obligation (Access at a
Fixed Location) Part 2**



Introduction

UPC Communications Ireland Limited (“UPC Ireland”) welcomes the opportunity to provide its response to ComReg on its Consultation (“the consultation”) on the provision of access at a fixed location (AFL) and publicly available telephone service under the Universal Service Obligation (USO), (ComReg 14/48 Part 2).

UPC Ireland is of the view that the increased capability of mobile networks, and over-the-top phone applications, call into question the need for a USO designation for access at a fixed location and for the provision of publicly available telephone service in Ireland.

In common with other Universal Service obligations, UPC Ireland believes that where services are justifiably designated for provision by a Universal Service Provider (USP) it is imperative that such services are provided efficiently.

UPC Ireland welcomes the acknowledgment by ComReg that the provision of USO access at a fixed location and publicly available telephone service could be provided by means other than fixed networks. However, UPC Ireland remains concerned that ComReg maintains an implicit assumption of USO provision by fixed networks only.

Responses to ComReg Questions

Q.7 In the context of the future scope of AFL for the three to five years after the interim period, do you agree with ComReg’s preliminary view in respect of the current Reasonable Access Threshold (“RAT”) on the USP(s)? Please give reasons to support your point of view.

UPC Ireland does not agree with ComReg’s preliminary view that there is a need for AFL and publicly available telephone service USO for a period of three to five years. The consultation document does not contain substantive justification for maintaining this obligation.

UPC Ireland is of the view that the increased capability of mobile networks, and over-the-top phone applications, call into question the need for a USO designation for access at a fixed location and for the provision of publicly available telephone service in Ireland.

This aside, UPC Ireland welcomes ComReg’s statement in paragraph 5.12 that;



“ComReg is aware that the provision of the AFL USO should be technology-neutral and therefore new, or perhaps more cost effective or efficient technologies may be in principle used to fulfil a request for AFL.”

However, UPC Ireland remains concerned that ComReg maintains an implicit assumption that USO can be provided by fixed networks only and that this implicit technology choice adversely impacts on considerations in respect of the Reasonable Access Threshold (RAT).

Q.8 In the context of the future scope of AFL for the three to five years after the interim period, do you agree with ComReg's preliminary view that it is not appropriate to alter FIA? Please provide reasons to support your view.

Where ComReg intends to maintain AFL and publicly available telephone service USO for a period of three to five years, UPC Ireland agrees that it is not appropriate to alter Functional Internet Access (FIA). As referenced by ComReg, there are a number of initiatives already underway by both the public and private sectors which will dramatically improve universal access to broadband services in Ireland in the near future.

Q.9 In the context of the future scope of AFL for the next three to five years after the interim period, do you agree with ComReg's preliminary view not to include Broadband in the scope of AFL USO? Please provide reasons to support your view.

Where ComReg intends to maintain AFL and publicly available telephone service USO for a period of three to five years, UPC Ireland agrees with ComReg's preliminary view not to include broadband in the scope of AFL USO. Indeed, UPC Ireland does not believe there should be cause either now or in the near future to include broadband in the AFL USO designation. Further to the Government's investment in the National Broadband Plan, speeds of up to 30Mbps will be universally available in Ireland in the very near future. This combined with existing and planned investments by the private sector, negates the need to consider the inclusion of broadband in the AFL USO designation.



Q.10 In the context of the future scope of AFL for the three to five year period after the interim period, do you agree with ComReg's preliminary view that the QoS performance targets should remain unchanged with consideration of other aspects in respect of the provision of AFL USO? Please give reasons to support your point of view.

The binding targets in relation to Eircom's quality of service performance relate to timescales for connection, fault rate occurrence and fault repair times.

UPC Ireland is concerned that the metrics as currently specified implicitly assume that USO can only be provided by fixed networks. UPC Ireland is of the view that the metrics should be specified in a technology neutral manner so as not to preclude more efficient delivery methods (e.g. mobile), which in any case would likely out-perform the traditional PSTN network on the metrics specified.

Q.11 In the context of the future scope of AFL for the three to five year period after the interim period, do you agree with ComReg's preliminary view with respect to Geographically Averaged Pricing? Please give reasons to support your view.

Where ComReg intends to maintain AFL and publicly available telephone service USO, UPC Ireland agrees that the designated undertaking should apply common tariffs including geographical averaging throughout the State. This will ensure that basic telephone services are available at an affordable price, irrespective of geographical location.

Q.12 In the context of the future scope of AFL for the next three to five year period after the interim period, do you agree with ComReg's preliminary views in respect of affordability measures, control of expenditure measures and terms and conditions to be provided by the USP? Do you have any further proposals in respect of these areas? Please give reasons to support your view.

UPC Ireland agrees with ComReg's preliminary views in respect of affordability measures, control of expenditure measures and terms and conditions to be provided by the USP.



Q.13 Do you agree with ComReg's preliminary view that, for the next designation period, the USP for AFL USP should be designated for the entire State? Please give reasons to support your view.

Where ComReg intends to maintain AFL and publicly available telephone service USO for a period of three to five years, UPC Ireland agrees with ComReg's preliminary view that the USP for AFL should be designated for the entire State. UPC Ireland does not believe there should be any departure from a national designation in the absence of credible proposals to efficiently deliver the service at lower cost on a sub-national basis.

However, UPC Ireland does not agree with ComReg's stated justification for this national designation, in particular;

Paragraph 5.76 where ComReg states that (emphasis added);

"While current mobile services accessed by a mobile handset only do not meet the requirements for access at a fixed location, AFL can in principle be provided by a mobile ECS provider."

UPC Ireland considers that there is no legal basis for this assertion under Directive 2002/22/EC as originally drafted and as amended by Directive 2009/136/EC. Moreover, by making this assertion, ComReg is disclosing a bias towards provision of USO by fixed networks only, a position that is reflected throughout the consultation paper.

ComReg attempts to justify this statement by quoting high levels of fixed line use and penetration relative to mobile for certain customer segments and call types. UPC Ireland believes the analysis that underpins ComReg's assumptions on this point is too focussed on historic usage patterns that may not be indicative of future consumer call patterns. Much of the usage pattern described by ComReg has likely resulted from higher mobile call costs arising from the historic discrepancy between fixed and mobile termination rates. Based on the indicative future Irish mobile termination rates recently published in ComReg 14/29, this discrepancy will be significantly reduced in the near future.

Q.14 Do you agree with the approach and conclusions in this draft regulatory impact assessment? Please give reasons to support your view.

No comment.

