05/47s Strategy Statement 2005 – 2007: Submissions received from respondents.

Forfás

5. Respondent E
Dear Sonja,

Forfás welcomes the opportunity to comment on the Commission’s Strategy Statement for 2005-2007. In our May submission on the consultation ‘Forward-looking Strategic Review’, Forfás stated that, given the rapidly changing nature of the Irish telecoms sector, it is essential and timely for the regulator to review the current situation and assess the appropriate strategy for the future.

Overall, Forfás broadly supports the analysis and strategic approach presented in this consultation document. Forfás reinforces the Commission’s view that, in this period of dynamic change, it is essential that regulation is predictable, consistent and fully transparent, in order to promote competition and encourage investment. In terms of the Commission’s stated objectives and strategies outlined in section 5, Forfás agree that the promotion of competition is ‘the’ vital component of effective regulation. From an enterprise perspective, advanced telecommunications services are critical for the attraction of foreign direct investment, for the development of indigenous industry and for the promotion of the knowledge economy. In particular, advanced broadband services are an absolute necessity for the development of knowledge-based enterprises in existing and emerging sectors, for the creation of an IT-literate society, for achieving more effective government services in areas such as healthcare and education and for Ireland’s reputation as a world-class centre for enterprise and research.
In relation to the high-level strategies outlined for broadband in the document, Forfás believes the key issue that needs to be addressed over the period 2005-2007 is the process of unbundling the local loop. Forfás welcomes the Commission’s plans to work with industry to develop more transparent and efficient processes and ensuring a level playing field for both the incumbents and new entrants. The effective implementation of LLU is essential for the development of competition in DSL markets.

Due to the current competitive dynamic of the Irish market, prices, availability and quality of broadband services in Ireland are lagging behind other countries, especially for residential and small business customers. To address the current impediments to the supply of broadband, greater competition is required between broadband telecommunications operators and between broadband delivery technologies (such as DSL, cable, fibre and wireless). Competition would stimulate greater choice, wider availability and reduced costs. Additional regulatory pressure is required today to promote the development of competition and drive innovation in the market.

Forfás has benchmarked Ireland’s telecoms performance since 1999 and has focused specifically on the broadband requirements of enterprises and Ireland’s performance in meeting those needs. Forfás has emphasised that the lack of alternative platforms to DSL as a delivery platform for broadband services has been a key barrier to the development of a competitive telecoms market in Ireland today. This has meant that Ireland has slipped behind other countries in terms of overall broadband take-up due to the lack of real growth in competing technologies, especially cable which is very strong in other countries (Japan, Sweden, US, Italy). Going forward, Forfás would encourage ComReg to promote infrastructure-based competition. The ideal outcome for the Irish telecoms market would be to create an environment whereby multiple operators are using a number of different platforms to supply services at competitive rates.

We have outlined some detailed comments to the consultation document below. We look forward to further discussions with the Commission prior to publication of the final Strategy Statement in September.
Yours Sincerely,

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Shane Quinlan
Policy Analyst
Forfás
External Environment

Forfás supports the analysis set out in section 3.1 which outlines the key trends in the Irish economy and in the sectors where ComReg has regulatory oversight. One area of concern discussed is the current level of PC penetration in Ireland which is identified as a potential bottleneck to the further growth of broadband take-up in Ireland. The relatively low level of PC ownership in Ireland is a key issue from a demand-side perspective and is one of the key trends that needs to be monitored from a policy perspective going forward.

In relation to trends over the period 2005-2007, ComReg stated in the ‘Forward-looking Strategic Review’ that there are a number of wireless operators that have the potential to capitalise on Ireland’s relatively low population density by serving customers out of reach of DSL services. However, feedback from industry to Forfás suggests that these operators are primarily focusing on urban areas at present as the majority of low population density areas do not provide a viable business case for providing services. This is an important trend that needs to be monitored going forward, as it may threaten the success of Government-led initiatives such as the Group Broadband Schemes.

In terms of VoIP and Next-Generation Networks, significant investment by Industry in IP NGN’s signals the emergence of technologies that, in the future, will impact service providers and consumers, in terms of price and choice of services. This deployment of NGNs should lead to greater accessibility for alternative operators of eircom’s network, thus resulting in greater competition. However, the possibility of problems emerging with resilience, security and quality of service will need to be kept under review by ComReg and the timing in introducing new products over new networks will be critical.

Legislative framework
Forfás would like to complement the Commission for its role in ensuring that Ireland was one of the first EU member states to transpose the new framework into national legislation on time and for completing its analysis of the 18 key markets identified in a timely manner. This will ensure that markets are regulated consistently and should minimise the regulatory burden on providers of networks and services.

In relation to the role of courts and legal challenges to ComReg decisions, Forfás would advocate quicker and more efficient conclusions to challenges, in order to bring more regulatory certainty to the market. Delays caused by legal challenges have and will continue to restrict the development of the Irish market and this has been recognised by both the OECD and the European Commission. Additional layers of intervention will continue to hinder competition in key sectors of the Irish communications market, particularly in the fixed line and mobile network markets.

The replacement of the Wireless Telegraphy Act 1926-1988 is welcomed by Forfás. In previous Benchmarking reports, Forfás has urged the Department of Communications, Marine and Natural Resources to update the Act as a matter of urgency. This should ensure regulatory certainty that will allow for innovative access to spectrum and provide financial institutions with greater surety with regard to investing in companies in the wireless space. In March, Forfás commented on the Commission’s Consultation Paper ‘Preparing the radio spectrum management strategy for 2005-2007’. This submission was formed on behalf of the Wireless Implementation Group, established to drive the implementation of the recommendations in the report ‘Wireless Communications: an Area of Opportunity for Ireland’. This report suggested that increased innovation in spectrum usage would lead to the development of new wireless broadband products. Wireless can play a key role in facilitating the deployment of broadband throughout Ireland going forward. Fixed wireless access technologies can be deployed in urban areas as a competitor to wireline services (e.g. DSL), increasing competitive pressure, lowering prices and driving take-up. However, the key role for wireless is to reach rural areas at a lower cost where DSL and Cable roll-out is not viable. Forfás welcomes the Commission’s continued support for the Group Broadband Schemes over the period in question.
Stakeholder Consultation

Forfás recognises the difficulties faced by ComReg in satisfying the needs of all its stakeholders and welcomes the Commission’s attempts to ensure its consultation processes allows all stakeholder views to be heard. Regulation must be based on a process of ongoing interaction with stakeholders. Forfás believes the most important stakeholder of all is the user and welcomes the Commission’s plans for close co-operation with the National Consumer Agency (NCA), the Consumers Association of Ireland and the Office of the Director of Consumer Affairs going forward. This interaction should ensure that the Commission’s policies continue to reflect the needs of all consumers.

The compliance costs of regulation are increasingly becoming a burden for enterprise in Ireland, particularly for small and medium-sized businesses. One of the strengths of the Irish business environment in recent years had been the light administrative and regulatory burden faced by entrepreneurs and the SME sector compared to other countries. However, according to the National Competitiveness Council, Ireland ranked 7th out of 16 countries on the impact of regulation on the creation of firms in 2004, down from 1st place in 2003. Forfás would encourage ComReg to continue to develop more efficient better-engineered processes and less duplication in the collection of information. By working closely with the Better Regulation Group, it should be possible to achieve such efficiencies.

In the May submission to the ‘Forward-looking Strategic Review’ consultation, Forfás stated that interaction at the EU level is also imperative and would encourage ComReg to establish bilateral relationships with appropriate NRAs in member states in order to obtain additional perspectives on market operation and development, to exchange skills and expertise, and to share experiences especially with regard to the growing globalisation of the telecommunications industry. Plans outlined in this Strategy Statement to work closely with the European Regulators’ Group and the International Regulator Group (IRG) are welcome.

In relation to interaction on the All-Island agenda, Forfás would encourage the Commission to continue exploring more solutions to problems that affect telecommunications users both north and south of the border. It is important from
an enterprise and consumer perspective that both regulators continue to work
together to find solutions to resolve long standing cross border telecoms issues.

Consumers

Forfás welcomes the Commission’s renewed focus on promoting consumer
awareness, maximising consumer welfare and protecting consumer interests. A
competitive market ensures benefits to consumers in the form of low prices, a
greater choice of suppliers and services, as well as better quality products. The
www.askcomreg.ie website provides a source of clear and user-friendly
information and accommodates consumers to make more informed decisions.
05/47s Strategy Statement 2005 – 2007: Submissions received from respondents.

**IBEC/CBI Joint Business Council**

6. Respondent F
Ms Sonja Owens  
Commission for Communications Regulation  
Irish Life Centre  
Abbey Street  
Dublin 1  

10 August, 2005

Dear Ms Owens

The IBEC-CBI Joint Business Council welcomes the publication of the draft Strategy Statement (2005-2007) by ComReg as a consultation document. The Joint Business Council would like to make a number of observations in relation to the Commission’s document.

The Council is very disappointed to find no reference to North South issues and the potential for closer collaboration and co-operation in relation to telecommunications issues in the Strategy Statement. Given the increasing demand by businesses to procure their telecommunications on an all island basis, this is a significant omission. It also seems surprising given that the Commission and Ofcom established a Joint Working Group in April 2004 to explore solutions to problems that affect telecommunications users in both the Republic of Ireland and Northern Ireland. The JBC has noted the findings of the first report of this Working Group (January 2005) with interest.

In response to Question 1 (Do you agree with ComReg’s analysis of the external market and legislative environments?), the Joint Business Council considers that it would be helpful to include a reference to Northern Ireland (market and cross border telecommunications issues) – possibly as an additional section in the External Environment section (3.1).

In response to Question 2 (Are there any other key stakeholders that ComReg needs to consider) the Joint Business Council believes that there should be a specific reference to all island telecommunications users in terms of reflecting the reality that the number of companies that seek to meet their telecommunications needs on an all-island basis will continue to grow, in line with business needs.

Q 3 – no comment

In response to Question 4 (Do you agree with the objectives and strategies set out above? Are there additional objectives that ComReg should agree?), the Joint Business Council believes that there should be a specific objective set out in relation to North South co-operation. This would reflect the Commission’s ongoing work with Ofcom and would set out a shared objective (with Ofcom) to eliminate cross border inefficiencies and barriers. There should also be specific reference to all island telecommunications users in section 5.2 on Consumers. The JBC also considers that Section 5.3 on the Internal Market should make explicit reference to Northern Ireland and considers that there is an opportunity for the Commission and OfCom to become a model of best practice within the EU.
By way of background, the IBEC-CBI Joint Business Council was established in 1991 by CBI Northern Ireland and IBEC. The mission of the Joint Council is to sustain and develop economic co-operation in the island of Ireland and to advance international competitiveness. In the past year, the Joint Business Council set out its priorities for telecommunications over the next three years in its report “Promoting Cross SME Competitiveness through Improved Telecommunications Networks and Connectivity” and also our recent 20 point action plan, which I attach for your information.

I hope that the above comments are helpful as an input to the Strategy. The Joint Business Council would welcome the opportunity to meet with the Commission to discuss these issues at a suitable point in the future.

Should you require any additional information, please do not hesitate to contact me.

Yours sincerely

Jackie Harrison
Director, Projects
IBEC-CBI Joint Business Council
The mission of the IBEC-CBI Joint Business Council is to sustain and develop economic co-operation on the island of Ireland and advance international competitiveness.

The IBEC-CBI Joint Business Council believes that implementation of these priorities will significantly improve trade and business development, increase skills and labour mobility between the two jurisdictions and enhance competitiveness of business on the island of Ireland.

The mission of the IBEC-CBI Joint Business Council is to sustain and develop economic co-operation on the island of Ireland and advance international competitiveness. The following 20 priorities for the period 2005-2006 have been identified from over 100 recommendations contained in 6 north-south Joint Business Council reports.

16 • There is a need for “joined-up” planning and policy making in relation to all-island telecommunications issues, with clear political leadership.

There is a need for greater co-ordination between the various stakeholders, including the Regulators, the relevant Government Departments, operators and users. The Joint Business Council has proposed that a North South Forum would be set up which would ensure such co-ordination and unity of purpose.

17 • Promote and monitor the new north-south electronically linked job vacancy system to north south businesses.

This initiative will help to increase awareness of vacancies and job opportunities and ensure that business needs are being met.

18 • Promote and encourage cross-border mobility of labour on a regional basis between Northern Ireland and the Republic of Ireland by national and non-national categories including graduates, non-graduates and managers.

This initiative will provide improved knowledge of companies employing cross border workers, identify barriers and propose and promote solutions.

19 • Address Barriers to cross-border mobility of labour outlined in the JBC Report and through regional surveys.

Barriers will be prioritised and addressed, including mutual recognition of qualifications and social security issues.

20 • Identify future intentions of companies with regard to employment of cross-border workers.

This initiative will record business employment intentions, help address any barriers and propose and promote solutions.
01 • Develop and promote an all-island supply chain distribution collaborative project for SME’s.

This project is expected to bring substantial benefits to all participants in terms of cost reductions, service enhancement, more effective logistics and greater competitiveness within the global market place.

02 • Develop a north-south strategic transportation study which addresses the special needs of the whole island of Ireland within a European and Global context.

This project will ensure that transportation infrastructure and services continue to be aligned with and contribute to the competitiveness of Irish businesses.

03 • Review progress on and promote completion of the strategic transportation infrastructure on the island of Ireland.

This project will enhance north-south public and private sector collaboration in addressing gaps, harmonising timetables and communicating progress and benefits to businesses on the island with particular reference to road and rail infrastructure.

04 • Develop north-south co-operation between the third level sector and the enterprise sector, by improving current business/academic linkages and understanding, in order to meet future business needs and to reposition both economies in higher value added activities.

This initiative will entail a Joint Conference in June 2005 on “Higher Education and Business: Beyond Mutual Incomprehension”, followed up by a high level symposium on improving business-university links in September 2005.

05 • Promote and support all-island business education initiatives amongst IBEC and CBI members, including existing programmes, as well as identifying where additional interventions and resources are needed.

This project will ensure increased business participation in key north-south programmes such as Intertrade Ireland’s Focus and Fusion Programmes and Expertise Ireland.Com, but will also focus on identifying where other interventions or changes are required.

06 • Identify and promote opportunities for enhanced north-south co-operation in life long learning.

Delivery of this priority will increase business awareness of, and participation in life long learning and will focus on case studies of where such co-operation has worked successfully (e.g. the Retail Skillnet in the North West) or where there is scope for increased collaboration (e.g. in the area of supply chain and logistics).

07 • Monitor north-south skills needs and gaps and recommend solutions.

This initiative will be facilitated by a collaborative project with Grafton Recruitment and will improve opportunities for increased employment.

08 • Ensure that the single wholesale electricity market is established by July 2007 and that its design is a result of consultation with industry across the island. The all-island gas market needs to be established in the medium term. A strong project management focus is needed to drive the process.

There are increasing concerns that the target date of July 07 could be in jeopardy and this is a key lobbying point for the JBC to ensure that the stated commitments by the two Governments in relation to energy are delivered. It is essential that the views of stakeholders, including business, are taken on board on an ongoing basis in order to ensure that the all island energy market is achieved and delivers direct benefits to business.

09 • The net outcome of government policy and regulatory action should be an all island market that encourages competition and delivers competitively priced and secure energy for businesses, on a sustainable basis.

It is important that market structures ensure security of supply and deliver efficient and competitive energy prices that are sustainable. This will enable businesses to derive maximum benefit from both market liberalisation and the integration of both RoI and NI markets.

10 • There is a need for compatible and consistent government policy in relation to renewable energy in both jurisdictions.

Northern Ireland is currently introducing a “Renewables Obligation”; whereas to date the Republic of Ireland has had the AER schemes and has not yet concluded its considerations of future policy. The absence of harmonisation with regard to renewables could lead to perverse incentives to locate in one market rather than the other.

11 • Ensure that a north-south dimension is taken into consideration in waste management plans in the cross border region when they are reviewed during 2005 and 2006.

This will be achieved by ensuring that the business voice is inputted to individual Councils, via Regional Development Organisations including the North West Cross Border Region Group, Irish Cross Border Area Network and the East Border Regional Group. Such a north-south strategy would facilitate the integration of approaches to commercial and industrial wastes in the cross-border region with commensurate benefits for businesses through more efficient waste management.

12 • Identify and promote awareness of business opportunities in managing particular waste streams on a north-south basis and promote north-south co-operation and investment in waste processing and recycling facilities, where appropriate.

North-south schemes are already in place in relation to certain waste streams such as clinical waste and fridges and prove the potential for shared infrastructure and improved economies of scale by approaching waste on an all-island basis. The current feasibility study into a north-south paper mill will confirm the viability of such a project.

13 • Establish a Forum on recycling and reprocessing to drive forward change in waste management practices for waste produced by businesses and to ensure consistency of standards on an all island basis.

Such an approach would help in building sustainable waste management practices in the cross border region and would build on the work initiated though the Interreg Waste Management Awareness Campaign, during 2004.

14 • Lobby to achieve 100% broadband availability throughout the island of Ireland by 2007 and promote and monitor increased use of broadband by businesses throughout the island of Ireland.

The universal availability of broadband throughout the island of Ireland will ensure that all businesses can access world class communications infrastructure regardless of whether they have an urban or rural base. A critical challenge is to ensure that businesses throughout the island of Ireland avail of improved telecommunications infrastructure as it is rolled out so as to improve connectivity and competitiveness.

15 • Lobby to secure a more supportive regulatory environment for telecommunications on a North-South basis, building on the cross-border telecommunications initiative of ComReg and Ofcom.

The initial report of the ComRegand Ofcom Joint Working Group indicates that the Group will continue to examine live issues affecting consumers and businesses on both sides of the border.
Ireland Offline

7. Respondent G
IrelandOffline welcomes this opportunity to give feedback to ComReg in regards to their strategy statement. IrelandOffline commends ComReg in their genuine willingness to solicit the comments of all stakeholders and encourages ComReg to keep doing so.

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Q. 1. Do you agree with ComReg's analysis of the external market and legislative environments? Are there other key short term developments that ComReg needs to consider?

IrelandOffline believes that ComReg has given an in-depth analysis of the telecoms market in Ireland but believes that the analysis is not reality-based but more wishful thinking. There are a significant amount of issues in the Irish telecoms market that urgently require addressing. We are of the belief that ComReg up to now have not been objective enough to recognize the many market failures which are harming competition and harming consumer choice and value for money.

ComReg are proud of the fact and makes it widely known that Ireland was one of the first to transpose the EU Regulatory framework. However there appears to be silence and skirting over the facts when it comes to Ireland having the highest fixed line rental charges in the EU (50% higher than the EU Average), mobile ARPs significantly above the EU average and broadband penetration lower than everywhere in the EU-15 except for Greece (with the uptake rate in Ireland actually stalling rather than gathering pace).

ComReg claims Ireland has fully implemented the USO Framework. IrelandOffline disagrees with this as Functional Internet Access has yet to be addressed. We have made this known numerous times to ComReg over the past 12 months and addressed this with the EC 11th Implementation team who recently visited Ireland. The failure to address this has meant that consumers and businesses have been told and are still being told they are not entitled to an Internet connect on their phoneline. Dialup Internet access is not guaranteed because of the failure to define and enforce Functional Internet Access. That a delay of 2-3 months may be acceptable but a delay measured in years means to the consumer and to IrelandOffline that the USO Framework has not been implemented.

In regards to LLU, while LLU legislation is in existence, it's irrelevant if a consumer and an OLO cannot unbundle a line as is the current situation. Claiming LLU implementation as being a success is merely spin and semantics. "Real" LLU does not exist in this country due to massive issues between the regulator, the OLOs and the incumbent. As only 2000 lines have been unbundled since the introduction of LLU we deem LLU to be a complete failure and symbolic of a systemic failure throughout ComReg and the DCMNR.

Also in Article 8, ComReg is mandated to promote competition. Competition still is not healthy in this country. The broadband market is full of resellers, the mobile market had a duopoly and the third mobile player is now merging with the fixed-line incumbent. The ARPs for mobiles prove there is no competition. The fact is that 80% of people still appear to use the fixed-line incumbent despite their inability to provide affordable telecoms packages and the ability to bring out innovative products.

Competition is severely lacking in Ireland still in the fixed and mobile market and a status quo appears to exist.
In regards to the recent appeals and High Court case IrelandOffline feels that the legislation that ComReg has to work under has not been helpful and the DCMNR failed to foresee the problems that would arise from the creation of the ECAP. IrelandOffline feels ComReg needs to lobby the Government harder for stronger laws which will allow them greater powers to regulate the telecoms sector.

IrelandOffline welcomes the public comments from ComReg asking for more legal powers but reminds ComReg that they are unaware of ComReg ever fining a telecoms company, even with the limiting fining capabilities they have. Even though there is a maximum fine of €3000, the symbolism of fining a company that was in breach of regulations would have strengthened the public's trust in ComReg's commitment to regulation.

In regards to the Legislative Framework for spectrum management we believe that there are still come issues that need resolving in this area but overall ComReg is to be commended for the way they have gone about allocating spectrum. The issues IrelandOffline wishes to see addressed are that we believe certain telecoms companies are "sitting" on spectrum and not using it to provide consumers and businesses with a service but instead preventing other companies from using it and offering consumers and businesses an alternative.

In regards to eircom's 3.5Ghz spectrum allocation which gives national coverage, we are concerned that the public are not being provided with the locations where this is available and when we requested this of ComReg they were unable to immediately get these details for us. eircom have this license for a number of years now and yet when the public tries to avail of this service they are generally turned down with the reason that they are not in an area covered by this. We are of the belief that ComReg needs to make public a coverage map of where this service is available, that they need to force eircom to sell this service to the public and to offer the unused areas to any other company or GBS that would wish to avail of it.

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Q. 2. Do you consider that ComReg provides sufficient opportunities for stakeholders' views to be heard? If not then how could we improve? Are there other key stakeholders that ComReg needs to consider?

In IrelandOffline's view there is a massive disparity when it comes to the representation of views of industry and the views of the consumer. The Telecoms Industry is well funded and well staffed so that they can easily and vocally represent their views. Consumers are represented by a consumer magazine and voluntary groups like IrelandOffline.

IrelandOffline are now accepted as the authoritative voice of Irish consumers in regard to Broadband, we have met regularly with all the key stakeholders including Comreg; we are also the only consumer group to consistently submit detailed responses to consultation requests such as this one.

Our members are perplexed that whilst Comreg is prepared to meet and communicate with us informally, they are not prepared to include us in more official situations such as their annual Consumer Event or the Consumer Panel. Whilst our committee members who have met with Comreg have gained a much better
understanding of the difficulties and restrictions that Comreg have to operate under, we find it increasingly difficult to convince our members that Comreg is carrying out any useful role as far as consumers are concerned.

We are of the belief that the Consumer Panel convened by ComReg is a piecemeal effort for addressing consumer issues. If the Consumer Panel is to be in any way effective it needs to meet and report more often, to continuously solicit feedback from the general public and to be transparent about the feedback that they get and what they report to ComReg. We were disappointed that in a recent meeting with the EU, where a representative from the Consumer Panel and a consumer association that ComReg has highlighted in their Strategy document, it was only IrelandOffline who were able to speak with authority on most telecoms issues.

We think that the creation of the National Consumer Agency will do little on its own to enhance Comreg's image among consumers - the Agency is seen as yet another quango divorced from the real world experienced by consumers. Comreg needs to get 'face to face' with end consumers on a regular basis. We suggest that Comreg should embrace other methods of interaction such as web forums and roadshows. The current AskComReg website should be also be redesigned to make it more interactive, for example by the addition of a consumer discussion forums on areas such as Mobile, Landline and Internet Issues. The AskComReg website currently is static and communicates to and not with consumers. Dialog needs to be two way and needs to be as transparent as possible. A form is not interaction. A forum is. Dedicated people for running the site and updating it daily should be used. With all the E-Government initiatives of late we believe that ComReg too should embrace the interactive web.

In regard to consultation with consumers, we recognise that improvements have been made but there is still much to be done. Comreg have much to do to shed the image that they favour the large telco's and are ambivalent towards consumers. ComReg have been very successful when it comes to engaging telcos, now a significant effort to have a continuous dialog with consumers is needed.

Q. 3. ComReg is proposing to revise its mission statement and its core values to reflect changes in both the market and ComReg's regulatory duties. Do you think the revised mission statement and values set out above are appropriate?

Quoting the mission statement: "The Commission for Communications Regulation will to the extent of its powers facilitate the development of a dynamic, efficient and competitive market-place for electronic communications and postal networks and services for the benefit of the Irish Community."

We believe that ComReg has maintained a reactive stance to situations in the telecoms market. This mission statement reflects the old ODTR where a lot of time appeared to be spent on marketing and excuse generating. We wish to see a stronger regulator and a stronger attitude but this proposed mission statement portrays weakness.

We would very much encourage ComReg to have a proactive attitude with a statement such as "The Commission for Communications Regulation by using all the
powers available to it will actively and rapidly facilitate the development of a
dynamic, efficient and competitive market-place for electronic communications and
postal networks and services for the benefit of the whole Irish Community."

In regards to the five values:
Integrity
Professionalism
Impartiality
Effectiveness
Transparency

We welcome these values but believe more discussion on how these values will be
carried out is needed or else they may just become buzzwords. We would also
suggest adding the word Objectivity.

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Q.4 Do you agree with the objectives and strategies set out above? Are there
additional objectives that ComReg should agree? Page21

Competition

In regards to Competition we believe that ComReg must first recognize that there is
not enough competition in Ireland. We further believe that ComReg needs to stop
reusing marketing material from the incumbent and address the stark realities of
60% of consumers not knowing about single billing, of wholesale line rental not
giving a better margin for the OLOs, of mobile networks having the highest ARPUs in
the EU and of Ireland having the highest line rental in the EU by a significant margin.
Despite the claims that there are 100s of telecom companies in Ireland, it is quality
of offerings and variation of services that matter, not quantity. The vast majority of
OLOs in Ireland are bottom feeders who combined still have not made an impact on
the incumbent's market share. They are well intentioned but cannot gain greater
market share and offer better services because of the wholesale telecoms market.

ComReg's latest Amarach report goes to show that since deregulation few people
have moved to the OLOs and for the past few years the market share percentages
have remained static. ComReg needs to seriously examine why this is so and quickly
address it.

ComReg needs to stop putting a spin on surveys, press releasing alternative realities
such as talking about that 40% of people know about single billing when the main
issue is 60% do not know what it is. IrelandOffline is deeply disappointed that the
regulator appears to be getting marketing advice from the incumbent in regards to
selectively highlighting good points when there are so many bad points that need
addressing. We feel ComReg is losing it's objectivity when it comes to the health of
the telecoms market and they need to examine why this is happening.

Markets

In regards to the Markets, IrelandOffline would like to note their worry that dispute
regulation of market decisions seems to becoming more of a factor and a tool to be
used to delay progress in various markets. The
Court system and the ECAP have becoming tools for furthering a monopoly rather
than pushing through better market features.
Consumers need to be considered more in the market decisions. ComReg talks about a balance between telco costs and what the consumer can afford. While a telco can afford a team of financial analysts to say why some service costs X amount, the fact that the telco could reduce the price by streamlining the organisation and reducing their own overheads needs to be factored in. Just like a telco is not a charity. ComReg should not look charitably on a telco which is top heavy with staff and struggling with inefficiencies which add significantly to the costs they pass on to their customers. Costings should be compared to other EU telcos who are known to run efficiently.

Pricing

In regards to pricing we believe that costs for anything in the telecommunications sector in Ireland are too expensive. As we have already extensively mentioned in this consultation. We believe continuous pressure should be put on the incumbent to bring down wholesale pricing and to use costings for wholesale products if all inefficiencies were removed.

Broadband

IrelandOffline would like to express serious reservations about facts and figures that are sent out by the regulator in regards to the broadband market in Ireland.

IrelandOffline has been campaigning long and hard to highlight that the marketing of the incumbent and their figures and their perverse definition of availability is damaging to the Irish Broadband market. There cannot be 80% availability if 23% or more of phonelines connected to dsl equipment fail the broadband line test. The true figure for availability is closer to 60% yet ComReg despite feedback from many people have used the 80% figure.

That IrelandOffline has to use all its limited resources and its committee has to put a lot of personal time and a lot of personal finances into combating false marketing is damning enough but the most serious issue is that we also have to counter spin and marketing sent out by the regulator. We are quite disheartened that taxpayer money is being used to foster the marketing machine of the incumbent. Objectivity again is missing when it comes to the broadband market and we see the regulator and in turn the DCMNR siding with the incumbent and feverishly grappling for excuses as to why people don't move to broadband, yet in the latest Amarach Survey from ComReg we see that when asked why they had not moved to broadband 34% said they could not get it. Yet ComReg has said there is no demand.

LLU

Without LLU we will not see real competition in Ireland, yet LLU is an unmitigated failure here. The LLU process is an absolute shambles. The full LLU pricing of €14.65 per month per line is too expensive. The red tape in the processes and procedures, along with the extortionate pricing for LLU discourages competition. LLU needs to be streamlined and made more efficient. With streamlining and efficiencies should come price drops.
Price drops should come into effect every six months. Prices for LLU should be always coming down, not going up. Prices should not be fixed for a period of 2 or 3 years.

ComReg now needs as a matter of urgency to address all the issues surrounding LLU failure.

Alternative Technologies

In regards to investigating alternative technologies, we would encourage as many methods as possible for a consumer to get broadband but would point out that a phoneline goes to nearly every home in this country, adsl can go over a phoneline and adsl technology has been used and deployed for the past 5 years. It is a proven technology and one that can be put on existing infrastructure. With this in mind ComReg should aggressively tackle the incumbent and force them to publish details of pairgains and create a transparent system for the removal of an obstacle which will not allow dsl to go down a consumers phoneline.

Group Broadband Schemes

We welcome the support of Group Broadband Schemes but dare to ask what initiatives that ComReg created to address the issues the GBS's have encountered. We question how many GBS groups ComReg have worked with. We would very much welcome an open meeting in the guise of a workshop or conference where GBS applicants and GBS communities can meet and discuss what they need ComReg to do to make the GBS's a success. We would ask how many GBS communities ComReg approached to give feedback on the Strategy statement.

We would like to highlight though that the GBS's have come about because of market failure and because despite the marketing statements that there is 80% availability, the reality is that half the country cannot get broadband.

Access

The incumbent needs to give greater access to its copper infrastructure. We see this as vitally important for competition. We welcome the introduction of MVNOs into the Irish market.

Consumers

In regards to Consumers, we think there is a lot of work for ComReg to do. There is massive dissatisfaction among consumers and IrelandOffline has acted as middleman on dozens of occasions on consumer issues. ComReg's own August Survey shows that 80% of consumers do not know of the existence of a Consumer Charter from their telco.

We are dissatisfied with the way the complaints process works with ComReg where consumers have to first go through hoops with their provider and when they have exhausted every avenue then ComReg will listen to them.

We would be interested in quarterly reports from the ComReg consumer section on the number of complaints that came in, a breakdown of what they were, and a listing.
Of how many were resolved to the customers satisfaction and whether any telecom companies were fined.

We believe comreg should bring in fining for any consumer abuses.

We believe that the raw data of consumer reports like the Amarach Survey should be made available to the public so that other organisations can review and run their own calculations on them.

Please see our thoughts on the AskComReg site earlier in this document.

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Thank you for reviewing our comments.

Regards,

Damien Mulley.

IrelandOffline
05/47s Strategy Statement 2005 – 2007: Submissions received from respondents.

**Irish Broadband**

8. Respondent H
IRISH BROADBAND’S RESPONSE TO THE CONSULTATION

1. Introduction

Irish Broadband is the largest fixed wireless access broadband provider in Ireland. The company has deployed an extensive wireless network encompassing Dublin, Cork, Galway, Limerick, Waterford, Drogheda, and Dundalk and is continuing to expand this network to other regional centres throughout the country. Irish Broadband holds 3.5GHz and 10.5GHz FWALA licences in each of its service areas. The company has invested significantly in its network roll-out and is a leading provider of broadband services in Ireland.

3. Response to Questions

Q. 1. Do you agree with ComReg’s analysis of the external market and legislative environments? Are there other key short term developments that ComReg needs to consider?

The analysis does not mention the significant investments undertaken by wireless broadband providers in the deployment of wireless broadband networks and services throughout Ireland. The investment undertaken by Irish Broadband has resulted in a completely independent network infrastructure which does not rely on eircom’s existing copper network for the provision of broadband services. This investment is extremely significant as it is expanding the availability of broadband services to those people who cannot currently obtain service due to DSL line failures, lack of a home phone line, pair gains, or no local DSL enabled exchange.

Convergence between fixed and mobile services will be a feature of the communications landscape. In particular, WiMax networks will facilitate the provision of mobile voice and data communications within a relatively short time period. This will help to facilitate additional infrastructure competition on the mobile side.

The provision of broadband wireless services is important to ensure that the reduction in fixed line households does not prove a barrier to broadband uptake. Thus, Irish Broadband does not see this trend as damaging to broadband take-up, provided roll-out of alternative wireless broadband infrastructure is maintained and supported. As service platforms are developed, an increasing block of consumers will move to a completely wireless service environment where broadband, voice, and digital TV services will be provided using wireless means.

Broadband in rural areas is best supported through the provision of wireless broadband services. Again, the existing environment which is supportive to fixed wireless deployment needs to be maintained and enhanced to ensure that roll-out to rural areas continues.

It is critical to foster a regulatory environment whereby investment in broadband infrastructure is rewarded and encouraged. Alternative infrastructures are required in order to expand broadband coverage beyond the DSL footprint, provide broadband coverage to consumers within the DSL
footprint that cannot get service due to line quality issues, and to provide pricing and service competition. Therefore, it is important that the regulatory environment supports the deployment of alternative broadband infrastructure. Over reliance on DSL resale to promote competition may result in a significant “broadband gap” between consumers who can get multiple competitive broadband offerings and those who will never get broadband due to lack of infrastructure investment in marginal areas.

Q. 2. Do you consider that ComReg provides sufficient opportunities for stakeholders’ views to be heard? If not then how could we improve? Are there other key stakeholders that ComReg needs to consider?

As an operator – yes.

Q. 3. ComReg is proposing to revise its mission statement and its core values to reflect changes in both the market and ComReg’s regulatory duties. Do you think the revised mission statement and values set out above are appropriate?

Yes. Transparency should be adhered to subject to commercial confidentiality.

Q. 4 Do you agree with the objectives and strategies set out above? Are there additional objectives that ComReg should agree?

**Competition**

Irish Broadband believes that sustainable competition is best achieved through the deployment of alternative, competing delivery platforms. Existing FWA providers should be supported through the allocation of new spectrum to facilitate the provision of fixed and portable broadband services.

In particular, wireless broadband now serves a number of market segments including leased line data services, broadband services, and mobile/portable data services. Adequate spectrum needs to be made available to ensure that this platform can continue to compete effectively in each of these market segments.

**Consumers**

Irish Broadband broadly supports the consumer objectives. However, certain aspects of broadband advertising may require greater clarification. Aspects that may require greater clarity include availability of nationally advertised products, lack of clarity in the presentation of products which require the customer to take a voice and broadband bundle, and clarity of presentation of time-based “broadband” products. While product innovation should be encouraged and supported, it is important that consumers are clear about the product proposition offered.

**Spectrum**

There is a need to support the expanding businesses of existing broadband wireless operators through the release of new spectrum. It is important to support the three areas of growth for broadband wireless – leased line
replacement, fixed broadband, and portable broadband. Irish Broadband requires sufficient spectrum to meet its ongoing roll-out and customer demand in all three of these markets.
05/47s Strategy Statement 2005 – 2007: Submissions received from respondents.

ntl

9. Respondent I
05/47s Strategy Statement 2005 – 2007: Submissions received from respondents.

Ms Sonja Owens
Commission for Communications Regulation
Irish Life Centre
Abbey Street
Dublin 1

17th August 2005

Re: Consultation 05/47: Strategy Statement 2005 - 2007

Dear Ms Owens

ntl welcomes the opportunity to comment on the above consultation. As we have already set out our views in relation to the strategic development of the Irish telecommunications market in some detail in our response to Consultation 05/30, we do not propose to revisit the points made there in the current submission. Therefore, while ntl differs in its view in relation to a number of the assumptions made by ComReg about the external market environment, we believe that these have been adequately conveyed in our response to 05/30.

On that basis, we would like to restrict our comments in relation to this consultation to a small number of matters of principle that we believe to be essential if ComReg is to regulate the telecommunications sector in an appropriate manner in the period from 2005 to 2007. The first principle that ntl believes ComReg should have regard to is transparency in decision-making. While ComReg has stated on a number of occasions that it seeks to achieve transparency in its decision making processes, ntl remains unconvinced that true transparency, in particular appropriate levels of consultation and engagement with stake-holders, is given sufficient attention by ComReg.

A number of examples illustrate this concern. The most immediate is that ComReg has chosen not to publish an official response to the submissions in relation to the Consultation on a Forward Looking Strategy (05/30). We do not accept that ComReg’s justification that a dedicated response to that consultation was not merited is adequate given the fundamental nature of that consultation and the important issues that it raised. Indeed, as ComReg itself acknowledges, the purpose of that consultation was to encourage debate in advance of the Strategy Statement consultation. However, ComReg has
effectively curtailed that debate by not providing a response to consultation. We would contrast ComReg’s approach in relation to this matter with the approach of Ofcom in relation to its Strategic Review of Telecommunications, which lasted over 18 months during the course of which Ofcom consistently addressed the detail of submissions raised by industry and thereby provided a public and reasoned justification for its regulatory stance.

However, we do not believe that ComReg has yet accorded transparency the same level of importance as has Ofcom. For example, ComReg has stated that it will carry out regulatory impact analyses “where warranted” to ensure that undue regulatory burdens are not imposed on the industry. However, the carrying out of regulatory impact analysis is not an optional matter but a requirement under the 2003 Ministerial Policy Direction. Furthermore, the Department of the Taoiseach has recently endorsed the introduction of regulatory impact analysis across the public sector. The fact that ComReg views such an important regulatory duty as a mere option is indicative of a lukewarm approach to transparency in general.

The second principle is that there is a need for a greater level of evidence-based regulatory decision-making by ComReg. In this consultation and in a number of other consultations, most recently the consultation on the Forward Looking Strategy (05/30), a number of assertions and statements were made without any justification or substantiation. A few examples from the current consultation will suffice to illustrate this point. For example, on page 7, ComReg discusses what it perceives to be the competition problems in the mobile industry, but fails to mention recent developments, i.e. the sale of Meteor and the entry of Hutchinson, which may fundamentally change the existing market dynamics in a pro-competitive manner. On page 9, ComReg discusses competition in the pay-TV market and states that it will explore schemes such as digital video broadcasting services at a regional level to increase competition in that market. However, there is no analysis of the extent to which competition is lacking in the pay-TV market or evidence to suggest that this might be the case. Indeed, a number of commentators would take the view that Ireland has a highly competitive pay-TV market but ComReg does not reflect this. On page 17, as part of ComReg’s Mission, Values and Vision, it states that its work critically enables “unlocking the potential of technological convergence”. However, there is no analysis of what the possible implications of technological convergence might be or that explains to ComReg’s stakeholders what the potential benefits of such convergence might be. Instead, the impression given is that superficial jargon has replaced evidence-based analysis in framing ComReg’s regulatory mission.

The final principle is accountability. While ntl accepts that the measurement of performance and success in a regulatory environment is not as straightforward as the measurement of success in a commercial environment, we do not believe that this means that no attempt should be made to measure the performance of ComReg. Indeed, these inherent difficulties may even demand a greater focus on measuring performance and success. In this regard, ComReg’s objectives and strategies for the electronic communications sector, while valid in their own right, do not provide ComReg stakeholders with any basis to measure the performance of ComReg against these objectives or the extent to which it has been successful in achieving these objectives. There are no objective deliverables whereby success or performance can be
measured, and there is a significant requirement for the introduction of such a system by ComReg.

I trust that these comments are helpful to ComReg in deciding its regulatory approach for the period from 2005 to 2007. As always, ntl is available to discuss any of the points raised in this submission with you.

Yours sincerely,

Graham Sutherland
Managing Director
ntl Ireland
05/47s Strategy Statement 2005 – 2007: Submissions received from respondents.

O₂

10. Respondent J
Response

To

Consultation Document No. 05/47


12 August 2005
**Introduction**

O2 welcomes further consultation on ComReg's strategy statement, which is felt to cover a more realistic timeframe than that discussed in ComReg Doc 05/30.

O2 is disappointed however, that despite running to 39 pages, ComReg Doc 05/47 contains very little if any information or guidance on what proposed strategy ComReg intends to adopt over the two-year period proposed to be covered by the strategy statement under consultation. The purpose of the consultation is therefore unclear.

Q.1. Do you agree with ComReg's analysis of the external market and legislative environments? Are there other key short term developments that ComReg needs to consider?

**RIA**

In discussing the legislative environment, it is stated that:

“ComReg recognises that it is important to continually review the impact of regulation to ensure that it is proportionate and justified. In this context ComReg will carry out a Regulatory Impact Analyses (RIA) where warranted to ensure that undue regulatory burdens are not imposed on the industry”.

It is respectfully submitted that decisions relating to any form of regulatory intervention require as a matter of law and indeed good practice that a full assessment of the likely impacts is carried out. Further, while continual review of the effects of regulation which has been imposed would be a welcome development, this cannot be deemed a substitute for the kind of cogent impacts analysis that is required to be carried out before a regulatory measure is implemented.

It is submitted that proving that each individual regulatory measure is proportionate and appropriate as required under national and European law necessarily requires a cost/benefit of alternatives in respect of individual measures in every case.

The absence of RIAs properly so called from recent market analysis decisions and statements such as that quoted above are therefore of considerable concern given the extent of the remedies proposed by ComReg to date. For this reason, O2 would urge ComReg to reconsider
the role of RIAs within the market analysis and general regulatory framework.

**Legal Challenges**

In noting challenges of its decisions ComReg states that it is “…concerned that they should be concluded quickly in order to bring regulatory certainty to the market”.

O2 shares ComReg’s concerns but believes that it is important to acknowledge the initial delays caused by the Minister’s failure to convene the required appeal panels in a timely fashion. Rather than focusing on the appeals themselves as a source of delay O2 would urge ComReg to acknowledge the obvious flaws in the appeals process and lobby appropriately to get the matter rectified.

**Wireless Telegraphy Acts**

It is stated in the consultation that:

“Since 2003, licensing of wireless electronic communications services and networks under the WT Acts must be done in accordance with the requirements of the framework regulations”.

It is respectfully submitted that the General Authorisation scheme was introduced under the Authorisation Directive and transposing regulations to remove the system of individual licences. Issuing WT licences appears incompatible with this objective therefore O2 would query exactly how the WT licensing regime can be considered to be in accordance with the Framework and Authorisation Directives and implementing regulations.

**Q.2.** Do you consider that ComReg provides sufficient opportunities for stakeholders’ views to be heard? If not then how could we improve? Are there other key stakeholders that ComReg needs to consider?

**Public Consultation Process**

The consultation process performs an important mechanism through which views of stakeholders can be recorded. It is essential that public consultations are used therefore.
O2 notes that more recently a number key initiatives have been undertaken by ComReg, which were not preceded by any public consultation. Examples include the manner in which recent proposals regarding use of the NDD were raised with industry.

While it is accepted that certain issues will arise requiring urgent attention there would appear to be no justification for disposing of the public consultation process particularly since any alleged urgency can be addressed through an abridged consultation timeframe.

O2 is therefore concerned that transparency through public consultation is being replaced with unilateral activity on the part of ComReg, with subsequent follow-up through limited industry meetings in order to push proposals through in unreasonable timeframes.

At a practical level, greater transparency and thus notice of upcoming consultations would enable stakeholders to ensure that sufficient resources are available to deal with issues raised through the consultation process. It is submitted that sufficient notice would therefore benefit all parties.

The timing of public consultations is also crucial. In this regard, O2 notes that ComReg has adopted the same practice as a number of other European NRAs in carrying out its national market analysis consultations on remedies in parallel with the European consultation process required by the Framework Directive and transposing regulations. By doing so the European Commission is effectively denied visibility of views raised at a national level prior to carrying out its own assessment of the consultation subject matter. Since O2 is not aware of any legal requirement to carry out the two consultation processes in parallel O2 would urge ComReg to revise this particular practice in future consultations.

Meetings

Without prejudice to the requirement for public consultations, meetings with stakeholders including wider industry meetings can play an important role depending on the subject matter under consideration. As noted above however, it is important that such meetings are used in conjunction with and not in place of the public consultation process.

Detailed and up-to-date Work Programmes
Regardless of the size of an operator, each party has limited regulatory resources. A detailed up-to-date work programme is essential in order to facilitate engagement by stakeholders with ComReg.

While O2 realises that not all issues can be anticipated 12 months in advance, it is inconceivable that some form of notice of upcoming matters requiring regulatory engagement cannot be provided. Provision of advance notice through properly maintained and updated work programmes would greatly facilitate engagement by stakeholders with ComReg’s overall work stream and thus in achieving its objectives and strategy over the two year period in question.

Q.3. ComReg is proposing to revise its mission statement and its core values to reflect changes in both the market and ComReg’s regulatory duties. Do you think the revised mission statement and values set out above are appropriate?

O2 has no comment to make on these proposals at this time.

Q.4. Do you agree with the objectives and strategies set out above? Are there additional objectives that ComReg should agree?

O2 would query the appropriateness of some of the objectives listed in section 5 of the Consultation.

In the ‘Markets’ table in section on page 18 one objective is stated to be to:

“Work with industry to provide best-fit FMC services that are innovative, economically advantageous to both the consumer and the industry and user-friendly”.

O2 would query how ComReg as a regulator would have a role to play in the provision of nascent and emerging services. The only role that ComReg legitimately has is that of regulator. The question this objective raises therefore is
05/47s Strategy Statement 2005 – 2007: Submissions received from respondents.

whether ComReg sees new all services as potential subject matter for further regulation.

The last objective listed in this table states that ComReg intends to:

“Consider within the context of the regulatory framework the appropriateness of the markets already defined and whether there are other markets where intervention may be warranted”.

O2 is concerned that the above quoted objectives when taken together indicate a preference on ComReg’s part for heavier rather than lighter-touch regulation. Rather than viewing the emergence of new innovative services and markets in a positive light therefore, it would appear that ComReg’s only concern is how it can intervene to extend regulation. It is respectfully submitted that early development should be left to market forces and that general threats of regulatory intervention can only serve to discourage investment and innovation. To the extent that these objectives can be considered an indication of ComReg’s proposed strategy over the next two years therefore, serious concerns are raised.

Conclusion

In short, O2 does not believe that the information set out in this Consultation can be said to form ‘strategy statement’ but rather is largely an account of the projects and resources ComReg currently has in place.

In O2’s response to ComReg Doc. 05/30 ComReg was encouraged to address a number of areas. These suggestions apply equally to the two-year period covered by this consultation and therefore to the extent that matters are not dealt with above, ComReg is directed to O2’s earlier response.

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05/47s Strategy Statement 2005 – 2007: Submissions received from respondents.

11. Respondent K
RTÉNL welcomes the opportunity to respond to the Statement of Strategy (2005-2007) Document 05/47 and to participate in this process. Since December 2004, the analogue terrestrial transmission network operated by RTÉNL, a wholly owned subsidiary of RTÉ, has been regulated by ComReg under the Electronic Communications Regulatory Framework. This is the first consultation on regulatory strategy in which RTÉNL has participated.

RTÉNL is keen to engage in any discussions about the role of regulation in ensuring a vibrant and competitive electronic communications market – including its own broadcast transmission market.

In this response RTÉNL makes initially some general observations below under four main headings and then responds to the four questions.

Research and Understanding of the Market

RTÉNL considers it crucial, at a time of such significant change and growth in the communications sector, that ComReg ensures that it has a comprehensive and in-depth understanding of market changes so as to better inform its own regulatory strategy. The major Market Reviews may not always provide sufficient insight or be as up-to-date as might be required by a regulator.

Regulation can have unforeseen effects on business and on market performance if not appropriately applied. The reasoning behind regulatory decisions must be based on “commercial reality”¹. RTÉNL strongly agrees that regulation must be based on continuous and genuine interaction with stakeholders. In this regard, we were pleased to see ComReg’s chairperson acknowledge “it is vital that regulation is predictable, consistent and transparent”².

Strategic Approach

ComReg has set out its objectives and describes its mission statement in this paper. Broadly, these seem reasonable. What is not expanded upon in any great detail, however, is how ComReg intends to achieve its aims and how it will evaluate its

¹ In 2005 the Competition Appeal Tribunal overturned an OFT decision on the sale of interactive betting rights by the Racecourse Association on the basis that the OFT based its decision on a ‘world that never was’ and was ‘a triumph of theory over commercial reality’.
² ComReg consultation Paper 05/47, section 1
success. In devising a strategy for regulating the Communications market, it would seem that more detailed principles for regulation and measurable objectives would greatly benefit all stakeholders and indeed ComReg itself, in understanding what is to be achieved and how.

In Section 5 ComReg sets out what its describes as ‘strategies and objectives’. However, these appear to be a list of tasks or aims (such as: ‘complete remaining market reviews’; ‘continue to promote transparent pricing’ and ‘process or access and interconnection’). It would seem that a further piece of work, which includes building these actions into an overall strategic plan based around ComReg’s core regulatory principles, is also required.

Regulatory Principles

RTÉNL would suggest, as mentioned above, that a set of core regulatory principles should be formulated to form the guiding principles for regulatory intervention and achieving objectives. A brief mission statement is not enough to facilitate certainty or the confidence of stakeholders.

ComReg should consider adopting a principle that it ensures that regulation is focused on where it is truly needed and it is removed wherever competition is effective. Such a principle would be consistent with the principle, as set out in Article 8 of the Framework Directive, of regulation only where necessary and by means of clear, stable and predictable rules. Any process of identifying the options for regulation should include that of not regulating at all. Moreover, any decision taken to select the ‘best option’ should be duly accounted for and justified.

RTÉNL believes that the broader principles for regulation should include a commitment to ensuring that all decisions and interventions are evidence-based, proportionate, consistent, accountable and, of course, transparent. ComReg does state that “it is important to review the impact of regulation to ensure that it is proportionate and justified. Some detail on how this may be reflected in guiding principles would be appropriate.

Accountability and Transparency

Accountability around decisions to regulate is paramount to good regulation and ensuring that any negative effects on consumers or on the market of any regulatory intervention are minimised.
05/47s Strategy Statement 2005 – 2007: Submissions received from respondents.

Three elements which we would argue are central to this are:

1. Assessing effectiveness - RTÉNL suggest, for example, that ComReg should include in its strategic plan a commitment to ‘continuously review effectiveness’

2. Proportionality – clarity around the means by which a decision is deemed to be proportionate would contribute to greater regulatory certainty in the industry. It is not clear from material produced by ComReg thus far whether there is any systematic approach to assessing proportionality. Given that any regulatory intervention could be deemed to be ‘proportionate’ in any number of ways, for example: in respect of similar decisions taken by regulatory counterparts in other EU Member states; or proportionate in terms of the wider benefits to a sector or market; or proportionate in respect of the burden already imposed on any regulated entity.

3. Impact assessment - a more ‘dynamic’ Regulatory Impact Assessment exercise should be introduced which runs throughout the consultation process of imposing obligations and not simply an add-on at the end. Regulators could make better use of impact assessments as part of their considerations about whether and how to regulate. The current text simply says - ‘carry out impact analyses where warranted’.

RTÉ provides comments below on the specific questions raised in the paper.

Question 1
Do you agree with ComReg’s analysis of the external Market and legislative developments? Are there other key short term developments that ComReg needs to consider?

RTÉNL would like to explore the meaning of Section 3 Environmental Analysis. Under section 3.1.2 which describes the Broadcast Transmission Networks, the text currently reads:

"Given that Cable networks pass almost 80% of Irish households, a renewed appetite for investment in national analogue terrestrial broadcasting for the sector in the next 2 years may help spur continued roll-out and take up of broadband.”
This statement does not seem to make sense. It is right the cable coverage is almost 80%. National analogue terrestrial broadcasting will, however, never be able to deliver or enhance take up of broadband, nor is it likely to see any new investment over the next 2 years. In fact it is this technological limitation to the analogue transmission network which makes it all the more vulnerable to increasing competitive pressures posed by other delivery networks such as cable. The analogue terrestrial transmission market is a market which is diminishing and which will be overtaken by alternative digital delivery means or may be converted, if the right environment for investment unfolds, into a digital broadcast service.

Under section 3.2.2 Legislative Framework for Spectrum Management, RTÉNL agrees with the points referred to and would suggest adding a reference to the spectrum right of use for Services of General Economic Interest, i.e. those which have public interest objectives such as public service broadcasting, which forms an integral part of National Spectrum Policy.

Question 2

Do you consider that ComReg provides sufficient opportunities for stakeholders’ views to be heard? If not then how would we improve? Are there other key stakeholders that ComReg should consider?

As mentioned earlier in our response, RTÉNL believes that regular interaction and genuine consultation with stakeholders and understanding of the fast changing communications industry is paramount. Perhaps there are additional ways of keeping abreast of market developments and keeping in close contact with stakeholders to understand their business and their priorities.

Given that regulation can encompass a number of professional disciplines – such as competition, economics, accountancy and public policy - it would be in the long term interests of stakeholders and the regulator if ComReg would engage at the outset with the relevant institutes, bodies and associations³.

This would ensure that regulated entities, such as RTÉNL, are struggling to maintain compliance with regulations in multiple areas which may take conflicting approaches.

Question 3

³ In section 2.3.4 of consultation paper 05/49 ComReg states that it believes that “assurance as to the reliability and relevance of the (regulatory) financial information can only be provided adequately by a rigorous audit” and that “the regulatory auditor should be fully satisfactory to ComReg at all times”. On this basis, if the regulatory financial information is seen by ComReg as very important in enabling it to fulfil its function, should the professional accountancy bodies, whose members will be opining on the regulatory financial statements, and who regulate the conduct of their members, not be listed as stakeholders. Similarly, the accountancy bodies are likely to be asked by their members for some guidance on the principles preparation of regulatory financial information]
ComReg is proposing to revise its mission statement and its core values to reflect changes in both the market and ComReg’s regulatory duties. Do you think that the revised mission statement and values set out above are appropriate?

RTÉNL supports ComReg’s proposal to revisit and if necessary revise its mission statement and values. RTÉNL would suggest, as mentioned earlier in this response, that introducing a set of regulatory principles might provide more information and guidance as to how the regulator might approach and achieve its aims. The mission statement and five core values seem fine in so far as they go but need to be supplemented as they are too vague to provide any real statement of commitment. If ComReg added more precise guiding principles there would be greater certainty of the approach that ComReg abides by.

Question 4

Do you agree with the objectives and strategies set out above? Are there additional objectives that ComReg should agree?

RTÉNL refers to comments made at the beginning of this response under the headings Research, strategic Approach, Regulatory Principles and Accountability. In particular:

In ComReg’s Section: Markets
“Carry out Regulatory Impact Analyses where warranted to ensure that undue regulatory burdens are not imposed on the industry”

RTÉNL would suggest that better use is made of the Impact Assessment and that as a matter of principle that RIAs are incorporated at all times into any consideration of regulatory intervention. The methodologies for such an RIA should be tailored to any potential regulated entity.

Secondly, also in Section: Markets
“Consider within the context of the regulatory framework the appropriateness of the markets already defined and whether there are other markets where intervention may be warranted”

RTÉNL would suggest that ComReg also include the principle that there may be markets where regulation is no longer necessary and regulatory obligations may be removed.

Thirdly, Digital Services Strategic Review. RTÉNL notes ComReg’s intention to conduct a strategic review of digital services. RTÉ, as a public service broadcaster,
though not a client of ComReg per se, has a particular interest in seeing the development of digital free to air services, given its own public interest and universal service obligations. RTÉNL, and indeed RTÉ, look forward to participating in this review.

RTÉNL understands there may be further opportunities for discussion and exchange on these strategic issues. We look forward to further engagement with ComReg.

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05/47s Strategy Statement 2005 – 2007: Submissions received from respondents.

**Vodafone**

12. Respondent L
Vodafone response to the ComReg Consultation on the
Introduction

Vodafone appreciates this opportunity to provide feedback on ComReg’s Strategy Statement for the period 2005-2007. The strategy statement has many positive aspects and provides welcome clarity on ComReg’s objectives and intentions for the electronic communications market in the short term. Vodafone does however wish to raise a number of issues and concerns arising from the consultation document and these are set out below. ComReg must give serious consideration to these comments in drafting the final strategy statement.

Consultation Questions

Q1. Do you agree with ComReg’s analysis of the external market and legislative environments? Are there other key short term developments that ComReg needs to consider? While in broad agreement with much of ComReg’s analysis of the market and legislative environments, Vodafone wishes to address a key shortcoming in ComReg’s analysis of price trends in the electronic communications sector. Vodafone would also draw ComReg’s attention to a number of fundamentally important market developments, outlined below, that have occurred in the period since the consultation document was published. These developments cannot be excluded from the analysis of the market environment to 2007 and Vodafone trusts that having now made ComReg aware of these they will be incorporated into the analysis section in the final version of the Strategy Statement. Vodafone strongly disagrees with ComReg’s statement in section 3.1.2. that prices in certain segments of the mobile market have remained stubbornly high. Vodafone contends that not only is the evidence in terms of the evolution of mobile prices across market segments inconsistent with ComReg’s analysis, the statement is logically flawed and demonstrates a basic misunderstanding of the economic theory of markets. Taking ComReg’s statement on its own terms, it follows from the conclusion that prices have remained high in certain segments of the mobile market that they are not high in other market segments. The term ‘high’ is subjective and high prices do not present any concern where the ‘high’ price is in fact at the effectively competitive level. It is reasonable to assume that ComReg is therefore asserting that prices in certain mobile segments are high in terms of being above competitive levels while in other segments they are at or close to competitive levels. But this conclusion cannot be correct given that all the segments referred to are part of a single mobile market and it is not therefore possible to profitably set prices for one or more segments significantly above competitive levels while prices for other market segments are at competitive levels. In the hypothetical case where prices in all segments were initially set by an operator above effectively competitive levels, reflecting a lack of competitive pressures, and prices in some segments, for example the pre-paid segments, were subsequently reduced by the operator in response to heightened competition in those segments, the operator’s customers would substitute away from the segments characterised by uncompetitive prices and toward the competitively priced pre-paid segments in sufficient numbers to render this pricing strategy unsustainable. It is not therefore
possible for certain market segments to be competitive and others to be
characterised by a lack of competition and corresponding high prices, by the very
fact that various segments are all in the one market. ComReg’s conclusion is
therefore untenable and should not be included in the final strategy statement.
Vodafone believes that a number of highly significant developments that have
occurred in the mobile market in the period since ComReg’s consultation
document was issued need to be considered in ComReg’s market analysis.

These include:
1. The entry of ‘3’ into the Irish mobile market
2. The purchase of Meteor by eircom
3. The formal expressions of interest in the remaining unallocated 3G licence

The above developments will further intensify the already robust competition in
the Irish mobile market. These developments should not merely be noted in the
text of the section covering the mobile market in the final strategy statement as
they have a material impact on both the assessment of prospective competitive
conditions and on future trends in the market. ‘3’, which launched in the mobile
market in July, will constitute a credible competitor that will further intensify
existing competitive pressures. This is particularly true with regard to subscribers
in the post-paid segment, where ‘3’ has focused from the outset. The certainty of
a MVNO entrant on ‘3’s network as a result of the licence requirement to
negotiate an access agreement should also be considered in ComReg’s
analysis. The re-entry of eircom into the mobile market through its purchase of
Meteor is another event of critical importance given the likely implications for the
advent of fixed-mobile convergence services in the Irish market and the
competitive pressures that this would produce. The formal expressions of interest
by 3 operators in the remaining 3G licence, and the consequent likelihood of a
requirement for a comparative selection procedure to assign the remaining
licence, are also notable in indicating the feasibility of further infrastructure based
competition in the Irish market. Vodafone contends that these developments are
in fact of such magnitude for prospective competitive conditions that it is
imperative that ComReg carry out a new analysis of the market for wholesale
mobile access and call origination. Vodafone believes that such an analysis
could only conclude that this market is effectively competitive, requiring the
withdrawal of the regulatory obligations that are currently in place.

Q2. Do you consider that ComReg provides sufficient opportunities for
stakeholders’ views to be heard? If not then how could we improve? Are there
other key stakeholders that ComReg needs to consider?

Vodafone believes that ComReg should provide more visibility in terms of the
initiatives and consultations in its work programme. While it is recognised that
ComReg’s published work programme cannot be expected to encompass all the
issues that may arise during a 12 month period, Vodafone would request that ComReg update the work programme more regularly. This would provide more notice to interested parties of when consultation documents are to be published and when other issues are to be dealt with through work-shops and industry forums. It would also allow stakeholders to plan more effectively so as to ensure that resources are available to engage fully with ComReg at all times. Vodafone also believes that there should be a formal opportunity to discuss responses prior to the issuing of a draft decision. This would increase transparency and the integrity of the consultation process. Specifically, Vodafone would recommend:

(a) One to one meetings between ComReg and respondents where requested
(b) An industry forum to discuss responses
(c) An industry forum subsequent to the publication of the draft decision

One to one meetings would provide the opportunity to clarify the interpretation of key issues by both parties. An industry forum prior to the determination of a decision by ComReg would allow respondents to have an input into ComReg’s decision making process. This would more effectively achieve the requirement for ComReg to fully consult with parties affected by regulatory decisions. An industry forum subsequent to publication would allow respondents to convey their detailed views on the decision. These steps would provide assurance to respondents that their views are taken on board by ComReg at all stages.

Q3. ComReg is proposing to revise its mission statement and its core values to reflect changes in both the market and ComReg’s regulatory duties. Do you think the revised mission statement and values set out above are appropriate?

Yes, Vodafone believes that the revised mission statement is appropriate. Vodafone also welcomes the addition of transparency as a value underpinning the mission statement and would request that this principle inform all aspects of ComReg’s work. In particular, in carrying out regulatory impact assessments when assessing the regulatory remedies to be imposed in markets ComReg should improve transparency in terms of the assumptions and quantitative estimates used in determining whether regulation, or particular regulatory remedies are proportionate, justified, and the minimum necessary to deal with identified competition problems in a market.

Q4. Do you agree with the objectives and strategies set out above? Are there additional objectives that ComReg should agree?

Vodafone agrees with ComReg that the promotion of competition is an important component of regulation but believes that this objective should be qualified by consideration of a number of relevant factors. In the first instance it is important to underline that the promotion of competition should not be pursued for its own
sake, but for the desirable outcomes produced by the competitive process in terms of maximising productive and allocative efficiency. An important distinction must be made between the efficient and sustainable competition that characterises effectively competitive markets, which ComReg should seek to simulate in markets where competition problems are identified, and the artificial or inefficient competition that may occur due to misconceived or poorly designed regulatory intervention. For example if MNOs are required to grant access to MVNOs at an access price set below that which allows the network operator to recover the full costs of providing that access then the network operator would be placed at an artificial disadvantage to entrants and the incentives for network investment and innovation would be reduced. ‘Competition’ on this basis would actually harm dynamic efficiency in the market. By attracting entrants that would not be viable if required to pay the efficient access price, this form of competition could also not be characterised as sustainable. Other regulatory measures aimed at promoting competition that had the practical effect of conferring artificial competitive advantages on some market players at the expense of others would be similarly damaging to efficiency and therefore unjustified. Consequently there is a requirement for ComReg to frame the objective in terms of promoting sustainable/efficient competition.

Vodafone is seriously concerned by the wording of the second strategy under the ‘access’ heading in section 5.1 and believes that this must be amended. This reads:

“Encourage virtual or indirect access to both fixed and mobile networks at cost-oriented prices, which both guarantee a viable rate of return to the network operator and provide a sustainable margin for the virtual network operator.”

Vodafone’s comments are without prejudice to matters that are currently the subject of appeal proceedings. Even in cases where cost oriented access to operator’s fixed or mobile networks could be justified by the existence of specific competition problems, the strategy above is framed in an entirely inappropriate manner. Vodafone would recommend that the strategy be modified to read:

“Encourage virtual or indirect access to both fixed and mobile networks at cost-oriented prices that guarantee a viable rate of return to the network operator.”

This amendment is warranted as it should not be ComReg’s concern, nor does it have a legal mandate, to ensure that any or all prospective virtual operators are guaranteed a sustainable margin. The access price should be set at the cost-oriented rate, taking account of all the costs including a viable rate of return to the MNO. In this case those access seekers whose operations are efficient - who can earn an adequate margin given the cost oriented access price – will enter the market. Those prospective MVNOs who cannot earn a sustainable margin at the cost oriented rate will not enter and the absence of these inefficient operators from the market will not in any way be to the detriment of consumers. It is important that ComReg should avoid conveying the impression that it would seek
to guarantee a sustainable margin to every virtual operator irrespective of the efficiency of its underlying operations. The reference to providing a sustainable margin to virtual operators should therefore be omitted from the wording of the strategy, as in the proposed amendment above. Vodafone contends that the fourth strategy under the ‘markets’ heading, relating to indirect access wholesale products, should also be amended to remove any reference to allowing for a sustainable margin for indirect access operators. If wholesale indirect access products are competitively priced then efficient indirect access service providers should be able to earn a normal profit in the market. While Vodafone agrees with ComReg’s objective of maximising consumer welfare, as set out in section 5.2, ComReg must clarify that the objective is to maximise consumer welfare over time. This is important because there may well be a conflict between maximising consumer welfare or surplus in the current period, and the maximisation of consumer surplus over the long run. For example if regulatory measures resulted in prices being driven down below the level that covers all costs including the required return on capital then consumers would certainly benefit in the present period. However, the incentives for operators to invest and innovate in this situation would be reduced and in the dynamic mobile communications market this would be to the detriment of consumers in the long run in terms of delays to, or the absence of, necessary network investment and the introduction of innovative new communications services.
13. Respondent M

Hi,
I would like to begin by thanking you on the many improvements brought to the "tel-co" industry by your group and incourage you in your continued quest to bring the incredible world of broadband to the average consumer. As a step-on from the above I would like to inquire, is there any plans or initives (to/from Eircom)in the pipeline to improve the quality of the phone cable from certain exchange to certain homes (the so called last mile), as this is still a final hurdle for so of us still in "dial-up-country", to get broadband.

Thank you for your time,
David.

14. Respondent N

Q. 1. Do you agree with ComReg's analysis of the external market and legislative environments? Are there other key short term developments that ComReg needs to consider?

I think that Comreg's assessment of the market situation is fundamentally wrong.

The single major affecting the market is still Broadband availability, or the lack of it to be more precise. Eircom consistently make false claims of "90% coverage" - this is totally misleading as less than 60% of people can actually get Broadband; unfortunately, Comreg seem not challenge these statements and at times even seem to support them. Comreg also seem to be falling into the trap of starting to blame lack of demand rather than availability - what is the point in trying to stimulate demand if the product cannot be got?

Whilst there have been welcome new developments in the industry regarding more providers and reduced prices, these are only of benefit to the less than 60% who can already get Broadband, the other 40% plus seem to be forgotten about.

Ireland's dismal performance in international comparison tables shows no sign whatsoever of any improvement.

Comreg's legislative powers are increasingly seen as a farce.

Q. 2. Do you consider that ComReg provides sufficient opportunities for stakeholders' views to be heard? If not then how could we improve? Are there other key stakeholders that ComReg needs to consider?
The views of the Telco's and the Government are well represented but Comreg need to have more direct interaction with consumers. Committees like the Consumer Panel and the National Consumer Agency are too divorced from the problems that consumers face day to day.

Q. 3. ComReg is proposing to revise its mission statement and its core values to reflect changes in both the market and ComReg's regulatory duties. Do you think the revised mission statement and values set out above are appropriate?

The mission statement is fine as a statement but it means little in practice unless Comreg are given and exercise the legislative powers to make things actually happen.

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Martin Harran

15. Respondent O

Q4.

The strategy statement incorrectly identifies competition as being the key objective. Availability of fixed line broadband access to all citizens, whether urban or rural based, should be the most important criteria. Competition should only be considered in that eventuality. Narrowband access is totally inadequate as website development assumes broadband speeds, and are now being designed as such. Excluding approximately 40% of the population from access, while concentrating attention on securing competitive pricing for the other 60% of the population is not a national strategy, it is a sectional/urban strategy. That should not be ComReg's position.

Providers should be compelled to offer a nation-wide service.

16. Respondent P

A personal response from Gareth Pelly.

Q. 1. Do you agree with ComReg's analysis of the external market and legislative environments? Are there other key short term developments that ComReg needs to consider?

I broadly agree with ComReg's analysis of the external market and legislative environments as it is based on facts that can be verified and referenced. However, there are some items I disagree with:
I disagree with the wording of the following sentence on page 8:

"In the same period ComReg estimates that more than 1 in 5 of eircom's PSTN lines was controlled by an alternative operator."

In my opinion this is an incorrect statement in the context of WLR and CPS as given by ComReg. WLR nor CPS provide the OAO with control of an eircom PSTN line, only full LLU allows an OAO to control a line and provide services on it.

I would also like to question ComReg's usage of the DSL availability figures from the OECD graph (figure 6) on page 11. The graph is titled "DSL availability in the EU" but the legend states "% coverage", It is confusing matters by interchanging "availability" and "coverage", a standard must be set. If an exchange is DSL enabled and there are 1000 lines connected to that exchange, then the coverage is 1000 lines but the availability (as per [1] below) will be on average around 770 lines. The availability figure is the one that matters not the coverage. ComReg must define once and for all that the availability figure is the standard to be used by the incumbent when promoting its ADSL service, similarly ComReg must quote the availability figure too to prevent the spread of misinformation.

[1] According to eircom's SEC filing (July 2005), "...77% of paths (1.17 million) connected to [ADSL] nodes would be capable of carrying ADSL...".

ComReg also state on page 12 that "The new EU framework for regulation of the electronic communications sector has been fully implemented in Ireland", however I would like to question whether certain aspects have been fully implemented as stated by ComReg:

- **Functional Internet Access:** still no defined data rate, which incredibly is allowing the incumbent to tell customers that they are not required to provide them with a phone line suitable for internet access.
- **Local Loop Unbundling:** legislation may exist but its success is not so apparent. Less than 2000 lines, out of approximately 2 million fixed-line telephone access channels in service, have been either fully or partially unbundled. For ComReg to state that LLU is a success in Ireland is questionable. Recent High Court proceedings successfully taken by eircom against ComReg shows that the regulator has failed to even understand the new appeals process by issuing a directive enforcement order to the incumbent while a the same directive was being appealed by them to the Appeals Panel. This error has allowed the incumbent to drag its heals even further and stifle the progression of LLU. I would also request, as a result of these delays, that ComReg puts a freeze on the time-scales for price increases in the November 2004 direction given to eircom with regard to the monthly rental for LLU. These time-scales should be reviewed in light of the incumbents failure to provide a "fit for purpose" response to Operators’ requests for the development of a number of LLU processes to support
combined ordering of LLU and Geographic Number Portability (GNP), bulk ordering of LLU and migration from other wholesale products to LLU.

Q. 2. Do you consider that ComReg provides sufficient opportunities for stakeholders' views to be heard? If not then how could we improve? Are there other key stakeholders that ComReg needs to consider?

As consumers, we look to consumer groups for information and representation in various industries and electronic communications is no different. However, there appears to be a distinct lack of representation of consumers on ComReg's recently appointed Consumer Panel particularly with regard to the notable absence of IrelandOffline. This voluntary consumer group are the de facto voice of Irish consumers in regard to broadband and other issues.

Q. 3. ComReg is proposing to revise its mission statement and its core values to reflect changes in both the market and ComReg's regulatory duties. Do you think the revised mission statement and values set out above are appropriate?

I would like to suggest that the word 'proactively' be inserted into the mission statement as follows:

"The Commission for Communications Regulation will to the extent of its powers proactively facilitate the development of a dynamic, efficient and competitive market-place for electronic communications and postal networks and services for the benefit of the Irish Community."

ComReg needs to play a more proactive role in the marketplace rather than being a regulator that reacts to events after they happen.

I agree with the values that underpin the mission statement but I suggest that an explanation of how these values will be adhered to, in the context of ComReg's role, is necessary.

Q.4. Do you agree with the objectives and strategies set out above? Are there additional objectives that ComReg should agree?

Due to time constraints, I have no response positive or negative regarding this question.
17. Respondent Q

Dear Ms. Owens,

I would like to raise a point with one key issue to me, an Irish dial-up user. This is of broadband availability, in particular DSL availability as I cannot consider satellite for VoIP, something I would use if I had the chance. I do not live in any city, though I do live near a large town and this brings me to one issue. The line distance requirements of eircom for DSL compatibility. My telephone line is 6.5 kms long, according to eircom, and therefore cannot be used for Eircom DSL. It is very frustrating for myself and thousands of others to be denied a service which is by your own admission a key part of Ireland’s technological future. The reason that it is very frustrating for these consumers is that I and others have observed that if I lived but 40 kilometres north, in Northern Ireland, I would be guaranteed a DSL service, except in extremely rare circumstances. BT have managed to provide ADSL over local loop lengths of around 10 kilometres in some cases. Why can eircom not do the same? I have yet to be told a reason for this or if the distance restriction is to be reduced in any way at all.

I also note that Comreg believe that there is DSL availability of 80% in Ireland. I am not sure whether this is 80% of population coverage, of area coverage or a % of lines capable of broadband. I think that it is necessary for Comreg to clarify the methods used in how these statistics were obtained [by the OECD], how they compare with similarly obtained figures for other countries in the OECD and if targets were set in its future strategy statement for DSL availability, e.g. 90% or 95% etc. to be achieved by eircom within set time periods of e.g. 2 years. I understand that eircom cannot be forced to comply with targets like these at this moment in time but I would like to see Comreg at least clarifying the accuracy of statistics on DSL availability and for Comreg to work with eircom on cost effective methods of extending DSL coverage such as extending line distance limits for DSL.

I want to point out one other brief, related issue: I checked the phone numbers of secondary schools in one county and, even after ensuring that I tried all available numbers for each school, the pass rate was about 70%. Considering that the vast majority of secondary schools across Ireland are in towns with a population of 1500 or greater, i.e. connected to eircom DSL-enabled exchanges, I found this figure astonishing and, to say the least, disappointing. I am sure that Comreg would take the same view on this.

Yours faithfully,
Matthew Taaffe.
Prologue
In whatever way ComReg changes its mission statement – proposed in the consultation paper – as long as the regulator delivers demonstrably false analysis of the current state of affairs and rose-tinting misinformation, intelligent regulation will not be possible.

When Citigroup’s analysts bluntly state that the regulator is unable to regulate for change in the Irish Communications market, they state the obvious. (“eircom… is effectively stymieing ComReg at every turn,” “ComReg’s inability to enforce structural change…” See quotes from the report on http://www.comwreck.com/blog_44_august10.html)

ComReg’s systemic misinformation policy in this “Strategy” document, its quarterly reports and other public statements about Ireland’s Internet and Broadband development is one of the reasons of its failure.

And there is no doubt about the complete failure with

• Irish Internet usage at a stagnant, alarmingly low 37% of households,

• Irish Broadband penetration at an alarmingly low 3.75 broadband connections per 100 inhabitants, less than half of the EU-15 average, second lowest above Greece,

• Irish Broadband growth at below average OECD levels,

• Broadband availability at an alarmingly low level of less than 60% of the population, when 90% – 100% availability is the norm all around us; 100% population cover in NI.

As long as ComReg is dishonest about these facts, progress is hindered.
One example
I highlight one example from the Strategy consultation paper, which sadly is symptomatic for ComReg’s counterproductive misinformation policy, which systemically rose-tints the situation instead of red-flagging the problems.

In March 2004 Minister Dermot Ahern directed ComReg to do all it can to achieve the goal of at least reaching the EU-15 average with regards to end-user Broadband take-up (penetration) and end-user Broadband availability by mid 2005. We know how ComReg completely failed on the goal of Broadband penetration: Ireland stagnated at second last position just above Greece; even the Broadband growth – touted as extraordinarily high by ComReg (in percentage terms from a low base!) is below the OECD average.

With regards to end-user Broadband availability ComReg substantially misinformed the DCMNR in its reports on foot of the policy directive, by claiming that Irish Broadband availability was with 70% en par with the rest of Europe.

In this “Strategy 2005-2007” paper the deliberate misinformation on Broadband availability goes on unashamedly. This is nothing short of a lie.

Instead of stating the truth about Broadband/DSL availability in Ireland, which is in strong contrast to the rest of Europe (where current DSL availability is between 90% and 100% of lines; with the exception of Greece and some of the new entrant countries) at a disastrously low level with a less then 60% of lines (and less for population) coverage, ComReg bluntly lies to the public by claiming that we had already a 78% dls availability in 2003/2004.

In other ComReg documents, like the “Forward looking Strategic review”, ComReg simply repeats the incumbent’s misinformation about DSL availability. (Page 47 “Forward looking Strategic review”): “DSL coverage in Ireland is currently around 80%.”

Just to be candid here: ComReg is in the know about our alarmingly low current broadband availability, but deliberately decides to misinform the public, the DCMNR and other decision makers about it for fear not to be seen as a failed regulator.

[The real figures are readily available from three simple sources:
1. From the incumbent’s SEC filing, where Eircom states that in 2005 only 1.17 million lines (of its 1.9 – 2 million access paths) are capable of carrying DSL.

(See page 56 of Eircom’s 2005 SEC filing:

“ADSL network We have also undertaken rollout of ADSL. As of 31 March 2005, we had 240 Alcatel ADSL sites commissioned, covering approximately 1.52 million working paths. Approximately 77% of paths (1.17 million) connected to these sites would be capable of carrying ADSL at speeds from 256 kbit/s to 512 kbit/s.”

The incumbent intentionally and cunningly misinforms the Irish public by claiming a current 80% DSL “coverage” by means of a cheap trick, counting all the lines which originate from DSL enabled exchanges as broadband lines, “forgetting” the fact that...
23% of those are not capable to carry DSL.

Correct DSL line coverage only measures the percentage of lines actually capable of carrying DSL, according to the OECD and common sense.

2. From the fact that Eircom has only enabled the exchanges of the towns in Ireland where 60% of the population live.

3. From the TIF (Telecommunications and Internet Federation) web site (http://www.tif.ie/Sectors/tif/TIFDoclib4.nsf/vLookupHTML/About_Us_Sector_Profile?Open Document), where the industry states:

“There is approximately 1.6 million telephone lines in Ireland with over 1 million of these enabled for broadband.”

While TIF’s grammar and figures are not highly accurate, the 62.5% DSL line availability/coverage (1 000 000 divided by 1 600 000 equals 62.5%) is approximately correct.

On page 11 ComReg brags that, albeit still lagging “behind a number of other countries in Europe” (sic), “DSL availability in Ireland is in and around the OECD average.” It produces this chart:

The OECD publishes data on DSL availability, which is reproduced below. The chart shows that although DSL availability in Ireland is in and around the OECD average, Ireland still lags behind a number of other countries in Europe.

The faulty caption to the graph is the only innocent part of this chart.
ComReg knows that Ireland is not “in and around the OECD average” with DSL availability, but makes this claim.

ComReg knows that Ireland had no 78% DSL availability in 2003, as the chart, which ComReg itself doctored from an erroneous OECD chart, suggests. Irish DSL availability in 2005 was below 50% of lines and is still below 60% of lines currently.

According to the OECD it was probably ComReg itself or the incumbent who supplied the OECD with the incorrect data. The previous underlying database of the OECD shows a figure of 61% for Ireland.

**Conclusion**

A regulator who is not able or willing to tell the public the truth about the failure to supply broadband to more than 60% of lines can not be trusted to implement apt regulatory policies and strategies.

Several of the deficiencies of communications regulation in Ireland are not of ComReg’s own making. But the decision to misinform the public about the facts of Internet and Broadband development is made by the regulator without outside pressure or constraints.

The public expects the regulator to inform correctly. The “guardians” of ComReg, the Oireachtas Committee on Communications, and the Department of Communications should put a stop to this damaging misinformation practice if the regulator is not willing to do so on its own.

ComReg should withdraw the incorrect Broadband availability chart from its Strategy paper and clearly state the hard truths about the level of

- DSL-broadband availability, measured in percentage of lines capable of carrying broadband,
- end-user broadband availability by all platforms,
- Irish Home Internet penetration,
- Irish end-user broadband take-up (penetration measured in numbers of broadband connections per 100 inhabitants),

all in the proper context EC and OECD figures,

so that a meaningful discussion about and intelligent decisions for our Internet and Broadband future can take place.

Regards

Peter Weigl

P.S.: See also the information I published on this issue on http://www.comwreck.com/blog_43_aug9.html