



Commission for
Communications Regulation

Electronic Communications:- Proposed Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

Consultation

Reference: ComReg 13/58
Version: Final
Date: 20/06/2013

Additional Information

This consultation has been made available in pdf format and audio version. Alternative formats of this consultation are available on request. To request alternative formats including word, large print and Braille of this consultation, please contact access@comreg.ie or phone +353-1-8049600.

All responses to this consultation should be clearly marked: -“Reference: Submission re ComReg 13/58” as indicated above, and sent by post, facsimile, e-mail or on-line at www.comreg.ie (current consultations), to arrive on or before 5pm, 16 August 2013 to:

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1 Introduction

- 1 Regulation 17 of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011 ("the Regulations")¹ provides that the Commission for Communications Regulation ("ComReg") may, where appropriate, specify requirements to be complied with by undertakings providing publicly available electronic communications services ("Undertakings") in order to ensure equivalence in access and choice for disabled end-users and that ComReg shall encourage the availability of terminal equipment offering the necessary services and functions for disabled end-users.
- 2 The Census of Population, 2011 found that 13.0%² of the population reported having a disability in April 2011. There are 11 types of disability that are categorised and discussed in the link in footnote 2 below.
- 3 ComReg proposes various measures in respect of accessible information and services for consultation on ensuring equivalence in access and choice for disabled end-users.
- 4 ComReg's preliminary views as set out herein are based largely on matters raised and discussed at the Forum on Electronic Communications Services for People with Disabilities ("the Forum") which consists of nominated representatives from the Disability Stakeholders Group ("DSG") and nominated representatives from Undertakings. In addition, ComReg has taken into account a report published by the Body of European Regulators for Electronic Communications ("BEREC") in February 2011 entitled "*Electronic communications services: Ensuring equivalence in access and choice for disabled end-users*",³ which provides assistance to national regulatory authorities ("NRAs") in assessing and achieving equivalence of access and choice for disabled end-users.
- 5 ComReg is interested to hear the views of interested parties in relation to the proposals in this consultation document. ComReg will review and fully take into account all responses it receives and will issue a final decision thereafter.

¹SI No 337 of 2011

² CSO Census of Population, 2011 – profile 8 - examining in more detail the definitive results of Census 2011 to include disability:
http://www.cso.ie/en/media/csoie/census/documents/census2011profile8/Profile_8,commentary.pdf

³ BoR (10) 47 Rev1 - [BEREC REPORT](#)

2 Executive Summary

- 6 The European Commission (“EC”), in its 2007 review, proposed revisions to the European regulatory framework for electronic communications sector to include enhanced consumer protection measures, in particular, ‘improved accessibility for users with disabilities’. As a result of this review the Universal Services Directive (“USD”)⁴ was published in December 2009 with the insertion of article 23a – *Ensuring equivalence in access and choice for disabled end-users*.
- 7 The BEREC Report referenced the EC communication on e-Accessibility 2005 COM (2005)425 which states that -

‘the Commission has the ambitious objective of achieving an “Information Society for All”, promoting an inclusive digital society that provides opportunities for all and minimises the risk of social exclusion.’

[...]

‘Additionally, within that communication, the EC highlighted the need for improving access to Information and Communication Technologies (ICTs) for people with disabilities and reserved the option to consider additional measures including new legislation if deemed necessary.’⁵

The BEREC Report further states that -

‘According to the EC communication regarding e-Accessibility COM (2005)425, published in 2005, people with disabilities represented 15% of the European population. Additionally, the European Disability Federation (EDF) states that “disabled people suffer from isolation compared to non disabled people”. Therefore, BEREC considers that the provision of access to and choice of electronic communication services for consumers with disabilities is becoming increasingly important to ensure that all consumers can benefit from new communications services and fully participate in the Information Society.’⁶

⁴ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users’ rights relating to electronic communications networks and services (as amended by Directive 2009/136/EC)

⁵ Page 10 of the BEREC REPORT

⁶ Page 5 of the BEREC REPORT

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- 8 Article 23a of the USD as transposed into Irish law by Regulation 17 of the Regulations provides that ComReg may, where appropriate, specify requirements to be complied with by Undertakings in order to ensure equivalence in access and choice for disabled end-users and that ComReg shall encourage the availability of terminal equipment offering the necessary services and functions for disabled end-users.
- 9 This consultation document sets out proposed measures which are considered by ComReg to be necessary and appropriate in order to attain equivalence in access and choice for disabled end-users.
- 10 The proposed measures are divided into two categories; accessible services and accessible information as described below.

2.1 Accessible Services

- 11 ComReg proposes that Undertakings make the services identified below accessible to disabled end-users.
- 12 Accessible complaints procedures – currently Undertakings are obliged to have a code of practice to deal with complaints from end-users⁷. ComReg is of the preliminary view that every Undertaking should be required to provide disabled end-users with the following:
 - Accessible means to lodge a complaint and/or make an enquiry; and
 - Staff that are trained to appropriately deal with the requirements of disabled end-users.
- 13 Accessible top-up facility for pre-paid mobile telephone end-users - ComReg is of the preliminary view that disabled end-users with a pre-paid mobile telephone should be able to choose to top it up themselves. An online top-up facility is not sufficient to ensure equivalence; the Forum's representative disability groups have stated that a substantial number of disabled end-users do not have access to the internet and/or credit or debit cards. In addition, a top-up facility that requires the end-user to listen to voice prompts may not be accessible for end-users with hearing difficulties. As such, ComReg is of the preliminary view that every Undertaking providing pre-paid mobile services should be required to provide a SMS top-up facility for pre-paid mobile telephone end-users that allows disabled end-users to:
 - Pay with credit card and/or debit card and/or cash without the need to follow voice prompts;

⁷ See Annex 1 for text of Regulation 27 of the Regulations

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- Get a receipt (voucher) that lists in clear, easy to understand language the steps required to ensure the top-up credit can be applied successfully;
 - Apply the top-up receipt (voucher) by SMS sent from the disabled end-user's mobile telephone and without assistance from a third party; and
 - Receive confirmation of the value of the top-up credit by SMS sent to the disabled end-user's mobile telephone.
- 14 Accessible Directory Enquiries - ComReg is of the preliminary view that every Undertaking should be required to provide for subscribers, who are unable to use the phone book because of a vision impairment and/or have difficulty reading the phone book, special Directory Enquiry arrangements to allow the use of a directory enquiry service free of charge, once certification of disability is provided by a registered medical practitioner or by an appropriate agent.
- 15 Accessible billing - ComReg is of the preliminary view that the requirements imposed on Undertakings in respect of consumers by the conditions in respect of consumer bills and billing mediums attached to the General Authorisation as set out in Annex 8 should be imposed on Undertakings in respect of all disabled subscribers who are not otherwise consumers within the meaning of the term as defined in Regulation 2 of the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011⁸.
- 16 Accessible facility to test compatibility of terminal equipment - ComReg is of the preliminary view that every Undertaking selling terminal equipment should be required to make available a testing facility for disabled end-users who use a hearing aid or have a cochlear implant, to test terminal equipment at the Undertaking's retail shops in advance of purchasing the terminal equipment, and to ensure that the testing facility is supported by on-site staff that are trained in the use of terminal equipment and are equipped to address any queries raised by disabled end-users in advance of purchase.

⁸ "Framework Regulations"

2.2 Accessible information

17 ComReg is of the preliminary view that every Undertaking should be required to ensure information regarding its products and services, including all information provided to the majority of end-users, is accessible for disabled end-users. This information should include the following:

- Website information available to all end-users that meets the Web Accessibility Initiative⁹ to facilitate disabled end-users, including “One-click” access from the home page of every Undertaking’s website to the Disability Section of the Undertaking’s website that contains comprehensive information, including information as specified by ComReg from time to time.
- Information in respect of contracts (in accordance with Regulation 14 of the Regulations) including notifications of modifications.
- Information in respect to complaints handling including the Undertaking’s code of practice (in accordance with Regulation 27 of the Regulations).

2.3 Other Measures

18 In order to assist Undertakings in complying with the proposed measures and to enhance disabled subscribers experience, ComReg is of the preliminary view that every Undertaking should set up and maintain a facility to enable disabled subscribers to register their requirements, subject to the consent of each disabled subscriber.

19 Further measures discussed are text relay service (“TRS”), terminal equipment, certification of disability and a proposal in respect of review of measures and involvement of the Forum in this regard.

20 ComReg is of the view that the proposed measures outlined in this consultation document are proportionate and justified, given the need to ensure equivalence in access and choice for disabled end-users. Submissions are invited in respect of the proposed measures and the draft Regulatory Impact Assessment (“RIA”).

⁹ The World Wide Web Consortium (W3C) is an international community that develop open standards to ensure the long-term growth of the Web. The Web Accessibility Initiative (WAI) standard developed by W3C is available from the following link: <http://www.w3.org/TR/WCAG20/>. The NDA’s Excellence through Accessibility – ICT Guidelines and Criteria, Guideline 14 Web Accessibility, refers to this standard.

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21 This consultation document is structured as follows:

- Section 3 Background
- Section 4 Proposed measures
 - Introduction
 - Accessible services
 - Accessible information
 - Facility for disabled subscribers to register requirements
 - Terminal equipment
 - Certification of Disability
 - Other measures
 - Timing of implementation and review of measures
- Section 5 Regulatory Impact Assessment ("RIA")
- Section 6 Submitting Comments

3 Background

22 This section presents, by way of background, matters that have influenced this consultation document and the measures proposed herein including legal obligations and inputs from the Forum and BEREC. This section also briefly sets out related matters that are being addressed by ComReg separately and thus fall outside the scope of this consultation.

3.1 Obligations in law

23 With the introduction of the Regulations in July 2011 a number of new obligations in respect of disabled end-users were imposed on Undertakings and a number of new provisions in respect of ComReg's related powers were introduced.

24 Regulation 17 of the Regulations provides:

17.(1) The Regulator may, where appropriate, specify requirements to be complied with by undertakings providing publicly available electronic communications services in order to ensure that disabled end-users-

- (a) have access to electronic communications services equivalent to that enjoyed by the majority of end-users, and*
- (b) benefit from the choice of undertakings and services available to the majority of end-users.*

(2) The Regulator shall encourage the availability of terminal equipment offering the necessary services and functions in order to be able to adopt and implement specific arrangements for the requirements of disabled end-users.

25 Regulation 30 of the Regulations further provides:

30. The Regulator may, for the purpose of further specifying requirements to be complied with relating to an obligation imposed by or under these Regulations, issue directions to an undertaking to do or refrain from doing anything which the Regulator specifies in the direction.

26 Section 10 of the Communications Regulation Act, 2002 sets out the functions of ComReg.

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27 Section 12 of the Communications Regulation Act, 2002 outlines the objectives of ComReg, including as follows:

12.(1) The objectives of the Commission in exercising its functions shall be as follows—

(a) in relation to the provision of electronic communications networks, electronic communications services and associated facilities—

(i) to promote competition,

(ii) to contribute to the development of the internal market, and

(iii) to promote the interests of users within the Community,

[...]

12.(2) In relation to the objectives referred to in subsection (1)(a), the Commission shall take all reasonable measures which are aimed at achieving those objectives, including—

(a) in so far as the promotion of competition is concerned—

(i) ensuring that users, including disabled users, derive maximum benefit in terms of choice, price and quality,

[...]

28 ComReg is also mindful of section 12(3) of the Communications Regulation Act, 2002 which provides:

12.(3) In carrying out its functions, the Commission shall seek to ensure that measures taken by it are proportionate having regard to the objectives set out in this section.

29 Regulation 16 of the Framework Regulations provides furthermore, in relation to the objectives of ComReg, that ComReg is amongst other things, required in so far as the promotion of competition is concerned, to ensure that elderly users and users with special social needs derive maximum benefit in terms of choice, price and quality. Insofar as promotion of the interests of users within the European Union is concerned, ComReg is required to address the needs of specific social groups, in particular, elderly users and users with special social needs, and to promote the ability of end-users to access and distribute information or use applications and services of their choice.

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- 30 Regulation 6 of the Regulations obliges ComReg to impose obligations on designated undertakings¹⁰ for disabled end-users as follows:

6.(1) (a) Unless requirements have been specified under Regulations 14 to 25 which achieve the equivalent effect, the Regulator shall, with the consent of the Minister, specify obligations applicable to designated undertakings for the purpose of ensuring that disabled end-users can enjoy access to and affordability of the services identified in Regulations 3(2) and 4, equivalent to the level enjoyed by other end-users.

[...]

6.(2) The Regulator may specify terms and conditions to be complied with by designated undertakings for the purpose of ensuring that disabled end-users can take advantage of the choice of undertakings and service providers available to the majority of end-users.

[...]

- 31 In accordance with Regulation 7 of the Regulations, Eircom Ltd. (“Eircom”) is designated as the Universal Service Provider (“USP”) until 30 June 2014¹¹ for the purpose of complying with the specific obligations for disabled end-users as provided for by Regulation 6 of the Regulations. Annex 2 of this consultation document provides full details of the Universal Service Obligations in this regard.
- 32 Prior to the introduction of Regulation 17 of the Regulations in 2011, protections for disabled end-users were largely confined to requirements established by the Universal Service Obligations. As such, the Regulations now provide the opportunity for all Undertakings to ensure equivalence in access and choice for disabled end-users in their provision of electronic communications services.
- 33 ComReg is of the preliminary view that the measures proposed in this consultation document should be binding upon every Undertaking excluding the designated USP only in so far as any obligation or aspect of same is currently imposed on the designated USP in accordance with the Universal Service designation¹².
- 34 A more detailed legal basis for this consultation can be viewed in Annex 1 of this consultation document.

¹⁰ A designated undertaking is an undertaking who has been designated as a Universal Service Provider in accordance with Regulation 7 of the Regulations.

¹¹ ComReg 12/71

¹² ComReg 12/71

3.2 Inputs that have contributed to the proposed measures

The Forum

35 The Forum, which consists of nominated representatives from the DSG and nominated representatives from Undertakings, was established in 2006 to further ComReg's statutory objectives to promote competition and to promote the interests of end-users. Details in respect of the Forum including its composition, functions and key initiatives to date are set out in Annex 3 of this consultation document.

36 All of the measures proposed in this consultation document were discussed with the Forum. Indeed, the proposed measures were highlighted at Forum meetings as key areas of concern for disabled end-users in order to ensure equivalent access and choice.

BEREC

37 BEREC published a report in February 2011 entitled "*Electronic communications services: Ensuring equivalence in access and choice for disabled end-users*" ("the Report") to assist NRAs in specifying requirements to ensure equivalence in access and choice for disabled end-users. The Report set out a proposed approach to achieve equivalent access and choice in addition to factors for consideration for equivalent access and choice and services and features available for disabled end-users. The approach detailed by the Report and ComReg's application of that approach to this consultation are set out in Annex 4 of this consultation document.

3.3 Measures outside the scope of this consultation

38 This consultation relates solely to the provisions of Article 23a of the USD as implemented into Irish law by Regulation 17 of the Regulations. The following matters are outside the scope of this consultation :

- Single European emergency call number and equal access for consumers with disabilities;
- Harmonised numbers for harmonised services of social value - access to the '116' numbering range; and
- Roaming – alert message provided when entering another Member State.

The current status of these matters is set out in Annex 5 of this consultation document.

3.4 Definition of Key Terminology

39 **Disability:** For the purposes of this consultation, “ **disability**”, in relation to a person, means a substantial restriction in the capacity of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment¹³;

40 “**End-User**” means a user not providing public communications networks or publicly available electronic communications services in accordance with the definition at section 2(1) of the Framework Regulations.

41 **Equivalence:** ‘Equivalence’, for the purposes of this consultation, is defined in accordance with recital 12 of Directive 2009/36/EC which provides:

“Equivalence in disabled end-users’ access to services should be guaranteed to the level available to other end-users. To this end, access should be functionally equivalent, such that disabled end-users benefit from the same usability of services as other end-users, but by different means.”

42 “**Functional equivalence**” is also discussed in the BEREC Report¹⁴ which provides:

“BEREC proposes that “equivalent” in this context means that equivalent access to and choice of electronic communications services should be achieved for end-users with disabilities, albeit that this might be achieved in different ways for end-users with disabilities in comparison with other end-users.

BEREC additionally notes recital 12 the 2009 Directive which states that: “Equivalence in disabled end-users’ access to services should be guaranteed to the level available to other end-users. To this end, access should be functionally equivalent, such that disabled end-users benefit from the same usability of services as other end-users, but by different means”.

¹³This definition is provided for in the [Disability Act 2005](#), section 2(1)

¹⁴[BEREC Report](#)

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The 2009 USD refers to services for disabled consumers that are equivalent to those enjoyed by other end-users. The objective is functional equivalence, but in practice there are reasons why 100% equivalence is not always possible. For example, there may be technical constraints that prevent a particular service from being possible, or the cost of achieving 100% equivalence could be disproportionate to the benefits arising from providing it.”¹⁵

- 43 “**Subscriber**” means any natural person or legal entity who or which is party to a contract with a provider of publicly available electronic communications services for the supply of such services in accordance with the definition at section 2(1) of the Framework Regulations.

¹⁵ BEREC Report, pages 30-31

4 Proposed measures

4.1 Introduction

- 44 The technological environment for electronic communications services is changing at an increased pace, and the usage of those services is changing accordingly. It is recognised that with advances in technology and the accelerated development of new equipment, products and services, all end-users, including disabled end-users, need equivalent access to services and choice of services and undertakings in order to participate fully in community life and feel the effects of social cohesion.
- 45 The purpose of this consultation is to evaluate the current conditions and practices in this jurisdiction and decide on measures that are appropriate and necessary in order to ensure that equivalence in access to services and choice of services and undertakings for disabled end-users is achieved.
- 46 This section outlines a number of measures regarding accessible services and information. In addition other measures proposed in order to ensure equivalent access and choice for disabled end-users are outlined to include the provision of a facility to register disabled subscribers' requirements, issues regarding terminal equipment, certification of disability, and timing of implementation and review of measures.

4.2 Accessible Services:

- 47 The measures proposed by ComReg for Undertakings in respect to accessible services are considered appropriate and necessary to ensure that disabled end-users can enjoy access to the following services:
- Accessible complaints procedures
 - Accessible top-up services for pre-paid mobile telephone end-users
 - Accessible Directory Enquiries
 - Accessible billing
 - Accessible facility to test compatibility of terminal equipment

4.2.1 Accessible Complaints Procedures

Introduction

48 Undertakings are obliged under Regulation 27 of the Regulations (see Annex 1 for text of the Regulation) to implement a code of practice to deal with end-users' complaints and the code of practice shall make provision for matters to include, but not limited to:

- first point of contact for complainants,
- a means of recording complaints,
- a timeframe within which the undertaking concerned shall respond to complaints,
- procedures for resolving complaints, including a timeframe for referring the customer to the Regulator,
- appropriate cases where reimbursement of payments, payments of compensation and payments in settlement of losses incurred will be made, and
- retention of records of complaints for a period of not less than one year following the resolution of the complaint.

49 The procedures established for the purpose of the above matters should be transparent, non-discriminatory, simple, inexpensive, and enable disputes to be settled fairly and promptly. ComReg understands that all Undertakings have a facility to deal with end-users' complaints. In order to ensure equivalence for disabled end-users there should be procedures in place enabling them to lodge a complaint with an Undertaking and ensuring that their complaint will be dealt with appropriately.

BEREC

50 The BEREC Report acknowledged that in the course of using an electronic communications service a customer may be required to make contact with the service provider to resolve the issue that has arisen. The Report stated:

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“It is crucial that end-users with disabilities have access to the same support and maintenance service offered, if any, to other end-users. The key consideration here is that end-users with disabilities have a method of communication available, which is appropriate to their disability. This may ultimately require that service providers offer, or on request, provide a range of communication methods with equivalent response and resolution times. It is also important that service providers make known what channels are available and how requests for other methods of communication can be made.”¹⁶

Forum

51 Issues concerning the accessibility of Undertakings’ complaints processes have been raised with ComReg in discussions with the Forum. ComReg considers, based on these discussions, that detriment is experienced by disabled end-users compared with the majority of end-users regarding:

- Access to Undertakings’ customer services in order to lodge a complaint and/or to make an enquiry;
- Response times of Undertakings’ customer services in relation to complaints and/or enquiries;
- Accessibility of Undertakings’ websites for downloading information relevant to lodging a complaint and/or making an enquiry; and
- Ability of Undertakings’ customer services to respond to disabled end-users’ specific requirements.

52 ComReg recognises, based on discussions with the Forum, that a number of Undertakings have already implemented disability awareness training for their staff and many have integrated this training with mainstream consumer awareness training. However, concerns have been raised about the success of the training and how the Undertakings measure its effectiveness.

ComReg Proposed Approach

53 ComReg itself currently provides a SMS service for consumers who wish to access ComReg’s complaint handling process to make a complaint and/or an enquiry via SMS and ComReg can also respond to complaints and/or enquiries by SMS.

¹⁶ BEREC Report, page 40

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54 ComReg believes, in light of discussion at the Forum, that Undertakings need to implement appropriate measures to ensure that all end-users' requirements are addressed when access to Undertakings' complaints processes is required. It is ComReg's preliminary view that in order to ensure equivalence for disabled end-users when accessing Undertakings' complaints processes, every Undertaking should be required to:

- provide an accessible means for disabled end-users to access the Undertaking's customer services in order to lodge a complaint and/or make an enquiry, to include at least by way of telephone, SMS, letter, and email, and to include the ability to nominate a third party to deal with complaints and/or enquiries on behalf of the disabled subscriber.
- implement disability awareness training to ensure that staff handling complaints are aware of the requirements of disabled end-users and have the requisite skills to appropriately deal with those requirements.

Q. 1 Do you agree with the ComReg proposed approach as set out in section 4.2.1 mandating the provision by every Undertaking of an accessible means for disabled end-users to lodge a complaint and/or make an enquiry and the implementation of disability awareness training for staff? Please provide reasons to support your view.

4.2.2 Accessible Top-Up Facility for Pre-Paid Mobile Telephone End-Users

Introduction

55 ComReg understands, based on discussions at the Forum, that many end-users who are Deaf and /or have speech impairments and/or have hearing impairments use pay-as-you-go tariffs for their mobile telephones and are not always able to independently top-up credit on their mobile telephones.

Forum

- 56 ComReg understands, based on discussions at the Forum that many disabled end-users do not have access to credit or debit cards. Therefore, when end-users who are Deaf and /or have speech impairments and/or have hearing impairments buy phone credit, it is necessary to make a call and listen to prompts to register the credit using a code printed on the receipt (voucher) obtained at the point of purchase. End-users who are Deaf and/or have speech impairments and/or have hearing impairments thus require another person to apply that credit on their behalf.
- 57 ComReg recognises, based on discussions at the Forum, that some Undertakings¹⁷ provide facilities for end-users using pay-as-you-go tariffs for their mobile telephones to top-up credit on their mobile telephones by way of SMS, but this facility is not widespread.

ComReg Proposed Approach

- 58 ComReg considers that detriment is experienced by disabled end-users when compared with the majority of end-users using pre-paid top-up facilities.
- 59 ComReg further considers that a facility whereby disabled end-users could top-up by SMS using the top-up receipt (voucher) would be beneficial and would negate the need for end-users who are Deaf and/or have speech impairments and/ or have hearing impairments to seek assistance from another person when topping up credit on their mobile telephones.
- 60 ComReg is of the preliminary view that, in order to ensure equivalence for disabled end-users in topping-up credit on their mobile telephones, there should be no need for another person to intervene or assist the disabled end-user. An online top-up facility is not sufficient as ComReg understands that a substantial number of disabled end-users may not have access to the internet and/or credit or debit cards and other end-users are not required to access the internet to top-up their pre-paid phone. Thus, in order to ensure equivalence, ComReg is of the preliminary view that every Undertaking providing pre-paid mobile services should be required to provide a SMS top-up facility for disabled end-users of pre-paid mobile services to:
- Pay with credit card and/or debit card and/or cash without the need to follow voice prompts;

¹⁷ Vodafone confirmed on 13 September 2012 that an accessible SMS top-up facility is available.
O2 confirmed on 20 March 2013 that an accessible SMS top-up facility is available.

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- Get a receipt (voucher) that lists in clear, easy to understand language the steps required to ensure the top-up credit can be applied successfully;
- Apply the top-up receipt (voucher) by SMS sent from the disabled end-user's mobile telephone and without assistance from a third party; and
- Receive confirmation of the value of the top-up credit by SMS sent to the disabled end-user's mobile telephone.

Q. 2 Do you agree with the ComReg proposed approach as set out in section 4.2.2 regarding the provision by every Undertaking providing pre-paid mobile services of a SMS top-up facility for disabled end-users of pre-paid mobile services that includes accessible payment methods, top-up receipts (vouchers) outlining steps required to apply the credit and confirmation of the top-up? Please provide reasons to support your view.

4.2.3 Accessible Directory Enquiries

Introduction

61 An accessible directory enquiries service is currently provided by a number of Undertakings on a voluntary basis for end-users who are registered as having a vision impairment and/or have difficulty reading the phone book.

62 Eircom, as designated USP, is currently obliged to ensure that a printed telephone directory of subscribers ("phone book") is made available to all end-users.¹⁸ ComReg has received representations from end-users regarding the legibility of the printed phone book currently provided by Eircom, citing that the print and format of the text is too small to be regarded as legible. Many disabled end-users do not have access to the on-line Eircom phone book.

196 Special Directory Enquiry Service

63 As designated USP, Eircom is currently required to provide a directory enquiry service free of charge for end-users who are unable to use the phone book because of a vision impairment.¹⁹ This service is accessible by dialling 196. Qualifying criteria must be met to enable an end-user to avail of the '196 special directory enquiry service'.

¹⁸ See Regulation 4 of the Regulations and ComReg 12/71

¹⁹ See Regulation 6 of the Regulations and ComReg 12/71

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64 An extract from the Disability Services section of the Eircom website reads as follows²⁰:

“Free directory enquiries– eircom provide free directory enquires for customers that can’t use the Phonebook due to a sensory or physical disability or medical condition. All a customer needs to do is to freefone 1800 574 574 where they can apply to use the eircom directory enquiry service free of charge. You can download this form [here](#).

To use the service once registered, please follow these steps:

Dial 196

The agent will ask you, in sequence, for your PIN number, your name, and the name and address of the person/company whose number you require.

Customers should have a means of recording the numbers close to hand.

If for any reason you are unable to make the call yourself, you can have somebody else do so on your behalf.

Phone listings are also available free of charge at www.eircomphonebook.ie ”

Forum

65 ComReg understands, based on discussions at the Forum, that end-users who are unable to use the phone book because of a vision impairment and/or a reading disability and are not Eircom fixed line subscribers are likely to experience detriment when compared to the majority of end-users in accessing (or attempting to access) the phone book.

66 In response to this detriment, a voluntary commercially-agreed arrangement was put in place between some Undertakings, both fixed and mobile, and Eircom. Subscribers of these Undertakings can access Eircom’s ‘196 special directory enquiry service’ free of charge.

²⁰ Accessible by clicking on the ‘Disability Services’ icon at the bottom of the homepage of the Eircom website (<http://www.eircom.net>) or at the following link:<http://www.eircom.net/group/disabilityservices/>

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67 Thus a number of Undertakings currently provide, on a voluntary basis, a special directory enquiry service free-of-charge to subscribers who are registered as having a vision impairment and/or have difficulty reading the phone book. However, not all Undertakings have implemented a facility to offer a directory enquiry service free-of-charge to disabled subscribers.²¹

ComReg Proposed Approach

68 ComReg is of the preliminary view that every Undertaking should be required to provide for subscribers who are unable to use the phone book because of a vision impairment and/or have difficulty reading the phone book, special Directory Enquiry arrangements to allow the use of a directory enquiry service free of charge, once certification of disability is provided by a registered medical practitioner or by an appropriate agent.

69 Furthermore, ComReg considers that a free and accessible directory enquiry service to be provided by Undertakings need not be provided using Eircom's '196 special directory enquiry service' and, therefore, Undertakings are free to find alternative solutions if they wish²².

70 ComReg is of the preliminary view that it is not appropriate to implement a cap or restriction on the use of such a directory enquiry service by disabled subscribers. However, ComReg is interested in the views of stakeholders on this issue.

Q. 3 Do you agree with the ComReg proposed approach as set out in section 4.2.3, regarding the provision by every Undertaking of access to a free directory enquiry service for subscribers that have a vision impairment and/or have difficulty in reading the phone book, subject to subscribers meeting the required certification of disability by a registered medical practitioner or by an appropriate agent? Please provide reasons to support your view.

Q. 4 Respondents are also asked to provide views on whether a cap (specified monetary allowance or specified number of requests for Directory Enquiries free of charge per billing period) should be incorporated with the Accessible Directory Enquiries proposed measure (Q3) and, if so, what the appropriate allowance or number of requests should be. Please provide reasons to support your view

²¹ To view a complete list of Undertakings providing this service, please click on the following link: [Free special directory enquiry service for registered users](http://www.askcomreg.ie) at www.askcomreg.ie

²² Please note ComReg's proposed treatment of the existing Universal Service Obligations in Annex 2.

4.2.4 Accessible Billing

Introduction

- 71 As designated USP, Eircom is currently required to provide for end-users with restricted vision, Braille billing, free of charge.²³ Eircom also makes available audio and large print bills upon request.
- 72 Bill Presentation Standard - In November 2008, ComReg, in conjunction with Excellence Ireland Quality Association (“EIQA”), developed a quality standard for bill presentation (“Bill Presentation Standard”) by Undertakings, aimed at improving the overall quality in terms of presentation of electronic communications bills for end-users. Compliance with the Bill Presentation Standard criteria is denoted by the “Q” symbol on the ComReg website www.callcosts.ie, and the level of compliance achieved will be graded by the number of stars listed in brackets.
- 73 A specific section of the Bill Presentation Standard is focused on accessibility. That section sets out a minimum set of principles to be adhered to by the Undertakings in order to ensure that the bill is clear and easy to read. Specific attention is drawn to issues such as language and fonts used, the colour of text and background, the availability of alternative bill formats upon request (such as Braille bills, audio bills and talking bills), and the standardisation of billing terms and consistency between terms used in bills and in sales information and contract documents. Compliance with the accessibility criteria will be denoted by “Yes/No” response to the accessibility statement.
- 74 In October 2011, ComReg issued a consultation document 11/78 that addressed issues relating to billing mediums and itemised bill formats²⁴. That consultation document proposed a number of measures in relation to consumer billing and section 3.3 of that consultation, specifically discussed issues relating to consumers with disabilities.
- 75 ComReg received 13 responses to consultation document 11/78 and ComReg thanks all the respondents for their contributions to this debate²⁵.
- 76 ComReg has now concluded the consultation process and has attached a number of consumer protection conditions to the General Authorisation relating to consumer bills and billing mediums. The full list of those conditions can be viewed at Annex 8.

²³ See Regulation 6 of the Regulations and ComReg 12/71. Please also note ComReg’s proposed treatment of the existing Universal Service Obligations in Annex 2.

²⁴ ComReg 11/78- Consultation – Proposed consumer protection measures in respect of consumer bills and billing mediums and proposed amendments to General Authorisation

²⁵ Responses to consultation document 11/78 to be published on ComReg’s website (www.comreg.ie)

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- 77 Respondents to consultation document 11/78 generally agreed with ComReg's proposal therein that consumers with disabilities should be provided with a billing medium that they can access free-of-charge if requested. However, some respondents raised concerns about the costs of providing such alternative billing mediums.
- 78 Some respondents argued that measures to ensure the accessibility of bills for consumers with disabilities were better placed in a consultation dealing with Regulation 17 of the Regulations. Having considered the matter, ComReg has decided to address measures to ensure accessibility of bills for disabled subscribers in this consultation document.

BEREC

- 79 The BEREC Report recognised that service providers' bills may pose difficulties for disabled end-users. The Report stated:

*"Electronic communications service providers' bills can be complex and difficult for all end-users to understand. Of primary importance to end-users with disabilities is being able to access the bill in a form that is suitable to reasonably accommodate their particular access needs."*²⁶

- 80 The BEREC Report also recognised that many service providers wish to move away from paper bills. The Report stated:

*"Many other service providers [that is, other than the USP] may seek to move away from paper bills as standard and provide their customer bills in summary form and/or on-line as standard, which may not be the preferred method for every customer. In determining whether access to billing is equivalent, the key point appears to be to determine whether any of the formats offered can be accessed satisfactorily by the customer, given their particular disability, regardless of the customer's preferred method of access."*²⁷ [comment in square brackets added by author]

Forum

- 81 ComReg considers, based on discussions at the Forum, that disabled subscribers continue to experience detriment in accessing bills when compared with the majority of end-users. For example, many Undertakings provide electronic bills and as a result, issues including but not limited to the following are experienced by disabled subscribers:

²⁶ BEREC Report, page 40

²⁷ BEREC Report, pages 40-41

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- accessing the relevant web page to view the bill is not possible as the web page may be password protected and, as such, secure passwords, presented as skewed letters (CAPTCHA²⁸ security software) need to be keyed in to verify the account holder;
- the Undertaking's website does not facilitate the use of screen reader software to read the bill; and
- end-users with intellectual difficulties, end-users who do not have access to the internet and/or computer and/or laptop, and end-users whose only language is Braille may not be able to access their bill on-line.

ComReg Proposed Approach

82 It is ComReg's preliminary view that the consumer protection conditions in respect of consumer bills and billing mediums attached to the General Authorisation as summarised in Annex 8 of this document should apply to disabled subscribers.

83 It is ComReg's preliminary view that the requirements imposed on Undertakings in respect of consumers by the conditions in respect of consumer bills and billing mediums attached to the General Authorisation should also be imposed on Undertakings, pursuant to Regulation 17 of the Regulations, in respect of disabled subscribers who are not otherwise consumers within the meaning of the term as defined in Regulation 2 of the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011.²⁹

84 In addition to the above-mentioned requirements, ComReg is of the preliminary view that any and all bills (including transaction detail requests) issued to a disabled subscriber by an Undertaking should be provided free of charge in a medium properly accessible to that disabled subscriber (including Braille), if requested.

²⁸ Completely Automated Public Turing Test to Tell Computers and Humans Apart.

²⁹ Regulation 24 and Schedule 1 Part A of the Regulations and Regulation 7 of the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (SI No.336 of 2011) are also relevant in this regard and are further detailed in Annex 1 of this consultation document.

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85 Also, ComReg is of the view that disabled subscribers may wish to register their alternative billing medium requirement with the Undertaking that is their service provider in order to ensure that the Undertaking that is their service provider can best meet their billing needs. The proposed measure regarding a facility for disabled subscribers to register requirements, as set out at section 4.4 of this consultation document, is relevant in this regard, in particular, where a Braille bill is requested³⁰.

Q. 5 Do you agree with the ComReg proposed approach as set out in section 4.2.4 regarding accessible billing? Please provide reasons to support your view.

4.2.5 Accessible Facility to Test Compatibility of Terminal Equipment

Introduction

86 It is important for people using hearing aids and cochlear implants to assure themselves before purchasing terminal equipment, that the equipment being purchased is compatible and meets their needs.

87 At the moment, where compatibility issues arise in relation to terminal equipment, disabled end-users experience difficulty in returning the equipment once it has been used or trialled by them.

BEREC

88 The BEREC Report noted that respondents to its public consultation were of the view that the availability of terminal equipment was one of the three most important factors in assessing equivalent access.

89 Specifically, the Report noted:

“The preliminary views of 12 NRAs is that the availability of terminal equipment is a very important item for consideration when assessing equivalent access. Without appropriate terminal equipment for end-users with disabilities, the use of an electronic communications service may not be possible.”

³⁰ Please note ComReg’s proposed treatment of the existing Universal Service Obligations in Annex 2.

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For example, to be able to use a mobile phone, a person with vision impairment may require certain voice output features such as talking menus and a text message to speech conversion feature. For others, large button phones may assist in the case of an end-user with a visual impairment or reduced dexterity. End-users with hearing loss may require handsets that are compatible with their hearing aid. It is also noted that more often, particularly in the case of mobile handsets, features that are beneficial to end-users with disabilities and in some cases necessary for use of the service are available with mainstream handsets.”³¹

Forum

90 ComReg considers, based on discussions at the Forum, that detriment is experienced by disabled end-users in the use of terminal equipment when compared with other end-users for the following reasons:

- They are unaware prior to using equipment if they will experience interference when accessing the choice of terminal equipment that is technically compatible with cochlear implants and hearing aids.
- In shops, Undertakings’ staff, due to a lack of understanding and expertise, may not be able to properly advise when discussing disabled end-users’ requirements. In particular, disabled end-users have complained that terminal equipment has been recommended to them by Undertakings which subsequently proved incompatible with the disabled end-user’s cochlear implants and/or the disabled end-user’s hearing aids.
- There is a wide range and choice of telephones available on the market which have high technical capabilities while it appears that there is limited choice of telephones available for basic requirements. In that regard high-tech telephones generally do not require additional applications, whereas mid to low-tech telephones usually require additional applications, and therefore result in additional costs. The lack of availability of accessible handsets with a range of packages/price options means there is limited choice for disabled end-users who require only basic services.
- In general, Undertakings’ returns policies provide that unless the terminal equipment purchased does not work, the end-user cannot return the equipment once used or if the package has been opened.

³¹ BEREC Report, pp. 33-34

ComReg Proposed Approach

- 91 ComReg believes, based on discussions at the Forum, that a testing facility would encourage disabled end-users to purchase terminal equipment in the knowledge and confidence that the equipment could be used by them before they make the purchase. Furthermore, ComReg considers that staff trained in the use of the terminal equipment being purchased should be available to assist disabled end-users in the use of and choice of terminal equipment being sought to best meet the disabled end-users' requirements.
- 92 ComReg is of the preliminary view that every Undertaking selling terminal equipment should be required:
- to make available a testing facility for disabled end-users who use a hearing aid or have a cochlear implant, to test terminal equipment at the Undertaking's retail shops, in advance of purchasing the terminal equipment.
 - to ensure that the testing facility is supported by on-site staff that are easily accessible and trained in the use of terminal equipment and are adequately equipped to address any queries raised by disabled end-users in advance of purchase.

Q. 6 Do you agree with ComReg's proposed approach as set out in section 4.2.5 that every Undertaking selling terminal equipment should be required to make available a testing facility for disabled end-users who use a hearing aid or have a cochlear implant, to test terminal equipment at the Undertaking's retail shops, in advance of purchasing the terminal equipment, and that the testing facility should be supported by on-site staff that are easily accessible and trained in the use of terminal equipment and are adequately equipped to address any queries raised by disabled end-users in advance of purchase? Please provide reasons to support your view.

4.2.6 Accessible Text Relay

Introduction

- 93 A text relay service ("TRS") provides facilities for the receipt and translation of voice messages into text and the conveyance of that text to the textphone of customers of any Undertaking, and vice versa. An accessible TRS is currently made available (by Eircom as the USP) to fixed line customers who are hearing and/or speech impaired via a fixed line using a minicom terminal.

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94 TRS can play an important role in ensuring equivalence for end-users that are hearing and/or speech impaired and have access to a fixed line and a minicom terminal - in so far as is practicably possible, live communication can be achieved.

95 However, ComReg understands, based on discussions at the Forum, that equivalence is not ensured for hearing and/or speech impaired end-users that do not have access to a fixed line and a minicom terminal and who wish to avail of live communication using a mobile telephone. Equivalence is not ensured for those end-users because mobile handsets are not currently adapted to function in the same way as the minicom terminal operates.

Universal Service Obligation

96 As designated USP, Eircom is currently required to provide for end-users that are hearing and/or speech impaired:

- A TRS providing facilities for the receipt and translation of voice messages into text and the conveyance of that text to the textphone of customers of any operator, and vice versa; and
- A rebate scheme whereby, as a result of the time taken to make a text telephone call, equality of payment for deaf text telephone users can be assured.³²

97 In practice the hearing and/or speech impaired end-user keys in the telephone number to access the TRS. A dedicated individual, on behalf of the Undertaking takes the call by reading the text message on the screen. The message is then relayed via voice call or SMS to the intended recipient by the Undertaking. The Undertaking continues to process voice and text messages between the parties until the call is terminated. The nature of the service means that, while it is intended to ensure equivalence in delivery of live communication for hearing and/or speech impaired end-users, the call can take much longer to complete.

BEREC

98 In its Report, BEREC discussed equivalence in the costs of services for disabled end-users. The Report stated:

³² See Regulation 6 of the Regulations and ComReg 12/71

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“In the UK, all communications providers must give their customers access to an approved text relay service. They must also ensure that customers who make calls using the text relay service are charged no more for these calls than if the call had been made without the relay service.”³³

99 In its description of services available or required for users with disabilities, the BEREC Report noted that in the UK:

“The USP must establish and fund a text relay service. All communications providers are required to give their customers access to text relay, and they all currently do this by giving access to the service provided by the USP.”³⁴

Forum

100 TRS is primarily used in business /working environments and therefore is widely recognised as essential in ensuring the continued employment of end-users that are hearing and/ or speech impaired. While TRS is also used by individuals for non-business/non-working/personal reasons, it is considered expensive and cost prohibitive for individual end-users to access.³⁵ Nonetheless, for hearing and/ or speech impaired end-users that rely on fixed line services for non-business/non-working/personal reasons, there are advantages in having access to a TRS. For example, in cases where end-users need to make contact with a service at a fixed line telephone number and receive a live response, such as contacting a bank/ hospital/ doctor/ solicitor/other business, the TRS remains very relevant.

101 However ComReg believes, based on discussions at the Forum, that mobile service is currently the preferred electronic communications service for end-users that are hearing and/or speech impaired, due to the text (SMS) capabilities. Mobile handsets are not currently adapted to function in the same way as the minicom terminal operates.

102 It was expressed at the Forum, that unless the current TRS is modernised to meet end-users’ requirements, in particular to meet mobile only end-users, it may become obsolete for non-business/non-working/personal communications.

³³ Page 36 BEREC report

³⁴ Page 57 BEREC report

³⁵ Estimates indicate that the cost of a minicom terminal is circa €300.

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103A number of solutions were presented at the Forum in an attempt to ensure functional equivalence. Mobile Undertakings agreed to assess the potential of using available technology to devise an alternative means of reaching a solution.

ComReg Proposed Approach

104At this time, ComReg is not minded to propose measures with regard to extending access to TRS for disabled end-users of Undertakings providing mobile services. ComReg is of the preliminary view that this matter should be considered at a later date in line with future ComReg consultation(s) in respect of the scope of the universal service obligation and designation of the USP. However, ComReg welcomes any views that respondents have in this regard and ComReg will consider all views received.

4.3 Accessible Information

4.3.1 Introduction

105This section discusses information that ComReg believes needs to be accessible for all disabled end-users and deals with information in respect to product and services including information on websites, contracts, contract notifications, contacting Undertakings with issues and information on terminal equipment.

4.3.2 Information requirement for products & services

106The Regulations place a high degree of importance on end-user rights. Of central importance in this regard is the publication of transparent, comparable, adequate and up-to-date information regarding the provision of services to include applicable prices and tariffs, information on the quality of services and the terms and conditions under which services will be provided. The provisions of Regulation 15 of the Regulations are relevant in this regard. Regulation 15(6)(f) specifically enables ComReg to require that Undertakings regularly inform disabled subscribers of details of products and services designed for their requirements. Regulation 15(9) specifically enables ComReg to oblige Undertakings to publish comparable, adequate and up-to-date information for end-users on the quality of their services and on measures taken to ensure equivalence in access for disabled end-users. Regulation 15(13) enables ComReg to specify the quality of service parameters, definitions and measurement methods to be used by Undertakings for the purpose of Regulation 15(9).

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107 The provision of clear and unambiguous contract terms allows end-users to clearly understand the nature of the Undertaking's responsibilities to end-users along with the scope of the obligations which the end-user is committed to by entering into a contract. Information in respect to the switching process, exiting a contract and any associated fees or charges should be clearly set out in a contract. The provisions of Regulation 14 of the Regulations are relevant in this regard. Regulation 14(4) requires Undertakings to notify their subscribers of any proposed modifications to contractual conditions and of their entitlement to withdraw from the contract without penalty if they do not accept the modification.

108 As designated USP, Eircom is obliged to:-

*"Maintain, operate, monitor and ensure its own compliance with a Code of Practice concerning the provision of services for people with disabilities and shall periodically review and, where appropriate, amend the Code of Practice in consultation with the NDA and other representative bodies."*³⁶

BEREC

109 The BEREC Report noted that respondents to its public consultation were of the view that accessible information was one of the three most important factors in assessing equivalent access.³⁷

Forum

110 Concerns have been raised through the Forum regarding the accessibility of information provided by Undertakings for disabled end-users.

Forum - Survey of Users with Disabilities

111 In 2010, a survey of consumers with disabilities was commissioned by ComReg as part of the work of the Forum using a representative sample of approximately 2000 registered people with disabilities. An extract from the key findings of the survey³⁸ provides:

"There is clearly a need specifically for increasing awareness of access to (and funding of) special equipment and services for people with disabilities, and a need for more information generally about the various ICT services on offer.

The incidence of approaching operators for special equipment or services to make fixed and mobile services easy to use, while is very

³⁶ See Regulation 6 of the Regulations and ComReg 12/71

³⁷ BEREC Report, page 33

³⁸ http://www.comreg.ie/fileupload/Consumers%20with%20Disabilities_FINAL.pdf

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low, and there is high dissatisfaction among those who did make contact for this purpose.”

Forum - Website accessibility

112A concern raised at the Forum was the difficulty that disabled end-users have experienced trying to access information on Undertakings' websites. In response to this concern, some Undertakings agreed on a voluntary basis to develop accessible disability sections for their websites, to provide detailed information about their services, and to improve the accessibility of their websites.

113It was agreed at the Forum that a link from the home page of each of the Undertakings' websites should be available so that disabled end-users need only click one link ('one click initiative') and access to all necessary information would be available for viewing on the disability section of each Undertakings' websites.

114ComReg is of the preliminary view that information would include specific details of and access to websites that contain information of relevance to disabled end-users.

115To date some of the Undertakings who attend the Forum have successfully implemented this 'one click initiative'.

ComReg Proposed Approach

116ComReg considers, based on discussions at the Forum, that detriment is experienced by disabled end-users with regard to accessibility of information.

117ComReg is of the preliminary view that every Undertaking should be required to ensure that information regarding its products and services, including all information provided to the majority of end-users, is accessible for disabled end-users³⁹. For the purposes of ensuring that such information regarding its products and services is made accessible to disabled end-users every Undertaking should be required to ensure:

- the Web Accessibility Initiative⁴⁰, as developed by the World Wide Web Consortium (W3C), is met to facilitate disabled end-users, and the Undertaking's website includes the following:

³⁹ Please note ComReg's proposed treatment of the existing Universal Service Obligations in Annex 2.

⁴⁰ The World Wide Web Consortium (W3C) is an international community that develop open standards to ensure the long term growth of the Web. WAI standard developed by W3C is available from the following link: <http://www.W3.org/TR/WCAG20/>. The NDA's Excellence through Accessibility – ICT Guidelines and Criteria, Guideline 14 Web Accessibility, refers to this standard.

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- i. one-click access from the home page of the Undertaking's website to the Disability Section of that website;
 - ii. the Disability Section of the Undertaking's website contains comprehensive information in relation to the products and services it provides which are of particular interest and relevance to people with disabilities; and
 - iii. the Disability Section of the Undertaking's website contains details of and access to websites that contain information of relevance to disabled end-users, that ComReg may specify from time to time.
- contractual information in accordance with Regulation 14 of the Universal Service Regulations, including notification in respect to any modification to contractual conditions, as required by Regulation 14(4) of the Universal Service Regulations, is accessible for disabled end-users.
 - information in respect of the Undertaking's complaints handling procedures, including the Undertaking's Code of Practice, as required by Regulation 27 of the Universal Service Regulations, is accessible, easy to read and understandable and, in particular, accessible in a number of formats, to include but not limited to Braille, Audio, Regular print, Large print, Easy to read, and Online versions of each format (on the disability section of the Undertaking's website) and all of these formats must be printable.

Q. 7 Do you agree with the proposed approach outlined in section 4.3 regarding the provision of accessible information in respect to, but not limited to, products and services and accessibility of information channels? Please provide reasons to support your view.

4.4 Facility for Disabled Subscribers to Register Requirements

Introduction

118ComReg considers that the needs and requirements of disabled end-users will change over time as will technologies that are designed to meet their requirements.

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119 In an attempt to identify the requirements of disabled end-users in relation to electronic communications, ComReg itself experienced difficulties in reaching disabled end-users when conducting a number of surveys. ComReg therefore considers that a facility for disabled end-users to register their needs with Undertakings would be beneficial in ensuring Undertakings can appropriately fulfil their obligations in respect to disabled subscribers and in doing so can facilitate an improved experience for disabled subscribers.

120 Regulation 15(6)(f) of the Regulations specifically enables ComReg to require that Undertakings regularly inform disabled subscribers of details of products and services designed for their requirements.

BEREC

121 In its Report, BEREC discussed the issue of pre-registration for services and considered that:

122 “ *...although it is not desirable to create or maintain barriers to the take-up of disability services, registration for particular services may be necessary and indeed beneficial for a variety of reasons and across different services.*

Examples include namely:

- a) *Free directory enquiries for people unable to use a printed directory - this service is provided in a number of Member States. If this service was available without pre-registration, it would not be possible to prevent people without disabilities from accessing it, having cost implications;*
- b) *Emergency SMS - in the UK, registration is considered necessary to protect the scheme for disabled people in genuine need, as large numbers of blank or inappropriate messages are received every day from unregistered numbers and dealing with these messages would divert resources from registered users in genuine emergencies.*
- c) *Internet Protocol relay services – in the USA, these were initially offered without pre-registration but this was facilitating high levels of fraud, for example, criminals using stolen credit cards to order goods. As well as inflating the bill for relay services, this led to some deaf people having difficulty in placing orders for goods and services (because retailers suspected that relay calls were likely to be fraudulent), and registration was introduced in order to protect the service for genuine users.*

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Registration using a username and password is commonplace for online services such as email, shopping and banking. Registration schemes could also enable relevant information to be sent to disabled end-users who are registered to use these services, providing, if authorized by end-users, information about products and services that may be suitable for them. This is in keeping with article 21 of the 2009 USD.”⁴¹

Forum

123ComReg considers, based on discussions at the Forum, that detriment is experienced by disabled subscribers with regard to the provision for end-user requirements.

124ComReg recognises, based on discussions at the Forum, that many Undertakings already maintain a facility to register end-user requirements or compile basic information in this regard. However, it is unclear how detailed or up-to-date any such information is. ComReg considers that when more specific information is collected, Undertakings will be in a far better position to serve and meet the requirements of disabled subscribers.

Persons nominated to act on behalf of subscribers

125 ComReg considers, based on discussions at the Forum, that a facility to register disabled subscribers' requirements should address the issue of persons nominated to act on behalf of disabled subscribers. In this regard, subscribers who are not in a position to deal with account matters at any given time can nominate another person to deal with these matters on their behalf.

126ComReg will consult with the Office of the Data Protection Commissioner (ODPC) prior to any Decision regarding this proposed measure.

⁴¹ BEREC Report, pages 43-44

ComReg Proposed Approach

127 ComReg is therefore of the preliminary view that a facility for disabled subscribers' to register requirements should be established and maintained by Undertakings. Therefore, every Undertaking should be required to establish and maintain a facility to enable disabled subscribers to register their requirements and allow the Undertaking to record details to facilitate the regular provision of relevant and appropriate information and/or products and services to disabled subscribers. The facility to register must, at a minimum, have the ability to record, subject to the disabled subscriber's consent, the following:

- Name, address, contact details (to include phone or email and/or third party nominated contact);
- Preferred means of communication;
- Preferences in respect to bundles (for example broadband or text only);
- Details of any special terminal equipment required; and
- Details of any alternative billing medium requirement.

Q. 8 Do you agree that every Undertaking should set up and maintain a facility (to record as a minimum details set out in section 4.4 above) to enable disabled subscribers to register their requirements allowing Undertakings to record details to facilitate the regular provision of relevant and appropriate information and/or products and services to disabled subscribers and for this information to be provided to a nominated third party contact if appropriate and necessary? Please provide reasons to support your view.

4.5 Terminal Equipment

128 Regulation 17 (2) of the Regulations obliges ComReg to encourage the availability of terminal equipment offering the necessary services and functions in order to be able to adopt and implement specific arrangements for the requirements of disabled end-users.

129 As designated USP, Eircom is currently obliged to make certain terminal equipment available to disabled end-users that meets their specific requirements.⁴²

⁴² See Regulation 6 of the Regulations and ComReg 12/71.

BEREC - Inclusive Design/Design for All (DfA)⁴³

130 In relation to the availability of accessible terminal equipment, the BEREC Report (page 34) considered the concept of Design for All (DfA; also known as Inclusive Design). The Report noted that this concept:

“refers to the design and composition of an environment so that it can be accessed, understood and used to the greatest extent possible by all people, regardless of their age, size or disability”(page 34).

131 In its Report, BEREC was of the view that:

“inclusive design benefits all consumers, including those with disabilities and can help in further advancing the achievement of equivalent access”(page 34).

132 However, a number of service providers stated, in their responses to BEREC’s public consultation that disabled users, where possible, prefer standard terminal equipment as they want to communicate with everyone.

133 With regard to promoting awareness of accessible equipment and inclusive design, respondents to BEREC’s public consultation were of the view that this could be a role undertaken by NRAs but they did not see NRAs mandating service providers to this effect. Other respondents were of the view that the role of NRAs would be to support Member States in this area.⁴⁴

ComReg Proposed Approach

134 At this time, ComReg is not minded to propose measures in relation to Regulation 17(2) of the Regulations other than insofar as the measures proposed in sections 4.2, 4.3 and 4.4 of this consultation document relate to Regulation 17(2) of the Regulations.

4.6 Certification of Disability

135 Currently, certification of disability can be provided by a registered medical practitioner, for example, a General Practitioner (GP), a nurse, a social worker, an optician, or by an appropriate agent such as an employee of a voluntary organisation, for example, the Multiple Sclerosis Society.

⁴³ http://ec.europa.eu/information_society/activities/einclusion/policy/accessibility/dfa/index_en.htm

⁴⁴ BEREC Report, page 52

ComReg Proposed Approach

136 ComReg's preliminary view is that there are many avenues currently available for disabled end-users to attain certification of disability and that the requirement for certification to be provided by disabled end-users when dealing with their Undertaking for the purposes of the measures proposed in this consultation is reasonable. ComReg welcomes respondents' views in this regard and if any respondent(s) consider that there are other more end-user-friendly methods of certification available to disabled end-users ComReg will consider these.

4.7 Other Measures

137 ComReg is cognisant that there may be other measures it could consider. ComReg welcomes respondents' views and/or proposals in relation to any additional requirements or measures that are considered proportionate and justified and within the scope of Regulation 17 of the Regulations. Where proposed measures are received, they will be assessed against Regulation 17 on the basis of the approach set out in Annex 4 of this consultation document and may form the basis of a supplementary consultation, if relevant.

Q. 9 Are there other requirements not identified by this consultation document which, in your opinion, fall within the scope of Regulation 17 that ComReg should consider? Please provide reasons to support your view.

4.8 Timing of implementation and review of measures

Introduction

138 Based on discussions at the Forum and in light of limited information regarding timing issues which may be experienced by Undertakings in rolling-out measures to ensure equivalent access and choice, ComReg is minded to use the inputs of the Forum to assist in respect of its implementation of the requirements of Regulation 17 of the Regulations.

Forum

139 ComReg recognises, based on discussions at Forum meetings, that technical constraints may limit the scope of ensuring 100% equivalence and therefore necessitate a review of measures imposed. To that end, and to ensure that ComReg is proportionate in specifying requirements as obligations, it is considered that interim measures may need to be put in place to allow sufficient time for feasible solutions to be tested and deployed.

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140 In that regard, the phasing-in of obligations has also been considered as an option, in particular as this may be of assistance to Undertakings wishing to enter the market place.

141 ComReg also considers, based on discussions at the Forum, that the Forum could establish, in light of developments in technology, a specific timeframe for review of measures imposed and establish parameters to be assessed in any review. Factors discussed to be assessed in any review included the take up of the measure in question and how user friendly the measure is once rolled out.

142 The Forum has agreed to regularly discuss issues with regard to implementation of measures by Undertakings at future Forum meetings.

143 ComReg considers, based on discussions at the Forum, that end-user surveys can be conducted at regular intervals to identify usage of new measures and issues which may arise in that regard.

ComReg Proposed Approach

144 ComReg will continue to use the inputs of the Forum to assist in respect of its implementation of the requirements of Regulation 17 of the Regulations. In order to reflect discussions held by the Forum in respect of the timing of implementation, ComReg proposes the following approach:

- Where necessary and appropriate, interim measures will be put in place to allow sufficient time for feasible solutions to be tested and deployed;
- Measures may be phased-in over a specific time period; and
- A review of measures imposed may be undertaken by the Forum at agreed timeframes. Factors which may be reviewed include the take up of measures by disabled end-users, how user friendly the measures are once rolled out, and the need for end-user surveys to identify usage of new measures and issues which may arise in that regard.

Q. 10 Do you have any views with regard to timeframes for each of the specific measures? Please provide evidence and reasons to support your view.

5 Regulatory Impact Assessment ("RIA")

5.1 Role of the RIA

145 A RIA is an analysis of the likely effect of a proposed new regulation or regulatory change. The RIA should help identify regulatory options, and should establish whether proposed regulation is likely to have the desired impact. The RIA should also in certain cases suggest whether regulation is or is not appropriate.

146 The RIA is a structured approach to the development of policy, and analyses the impact of regulatory options on different stakeholders. ComReg's approach to RIA is set out in the Guidelines published in August 2007.⁴⁵ In conducting the RIA, ComReg takes account of the RIA Guidelines⁴⁶ issued by the Department of An Taoiseach in June 2009 and adopted under the Government's *Better Regulation* programme.

147 Section 13(1) of the Communications Regulation Act 2002, as amended, requires ComReg to comply with certain Ministerial Policy Directions. Policy Direction 6 of February 2003 requires that before deciding to impose regulatory obligations on undertakings ComReg must conduct a RIA in accordance with European and International best practice, and otherwise in accordance with measures that may be adopted under the Government's Better Regulation programme. In conducting the RIA, ComReg also has regard to the fact that regulation by way of issuing decisions, for example imposing obligations or specifying requirements, can be quite different to regulation that arises by the enactment of primary or secondary legislation.

148 In conducting RIA, ComReg takes into account the six principles of Better Regulation. These are:

1. Necessity.
2. Effectiveness.
3. Proportionality.
4. Transparency.

⁴⁵ ComReg Document 07/56 & 07/56a

⁴⁶ [RIA Guidelines](#) (Department of the Taoiseach – Revised RIA GUIDELINES – How to conduct a Regulatory Impact Analysis – June 2009)

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5. Accountability.

6. Consistency.

149 To ensure that a RIA is proportionate and does not become overly burdensome, a common sense approach will be taken towards a RIA. As decisions are likely to vary in terms of their impact, if after initial investigation a decision appears to have relatively low impact, then ComReg would expect to carry out a less exhaustive RIA in respect of those decisions.

150 In determining the impacts of the various regulatory options, current best practice appears to recognise that full cost benefit analysis would only arise where it would be proportionate, or, in exceptional cases, where robust, detailed and independently verifiable data is available. This approach will be adopted when necessary.

151 ComReg is of the preliminary view that the benefits to be achieved by the measures proposed in this consultation document outweigh any potential costs and, as such, considers that the measures proposed are proportionate and justified given the need to ensure that disabled end-users can enjoy access and choice equivalent to that of the majority of end-users. Throughout this consultation document, ComReg has set out the reasons why it considers that there is a need for the measures proposed.

152 ComReg is of the view that the costs associated for a number of the measures should be minimal. However, ComReg solicits views from Undertakings in respect of any costs associated with implementation of measures outlined. Should respondents to this consultation have comments in respect of associated costs, they should be substantiated, with sufficient evidence.

5.2 Preliminary assessment of the regulatory approach

153 An approach for NRAs to ensure equivalence in access and choice for disabled end-users was published by BEREC. ComReg has decided to adopt as a template BEREC's proposed approach⁴⁷ in its implementation of Regulation 17 of the Regulations. The steps taken by ComReg in this regard are set out in Annex 4 of this consultation document.

⁴⁷ [BEREC Report](#), pages 68-73

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154 ComReg has taken the preliminary view that it should mandate measures to be complied with by Undertakings in order to ensure equivalence in access and choice for disabled end-users pursuant to Regulation 17 and Regulation 30 of the Regulations which provide a statutory basis for specifying requirements to be complied with by Undertakings. Regulation 31 of the Regulations provides for civil enforcement in circumstances where an undertaking fails to comply with an obligation, term or condition, requirement, specification or direction under the Regulations. ComReg has also had regard to sections 10 and 12 of the Communications Regulation Act, 2002 and Regulation 16 of the Framework Regulations.

155 ComReg regards this implementation approach as an appropriate means of achieving the aims of Regulation 17 of the Regulations.

5.3 Policy Issue and Objectives

156 Although advances in technology in recent years, such as the increased availability of broadband and mobile data services, email and SMS messaging, have improved disabled end-users' ability to communicate, the ability to use these services and to make and receive telephone calls remains important.

157 ComReg considers it essential that disabled end-users do not face any barriers when accessing electronic communications services. The barriers that disabled end-users face and the importance of access to telephone services are recognised in the USD⁴⁸.

158 ComReg's objective is to ensure that equivalence in access to electronic communications services and choice of undertakings and services is attained for disabled end-users.

159 Under the Regulations, the USP is obliged to offer certain services to disabled end-users. However pursuant to Regulation 17 of the Regulations, all Undertakings may be required to comply with specific requirements in order to ensure that disabled end-users can enjoy access and choice equivalent to that of the majority of end-users.

⁴⁸ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services (as amended by Directive 2009/136/EC)

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160 ComReg must first establish whether or not there is equivalence and secondly identify any factors that need to be addressed. In its Report, BEREC proposed “that “equivalent” in this context means that equivalent access to and choice of electronic communications services should be achieved for end-users with disabilities, albeit that this might be achieved in different ways for end-users with disabilities in comparison with other end-users”.⁴⁹

161 The measures proposed in this consultation for ensuring equivalence in access and choice, have been discussed with the Forum to ensure that they are required, robust and have a high likelihood of achieving the goals required.

162 ComReg now sets out each proposed measure in turn and outlines the relevant costs and benefits of same for industry, competition, and disabled end-users.

163 ComReg is of the preliminary view that the benefits to be achieved by the measures proposed in this consultation document outweigh any potential costs and, as such, considers that the measures proposed are proportionate and justified given the need to ensure that disabled end-users can enjoy access and choice equivalent to that of the majority of end-users.

5.4 Assessment of the regulatory options

Accessible Complaints Procedures

164 ComReg is of the initial view that there are two options:

- **Option 1:** Status quo remains; disabled end-users may continue to experience difficulties logging, progressing and resolving complaints/queries.
- **Option 2:** ComReg requires all Undertakings to ensure that accessible complaints procedures are in place for disabled end-users.

165 ComReg is of the view that keeping the status quo (Option 1) will not achieve the objective of equivalence for disabled end-users. Undertakings who do not currently provide accessible complaints procedures for disabled end-users would be unlikely to voluntarily introduce initiatives to do so.

⁴⁹ BEREC Report, pages 30-31

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166 By implementing Option 2, disabled end-users would be able to log, progress and resolve their complaints/queries with Undertakings in a manner equivalent to that of the majority of end-users. They would therefore be empowered by the introduction of this requirement and would not have to rely on third parties to log and progress complaints/queries on their behalf.

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	Impact on Disabled end-users	Impact on Industry	Impact on Competition
Option 1	Disabled end-users may continue to experience difficulties (compared with other end-users) making, progressing and resolving complaints/queries and the objective of of equivalence in access and choice may not be achieved.	Some Undertakings may roll out disability awareness training for their staff, others may not.	From discussions at the Forum, it appears that some Undertakings may implement measures voluntarily while others do not. There may be a negative impact on competition as disabled end-users experience difficulties complaining but are unlikely to switch Undertaking.
		Undertakings that do not already provide this equivalence of service are unlikely to in the future.	
Option 2	Equivalent experience for disabled end-users when making enquiries and progressing complaints.	May increase the number of complaints/queries initially, however this should be viewed as positive and a learning exercise and provide an opportunity for Undertakings to provide an enhanced service to disabled end-users.	All Undertakings have the same obligations in respect of disabled end-users ensuring that there is no negative impact on competition. Disabled end-users can be assured of equivalent treatment, enhancing competition by facilitating choice and switching by disabled end-users.
	Increased confidence to lodge queries and complaints.	Minimal additional costs and modification to the current complaints handling process may be needed. Training plan will need to be agreed and rolled out for all customer service agents	
	Disabled end-users are no longer dependent on 3 rd parties to log and progress complaints/queries on their behalf	Monitoring of service provision levels should not require any substantial additional costs to what is currently required.	
		Demand for services in the area of communications could potentially increase.	

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167 ComReg considers that the benefits to be achieved by introducing Option 2 outweigh any potential costs, and believes that this option is proportionate and justified and ensures disabled end-users can enjoy access and choice equivalent to that of the majority of end-users.

Accessible Top-Up Facility for Pre-Paid Mobile Telephone End-Users

168 ComReg is of the initial view that there are two options:

- **Option 1:** Status quo remains; some disabled end-users are unable to top-up their mobile telephones without the assistance of a third party.
- **Option 2:** ComReg requires all Undertakings providing pre-paid mobile services to ensure that disabled end-users can top-up their pre-paid mobile telephones using an accessible SMS top-up facility without the need to seek assistance from a third party.

169 ComReg is of the view that the status quo (Option 1) does not achieve the objective of equivalence for disabled end-users. Disabled end-users, in particular those with hearing difficulties, cannot top-up their mobile telephones without assistance and it is unlikely that this situation will change unless ComReg mandates initiatives to allow disabled end-users do so.

170 By implementing Option 2, disabled end-users would be able to top-up without the need to seek assistance from a third party. They would therefore be empowered by the introduction of such a measure.

Electronic Communications: - Proposed Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

	Impact on disabled end-users	Impact on Industry	Impact on Competition
Option 1	End-users who have hearing or speech difficulties cannot top-up their mobile telephones without assistance.	Undertakings may or may not decide to implement services which allow disabled end-users to top-up their mobile telephone credit without assistance.	Disabled end-users do not have a choice of Undertakings similar to that of the majority of end-users and may be discouraged from switching.
Option 2	Independence to apply credit on mobile telephone without requiring assistance, similar to other end-users.	A number of Undertakings already offer a form of this service. Minor adjustments would be required in respect of the cash/voucher top-up process to make it accessible for disabled end-users.	Increase competition as disabled end-users can choose from a greater selection of Undertakings.
	Increased choice of Undertakings.	Minimal technical set-up costs or costs due to implementing proposed principles, particularly ensuring ability for disabled end-users to top-up using the cash/voucher process.	

171 ComReg is of the preliminary view that the benefits to be achieved by introducing Option 2 outweigh any potential costs, and believes this option is proportionate and justified and ensures disabled end-users can enjoy access and choice equivalent to that of the majority of end-users. ComReg does not believe that all Undertakings will introduce this measure on a voluntary basis.

Accessible Directory Enquiries

172 ComReg is of the initial view that there are two options:

- **Option 1:** Status quo remains; the USP must provide an accessible Directory Enquiries (“DQ”) service free of charge for disabled end-users but ComReg does not mandate this measure for other Undertakings.

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- **Option 2:** ComReg requires all Undertakings to provide access to a free and accessible DQ service for subscribers who are unable to use the phone book because of a vision impairment and/or have difficulty reading the phone book, once confirmation of disability is certified by a registered medical practitioner or by an appropriate agent.

173 ComReg is of the view that keeping the status quo (Option 1) will not achieve the objective of equivalence for disabled end-users. ComReg's experience through its Forum is that many Undertakings have implemented a free DQ service for disabled subscribers but some Undertakings do not currently provide access to a free DQ service for disabled subscribers and are unlikely to introduce initiatives to do so unless required.

174 By implementing Option 2, disabled subscribers would be able to access phone numbers in a manner equivalent to that of the majority of end-users. They would therefore be empowered by access to the DQ service and would not have to rely on third parties' assistance.

Electronic Communications: - Proposed Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

	Impact on disabled end-users	Impact on Industry	Impact on Competition
Option 1	Risk of disabled subscribers not receiving free access to numbers as available to other end-users. Not all Undertakings offer a free DQ service for disabled subscribers.	The USP is obliged to provide a free DQ service, some other Undertakings continue to offer this service on a voluntary basis, others do not.	Disabled subscribers likely to remain with USP and other Undertakings who offer the free DQ service, therefore competition is limited.
		Undertakings that do not currently provide access to a free DQ service will not be obliged to.	
Option 2	Disabled end-users will have freedom to choose from a range of Undertakings as each will be required to provide an accessible DQ service.	Access to the DQ service will not be charged to the disabled subscriber subject to a potential cap. Undertakings may choose to provide a service where their own agents provide assistance with getting a number or may purchase a wholesale service from another Undertaking. ComReg will further consider removing this obligation as a universal service obligation on the USP if it is imposed on all Undertakings ⁵⁰ .	Disabled end-users can choose from an enlarged group of Undertakings which may lead to more intense competition.
	Risk of disabled subscribers not receiving a free DQ service is no longer an issue	Minimal set-up costs. Any costs are proportionate to the number of accounts held for disabled subscribers. Upper limit may be set in relation to the number of free enquires allowed or allowance towards enquiries given free of charge.	
	Disabled subscribers are no longer dependent on 3 rd parties for assistance when getting numbers.		

⁵⁰ Please note ComReg's proposed treatment of the existing Universal Service Obligations in Annex 2.

Electronic Communications: - Proposed Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

175ComReg considers the benefits to be achieved by introducing Option 2 outweigh any potential costs, and believes this option is proportionate and justified and ensures disabled subscribers can enjoy access and choice equivalent to that of the majority of end-users.

Accessible Billing

176ComReg is of the initial view that there are two options:

- **Option 1:** Status quo remains; the USP is the only Undertaking currently mandated to provide Braille billing free of charge for end-users with restricted vision. Other Undertakings are not mandated in this regard.
- **Option 2:** ComReg requires all Undertakings to ensure disabled subscribers can receive an accessible itemised or non-itemised bill (including transaction detail requests), free-of-charge on request.

177ComReg is of the view that the status quo (Option 1) does not achieve the objective of equivalence for disabled subscribers. Disabled subscribers must be able to view their bill in an accessible format similar to other end-users.

178By implementing Option 2, disabled subscribers would be able to receive their bill (including transaction detail requests) in a properly accessible medium, regardless of the Undertaking they choose. Once disabled subscribers can access their bill (including transaction detail requests) they will have the ability to verify charges, and will also have access to the information necessary, which is contained on the bill (including transaction detail requests), to allow them to switch Undertakings should they so wish.

Electronic Communications: - Proposed Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

	Impact on disabled end-users	Impact on Industry	Impact on Competition
Option 1	Varying degrees of bill accessibility for disabled subscribers depending on the Undertaking that is their chosen service provider.	Undertakings may issue bills in an accessible format, though some may not.	Disabled subscribers likely to remain with Undertakings who offer bills in a medium which they can access therefore restricting them moving to other Undertakings.
	Some bills presented on-line which may not be accessible to disabled subscribers.	USP continues to provide Braille bills for end-users with restricted vision free-of-charge.	
	Undertakings, other than the USP, may charge for accessible bills (including transaction detail requests)		
Option 2	Disabled subscribers will be able to access their bills (including transaction detail requests)	Costs may arise in ensuring that a properly accessible billing medium is provided free-of-charge, in particular where Braille bills are requested. However, it is important for Undertakings that all subscribers can access their bill so that they can verify the charges and pay the amount due.	Equivalent choice for disabled subscribers will enhance competition.
	Disabled subscribers will be able to verify the charges on their bill (including transaction detail requests)	ComReg will further consider removing the obligation to provide Braille bills on request free of charge for end-users with restricted vision as a universal service obligation on the USP if the obligation is imposed on all Undertakings ⁵¹ .	
	This will enable disabled subscribers to avail of a selection of Undertakings in the knowledge that they will be able to access their bill (including transaction detail requests).		

⁵¹ Please note ComReg's proposed treatment of the existing Universal Service Obligations in Annex 2.

Electronic Communications: - Proposed Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

179ComReg considers the benefits to be achieved by introducing Option 2 outweigh any potential costs, (see table above) and believes this option is proportionate and justified and ensures disabled subscribers can enjoy access and choice equivalent to that of the majority of end-users.

Accessible Facility to Test Compatibility of Terminal Equipment

180ComReg is of the initial view that there are two options:

- **Option 1:** ComReg does not intervene, and the status quo remains.
- **Option 2:** ComReg requires all Undertakings selling terminal equipment to offer an accessible facility for compatibility testing of terminal equipment to disabled end-users who use a hearing aid or have a cochlear implant, with trained staff on-site, thus giving disabled end-users equivalence in terms of their ability to choose terminal equipment that best suits their needs.

181ComReg is of the view that keeping the status quo (Option 1) will not achieve the objective of equivalence for disabled end-users. There is a clear risk that disabled end-users would purchase terminal equipment which is not suitable for their requirements and as is the case to-date, they may not be allowed to return such equipment once it has been tried (used).

182By implementing Option 2, disabled end-users would be able to make an informed decision, similar to that of the majority of end-users, as to which terminal equipment (handset) best suits their needs. Without appropriate terminal equipment for disabled end-users, an electronic communications service may not be accessible.

183ComReg proposes to require all Undertakings selling terminal equipment to provide a testing facility to test terminal equipment (handset) that would facilitate disabled end-users who use a hearing aid or have a cochlear implant, with trained staff on-site, to purchase equipment in the knowledge and confidence that the device can be used successfully given their requirements (hearing aid, cochlear implants) before leaving the Undertaking's retail shops.

Electronic Communications: - Proposed Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

	Impact on disabled end-users	Impact on Industry	Impact on Competition
Option 1	Disabled end-users may purchase terminal equipment which is not suitable for their needs.	Without regulatory intervention by ComReg, there is a risk that Undertakings will not offer disabled end-users facilities that allow them determine if the terminal equipment is suitable for their needs.	
	Due to Undertakings' returns policies disabled end-users may not be able to return terminal equipment that they have tried and does not meet their needs.		
	Disabled end-users may incur additional costs to purchase replacement terminal equipment.		
Option 2	Disabled end-users will have confidence in knowing that the terminal equipment they purchase is fit for purpose and compatible with their cochlear implant or hearing aid.	There may be some additional costs to providing testing facilities. However, absent such facilities Undertakings selling terminal equipment, in particular as part of a package, will not be assured the terminal equipment will work for their disabled end-users.	Increased competition in the market as disabled end-users can exercise choice when purchasing electronic communications services which are often bundled with terminal equipment (handsets).
	Staff of Undertakings have to be able to advise disabled end-users accordingly and may need to be trained to assist and advise.	There may be additional staff training costs. However, staff are regularly trained in respect of new handsets on the market and associated features and therefore this should be minimal, if any.	

Electronic Communications: - Proposed Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

184 ComReg considers the benefits to be achieved by introducing Option 2 outweigh any potential costs, and believes this option is proportionate and justified and ensures disabled end-users can enjoy access and choice equivalent to that of the majority of end-users.

Accessible Information

185 ComReg is of the initial view that there are two options:

- **Option 1:** Status quo remains; disabled end-users experience difficulties accessing information.
- **Option 2:** ComReg requires all Undertakings to provide accessible information regarding their products and services through for example the “One-Click Initiative”

186 ComReg is of the view that keeping the status quo (Option 1) will not achieve the objective of equivalence for disabled end-users. There is a clear risk that Undertakings who do not currently provide accessible information to disabled end-users would not voluntarily introduce initiatives to do so.

187 By implementing Option 2, disabled end-users would be able to access information available to the majority of end-users. They would therefore be better able to make informed decisions about Undertakings, such as which Undertakings would best suit their needs.

Electronic Communications: - Proposed Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

	Impact on disabled end-users	Impact on Industry	Impact on Competition
Option 1	Disabled end-users would continue to experience detriment due to an information gap.	Continue with current approach, some Undertakings providing better and more accessible information to disabled end-users than other Undertakings (for example, the one-click initiative is implemented by some Undertakings).	Negative impact on competition as disabled end-users experience difficulties accessing information and are unlikely to switch Undertaking.
		There is a risk that certain Undertakings will not offer accessible information to disabled end-users and will put their subscribers with disabilities at a disadvantage.	
Option 2	Informs and empowers disabled end-users to make correct choices with confidence.	This may reduce the level of complaints and queries to Undertakings as disabled end-users will be able to access information themselves and be adequately informed.	Disabled end-users can locate and access relevant information regarding services which may enhance competition.
	Enables disabled end-users to access information in a manner equivalent to the majority of end-users.		
	Enables disabled end-users to choose and switch Undertakings more easily.	Initial costs in ensuring the information is accessible, together with ensuring the web page is accessible also. These are not expected to be significant. ComReg will further consider removing the obligation on the USP to provide a dedicated section of its website, accessible from the homepage, containing comprehensive information in relation to the services it provides which are of particular interest and relevance to people with disabilities if the obligation is imposed on all Undertakings ⁵² .	

⁵² Please note ComReg's proposed treatment of the existing Universal Service Obligations in Annex 2.

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188ComReg therefore considers the benefits to be achieved by introducing Option 2 outweigh any potential costs, and believes this option is proportionate and justified and ensures disabled end-users can enjoy access and choice equivalent to that of the majority of end-users.

Facility for Disabled Subscribers to Register Requirements

189ComReg is of the initial view that there are two options:

- **Option 1:** Status quo remains; no requirement to establish and maintain a facility to register disabled end-users' requirements.
- **Option 2:** ComReg requires all Undertakings to put processes in place to facilitate disabled subscribers to register specific communications requirements.

190ComReg is of the view that maintaining the status quo (Option 1) does not fully achieve the objective of equivalence for disabled end-users. Establishing a facility for disabled subscribers to register requirements, where such consent is obtained from the disabled subscriber, would allow disabled subscribers to inform the Undertaking that is their service provider of specific requirements. It would also enable Undertakings to determine those disabled subscribers which would be entitled to free DQ calls, for example.

191ComReg considers the benefits to be achieved by introducing Option 2 outweigh any potential costs, (see table below) and believes this option is proportionate and justified and ensures disabled subscribers can enjoy access and choice equivalent to that of the majority of end-users.

Electronic Communications: - Proposed Measures to Ensure Equivalence in Access and Choice for Disabled End-Users

	Impact on disabled end-users	Impact on Industry	Impact on Competition
Option 1	Unable to register specific end-user requirements with the Undertaking that is their service provider.	Difficulty determining which subscribers are entitled to free DQ service.	Potential difficulties in switching Undertakings
Option 2	Ability to register specific end-user requirements with the Undertaking that is their service provider.	Ability to determine which subscribers are entitled to free DQ service.	
	No need to inform customer service representatives each time contact is made of subscriber requirements.	May be minor costs in setting up or amending current systems. Net gain should outstrip costs as a registry of disabled subscribers' requirements can potentially be used to market or target disabled subscribers with specific needs.	
	Ability to nominate alternative contact should disabled subscribers wish to do so	Ability to determine subscribers' accessible billing medium requirements.	

Conclusion

192 ComReg is now seeking interested parties to offer views on other factors (if any) that ComReg should consider in completing its RIA.

193 Should respondents to this consultation document object to any of the proposed measures outlined herein on the basis that the implementation of the measure(s) could be cost prohibitive, ComReg will request the respondent(s) to substantiate those objections with sufficient evidence.

Q. 11 Respondents are asked to provide views on whether the proposed measures are proportionate and justified and offer views on other factors (if any, such as costs to be borne) that ComReg should consider in completing its RIA.

6 Submitting Comments

194 The consultation period will run from 20 June 2013 to 16 August 2013 during which ComReg welcomes written comments on any of the issues raised in this paper.

195 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.

196 Having analysed and considered the comments received, ComReg will review the proposed approaches. The consultation process will culminate with the publication of a response to consultation paper containing a full set of measures to ensure equivalence in access and choice for disabled end-users.

197 In order to promote further openness and transparency, ComReg will publish all respondents' submissions to this consultation, subject to the provisions of ComReg's guidelines on the treatment of confidential information.⁵³ 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.

198 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.

199 As it is ComReg's policy to make all responses available on its web-site and for inspection generally, respondents to consultations are requested to clearly identify confidential material and place confidential material in a separate annex to their response.

200 Such Information will be treated subject to the provisions of ComReg's guidelines on the treatment of confidential information.⁵⁴

⁵³ ComReg 05/24

⁵⁴ ComReg 05/24

Annex: 1 Legal Basis

European Communities (Electronic Communications Network and Services)(Universal Service and Users' Rights) Regulations 2011, "the Regulations"⁵⁵

A 1.1 The Universal Service Directive ("USD") as amended⁵⁶ was transposed into national law by the Regulations on 1 July 2011. Specifically, Article 23a of the USD as amended, which provides for ensuring equivalence in access and choice for disabled end-users, was transposed into national law by Regulation 17 of the Regulations.

A 1.2 Recital 12 of the amending USD⁵⁷ states that "equivalence in disabled end-users' access to services should be guaranteed to the level available to other end-users. To that end, access should be functionally equivalent such that disabled end-users benefit from the same usability of services as other end-users, but by different means".

A 1.3 The legal basis is set out in the Regulations. Provisions of particular relevance are set out below.

Mechanism to specify requirements to be complied with by Undertakings

ComReg will specify requirements to be complied with by Undertakings using the following statutory basis:

Issue a Direction to Undertakings by virtue of a Decision to impose obligations post consultation. Regulation 17 and Regulation 30 of the Regulations provides statutory bases to do so. Regulation 31 of the Regulations provides for civil enforcement.

Regulation 17 of the Regulations provides:

17.(1) The Regulator may, where appropriate, specify requirements to be complied with by undertakings providing publicly available electronic communications services in order to ensure that disabled end-users-

- (a) have access to electronic communications services equivalent to that enjoyed by the majority of end-users, and*

⁵⁵ SI No 337 of 2011

⁵⁶ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 as amended by Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009

⁵⁷ Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009

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(b) *benefit from the choice of undertakings and services available to the majority of end-users.*

(2) *The Regulator shall encourage the availability of terminal equipment offering the necessary services and functions in order to be able to adopt and implement specific arrangements for the requirements of disabled end-users.*

Regulation 30 of the Regulations provides:

30. The Regulator may, for the purpose of further specifying requirements to be complied with relating to an obligation imposed by or under these Regulations, issue directions to an undertaking to do or refrain from doing anything which the Regulator specifies in the direction.

A 1.4 Sections 10 and 12 of the Communications Regulation Act, 2002 (as amended) set out the functions and objectives of ComReg, respectively.

A 1.5 Regulation 16 of the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011⁵⁸ provides further objectives for ComReg that, amongst other objectives, requires ComReg, in so far as the promotion of competition is concerned, to ensure that elderly users and users with special social needs derive maximum benefit in terms of choice, price and quality. Insofar as promotion of the interests of users within the European Union is concerned, ComReg is required to address the needs of specific social groups, in particular, elderly users and users with special social needs, and to promote the ability of end-users to access and distribute information or use applications and services of their choice.

In relation to contracts, Regulation 14 of the Regulations provides as follows:

“Contracts

14. (1) An undertaking that provides to consumers, and other end-users so requesting, connection to a public communications network or publicly available electronic communications services shall do so in accordance with a contract that complies with paragraph (2).

(2) A contract referred to in paragraph (1) shall specify in a clear, comprehensive and easily accessible form, at least.

(a) the identity and address of the undertaking,

⁵⁸ SI No 333 of 2011

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(b) the services provided including, in particular-

(i) whether or not access to emergency services and caller location information is being provided and any limitations on the provision of emergency services under Regulation 20,

(ii) information on any other conditions limiting access to, or use of, services and applications where such conditions are permitted under national law in accordance with European Union Law,

(iii) the minimum service quality levels offered, namely, the time for the initial connection and, where appropriate, other quality of service parameters as defined by the Regulator from time to time,

(iv) information on any procedures put in place by the undertaking to measure and shape traffic so as to avoid filling or overfilling a network link and information on how those procedures could impact on service quality,

(v) the types of maintenance service offered and customer support services provided, as well as the means of contacting those services, and

(vi) any restrictions imposed by the provider on the use of terminal equipment supplied,

(c) where an obligation exists under Regulation 19, the subscriber's options as to whether or not to include his or her personal data in a directory and the data concerned,

(d) details of prices and tariffs, the means by which up-to-date information on all applicable tariffs and maintenance charges may be obtained, payment methods offered and any differences in costs due to payment method,

(e) the duration of the contract and the conditions for renewal and termination of services and of the contract, including-

(i) any minimum usage or duration required to benefit from promotional terms,

(ii) any charges related to portability of numbers and other identifiers, and

(iii) any charges due on termination of the contract including any cost recovery with respect to terminal equipment,

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(f) any compensation and refund arrangements which apply if contracted service quality levels are not met,

(g) the means of initiating procedures for settlement of disputes in accordance with Regulation 27, and

(h) the type of action that might be taken by the undertaking in reaction to security or integrity incidents or threats and vulnerabilities.

[...]

(4) An undertaking referred to in paragraph (1) shall, not less than one month prior to the date of implementation of any modification to the contractual conditions proposed by the undertaking, notify its subscribers to that service of –

(a) the proposed modification in the conditions of the contract for that service, and

(b) their right to withdraw without penalty from such contract if they do not accept the modification.

(5) The Regulator may specify the format of notifications referred to in paragraph (4).

[...]

In relation to information and quality of service, Regulation 15 of the Regulations provides as follows:

“Transparency and publication of information and quality of service

15. (1) The Regulator may require undertakings providing public electronic communications networks or publicly available electronic communications services to publish transparent, comparable, adequate and up-to-date information on applicable prices and tariffs, on any charges due on termination of a contract and on standard terms and conditions in respect of access to and use of services provided by them to end-users and consumers.

(2) The Regulator may require an undertaking providing public electronic communications networks or publicly available electronic communications services to provide to end-users and consumers, in such form as the Regulator may specify, such of the information set out in Schedule 3 as the Regulator may specify.

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(3) The information made available under paragraphs (1) and (2) shall be published in a clear, comprehensive and easily accessible form.

(4) The Regulator shall encourage the provision of comparable information to enable end-users and consumers to make an independent evaluation of the cost of alternative usage patterns, for instance, by means of interactive guides or similar techniques.

[...]

(6) The Regulator may require an undertaking providing public electronic communications networks or publicly available electronic communications services, among other things, to—

(a) provide applicable tariff information to subscribers regarding any number or service subject to particular pricing conditions; with respect to individual categories of services, the Regulator may require such information to be provided immediately prior to connecting the call,

(b) inform subscribers of any change to access to emergency services or caller location information in the service to which they have subscribed,

(c) inform subscribers of any change to conditions limiting access to or use of services and applications where conditions are permitted under national law in accordance with European Union law,

(d) provide information on any procedures put in place by the provider to measure and shape traffic so as to avoid filling or overfilling a network link and on how those procedures could impact on service quality,

(e) inform subscribers of their right to determine whether or not to include their personal data in a directory and of the types of data concerned in accordance with Regulation 12 of the Privacy and Electronic Communications Regulations, and

(f) regularly inform disabled subscribers of details of products and services designed for their requirements.

[...]

(9) The Regulator may specify obligations to be complied with by an undertaking providing publicly available electronic communications networks or publicly available electronic communications services requiring such undertaking to publish comparable, adequate and up-to-date information for end-users on the quality of its services and on measures taken to ensure equivalence in access for disabled end-users.

[...]

(13) For the purpose of paragraph (9), the Regulator may specify, among other things, the quality of service parameters to be measured and the content, form and manner of information to be published, including possible quality certification mechanisms, in order to ensure that end-users, including disabled endusers, have access to comprehensive, comparable, reliable and user-friendly information and, where it considers it appropriate, the Regulator may specify that the quality of service parameters, definitions and measurement methods set out in Annex III to the Universal Service Directive should be used.

[...]”

In relation to dispute resolution, including complaints, Regulation 27 of the Regulations provides as follows:

“Dispute resolution

27 (1) Without prejudice to any legal rights of action which may apply, an undertaking providing electronic communications networks or services shall implement a code of practice for settling unresolved disputes, including complaints, between end-users and the undertaking arising under these Regulations and relating to the contractual conditions or performance of contracts concerning the supply of electronic communications networks or services and any other issues arising under, or covered by, these Regulations. The code of practice shall make provision for the following matters –

- (a) first point of contact for complainants,*
- (b) a means of recording complaints,*
- (c) a timeframe within which the undertaking concerned shall respond to complaints,*
- (c) procedures for resolving complaints, including a timeframe for referring the customer to the Regulator which shall be no more than 10 working days from the day a complaint is first notified,*
- (d) appropriate cases where reimbursement of payments, payments of compensation and payments in settlement of losses incurred will be made, and*

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(e) retention of records of complaints (including copies of the complaint, any response to it, any determination in respect of the complaint and any documentation considered in the course of such determination) for a period of not less than one year following the resolution of the complaint.

(2) The Regulator may specify requirements to be met for the purpose of ensuing compliance with paragraph (1) and the manner of publication of a code of practice referred to in paragraph (1) including, without limitation, any requirements to ensure that the code of practice and procedures for settling unresolved disputes are fair, prompt, transparent, inexpensive and non-discriminatory.

(3) The Regulator may issue directions to an undertaking to which paragraph (1) relates to require that undertaking to make such alternations or additions to its code of practice as the Regulator considers appropriate and specifies in the directions.

[...]

(6) The procedures established for the purpose of paragraphs (1), (3) and (4) shall be –

(a) transparent,

(b) non-discriminatory,

(c) simple,

d) inexpensive, and

(e) enable disputes to be settled fairly and promptly.

[...]”

In relation to enforcement, Regulation 31 of the Regulations provides as follows:

“Enforcement — compliance with obligations

31. (1) The Regulator shall monitor compliance with these Regulations, other than Regulation 18(3) and (5).

(2) Where the Regulator finds that an undertaking has not complied with an obligation, term or condition, requirement, specification or direction under these Regulations, the Regulator shall notify the undertaking of those findings and give the undertaking an opportunity to state its views or, if the non-compliance can be remedied, to remedy the non-compliance within a reasonable time limit as specified by the

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Regulator.

(3) The Regulator may publish, in such manner as it thinks fit, any notification given by it under this Regulation subject to the protection of the confidentiality of any information which the Regulator considers confidential.

(4) The Regulator may amend or revoke any notification under this Regulation.

(5) Where, at the end of the period specified by the Regulator under paragraph (2), the Regulator is of the opinion that the undertaking concerned has not complied with an obligation, term or condition, requirement, specification or direction, the Regulator may, whether or not the non-compliance is continuing, subject to paragraph (10), apply to the High Court for such order as the Regulator considers appropriate including—

(a) a declaration of non-compliance,

(b) an order directing compliance with the obligation, term or condition, requirement, specification or direction,

(c) an order directing the remedy of any non-compliance with the obligation, term or condition, requirement, specification or direction, or

(d) an order as provided for in paragraph (9).

(6) The High Court may, on the hearing of the application referred to in paragraph (5), make such order as it thinks fit which may include—

(a) a declaration of non-compliance,

(b) an order directing compliance with the obligation, term or condition, requirement, specification or direction,

(c) an order directing the remedy of any non-compliance with the obligation, term or condition, requirement, specification or direction, or

(d) an order as provided for in paragraph (9),

or refuse the application.

An order of the High Court compelling compliance may stipulate that the obligation, term or condition, requirement, specification or direction must be complied with immediately or may specify a reasonable time limit for compliance and may also stipulate appropriate and proportionate measures aimed at ensuring compliance.

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(7) The High Court when dealing with an application under paragraph (5) may make such interim or interlocutory order as it considers appropriate.

(8) The High Court shall not deny interim or interlocutory relief, referred to in paragraph (7), solely on the basis that the Regulator may not suffer any damage if such relief were not granted pending conclusion of the action.

(9)(a) An application for an order under paragraph (5) may be for, or include an application for, an order to pay to the Regulator such amount, by way of financial penalty, which may include penalties having effect for periods of non-compliance with the obligation, term or condition, requirement, specification or direction, as the Regulator may propose as appropriate in the light of the non-compliance or any continuing non-compliance. Such an application for an order in respect of a financial penalty for a period of non-compliance may be made even if there since has been compliance with the obligation, term or condition, requirement, specification or direction.

(b) In deciding on such an application, the High Court shall decide the amount, if any, of the financial penalty which should be payable and shall not be bound by the sum proposed by the Regulator.

(c) Any financial penalty ordered by the High Court to be paid by an undertaking under this paragraph shall be paid to and retained by the Regulator as income.

(d) In deciding what amount, if any, should be payable, the High Court shall consider the circumstances of the non-compliance, including—

(i) its duration,

(ii) the effect on consumers, users and other operators,

(iii) the submissions of the Regulator on the appropriate amount, and

(iv) any excuse or explanation for the non-compliance.

(10) Where the Regulator has brought proceedings for an offence under these Regulations or given a notice under section 44 of the Act of 2002 in respect of an alleged offence under these Regulations, the Regulator shall not make an application for an order under this Regulation to the High Court to compel compliance by the undertaking with the obligation to which the proceedings or notice relates.”

In relation to itemised billing, Regulation 24 of the Regulations provides as follows:

“Provision of additional facilities

(1) Without prejudice to Regulation 9(2) and subject to paragraph (3), the Regulator may specify that all undertakings providing publicly available telephone services or access to public communications networks are required to make available —

(a) all or part of the additional facilities listed in Schedule 1, Part B, subject to technical feasibility and economic viability, and

(b) all or part of the additional facilities and services listed in Schedule 1, Part A.

[...]”

Schedule 1 Part A of the Regulations sets out the obligations automatically applicable to a universal service provider by virtue of Regulation 9 of the Regulations, and those obligations that may be imposed under Regulation 24 of the Regulations (referred to above). Itemised billing is included as follows:

“SCHEDULE 1

DESCRIPTION OF FACILITIES AND SERVICES REFERRED TO IN REGULATIONS 9 AND 24

Part A: Facilities and services referred to in Regulation 9:

(a) Itemised Billing

The Regulator may, subject to the requirements of relevant legislation on the protection of personal data and privacy, lay down the basic level of itemised bills which are to be provided by undertakings to subscribers free of charge in order that they can —

(i) allow verification and control of the charges incurred in using the public communications network at a fixed location or related publicly available telephone services, and

(ii) adequately monitor their usage and expenditure and thereby exercise a reasonable degree of control over their bills.

Where appropriate, additional levels of detail may be offered to subscribers at reasonable tariffs or at no charge.

Calls which are free of charge to the calling subscriber, including calls to helplines, are not to be identified in the calling subscriber’s itemised bill.”

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Regulation 7 of the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (SI No.336 of 2011) provides as follows in relation to the entitlement to receive bills that are not itemised:

“Itemised billing

7. (1) An undertaking shall comply with a request of a subscriber to that undertaking to give him or her bills that are not itemised in respect of the electronic communications service supplied by the undertaking to the subscriber.

(2) The Regulator and the Commissioner shall, in the performance of their functions, have regard to the need to reconcile the rights of subscribers to receive itemised bills with the right to privacy of calling users and called subscribers”

Annex: 2 Universal Service Requirements

A 2.1 In July 2012, ComReg in accordance with Regulation 7 of the Regulations issued a decision to redesignate Eircom as the Universal Service Provider (“USP”) for a 2-year period to June 2014 and detailed the universal service obligations that Eircom would thus have, including obligations as provided for by Regulation 6 of the Regulations as follows:⁵⁹

A 2.2 ComReg proposes that, In the event that the proposed measures are imposed on all Undertakings, certain universal service obligations, with respect to ‘Specific Measures for Disabled Users’ in D07/12 will be revoked and read as follows: (obligations with strikethrough text will be deleted)

“Specific Measures for Disabled Users

2.8 In accordance with Regulation 7 of the Regulations, Eircom Ltd. is hereby designated as the USP for the purpose of complying with the following obligations, as provided for by Regulation 6 of the Regulations.

2.9 The USP shall do the following:

~~i. Provide a dedicated section of its website, accessible from the homepage, containing comprehensive information in relation to the services it provides which are of particular interest and relevance to people with disabilities;~~

ii. Maintain, operate, monitor and ensure its own compliance with a Code of Practice concerning the provision of services for people with disabilities and shall periodically review and, where appropriate, amend the Code of Practice in consultation with the NDA and other representative bodies.

iii. The USP shall provide the following specific services:

For users who are hearing-impaired

Inductive couplers which allow users with a hearing aid set to connect the set to their telephone in order to allow them to hear incoming speech clearly.

Amplifier phones which allow the user to increase the volume of incoming speech.

⁵⁹ ComReg D07/12; ComReg 12/71

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Teleflash Visual Alert which shows a flashing light, or makes a loud noise when the telephone rings.

For users that are hearing and/or speech impaired

A text Relay Service providing facilities for the receipt and translation of voice messages into text and the conveyance of that text to the textphone of customers of any operator, and vice versa.

A rebate scheme whereby, as a result of the time taken to make a text telephone call, equality of payment for deaf text telephone users can be assured.

For users with limited dexterity or mobility

Push button telephone sets with speed and automatic redial buttons allowing pre-programmed telephone numbers (typically the most called numbers) or last called telephone numbers to be dialled without having to re-enter the telephone number.

Hands free/loudspeaker phones means that the handset does not need to be used at all.

For users with restricted vision

Restricted vision telephones which can help people with restricted vision to find other numbers more easily.

~~Braille billing free of charge.~~

For users unable to use the phone book because of a disability

~~Special Directory Enquiry arrangements to allow the use of directory enquiry services free of charge.~~

Annex: 3 ComReg Disability Forum

A 3.1 The Forum was established in 2006 to further ComReg's statutory objectives to promote competition and to promote the interests of users.

A 3.2 The Communications Regulation Act, 2002 envisages that ComReg takes specific measures in relation to those objectives including the following measures:

- Ensuring that users, including disabled users, derive maximum benefit in terms of choice, price and quality
- Promoting the provision of clear information
- Addressing the needs of specific social groups, in particular disabled users

A 3.3 The Forum comprises of members representing the Disability sector in Ireland and Electronic Communications Service providers. The goal of the Forum is to ensure that organisations represented at the Disability Stakeholders Group (DSG) are also represented at the Forum. To that end, ComReg requested nominations from the Chairperson of the DSG to attend the Forum. Organisations currently nominated by the DSG and representing the Disability sector at the Forum include:-

- The National Disability Authority
- People with Disabilities in Ireland
- The Disability Federation of Ireland
- The Not for Profit Business Association
- The Irish Mental Health Coalition
- The Federation of Voluntary Bodies

A 3.4 Undertakings representing at the Forum include:-

- Fixed Market: Eircom, UPC and Vodafone
- Mobile Market: Vodafone, O2, 3 and Meteor

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A 3.5 Functions of the Forum include the following:

- The identification of services provided by providers that are relevant to the needs of users with disabilities
- The identification of accessibility issues for people with disabilities in relation to electronic communications services
- The promotion of good practice by providers in relation to the accessibility of customer service
- The promotion of accessible information provision by providers to users with disabilities so that such users can exercise choice in respect of services and service provider
- The promotion of the needs of users with disabilities through a review of the effectiveness of existing services in meeting the electronic communications needs of users with disabilities and recommending improvements and/or new services

A 3.6 Key initiatives developed and implemented to date include:

- Survey of the electronic communications needs of consumers with disabilities - March 2007 & April/May 2010
- Publication of the Phone and Broadband Guide for People with Disabilities and Older People – October 2007
- Hosting of the CEO'S Breakfast Briefing and Workshop for electronic communications companies to raise awareness at industry-level of the benefits of universal design and its benefits for all aspects of business (product design, marketing and customer services) - October 2008
- Introduction of a Quality Standard for Bill Presentation, with a specific section relating to Accessibility - November 2008
- Development of the "One Click Initiative" to improve accessibility of providers websites and services - September 2009
- Directory Enquiry Services – Eircom, as USP, provides registered customers with free access to directory enquiry services. The Forum has successfully facilitated the extension of this service to other fixed-line and mobile providers, thus providing greater choice of provider for customers with disabilities - November 2009

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A 3.7 To date the Forum has worked in a collaborative manner with its membership to progress and implement measures on a voluntary basis. It is proposed to continue working in this way to implement measures to satisfy the requirements of Regulation 17 of the Regulations.

Annex: 4 BEREC Report – Electronic communications services: Ensuring equivalence in access and choice for disabled end-users

BEREC Approach

A 4.1 BEREC published a report in February 2011 “*Electronic communications services: Ensuring equivalence in access and choice for disabled end-users*” that proposes a stepped, systematic approach in considering what measures, if any should be implemented in respect of Article 23a of the Universal Services Directive (USD)⁶⁰. In its consideration of appropriate and necessary measures, ComReg has endeavoured to adopt as a template the BEREC approach as follows:

Step 1 - Determination of factors to assess equivalent access and choice

A 4.2 The following factors, proposed by the BEREC report, are examined when assessing equivalent access for end-users with disabilities:

- availability of accessible terminal equipment
- price
- number of additional suppliers and additional setup
- accessible complaint handling and support and maintenance processes
- accessible billing
- accessible directory services

A 4.3 The following factors, proposed by the BEREC report, are examined when assessing equivalent choice for end-users with disabilities:

- range of services and Providers with accessible services
- choice of packages with accessible handsets
- accessible information regarding the services provided

⁶⁰ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users’ rights relating to electronic communications networks and services (as amended by Directive 2009/136/EC)

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- accessible information about prices
- accessible contract terms
- accessible switching procedure

Step 2 – Assess each factor for end-users with disabilities in relation to other end-users

A 4.4 Assessment of each factor for end-users with disabilities in relation to other end-users is required in order to determine detriment, if any, for disabled end-users when compared with other end-users. Detriment is established by a lack of functional equivalence.

Step 3 – Identify proportionate measures to address issues with respect to equivalence

A 4.5 Where detriment is established, measures are identified, in consultation with the Forum, that are appropriate and necessary to ensure equivalence in access and choice for disabled end-users. Section 4 of this consultation document provides further details about proposed measures in this regard.

Step 4 – Consult with interested parties regarding proposed measures and obligations on undertakings

A 4.6 ComReg to consult with interested parties regarding the proposed measures to ensure that inputs from all stakeholders, including disabled end-users, can be obtained. In that regard, the consultation document and consultation process should be fully accessible.

ComReg implementation of Steps 1 – 4 above

A 4.7 As part of a preliminary assessment process on this issue, ComReg facilitated three meetings of the Forum from June to September 2011. At the initial meeting the approach proposed by the BEREC report was presented.

A 4.8 At the two subsequent meetings of the Forum, steps 1-3 above were completed by:

- assessing the current legal framework and associated measures currently in place;
- establishing where detriment occurs;
- determining what could be done to limit detriment for disabled end-users when compared with the majority of end-users in accessing services and availing of a choice of undertakings;
- assessing whether equivalence can be achieved by the introduction of new measures or by adapting current services;
- proposing measures for implementation;

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- proposing a timeframe for implementation of measures; and

Step 4 - will be completed by consulting with interested stakeholders (including accessible consultation documents and processes).

Step 5 – Forum meetings – monitoring implementation and review of measures mandated by ComReg

A 4.9 Draft measures for ensuring equivalence in access and choice, set out in section 4 of this consultation document, were discussed at the Forum meetings to ensure that measures proposed are robust and have a high likelihood of achieving the goals required by Regulation 17 of the Regulations.

A 4.10 However, a further step was introduced and discussed at the Forum meetings to cover the following issues:

- proposing mechanisms for review of measures implemented; and
- providing for mechanisms to review in light of changing circumstances, for example, unexpected and escalated developments in technology.

Annex: 5 Measures outside the scope of this consultation

Single European emergency call number and equal access for consumers with disabilities

A 5.1 Accessing the emergency services is a fundamental right and there are a number of grounding strategies and legislation (such as the National Disability Strategy and the Disability Act, 2005) which call for equivalent access to goods and services for all people with disabilities. There also are provisions within the EU and Irish regulatory framework that further stipulate the necessity to ensure that emergency call answering services are made available to people with disabilities.

A 5.2 The current access channel for the deaf, hard-of-hearing and speech impaired is the minicom service and its usage is very low, although it is a vital channel for profoundly deaf sign language users who do use it. ComReg understands that there are approximately 1,000 sign language users in Ireland who fall into the older persons' age group. This cohort may not adapt to new technology at this point in their lives and as a result the continued use of the minicom service, even with its limitations, is required at least in the short to medium term.

A 5.3 In January 2012, in response to the concept to bring mainstream communication channels into the realm of accessing the emergency services and following a public consultation process, the Department of Communications, Energy and Natural Resources launched⁶¹ a pilot service for enhancing access to Emergency Call Answering Services for deaf, hard of hearing and speech impaired citizens by sending an SMS to 112. The service is aimed at facilitating those who are unable or have difficulty in communicating verbally with the emergency services, which includes deaf, hard of hearing and speech impaired citizens.

A 5.4 Information in relation to how the service works, including its limitations, is available on ComReg's website www.112.ie.

⁶¹ <http://www.dcenr.gov.ie/Press+Releases/2012/Minister+Rabbitte+Launches+ECAS+using+112.htm>

Harmonised numbers for harmonised services of social value - access to the '116' numbering range

A 5.5 On 15 February 2007, the European Commission published a decision⁶² to provide “Harmonised Numbers for Harmonised Services of Social Value” across Member States on a consistent basis, using a “Same Number – Same Service” approach. The concept underpinning that decision is that the same number should be reserved for the same socially important service in each of the Member States, with the European Commission ensuring a co-ordinated approach.

A 5.6 To facilitate the introduction of these new harmonised services in Ireland, ComReg has reserved the entire 6-digit number range beginning ‘116’ for such services. Article 27a of the of the Universal Services Directive (USD)⁶³ contains specific requirements relating to these 116 numbers. This requirement is transposed by Regulation 22 of the Regulations as follows:

Harmonised numbers for harmonised services of social value

22(1) The Regulator shall promote the specific numbers in the numbering range beginning with “116” identified by European Commission Decision 2007/116/EC of 15 February 2007 (OJ L 49, 17.02.2007, p. 30)

(2) The Regulator shall, in accordance with Regulation 14 of the Authorisation Regulations, specify conditions applicable to the use of harmonised numbers referred to in paragraph (1) for the purpose of ensuring that disabled end-users are able to access such services to the greatest extent possible. Any conditions so specified that facilitate disabled end-users’ access to such services whilst travelling in other Member States shall be based on compliance with relevant standards or specifications published in accordance with Article 17 of the Framework Directive.

⁶² 2007/116/EC: Commission Decision of 15 February 2007 on reserving the national numbering range beginning with 116 for harmonised numbers for harmonised services of social value, OJ L 49, 17.2.2007, p. 30–33

⁶³ Directive 2002/22/EC of the European Parliament and of the Council of 7 March 2002 on universal service and users’ rights relating to electronic communications networks and services (as amended by Directive 2009/136/EC)

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A 5.7 In order to meet the requirements of Regulation 22(1) of the Regulations, ComReg has advertised the availability of 116 numbers, It has published an Information Notice (ComReg 07/47) and also has information on its website at www.comreg.ie/116. Currently four out of five 116 numbers have been assigned and three services are already operational.

Regulation 22(2) of the Regulations addresses access to 116 services for disabled end-users. At this early stage, ComReg has not yet imposed any specific conditions on service providers. However, ComReg has taken steps to make access available by SMS to the 116 range. ComReg considers that SMS could provide a valuable additional access channel for certain disabled end-users to these socially important services. It is of course necessary for the relevant 116 service providers to include the support of SMS at their end for this alternative communications channel to work. ComReg will continue to monitor access to these services and introduce specific conditions of use in accordance with Regulation 22(2) of the Regulations, if required. Further information can be viewed on the following link: http://www.comreg.ie/licensing_and_services/eu_harmonised_services_of_social_value.552.491.html

Roaming Regulation⁶⁴

A 5.8 At present mobile communications service providers are required to provide blind or partially-sighted customers with basic personalised pricing information automatically, by voice call, free of charge, if they so request when they enter another member state. This information should include the cost of voice calls (to make and receive), SMS and Data. The information should also include information on the European emergency access number 112 and information on a freephone number where customers who are roaming can receive further pricing information, if required.

⁶⁴Regulation (EC) 544/2009 of the European Parliament and of the Council of 18 June 2009 amending Regulation (EC) No 717/2007 on roaming on public mobile telephone networks within the Community and Directive 2002/21/EC on a common regulatory framework for electronic communications networks and services

Annex: 6 Draft Decision Instrument

1. STATUTORY FUNCTIONS AND POWERS GIVING RISE TO DECISION

This Direction and Decision Instrument (“Decision Instrument”), made by ComReg, relates to ensuring equivalence in access and choice for disabled end-users in the Irish electronic communications market and is made:

- i. Having regard to ComReg’s functions and objectives set out in sections 10 and 12 of the Communications Regulations Acts 2002 to 2011 and ComReg’s further objectives set out in Regulation 16 of the Framework Regulations
- ii. Having regard to the functions and powers conferred upon ComReg under and by virtue of Regulation 17 and Regulation 30 of the Universal Service Regulations
- iii. Having regard to the analysis and reasoning set out in ComReg Document No 13/X
- iv. Having regard to the submissions received and set out in ComReg Document No. 13/X
- v. Having regard to the analysis and reasoning set out in ComReg Document No 13/X
- vi. Having, where relevant, complied with Policy Directions made by the Minister for Communications, Energy, and Natural Resources.

The provisions of the response to consultation and final decisions document entitled [ComReg Document No. 13/58] shall, where appropriate, be construed together with this Decision Instrument.

2. DEFINITIONS

In this Decision Instrument, unless the context otherwise suggests:

- i. **“ComReg”** means the Commission for Communications Regulation, established under section 6 of the Communications Regulation Act, 2002 (as amended).
- ii. **“Disabled”** means having a “disability”, which in relation to a person, means a substantial restriction in the capacity of the person to carry on a profession, business or occupation in the State or to participate in social or cultural life in the State by reason of an enduring physical, sensory, mental health or intellectual impairment in accordance with the definition at section 2(1) of the [Disability Act 2005](#).

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- iii. **“End-User”** means a user not providing public communications networks or publicly available electronic communications services in accordance with the definition at section 2(1) of the Framework Regulations.
“Equivalence” means functional equivalence, in accordance with recital 12 of Directive 2009/136/EC of the European Parliament and of the Council of 25 November 2009 which provides that “[e]quivalence in disabled end-users’ access to services should be guaranteed to the level available to other end-users. To this end, access should be functionally equivalent, such that disabled end-users benefit from the same usability of services as other end-users, but by different means”.
- iv. **“Framework Regulations”** means the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011 (S.I. No. 333 of 2011) as may be amended from time to time.
- v. **“Subscriber”** means any natural person or legal entity who or which is party to a contract with a provider of publicly available electronic communications services for the supply of such services in accordance with the definition at section 2(1) of the Framework Regulations.
- vi. **“Undertaking”** means an undertaking providing publicly available electronic communications services.
- vii. **“Universal Service designation”** means ComReg Decision No. D07/12, ComReg 12/71, “The provision of telephony services under Universal Service Obligations”, dated 29 June 2012.

Should ComReg decide to impose the measures proposed in this consultation on all Undertakings, ComReg will immediately amend its 2012 Decision and Decision Instrument⁶⁵ with regard to certain obligations in respect to ‘Specific Measures for Disabled Users’. In the event that the proposed measures are imposed, the universal service obligation with respect to ‘Specific Measures for Disabled Users’ will be revoked and the potential amendments are reflected and set out in Annex 2 to this document - strikethrough text indicates sections which will be removed/deleted. Any revocation will be done in any final Decision Instrument adjacent to the response to consultation of this consultation.

⁶⁵ ComReg D07/12; ComReg 12/71

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- viii. “**Universal Service Regulations**” means the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011 as may be amended from time to time.

Other terms used in this Decision Instrument shall have the same meaning as when they are used in the Universal Service Regulations, unless the context otherwise admits or requires.

3. SCOPE AND APPLICATION

This Decision Instrument applies to Undertakings falling within the scope of Regulation 17 of the Universal Service Regulations.

This Decision Instrument is binding upon every Undertaking excluding the designated Universal Service Provider only in so far as any obligation or aspect of same is already imposed on the designated Universal Service Provider in accordance with the Universal Service designation.

This Decision Instrument specifies requirements to be complied with by Undertakings in order to ensure equivalence in access and choice for disabled end-users.

4. MEASURES TO ENSURE EQUIVALENCE IN ACCESS AND CHOICE FOR DISABLED END-USERS

Accessible Services

Accessible Complaints Procedures

In accordance with Regulation 17(1) of the Universal Service Regulations, every Undertaking shall:

- provide an accessible means for disabled end-users to access the Undertaking’s customer services in order to lodge a complaint and/or make an enquiry, to include at least by way of telephone, SMS, letter, and email, and to include the ability to nominate a third party to deal with complaints and/or enquiries on behalf of the disabled subscriber.
- implement disability awareness training to ensure that staff handling complaints are aware of the requirements of disabled end-users and have the requisite skills to appropriately deal with those requirements.

Accessible Top-Up Facility for Pre-Paid Mobile Telephone End-Users

In accordance with Regulation 17(1) of the Universal Service Regulations, every Undertaking providing pre-paid mobile services shall provide a SMS top-up facility for disabled end-users of pre-paid mobile services to:

- I. Pay with credit card and/or debit card and/or cash without the need to follow voice prompts;
- II. Get a receipt (voucher) that lists in clear, easy to understand language the steps required to ensure the top-up credit can be applied successfully:
- III. Apply the top-up receipt (voucher) by SMS sent from the disabled end-user's mobile telephone and without assistance from a third party; and
- IV. Receive confirmation of the value of the top-up credit by SMS sent to the disabled end-user's mobile telephone.

Accessible Directory Enquiries

In accordance with Regulation 17(1) of the Universal Service Regulations, every Undertaking shall provide for subscribers who are unable to use the phone book because of a vision impairment and/or have difficulty reading the phone book, special Directory Enquiry arrangements to allow the use of a directory enquiry service free of charge, once certification of disability is provided by a registered medical practitioner or by an appropriate agent.

Accessible Billing

In accordance with Regulation 17(1) of the Universal Service Regulations:

- I. The requirements imposed on Undertakings in respect of consumers by the General Authorisation in the ComReg Response to Consultation and Decision, "Consumer Bills and Billing Mediums – Consumer protection amendments to the General Authorisation", (ComReg Document 13/52, ComReg Decision D08/13), in conditions 18.7.1 – 18.7.12 are hereby imposed on Undertakings in respect of all disabled end-users who are not otherwise consumers, and so not already afforded the protections in accordance with the aforementioned General Authorisation conditions.
- II. Any and all bills (including transaction detail requests) issued to a disabled subscriber by an Undertaking shall be provided free of charge in a medium properly accessible to that disabled subscriber (including Braille), if requested.

Accessible Facility to Test Compatibility of Terminal Equipment

In accordance with Regulation 17 of the Universal Service Regulations:

- I. Every Undertaking selling terminal equipment shall make available a testing facility for disabled end-users who use a

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hearing aid or have a cochlear implant, to test terminal equipment at the Undertaking's retail shops, in advance of purchasing the terminal equipment.

- II. Every Undertaking selling terminal equipment shall ensure that the testing facility as referred to in paragraph I. of this measure is supported by on-site staff that are easily accessible and trained in the use of terminal equipment and are adequately equipped to address any queries raised by disabled end-users in advance of purchase.

Accessible Information

In accordance with Regulations 17 of the Universal Service Regulations every Undertaking shall ensure that information regarding its products and services, including all information provided to the majority of end-users, is accessible for disabled end-users. For the purposes of ensuring that such information regarding its products and services is made accessible to disabled end-users every Undertaking shall ensure:

- I. the Web Accessibility Initiative⁶⁶, as developed by the World Wide Web Consortium (W3C), is met to facilitate disabled end-users, and the Undertaking's website includes the following:
 - one-click access from the home page of the Undertaking's website to the Disability Section of that website;
 - the Disability Section of the Undertaking's website contains comprehensive information in relation to the products and services it provides which are of particular interest and relevance to people with disabilities; and
 - the Disability Section of the Undertaking's website contains details of and access to websites that contain information of relevance to disabled end-users, that ComReg may specify from time to time.

⁶⁶ The World Wide Web Consortium (W3C) is an international community that develop open standards to ensure the long-term growth of the Web. The Web Accessibility Initiative (WAI) standard developed by W3C is available from the following link: <http://www.w3.org/TR/WCAG20/>- The NDA's Excellence through Accessibility – ICT Guidelines and Criteria, Guideline 14 Web Accessibility, refers to this standard.

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- II. contractual information in accordance with Regulation 14 of the Universal Service Regulations, including notifications in respect to any modification to contractual conditions, as required by Regulation 14(4) of the Universal Service Regulations is accessible for disabled end-users.
- III. information in respect of the Undertaking's complaints handling procedures, including the Undertaking's Code of Practice, as required by Regulation 27 of the Universal Service Regulations, is accessible, easy to read and understandable and, in particular, accessible in a number of formats, to include but not limited to Braille, Audio, Regular print, Large print, Easy to read, and Online versions of each format (on the Disability Section of the Undertaking's website) and all of these formats must be printable.

Facility for Disabled Subscribers to Register Requirements

In accordance with Regulation 17 of the Universal Service Regulations, every Undertaking shall establish and maintain a facility to enable disabled subscribers to register their requirements. The facility to enable disabled subscribers to register their requirements must, at a minimum, have the ability to record, subject to the disabled subscriber's consent, the following:

- Name, address, contact details (to include phone or email and/or third party nominated contact); Preferred means of communication;
- Preferences in respect to bundles (for example broadband or text only);
- Details of any special terminal equipment required; and
- Details of any alternative billing medium requirement.

EFFECTIVE DATE AND DURATION

This Decision and Decision Instrument is effective from xx, Month 2013.

Q. 12 Do you have any comments on the substance or the drafting of the draft Decision Instrument? If necessary, please provide a marked up version of the draft Decision Instrument, indicating what changes you believe are appropriate and why.

Annex: 7 Questions

Question	Page
Q. 1 Do you agree with the ComReg proposed approach as set out in section 4.2.1 mandating the provision by every Undertaking of an accessible means for disabled end-users to lodge a complaint and/or make an enquiry and the implementation of disability awareness training for staff? Please provide reasons to support your view.	21
Q. 2 Do you agree with the ComReg proposed approach as set out in section 4.2.2 regarding the provision by every Undertaking providing pre-paid mobile services of a SMS top-up facility for disabled end-users of pre-paid mobile services that includes accessible payment methods, top-up receipts (vouchers) outlining steps required to apply the credit and confirmation of the top-up? Please provide reasons to support your view.	23
Q. 3 Do you agree with the ComReg proposed approach as set out in section 4.2.3, regarding the provision by every Undertaking of access to a free directory enquiry service for subscribers that have a vision impairment and/or have difficulty in reading the phone book, subject to subscribers meeting the required certification of disability by a registered medical practitioner or by an appropriate agent? Please provide reasons to support your view.	25
Q. 4 Respondents are also asked to provide views on whether a cap (specified monetary allowance or specified number of requests for Directory Enquiries free of charge per billing period) should be incorporated with the Accessible Directory Enquiries proposed measure (Q3) and, if so, what the appropriate allowance or number of requests should be. Please provide reasons to support your view	25
Q. 5 Do you agree with the ComReg proposed approach as set out in section 4.2.4 regarding accessible billing? Please provide reasons to support your view.	29
Q. 6 Do you agree with ComReg’s proposed approach as set out in section 4.2.5 that every Undertaking selling terminal equipment should be required to make available a testing facility for disabled end-users who use a hearing aid or have a cochlear implant, to test terminal equipment at the Undertaking’s retail shops, in advance of purchasing the terminal equipment, and that the testing facility should be supported by on-site staff that are easily accessible and trained in the use of terminal equipment and are adequately equipped to address any queries raised by disabled end-users in advance of purchase? Please provide reasons to support your view.	31

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- Q. 7 Do you agree with the proposed approach outlined in section 4.3 regarding the provision of accessible information in respect to, but not limited to, products and services and accessibility of information channels? Please provide reasons to support your view. 37
- Q. 8 Do you agree that every Undertaking should set up and maintain a facility (to record as a minimum details set out in section 4.4 above) to enable disabled subscribers to register their requirements allowing Undertakings to record details to facilitate the regular provision of relevant and appropriate information and/or products and services to disabled subscribers and for this information to be provided to a nominated third party contact if appropriate and necessary? Please provide reasons to support your view. 40
- Q. 9 Are there other requirements not identified by this consultation document which, in your opinion, fall within the scope of Regulation 17 that ComReg should consider? Please provide reasons to support your view. 42
- Q. 10 Do you have any views with regard to timeframes for each of the specific measures? Please provide evidence and reasons to support your view. 43
- Q. 11 Respondents are asked to provide views on whether the proposed measures are proportionate and justified and offer views on other factors (if any, such as costs to be borne) that ComReg should consider in completing its RIA. 61
- Q. 12 Do you have any comments on the substance or the drafting of the draft Decision Instrument? If necessary, please provide a marked up version of the draft Decision Instrument, indicating what changes you believe are appropriate and why. 90

Annex: 8 Accessible Billing

A 8.1 ComReg issued its Response to Consultation and Decision (“the Decision”)⁶⁷ on a number of consumer protection conditions relating to the provision of itemised bills to consumers and billing mediums for electronic communications services. The conditions standardise service provider requirements to ensure all consumers are protected in respect of billing, irrespective of who the service provider is.

A 8.2 The conditions set out in the Decision are being attached to the General Authorisation (“GA”)⁶⁸ and are “consumer protection rules” and will apply only to consumers.⁶⁹ Accordingly, these conditions will not apply to business customers.

A 8.3 The conditions are being implemented by means of amendments to the GA and amendments to universal service obligation(s) and to ECS providers’ current licences, thereby standardising the rules relating to billing applicable to service providers across the industry.

A 8.4 While ComReg has remained of the view that a basic protection to be afforded to consumers is to be able to access their bill, ComReg is also aware that the information contained on the bill and the manner in which consumers access their bills may change over time. ComReg is also aware that it is in service providers’ interests to ensure that their customers can access bills.

A 8.5 The conditions set out in the Decision, have been drafted so as to minimise the amount of disruption to existing billing systems and processes that service providers already use to provide customer bills, which have sufficient information and are accessible.

A 8.6 ComReg notes that the e-Privacy Regulations⁷⁰ allow consumers to request a service provider to provide them with bills that are not itemised. Therefore, service providers must offer their customers the option of non-itemised bills in line with the e-Privacy Regulations.

⁶⁷ Consumer Bills and Billing Mediums Document 13/52

⁶⁸ As defined in Regulation 2 of the European Communities (Electronic Communications Networks and Services)(Authorisation) Regulations 2011 (“the Authorisation Regulations”) which provides that “*general authorisation*’ means an authorisation for an undertaking to provide an electronic communications network or service under and in accordance with Regulation 4”

⁶⁹ A consumer is defined under the Framework Regulations as “*any natural person who uses or requests a publicly available electronic communications service for purposes which are outside his or her trade, business or profession*”

⁷⁰ European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011

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A 8.7 ComReg has decided to amend the GA and to include the new conditions, which will allow service providers to move their customers to an e-bill if certain conditions are met. The conditions allow customers to inform their service provider if they cannot access or use an alternative billing medium and in those cases, service providers must provide a paper bill to consumers free of charge.

A 8.8 The conditions will come into effect two (2) months from the date of the Decision a maximum of six (6) months will be allowed for service providers to fully comply with all the amended conditions as set out in the amended GA subject to notification to ComReg of the time required by individual service providers to come into full compliance.

A 8.9 Full details of the new measures can be found in Annex 1 of the Decision. The new conditions are summarised below:

Measures for post-paid consumers:

Itemisation

- Service providers shall provide a bill to its post paid customers free of charge.
- Service Providers may not change the level of bill itemisation a post paid customer is currently receiving unless the explicit consent of the customer is obtained or unless a post paid customer has requested a bill that is more or less detailed than what is currently been received.
- Service providers shall provide the customer with the minimum details the consumer requires to be able to access and use the alternative billing medium offered, in advance of providing that billing medium to a consumer.
- A post paid customer may request, from their service provider, a bill that is more or less detailed (fully itemised bill or a non-itemised) than the level of itemisation currently being provided. In this case, the service providers must provide a fully itemised bill or a non-itemised bill free of charge.

Billing Mediums

- Service providers are entitled to issue alternative billing mediums to their customers if they can ensure and verify that the customer can access and use the alternative medium. If such verification cannot be obtained, service providers shall continue to issue a paper bill.⁷¹
- Where the consumer cannot access the alternative billing medium, (for example because the consumer does not have broadband access or cannot use an on-line service) the service provider must allow the consumer to revert to paper billing free-of-charge.

Other

- For an online bill, the service provider must alert their customer when the bill is available online. The alerts (especially if being sent by SMS) should be sent during appropriate (sociable) hours, and consumers who do not want to receive such alerts should have the option to opt-out of receiving them in accordance with Data Protection legislation. Alerts must be separate to any direct marketing messages that may be sent in accordance with Data Protection legislation.

For pre-paid consumers:

- If a pre-paid customer requests details of his/her transactions, (including usage and charges), from its Service Provider, the Service Provider shall provide, to the consumer, the transaction details free of charge.

For all consumers:

- Calls which are normally free-of-charge to all calling Consumers, are not to be identified by the Authorised Person in the calling Consumer's transaction history or bill.

⁷¹ The means by which such verification can be obtained is set out in Annex 1 of Document 13/52