



An Coimisiún um  
**Rialáil Cumarsáide**  
Commission for  
**Communications Regulation**

# Universal Service Funding Applications 2010-2015 Update

## Information Notice

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**An Coimisiún um Rialáil Cumarsáide**  
**Commission for Communications Regulation**

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1. On 18 April 2019, following assessment of the applications received from Eircom Limited (“eir”), the Commission for Communications Regulation (“ComReg”) published the following ComReg Decisions:
  - D05/19 “Assessment of eir’s 2010-2011 Universal Service Fund Application Assessment of the net cost and unfair burden for the period 2010-2011” (“ComReg Decision D05/19”).
  - D06/19 “Assessment of eir’s 2011-2012 Universal Service Fund Application Assessment of the net cost and unfair burden for the period 2011-2012” (“ComReg Decision D06/19”).
  - D07/19 “Assessment of eir’s 2012-2013 Universal Service Fund Application Assessment of the net cost and unfair burden for the period 2012-2013” (“ComReg Decision D07/19”).
  - D08/19 “Assessment of eir’s 2013-2014 Universal Service Fund Application Assessment of the net cost and unfair burden for the period 2013-2014” (“ComReg Decision D08/19”); and
  - D09/19 “Assessment of eir’s 2014-2015 Universal Service Fund Application Assessment of the net cost and unfair burden for the period 2014-2015” (“ComReg Decision D09/19” and together “the Decisions”).
2. In each of the Decisions, ComReg determined the net cost of provision of the universal service and decided that this did not represent an unfair burden on eir in the financial year in question.
3. On 15 May 2019, eir issued an appeal in the High Court against the Decisions (High Court Commercial, Record No 2019/167 MCA).
4. Following a hearing in the Commercial Division of the High Court on 6 November 2020, the Court decided to refer a question concerning the unfair burden assessment to the Court of Justice of the European Union (“the CJEU”) for a preliminary ruling pursuant to Article 267 of the Treaty on the Functioning of the European Union. ComReg engaged fully in the process before the CJEU.
5. On 10 November 2022 the CJEU delivered its judgment. This judgment can be found at the footnoted link<sup>1</sup>.
6. On 10 July 2023, the High Court made orders which, amongst other things:
  - (i) set aside the following determinations relating to ComReg’s unfair burden

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<sup>1</sup> [EUR-Lex - 62021CJ0494 - EN - EUR-Lex \(europa.eu\)](https://eur-lex.europa.eu/eli/jo/2022/11/10/EN)

assessments: -

- (a) section 1.3 of the determination in ComReg Decision D05/19
- (b) the final paragraph of section 1.2 of the determination in ComReg Decision D06/19 (beginning “Pursuant to the calculation of the positive net cost...”)
- (c) section 1.3 of the determination in ComReg Decision D07/19
- (d) section 1.3 of the determination in ComReg Decision D08/19
- (e) section 1.3 of the determination in ComReg Decision D09/19; and

(ii) ordered that those aspects of the Decisions identified above be remitted to ComReg for review in accordance with the judgment of the CJEU delivered on 10 November 2022.

7. ComReg has commenced its review, in accordance with the aforementioned order, of the unfair burden assessments on the basis of the associated net cost determined by the Decisions.
8. ComReg will initially review the unfair burden assessment of ComReg Decision D05/19 (i.e., relating to 2010-2011). ComReg will then consult on its preliminary views, following which, ComReg will make a decision regarding the unfair burden assessment for 2010-2011. ComReg currently anticipates that it will conduct this consultation in Q4 2023 and make the decision in Q1 2024. ComReg’s Annual Action Plan will be amended to reflect this estimated timeline at the next update. ComReg intends to then review each subsequent year for which a net cost has been determined.