



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

# **National Directory Database (NDD)**

## Management and maintenance of the NDD

### **Response to Consultation 24/32 and Decision**

**Decision:** D19/24

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# 1 Executive Summary

1. The National Directory Database ("NDD") is a record of all subscribers of voice communication services in Ireland, including those with fixed, personal and mobile numbers who have not refused to be included in that record. The NDD is kept in accordance with Regulation 95 (3) of the European Electronic Communications Code Regulations 2022<sup>1</sup> (the "EECC Regulations") and Regulation 14 of the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (as amended) ("the e-Privacy Regulations").<sup>2</sup>
2. The function of the NDD is primarily to facilitate the compilation of and access to information for telephone directories and directory enquiry services. The NDD also contains the preference of subscribers in relation to the receipt of unsolicited marketing communications.
3. The Commission for Communications Regulation ("ComReg") has the power to require a person<sup>3</sup> to manage and maintain the NDD under Regulation 95 of the EECC Regulations.
4. PXS B.V. (formerly Porting Access B.V. and hereinafter "PXS") is the person that is directed by ComReg under Decision D16/18<sup>4</sup> ("D16/18"), to manage and maintain the NDD. This decision will expire on 30 June 2024, in line with ComReg Decision D06/22<sup>5</sup> ("D06/22").
5. In this Decision, ComReg has decided that from 1 July 2024 PXS is the appropriate person to manage and maintain the NDD in accordance with the Operational Specification<sup>6</sup> for a period of 3 years, unless otherwise amended by ComReg. The duration of the direction is extendable by ComReg, at its discretion, for a further period of up to 2 years, and subject to a ComReg review of the NDD measure.

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<sup>1</sup> Implementing Article 112 of the Code (Directive (EU) 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code (Recast)), S.I. No. 444 of 2022.

<sup>2</sup> The European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011. S.I. No. 336 of 2011.

<sup>3</sup> Note that where previous legislation referred to "an undertaking", the EECC Regulations refer to "a person".

<sup>4</sup> ComReg Decision D16/18 and ComReg document 18/108 Management and Maintenance of the National Directory Database | Commission for Communications Regulation (comreg.ie)

<sup>5</sup> ComReg Decision D06/22 and ComReg document 22/54 National Directory Database (NDD) Management and maintenance of the NDD Response to Consultation and Decision | Commission for Communications Regulation (comreg.ie)

<sup>6</sup> Available on the PXS website NDD - [NDD - PXS](#) – National Directory Database.

6. Absent an NDD manager there is a risk that regulatory requirements would not be met and, stakeholders might lose their legal entitlements and protections under the Regulations. If left to the operation of market forces alone, the NDD and the related rights and obligations may not be preserved.
7. In that context, ComReg, issued Information Notice 24/12<sup>7</sup> which extended an invitation to all persons who are interested in managing and maintaining the NDD to express their interest in doing so. ComReg received one expression of interest, submitted by PXS. ComReg has undertaken a full public consultation on its proposals to direct PXS to manage and maintain the NDD for a period of 3 years from 1 July 2024, having considered the expression of interest received and the likely impact on stakeholders and competition as regards requirements for the management and maintenance of the NDD.
8. ComReg is satisfied that the measure set out in this Decision will help to ensure that entitlements and protections under the Regulations will be met, and that this should not result in any significant additional costs to PXS as the manager of the NDD in receipt of licence fees, nor will the measure result in substantial end-user detriment.

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<sup>7</sup> ComReg Information Notice document 24/12 National Directory Database (NDD) – Request for Expressions of Interest for Managing and Maintaining the NDD | Commission for Communications Regulation (comreg.ie)

## 2 Background to the Decision

9. Under Regulation 95 of the EECC Regulations, ComReg has the power to require a person to manage and maintain the NDD.
10. Providers of number-based interpersonal communications services (“NBICS”) that assign numbers to subscribers must supply the NDD with the relevant subscriber information.<sup>8</sup>
11. Pursuant to D16/18, PXS manages and maintains the NDD. This direction will expire on 30 June 2024, in line with D06/22.
12. The NDD must be managed and maintained in accordance with the relevant provisions of the EECC Regulations and the e-Privacy Regulations.
13. In accordance with D16/18,<sup>9</sup> the NDD is managed and maintained in accordance with:
  - The Operational Specification agreed with ComReg. This document specifies the process and all technical requirements necessary for managing and maintaining the NDD.
  - Agreed terms of access to the NDD, as approved by ComReg.<sup>10</sup>
  - Established agreements with providers of NBICS that provide data to the NDD to give effect to Regulation 95 of the EECC Regulations.
  - Established licence agreements with Directory Data Users (“DDUs”) (who can be directory service providers, directory enquiry service providers or direct marketers).
  - Back-up and security arrangements for the contents of the NDD (the data contained on the NDD is put in escrow) to ensure the security, integrity and continuity of the NDD.
  - A Joint Controllership Arrangement with ComReg for managing and maintaining the NDD in respect of data protection and associated matters.

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<sup>8</sup> In accordance with Regulation 95 (1) of the EECC Regulations.

<sup>9</sup> Pursuant to D16/18 and Clause 3 of the Decision Instrument.

<sup>10</sup> Pursuant to Regulation 95 of the EECC Regulations, the Terms of Access to the NDD shall be fair, objective, cost orientated and non-discriminatory and in accordance with the laws of Ireland and subject to the Courts of Ireland.

14. In light of the expiration of D16/18, ComReg commenced a review of the NDD measure and a possible need for management and maintenance of the NDD after 30 June 2024 (when the obligations on PXS expire).

15. The following is a summary of events leading to the publication of this Decision:

- ComReg, in considering its options in respect of the management and maintenance of the NDD after 30 June 2024, issued Information Notice 24/12 which extended an invitation to all persons who are interested in managing and maintaining the NDD to express their interest in doing so.
- ComReg received one expression of interest, submitted by PXS. As part of the expression of their interest, detailed information was provided to ComReg by PXS, such as its competence and expertise to manage and maintain the NDD, back up and security procedures, and a proposal to manage and maintain the NDD going forward.
- On 2 May 2024, ComReg published its consultation<sup>11</sup> (“Consultation 24/32”) which gave interested stakeholders the opportunity to share any views on ComReg’s proposals that PXS should be the person required to manage and maintain the NDD for a 3-to-5-year period commencing from 1 July 2024. In Consultation 22/32, ComReg gave consideration as to whether there have been any relevant developments impacting the operation of the NDD, such as in respect of market or technological changes.
- Two submissions were received in response to Consultation 24/32. We wish to thank the respondents for their submissions to Consultation 24/32. These submissions are published as ComReg document 24/56s. The two submissions were received from the following:
  - Conduit Enterprises Ltd. (“Conduit”)
  - Orange Business Telecommunications Services Limited (“Orange Business”)

16. In making this Decision, ComReg has acted in accordance with its statutory functions and obligations and has reviewed and fully considered the submissions received in response to the Consultation.

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<sup>11</sup> ComReg Consultation document 24/32 National Directory Database (“NDD”) – Proposals to Manage and Maintain the NDD | Commission for Communications Regulation (comreg.ie)

## 3 Summary of the Decision

17. The following section contains a brief summary of the reasons for ComReg's Decision. The Decision Instrument is set out in Annex 1.

### 3.1 Appropriateness of a direction and direction period

18. Having considered all issues, ComReg has decided to from 1 July 2024 direct PXS manage and maintain the NDD in accordance with the Operational Specification for a period of 3 years, unless otherwise amended by ComReg. The duration of the direction is extendable by ComReg, at its discretion, for a further period of up to 2 years, and subject to a ComReg review of the NDD measure.

19. This Decision is made in light of the following key considerations:

- PXS obligations expire on 30 June 2024. If ComReg did not direct a person to manage and maintain the NDD from 1 July 2024 end-users' legal entitlements would not be met including entitlements and protections under both the Regulations and the e-Privacy Regulations.
- Under the current Regulations, undertakings must provide up-to date information for the purposes of the NDD on a regular basis, details of subscriber preferences for listing their telephone numbers as well as unsolicited direct marketing communications preferences. Therefore, absent the NDD being in place, a number of regulatory requirements could not be guaranteed to be fulfilled by undertakings.
- The information contained on the NDD is used currently for the collation of online directories and directory enquiry services. In addition, the NDD continues to be the basis for the "opt-out" register for direct marketing purposes. Absent the NDD, direct marketing companies may not be able to access the information they require to determine who they may and may not contact under the e-Privacy Regulations. This may create legal uncertainty for stakeholders.<sup>12</sup>

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<sup>12</sup> Including: undertakings, subscribers, directory enquiry service providers, direct marketing companies, and the Data Protection Commission.



- ComReg received one expression of interest, submitted by PXS in response to Information Notice 24/12. As part of the expression of their interest, detailed information was provided to ComReg by PXS, such as its competence and expertise to manage and maintain the NDD, back up and security procedures, and a proposal to manage and maintain the NDD going forward.
- Two submissions were received in response to Consultation 24/32.
- In light of the above and the factors set out in the Consultation, and the fact that we have not received any objection to the proposal as set out in Consultation 24/32, and also having regard to the forthcoming expiration of the current direction in line with D06/22, ComReg believes that it is necessary and appropriate that it exercise its discretion and require a person to manage and maintain the NDD under Regulation 95 of the EEC Regulations.
- Having considered all relevant, ComReg has decided that PXS is required to manage and maintain the NDD. Due to its ownership of the assets and systems supporting the NDD, its operational control over the NDD and the assets and systems supporting the NDD, and because of its experience in managing and maintaining the NDD so far, ComReg is of the view that PXS has the necessary qualifications and experience to continue management and maintenance of the NDD.

## 3.2 Decision

20. Therefore, having considered the above factors and having had regard to the forthcoming expiration of the current direction on PXS to manage and maintain the NDD, it is ComReg's view that it is appropriate to direct from 1 July 2024 PXS to manage and maintain the NDD for a period of 3 years, unless otherwise amended by ComReg. The duration of the direction is extendable by ComReg, at its discretion, for a further period of up to 2 years, and subject to a ComReg review of the NDD measure, so as to:

- Keep an up-to-date and comprehensive database (NDD);
- Help ensure end user rights are preserved, as appropriate; and
- Assist industry in meeting their respective obligations, and
- to help ensure that providers of directory information services (directory enquiries and/or directories) continue to have access to the relevant information on the appropriate terms necessary to offer services.

21. In accordance with this Decision, PXS is obliged to manage and maintain the NDD in accordance with:

- The Operational Specification agreed with ComReg.<sup>13</sup> This document specifies the process and all technical requirements necessary for managing and maintaining the NDD.
- Agreed terms of access to the NDD, as approved by ComReg.<sup>14</sup>
- Established agreements with providers of NBICS that provide data to the NDD to give effect to Regulation 95 of the EECC Regulations.
- Established licence agreements with Directory Data Users (“DDUs”) (who can be directory service providers, directory enquiry service providers or direct marketers).
- Back-up and security arrangements for the contents of the NDD (the data contained on the NDD is put in escrow) to ensure the security, integrity and continuity of the NDD.
- A Joint Controllership Arrangement with ComReg for managing and maintaining the NDD in respect of data protection and associated matters.

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<sup>13</sup> Available on the PXS website NDD - [NDD - PXS](#) – National Directory Database.

<sup>14</sup> Pursuant to Regulation 95 of the EECC Regulations, the Terms of Access to the NDD shall be fair, objective, cost orientated and non-discriminatory and in accordance with the laws of Ireland and subject to the Courts of Ireland.

## 4 Respondent's views - Summary and analysis

22. In this section, ComReg considers the views of respondents and has given them due consideration in terms of its Consultation proposal and in its final Regulatory Impact Assessment ("RIA") (i.e. the possible impact on stakeholders and on competition arising from its proposal in coming to its Decision). This Response to Consultation 24/32 and Decision sets out ComReg's final position on the management and maintenance of the NDD from 1 July 2024 having considered the submissions received together with all available relevant information.

### 4.1 Need for NDD

23. As part of the Consultation, ComReg considered its obligations with regards to Regulation 95 (3) of the EECC Regulations and the e-Privacy Regulations with regards to the NDD. ComReg considered the regulatory and legal requirements if ComReg did not appoint an NDD manager.

24. The Consultation noted that the NDD is currently used for a number of purposes. It was furthermore noted that given the various functions of the NDD, ComReg was of the view it is critical that it continues to be maintained in its current form. Absent the NDD being in place, a number of regulatory requirements could not be fulfilled by NBICS providers and stakeholders might lose their legal entitlements and protections under the Regulations.

25. In that context, ComReg was of the preliminary view that it was appropriate to require a person to manage and maintain the NDD under Regulation 95 of the EECC Regulations after 30 June 2024 (when the obligation expires on the current NDD manager). Requiring a person to manage and maintain the NDD would help ensure end-user rights are preserved. It would have a positive impact on the industry where the NDD assists them in meeting their respective obligations, as set out in the RIA analysis.

26. In the Consultation ComReg asked the views of respondents to the following two questions:

Q. 1 Do you agree that there is a need for the NDD?

Q. 2 Do you agree that ComReg should require a person pursuant to Regulation 95 of the EECC Regulations, to manage and maintain the NDD from 1 July 2024? Please provide detailed reasons and supporting evidence for your view.

### 4.1.1 Respondents Views

27. In its response, Conduit agreed that there is a continued need for the NDD citing *“regulatory requirements cannot be fulfilled without the NDD, subscribers might lose some of their legal entitlements without the NDD, there will be a continued demand to access directory services information contained in the NDD over the coming years.”*
28. Conduit stated that *“Despite the continual development of smart phone technology over many years, and the wide availability of internet access in today’s society, 11850 continues to retain a good foothold in the directory enquiries market and we expect this to continue. We still believe that there is an ongoing / future need for customers to have access to a directory enquiries voice service providing phone numbers which customers may not easily find on the internet or are required in a hurry.”*
29. Furthermore, Conduit highlighted that *“Having the ability to offer residential phone numbers to callers of 11850 is an essential part of Conduit’s service offering. Therefore, it is imperative that Conduit, and other directory enquiries providers, have access to a credible source of residential phone numbers in order to meet customer needs.”*
30. Conduit also outlined that *“removing the NDD would have a detrimental impact on both customers and directory enquiries service providers for the following reasons:*
- *Customers will incur costs for calling a service which cannot offer them a residential search. This in turn creates an unacceptable customer experience that is likely to result in customers not calling directory enquiries services when in need of a future number.*
  - *Customer complaints and refunds will increase as customers require refunds for a service which cannot be fulfilled.*
  - *Customers will struggle to locate an alternative credible source for finding this information.*
  - *The service offering of directory enquiries providers will be compromised as customers would need to be informed that residential numbers are no longer available.*
  - *Reduced calls from customers who no longer call for residential listings may accelerate the decline of the directory enquiries market.*

- *As acknowledged within ComReg’s RIA, directory enquiries providers would need to consider their retail pricing and service operations in the absence of residential listings. Any decisions arising from these reviews would negatively impact customers who would possibly need to pay a higher price for accessing directory enquiries or have a reduced service offering which does not meet their expectations.*
  - *To mitigate calls for residential phone numbers, directory enquiries providers may need to inform customers of the change in service offering. This will incur a cost that may have to be factored into business models.”*
31. Conduit agreed that ComReg “*should require a person pursuant to Regulation 95 of the EECC Regulations, to manage and maintain the NDD from 1 July 2024. ”*
32. Orange Business noted that “*In respect of the market Orange Business addresses, which is the B2B market, we see more and more electronic service providers divesting national enquiry short-code numbers, at the same time end-users information searches is often conducted online by means of web browsers. Therefore, we are of the view that the need to operate a NDD for the purpose of directory enquiry services is not a prerequisite in our target market.”*
33. Orange Business agreed that ComReg should require a person to manage and maintain the NDD “*provided the outcome of the stakeholders’ consultation confirms ComReg’s assessment that there is a need to manage and maintain an NDD going forward.”*

#### **4.1.2 ComReg’s Position**

34. ComReg notes that Conduit is in broad agreement with its proposals, while noting that Orange Business submits “the need to operate a NDD for the purpose of directory enquiry services is not a prerequisite in their target market.”

35. Having considered the various functions and requirements of the NDD, in the Consultation and having fully considered respondents submissions and taking views into account, ComReg considers there is a continued need for the NDD after 30 June 2024. In this context, ComReg is of the view that it is appropriate at this stage that the NDD continues to exist. As set out in its Consultation and above, absent the NDD being in place, a number of regulatory requirements could not be fulfilled by NBICS providers, and subscribers might lose some of their legal entitlements. Conduit's response supports this, outlining that residential phone users still require the NDD to prevent unsolicited communications. While noting that Orange Business does not believe the NDD is a prerequisite for its target market, this is not the case for all markets.
36. Having regard to its statutory objectives and the Regulations, having carefully considered the submissions received in response to Consultation 24/32, and having taken the views of the respondents into account, ComReg has decided that it is necessary, appropriate and proportionate to have an NDD and to direct under the Regulations a person to manage and maintain the NDD after 30 June 2024 when the current direction expires.

## 4.2 Relevant Person

37. As noted above, in response to Information Notice 24/12, PXS was the only undertaking to express an interest in managing and maintaining the NDD. In section 3.2.2 of its Consultation, ComReg set out its detailed assessment of PXS's proposal as set out in the expression of interest, under the following headings:
- Expertise
  - Technical Requirements
  - Back-up and Security Requirements
  - Prices, Costs and Revenues
  - Agreements
38. Having regard to all information available to it, ComReg's preliminary view was that there is a continued need for the NDD. Further having considered PXS' current role as NDD manager, the expression of interest, as well as the factors in sections 3.3.1 and 3.3.2 of the Consultation, ComReg set out its preliminary view that it would be appropriate and proportionate to require PXS, pursuant to Regulations 95 (3) of the EECC Regulations, to manage and maintain the NDD from 1 July 2024.

39. In the Consultation ComReg asked the views of respondents to the following question:

Q. 3 Do you agree that PXS, as the sole person who expressed an interest in managing and maintaining the NDD, should be required, pursuant to Regulation 95 of the EECC Regulations, to do so? Please provide detailed reasons and supporting evidence

#### 4.2.1 Respondents Views

40. Conduit noted that *“based on the information provided by Comreg within this consultation, Conduit is of the opinion that PXS is the logical choice as the undertaking responsible for managing and maintaining the NDD.”*

41. Orange Business noted that they *“agree that PXS be retained to manage and maintain the NDD based on this company’s expertise in providing such service.”*

#### 4.2.2 ComReg’s Position

42. ComReg notes the broad agreement of respondents that PXS should be the person directed to manage and maintain the NDD (beyond the expiry of the current direction on 30 June 2024).

43. Having considered all of the information provided as part of the expression of interest, having considered the submissions made and taken respondent’s views into account, ComReg maintains its preliminary view that PXS has sufficient relevant technical competence and expertise in managing and maintaining the NDD on a fair, objective, cost-orientated and non-discriminatory basis. In that context, having regard to its statutory objectives and the Regulations, ComReg has decided that PXS is the appropriate person to manage and maintain the NDD in Ireland.

44. Requiring PXS to manage and maintain the NDD ensures, amongst other things:

- stakeholders legal entitlements and protections under the Regulations in terms of directories /directory enquiry services;
- that an up-to-date and comprehensive database (NDD) containing telephone directory information in relation to all listed telephone numbers is kept;
- that providers of directory information services continue to have access to the information necessary to offer those services on the appropriate terms; and

- that the NDD continues to be the basis for the operation of the “opt-out” register for direct marketing purposes.

### 4.3 Relevant Time period

45. ComReg, in its Consultation, set out its analysis of the factors considered when determining the duration of an NDD direction. ComReg’s preliminary view considered that it would be appropriate and proportionate that PXS would manage and maintain the NDD for a 3-to-5-year period commencing from 1 July 2024. The Consultation set out that ComReg may be caused to review or may amend the NDD measure should a significant development occur which impacts the operation of the NDD. Other stakeholders being impacted by developments in the market may also call for a review of the NDD measure should they have an evidenced cause for a change in the management and maintenance of the NDD.

46. In the Consultation ComReg asked the views of respondents to the following question:

Q. 4 In your view is 3 to 5 years, the most appropriate time period for this direction? Please provide detailed reasons and supporting evidence for your view.

#### 4.3.1 Respondents Views

47. Conduit noted that *“based on the information provided by Comreg within this consultation, Conduit is of the opinion that a longer timescale of 3 – 5 years is the most appropriate time period for this direction to provide stability and certainty to users of the NDD.”*

48. Orange Business outlined that *“Provided respondents are in favor to keep a NDD, and considering our answer to Q.1, Orange Business is of the view that the situation must be re-evaluated in 3 years-time to either review the service proposed, or the designated company.”*

#### 4.3.2 ComReg’s Position

49. ComReg notes that one respondent supports a longer timescale of 3 to 5 years for the direction; the other respondent submitted that the situation must be re-evaluated at the 3 years mark.



50. The Consultation set out that, on the one hand, a shorter duration may be beneficial where a number of persons have expressed an interest in managing and maintaining the NDD or where the regulatory environment is uncertain. In this case, neither of these situations has occurred. On the other hand, the Consultation set out that a longer duration may give greater certainty to stakeholders and potentially less systems and process changes for stakeholders that interact with the NDD and therefore possibly a more stable environment. ComReg notes that Conduit has cited the stability and certainty provided by having a longer timescale.
51. ComReg notes that Orange Business' preference for an evaluation of the NDD measure after 3 years. In its Consultation, ComReg set out that it is not aware of any significant market or technological developments that would change the analysis as regards the continued need for the NDD at this stage. However, ComReg notes possible future technological changes, evolution of the regulatory framework and other associated legislative provisions. Amongst other things, such developments may or may not impact the operation of the NDD. ComReg considers it appropriate and proportionate to make provision for a review of the NDD measure.
52. Having regard to the considerations set out in the Consultation and above, the submissions received and having taken respondent's views into account, ComReg has decided that, on balance, PXS will manage and maintain the NDD for a period of 3 years commencing 1 July 2024. The duration of the direction is extendable by ComReg, at its discretion, for a further period of up to 2 years, and subject to a ComReg review of the NDD measure. It is envisaged the review would consider, amongst other things, as to whether there have been any technological, legislative or other such changes that may impact the operation of the NDD over the period of the direction. ComReg will issue a publication regarding the outcome of a review of the NDD measure. As part of the review, ComReg will consider any matters that may be raised by stakeholders in terms of the operation of the NDD.

#### 4.4 Draft Regulatory Impact Assessment (RIA)

53. Following the RIA guidelines,<sup>15</sup> European and international best practice, the Consultation included a draft assessment of the likely impact upon stakeholders and competition of the relevant regulatory options as regards the management and maintenance of the NDD from 1 July 2024.

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<sup>15</sup> ComReg, "Guidelines on ComReg's Approach to Regulatory Impact Assessment", ComReg Document 07/56a, 10 August 2007 (the "RIA Guidelines").

54. As set out in its Consultation, the draft RIA analysis considered two regulatory options available to ComReg as follows:

- Option 1: Allow D16/18 to lapse on 30 June 2024 and do not require a person to manage and maintain the NDD from 1 July 2024.
- Option 2: Require an NDD manager to manage and maintain the NDD for a period of 3 to 5 years from 1 July 2024.

55. ComReg assessed the options and their respective impacts for consumers, service providers as well as for competition. This included an assessment of the potential costs and benefits of each option, the potential net welfare among other key factors.

56. Having regard to the draft RIA analysis, the Consultation proposed the preferred regulatory approach was to have an NDD in place and to have a person manage and maintain the NDD. The draft RIA analysis set out that the continued management and maintenance of the NDD after 30 June 2024 was imperative to ensure that entitlements and protections under the Regulations are met. The proposed regulatory approach, option 2, was selected by ComReg, subject to the Consultation, to ensure the interests of consumers, service providers and other users of the NDD are upheld.

57. In the Consultation ComReg asked the views of respondents to the following question:

Q. 5 Do you agree with ComReg's draft assessment of the impact of the proposed options? Please provide detailed reasons and supporting evidence for your view.

#### 4.4.1 Respondents Views

58. Conduit noted that it *“agrees with ComReg’s draft assessment for the reasons laid out by Comreg in paragraphs 104 – 108 of section 4.5 ‘Assess the impacts and choose the best option.’”*

59. Orange Business answered “Yes” to this question.

#### 4.4.2 ComReg’s Position

60. ComReg notes the respondent’s broad agreement with the draft RIA as contained in the Consultation. Following the Consultation, therefore, ComReg’s view is that the RIA analysis as set out in Consultation 24/32, section 4, remains relevant. ComReg’s final RIA is set out in section 5 below.

## 4.5 Draft Decision Instrument

61. The consultation included a Draft Decision Instrument at Annex 1.

62. In the Consultation ComReg asked the views of respondents to the following question:

Q. 6 Do you agree with the terms of ComReg's draft Decision Instrument? Please provide detailed reasons and supporting evidence for your view.

### 4.5.1 Respondents Views

63. Conduit noted that it "agrees with the terms of ComReg's draft Decision Instrument. It is fair and the approach to the management and maintenance of the NDD is secure for the foreseeable future which is positive to both subscribers of the NDD and all its users."

64. Orange Business answered "Yes" to this question.

### 4.5.2 ComReg's Position

65. ComReg notes the respondent's broad agreement with the draft Decision Instrument as contained in Consultation 24/32.

66. Having regard to its statutory objectives and the Regulations, having carefully considered the submissions received in response to Consultation 24/32, and having taken the views of the respondents into account, ComReg has decided that it is necessary, appropriate and proportionate to have an NDD and to direct under the EECC Regulations from 1 July 2024 PXS to manage and maintain the NDD for a period of 3 years, unless otherwise amended by ComReg. The duration of the direction is extendable by ComReg, at its discretion, for a further period of up to 2 years, and subject to a ComReg review of the NDD measure. The final Decision Instrument is set out in Annex 1.

## 5 Final Regulatory Impact Assessment

### 5.1 Introduction

68. The analysis presented in this section represents ComReg's final RIA. It sets out ComReg's conclusions of the likely effect upon stakeholders and competition, of having in place an NDD, and of ComReg exercising its powers to direct a manager of the NDD, and of imposing any associated requirements.
69. The purpose of this RIA is to assess the likely impact upon stakeholders and competition of options as regards the management and maintenance of the NDD beyond the current Decision, D16/18.
70. ComReg's aim in conducting its RIA is to ensure that any specific obligations imposed are appropriate, proportionate and justified in light of the analysis conducted, having regard to our functions and objectives under the Communications Regulation Act 2002 (as amended), and having regard to its objectives for the NDD (primarily that end-user rights are preserved and keeping an up-to-date and comprehensive NDD) while also taking into account the principle of proportionality.<sup>16</sup> The purpose of the RIA is to establish whether regulation is actually necessary, to identify any possible negative effects which might result from imposing a regulatory obligation and to consider any alternatives.
71. Consistent with the RIA Guidelines,<sup>17</sup> ComReg's final RIA considers the effect of regulation along with a consideration of the scope of the various options open to ComReg in respect of the NDD. Therefore, ComReg, in conducting this final RIA, takes full account of its statutory functions and obligations.
72. ComReg has carefully considered in section 4 the submissions received on its proposals including the draft RIA.
73. Having regard to all available evidence collated during the consultation process, including, the submissions received in response to Consultation 24/32, and ComReg's statutory objectives, the following sets out ComReg's final RIA in relation to requirements for managing and maintaining the NDD. This final RIA sets out the 5 steps set out in the RIA Guidelines for conducting RIA's as follows:

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<sup>16</sup> Regulation 4(4) of SI 444 of 2022.

<sup>17</sup> ComReg, "Guidelines on ComReg's Approach to Regulatory Impact Assessment", ComReg Document 07/56a, 10 August 2007 (the "RIA Guidelines").

## 5.2 Step 1 Describe the policy issues and identify the objectives

74. Under the e-Privacy Regulations, NBICS providers must provide up-to date information to the NDD and details of subscriber preferences for listing their telephone numbers as well as their telemarketing preferences.
75. The NDD is a record of all subscribers of voice communication services in Ireland who have not refused to have their details recorded in that record. It includes both home phone and mobile phone numbers.
76. The function of the NDD is primarily to facilitate the compilation of and access to information for telephone directories and directory enquiry services. In accordance with the e-Privacy Regulations, the NDD continues to be the basis for the operation of the “opt-out” register for direct marketing purposes.
77. The e-Privacy Regulations require that all NBICS providers record a subscriber’s telephone number in the NDD “do not call register” if the customer does not consent to unsolicited calls. Consumers can opt-out of direct marketing by asking their telecoms service provider to place their number on the “do not call register.” Fixed line ex-directory numbers must be placed automatically on the “do not call register” by undertakings. Additionally, Regulation 13(6) of the e-Privacy Regulations automatically precludes unsolicited calls to mobile numbers and as such these numbers are already “opted out” by default. Therefore, the NDD is used as a direct marketing “opt-out” register, and is the mechanism used for collating the “do not call register” for the purpose of the e-Privacy Regulations.
78. In this context, the NDD is an important and convenient resource for DISPs (directories or directory enquiry services) and direct marketing companies.

79. Having regard to its statutory objectives<sup>18</sup> and its functions under the EECC Regulations, ComReg's concern is that, if left to the operation of market forces alone, the NDD may not be guaranteed. ComReg's objective in requiring a manager of the NDD is to help ensure stakeholders legal entitlements and protections under the Regulations in terms of directories /directory enquiry services; that an up-to-date and comprehensive database (NDD) containing telephone directory information in relation to all listed telephone numbers is kept; that providers of directory information services continue to have access to the information necessary to offer those services on the appropriate terms; and that the NDD continues to be the basis for the operation of the "opt-out" register for direct marketing purposes, as relevant.

80. Regulation 95 of the EECC Regulations allows ComReg to require a person to manage and maintain the NDD.

### 5.3 Step 2 Identify and Describe the Regulatory Options

81. As set out in Consultation 24/32, ComReg recognises that any regulatory measure should be kept to the minimum necessary whilst ensuring the needs of industry, end-users and subscribers of voice communications services are met. In Consultation 24/32 ComReg considered there are two regulatory options available to it as follows:

**Option 1:** Allow D16/18 to lapse on 30 June 2024 and do not require a person to manage and maintain the NDD from 1 July 2024.

**Option 2:** Require an NDD manager to manage and maintain the NDD for a period of 3 to 5 years from 1 July 2024.

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<sup>18</sup> As set out in Section 12 (1) (a) (iii) of the Act, including the promotion of interests of end-users of services and protecting end-user welfare.

## 5.4 Steps 3 and 4 Determine the impacts on Stakeholders and Competition

### 5.5

82. For the stakeholder analysis, there are 2 groups to consider: subscribers and industry.

83. In order to determine the impact on stakeholders and competition, ComReg has considered respondents' views and has taken into account the following:

- ensure end user rights are preserved;
- keeping an up-to-date and comprehensive database (NDD); assist industry in meeting their respective obligations;
- providers of directory information services (directory enquiries and/or directories) continue to have access to the relevant information on the appropriate terms necessary to offer services;
- the NDD continues to be the basis for the “opt-out” register for direct marketing purposes;
- the receipt of one expression of interest in managing and maintaining the NDD following the publication of Information Notice 24/12; and
- respondents' views.

|  | Impact on Industry   | Impact on Consumers  | Impact on Competition   |
|--|--|--|---|
| <p><b>Option 1:</b></p> <p><b>Allow D16/18 to lapse on 30 June 2024 and do not require a</b></p> | <p>This option would create significant legal uncertainty for stakeholders that interact with the NDD and may jeopardise other obligations and rights of parties and in turn, affect the rights of</p> | <p>If a person does not continue to maintain the NDD consumers who do not wish to be contacted for Direct Marketing purposes may now be contacted as, there would be no way for them to register their</p> | <p>Currently PXS is required, under Regulation 95(3) of the EECC Regulations, to manage and maintain the NDD on a fair, objective, cost-oriented, and non-discriminatory basis.</p> |

|   |   |   |   |
|---|---|---|---|
| <p><b>person to manage and maintain the NDD from 1 July 2024.</b></p>   | <p>subscribers of NBICS.</p> <p>In addition, the person that maintains the NDD must provide access to subscriber details in accordance with specific terms and conditions. If there is no person specified to maintain the NDD, this will create legal and commercial uncertainty about who must provide access to the NDD, and the terms of the access specified in Regulation 95(3) of the Regulations.</p> <p>DISPs may no longer have access to the source of information which their services are based upon, in this case they may potentially have to cease operation.</p> <p>Direct marketers may no longer have access to the source of information where they can check telephone numbers to ensure that they do not conduct unsolicited communications for the purposes of direct marketing.</p> <p>The manager of the NDD, would no longer incur the costs of managing and maintaining the NDD but would also lose the potential revenue from it.</p> | <p>Direct Marketing preference. This would cause detriment to consumers.</p> <p>Directory enquiry service providers may cease operation or increase prices possibly causing detriment to consumers.</p>   | <p>Absent a direction to do it, it could be more costly for DISPs to access this information and consequently for consumers.</p> <p>It could be more costly for Direct marketers to access this information.</p>  |
| <p><b>Option 2</b></p> <p><b>Require an NDD manager to manage and maintain the NDD for a period of 3 to 5 years from 1 July 2024.</b></p> | <p>If the NDD is maintained in its current form by an NDD manager, it would mean that there is no significant change to the status quo in terms of systems and process. Hence, stakeholders that interact with the NDD would not incur significant system costs.</p> <p>The NDD is a centralised database and industry and convenient and possibly less costly for DDUs</p>   | <p>Requiring a person to maintain the NDD would avoid any risks in relation to the continuity of operation and the integrity of the data held by the NDD.</p> <p>Also, if the NDD is maintained, NBICS subscriber Lising and Direct Marketing preferences will continue to be recorded, as will their ability to access a</p> | <p>An NDD manager would be required, to manage and maintain the NDD on a fair, objective, cost-oriented, and non-discriminatory basis. This would ensure stakeholders that interact with the NDD have access to the relevant information on reasonable terms.</p> |



|  |   |   |  |
|--|---|---|--|
|  | <p>and NBICS providers to interact with one, centralised source that is the NDD.</p> <p>The costs to the NDD manager of managing and maintaining the NDD would be covered by licence fees (DILA/ DMLA).</p> | <p>directory/directory enquiry service offered.</p> |  |
|--|---|---|--|

## 5.6 Step 5 Assess the impacts and choose the best option

84. ComReg has considered the options available to it in terms of managing and maintaining the NDD from 1 July 2024.

85. Option 1 would cause detriment to consumers of NBICS and other stakeholders that interact with the NDD, in ComReg's view, and this scenario must be avoided so that the objectives of the EECC and e-Privacy Regulations are met.

86. Given the various functions of the NDD, ComReg's maintains its preliminary view as set out in the Consultation that it is imperative that the NDD continues to be maintained, otherwise, absent regulatory intervention by ComReg:

- a number of regulatory requirements may not be fulfilled by NBICS providers;
- subscribers might lose their legal entitlements and protections under the EECC Regulations in respect of directories/directory enquiries.
- subscribers might lose their legal entitlements and protections under the e-Privacy Regulations and be subjected to unsolicited direct marketing.

87. In that context, ComReg is of the view that it is appropriate to require a person to manage and maintain the NDD. It would help facilitate the legal entitlements and protections under the relevant legislation in respect of directory entries and opting out of direct marketing. If the NDD is maintained, consumers Lising and Direct Marketing preferences would continue to be recorded, as would their ability to access directory information services. Doing this would help mitigate any risks in relation to the continuity of operation and the integrity of the data held by the NDD.

88. By ensuring the maintenance of the NDD by a required person, industry and DDUs will help ensure one centralised source. It is convenient and less costly for DDUs to obtain/supply the information from the one centralised source that is the NDD.

89. Having considered the submission as provided by PXS in response to the Information Notice 24/12, together with all available information including the submissions, ComReg is of the final view that it is necessary, appropriate and proportionate to direct PXS to manage and maintain the NDD from 1 July 2024 pursuant to Regulations 95 of the EECC Regulations. ComReg is of the final view that to require PXS to manage and maintain the NDD commencing 1 July 2024 for a period of 3 years, unless otherwise amended by ComReg, is the most appropriate and objectively justified option at this time. It is the only way to ensure that the related rights and obligations can be preserved. This direction may be extended by a further period of 2 years at ComReg's discretion, subject to a review of the NDD measure.

90. Requiring PXS to manage and maintain the NDD would help ensure end-user rights are preserved and have a positive impact on the industry where NDD assist them in meeting their respective obligations.

91. ComReg is not aware of any competition issues arising by the regulatory measure to require PXS to manage and maintain the NDD from 1 July 2024.

# Annex 1: Final Decision Instrument

## STATUTORY FUNCTIONS AND POWERS GIVING RISE TO DECISION

1. This Decision and Decision Instrument, made by the Commission for Communications Regulation (“ComReg”), relates to the maintenance and management of the National Directory Database and is made:
  - i. Having regard to sections 10 and 12 of the Communications Regulation Act 2002, as amended (“the Act”);
  - ii. Having regard to the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (as amended);
  - iii. Pursuant to the functions and powers conferred upon ComReg under and by virtue of Regulation 95 of the European Electronic Communications Code Regulations 2022 (“the EECC Regulations”);
  - iv. Having taken account of the expression of interest submitted in response to ComReg document No. 24/12
  - v. Having regard to the analysis and reasoning as set out in ComReg Document No. 24/32.
  - vi. Having taken account of the representations of interested parties submitted in response to ComReg document No. 24/32.

## 2. Definitions

In this Decision Instrument, save where the context otherwise admits or requires:

“National Directory Database” (“NDD”) means a record of all subscribers of voice communication services in Ireland, including those with fixed, personal and / or mobile numbers who have not refused to be included in that record, kept in accordance with regulation 95(3) of the EECC Regulations and subject to regulation 14 of the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 (as amended).

“PXS” means PXS B.V. (formerly Porting Access B.V.).

“Operational Specification” means the process, and all technical requirements necessary for managing and maintaining the NDD including the process and technical requirements necessary for managing and maintaining the NDD in respect of data protection and associated matters, as agreed with ComReg.

“JCA” means a Joint Controllership Agreement as agreed with ComReg to give effect to data privacy requirements and associated matters, the terms and conditions of which are outlined in the Operational Specification

“Terms of Access” means the terms and conditions specified by PXS for the purpose of providing reasonable access to the NDD as approved by ComReg.

### **3. Decision**

- 3.1** From 1 July 2024, subject to Clause 3.2, PXS shall manage and maintain the NDD in accordance with the Operational Specification, for a period of 3 years, unless otherwise amended by ComReg. This 3-year period is extendable by ComReg, at its discretion, for a further period of up to 2 years, such that the maximum period, including any extension, shall not exceed 5 years.
- 3.2** The obligation imposed on PXS in Clause 3.1 may, subject to the prior agreement of ComReg in writing and in ComReg's sole discretion, be carried out by the successors or assigns of PXS or by a related company, its successors or assigns. For the purposes of this Decision Instrument the term "related company" shall have the meaning ascribed to it in the Companies Acts. References to "PXS" and to the obligations imposed on it in this Decision Instrument, shall be construed accordingly.
- 3.3** The Operational Specification shall be agreed with ComReg and confirmed by it in writing.
- 3.4** For the purposes of Regulations 95(3) of the Regulations, PXS shall enter into such agreements with relevant persons as are necessary to give effect to the requirements of Regulations 95 (3) of the Regulations.
- 3.5** Upon request, PXS, its successors, assigns or any related companies, or the successors or assigns of any related companies, or any agents, contractors or sub-contractors of any of the foregoing, shall provide information to the Data Protection Commission and/or to ComReg, in the timeframe set out in the request, for the purposes of the carrying out their respective regulatory functions. To ensure the NDD continues to be managed and maintained at all times and to ensure the integrity and comprehensiveness of the NDD in the event of any changeover of provider of the NDD at any time or catastrophic event, PXS and / or any entity referenced in this Clause, shall provide and facilitate access by ComReg and/or any person nominated by ComReg in this regard, to any information contained in the NDD in such format, and within such time period, as may be specified by ComReg.
- 3.6** PXS shall back up the contents of the NDD at appropriate intervals and make arrangements for the data contained on the NDD to be put in escrow as a means of ensuring the security, integrity and continuity of the NDD. The details of these requirements shall form part of the Operational Specification.
- 3.7** A JCA shall be agreed with ComReg and confirmed by it in writing.
- 3.8** PXS shall meet all reasonable requests for access to any information contained in the NDD in a format agreed by ComReg.
- 3.9** The Terms of Access to the NDD shall be fair, objective, cost orientated and non-discriminatory and in accordance with the laws of Ireland and subject to the Courts of Ireland.
- 3.10** Subject to Clause 3.9, the Terms of Access to the NDD shall be specified by PXS and approved by ComReg.

**3.11** PXS shall publish on its website the Terms of Access and all relevant information on how to access any information contained on the NDD.

**3.12** PXS shall comply with all applicable EU Data Protection Law in managing and maintaining the NDD in accordance with the Operational Specification. Without limiting or affecting this requirement, PXS shall comply with a Joint Controller Agreement as outlined in the Operational Specification with respect to data protection requirements in connection with the NDD.

#### **4. Statutory Powers Not Affected**

Nothing in this direction shall operate to limit ComReg in the exercise and performance of its statutory functions, powers and duties under any primary or secondary legislation (in force prior to or after the Effective Date of this direction) from time to time as the occasion may require.

#### **5. Maintenance of Obligations**

If any section, clause or provision or portion thereof contained in this direction is found to be invalid or prohibited by the Constitution, by any other law or judged by a court to be unlawful, void or unenforceable, that section, clause or provision or portion thereof shall, to the extent required, be severed from this direction and rendered ineffective as far as possible without modifying the remaining section(s), clause(s) or provision(s) or portion thereof of this direction and shall not in any way affect the validity or enforcement of this direction.

#### **6. Effective Date and Duration**

**6.1** This Decision shall be effective from 1 July 2024 (the “Effective Date”).

**6.2** The Decision shall remain in force from the effective date until 30 June 2029 unless otherwise amended by ComReg.

### **THE COMMISSION FOR COMMUNICATIONS REGULATION**

## Annex 2: Legislation

92. Sections 10 and 12 of the Communications Regulation Act 2002, as amended “the Act”).

93. Regulation 95 of the EECC Regulations, as transposed by S.I. 444 of 2022, provide:

95. (1) A provider of number-based interpersonal communications services which attributes numbers from a numbering plan shall meet all reasonable requests to make available, for the purposes of the provision of publicly available directory enquiry services, directories and the record referred to in paragraph (3), the relevant information in an agreed format, on terms which are fair, objective, cost oriented, and non-discriminatory.

(2) In accordance with Regulation 42, the Regulator may impose obligations and conditions on undertakings that control access to end-users, for the provision of directory enquiry services and any such obligations and conditions shall be objective, equitable, non-discriminatory and transparent.

(3) Subject to Regulation 14 of the Privacy and Electronic Communications Regulations and for the purposes of this Regulation, a person that may be required to do so by the Regulator shall keep a record (to be known as the National Directory Database) of all subscribers of voice communication services in the State, including those with fixed, personal and mobile numbers who have not refused to be included in that record, and shall meet all reasonable requests for access to any information contained in that record in an agreed format, on terms that are fair, objective, cost orientated and non-discriminatory, and in accordance with such terms and conditions as may be specified by the person and approved by the Regulator.

(4) The Regulator shall not maintain any regulatory restriction which prevents an end-user in the State from accessing directly, by voice call or SMS, a directory enquiry service in another Member State or an end-user in another Member State from accessing directly directory enquiry services in the State and shall take measures to ensure such access in accordance with Regulation 83.

(5) This Regulation applies subject to the requirements of European Union law on the protection of personal data and privacy and in particular Regulation 12 of the Privacy and Electronic Communications Regulations.

(6) A person that fails to comply with a requirement of paragraph (1), (2) or (3) commits an offence and is liable on summary conviction to a class A fine.



(7) In proceedings for an offence under paragraph (6) it is a defence for the person charged to show that they took all reasonable steps and exercised due diligence to avoid committing the offence.

(8) The National Directory Database under Regulation 19(4) of the Universal Service Regulations continues in being.

94. Regulation 14 of the e-Privacy Regulations<sup>19</sup> provide:

#### National Directory Database

14. (1) A provider of number-based interpersonal communications services which attributes numbers from a numbering plan shall, for the purpose of Regulation 13(3)(b) or (5)(b), record or cause to be recorded in the National Directory Database the relevant information specified in paragraph (3) in respect of a line of any one of its subscribers who—

(a) is, upon the making of these Regulations, an ex-directory subscriber in respect of that line who, in the absence of any express instructions to the contrary, shall be taken not to consent to unsolicited calls for the purpose of direct marketing or to such calls by means of an automated calling machine or a facsimile machine, or

(b) had, at any time after the establishment of that Database, made a request to the operator or notified the relevant provider that the subscriber does not consent to unsolicited calls for the purpose of direct marketing or to such calls by means of an automated calling machine or a facsimile machine to a line of that subscriber.

(2) A provider referred to in paragraph (1) that has not already done so shall ensure that its subscribers are provided with information regarding their entitlements under Regulation 13(1), (3)(b) and (5)(b) and the possibilities referred to in paragraph (1).

(3) A provider referred to in paragraph (1) shall, for the purpose of Regulation 13(3)(b) and (5)(b) and when so notified by any one of its subscribers, make available to the operator the following relevant information in respect of a line of that subscriber to be recorded in the entry in the National Directory Database in relation to that subscriber—

(a) the fact that the subscriber does not consent to unsolicited telephone calls for the purpose of direct marketing or to such calls by means of automated calling machines or facsimile machines, and

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<sup>19</sup> European Communities (Electronic Communications Networks And Services) (Privacy And Electronic Communications) Regulations 2011 (as amended) - SI 336 of 2011

(b) if appropriate, the date on which a notification under Regulation 13(3)(b) and (5)(b) was received by the operator

(4)

(a) A provider, for the purpose of Regulation 13(3)(b) or (5)(b), shall, as soon as practicable after having been notified under paragraph (3) that a subscriber does not consent to unsolicited telephone calls for the purpose of direct marketing or to such calls by means of automated calling machines or facsimile machines, transmit particulars of such notification to the operator or other person who publishes a directory to whom the provider supplies relevant information relating to its subscribers for inclusion in that directory.

(b) When the operator or other person who publishes a directory receives particulars of a notification under paragraph (1), the notification shall be deemed, for the purpose of this Regulation, to have been made to the operator or that other person at the time the operator or that other person receives particulars of the notification.

(5) The operator shall record the relevant information referred to in paragraph (3) in respect of a line of a subscriber in the entry in the National Directory Database in relation to that subscriber when it is made available to the operator.

(6)

(a) For the purpose of complying with Regulation 13(3)(b) and (5)(b) a person may, on such terms and conditions as may be approved under Regulation 95(3) of the Electronic Communications Code Regulations and on payment to the operator of such fee as may be required by the operator—

(i) be allowed access to the National Directory Database at all reasonable times and take copies of, or of extracts from, entries in that Database, or

(ii) obtain from the operator a copy (certified by the operator or by a member of the operator's staff to be a true copy) of, or of an extract from, any entry in the National Directory Database,

or both, but the operator shall refuse such inspection or copying of, or of extracts from, entries in the National Directory Database if the operator has reasonable grounds to believe that the person will not comply with the Data Protection Acts and these Regulations in respect of the information in that Database.

(b) A subscriber, or other person with the written consent of the subscriber, may—

(i) be allowed access to the entry in the National Directory Database in relation to that subscriber in respect of a particular line of the subscriber at all reasonable times and, on payment to the operator of such fee as may be required by the operator, take a copy of that entry, or

(ii) on payment to the operator of such fee as may be required by the operator, obtain from the operator a copy (certified by the operator or by a member of the operator's staff to be a true copy) of that entry,

or both.

(c) In any proceedings—

(i) a copy of, or of an extract from, an entry in the National Directory Database certified by the operator or by a member of the operator's staff to be a true copy is evidence of the entry or extract on the date that it is so certified, and

(ii) a document purporting to be such a copy, and to be certified as aforesaid, is deemed to be such a copy and to be so certified unless the contrary is proved.

(d) In any proceedings—

(i) a certificate signed by the operator or by a member of the operator's staff of an entry in the National Directory Database in relation to a specified subscriber in respect of a particular line is evidence of the entry on the date that it is so certified, and

(ii) a document purporting to be such a certificate, and to be signed as aforesaid, is deemed to be such a certificate and to be so signed unless the contrary is proved.

(7)

(a) Subject to subparagraph (c), the operator may require the payment of fees in respect of the matters referred to in paragraph (6)(a) or (b) and the amount of those fees shall be designed to secure, as nearly as may be and taking one year with another, that the aggregate amount of fees received, or reasonably expected to be received, equals the costs incurred, or reasonably expected to be incurred, by the operator in performing the functions conferred on the operator by this Regulation.

(b) Different fees may be required in respect of the matters referred to in paragraph (6)(a) and (b).

(c) The amount of the fees required under subparagraph (a) is subject to the approval of the Regulator.

(8) For the purpose of his or her functions under Regulation 17, the Commissioner—

(a) shall be allowed access to the National Directory Database at all reasonable times and take copies of, or extracts from, entries in that Database, and

(b) may obtain from the operator a copy (certified by the operator or a member of the operator's staff to be a true copy) of, or an extract from, any entry in the National Directory Database,

without payment of a fee to the operator.