



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Code of Practice for Complaint Handling

Review of Minimum Requirements for ECS Providers

Consultation

Consultation

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1 Executive Summary

1. The Commission for Communications Regulation (“ComReg”) is responsible for the regulation of electronic communications networks and electronic communications services (“ECN” and “ECS” respectively)¹ and associated facilities, in accordance with European Union and national legislation.
2. One of ComReg's objectives is to take all reasonable measures to ensure end-user protection.² In exercising its statutory functions, ComReg has the objectives of promoting competition among providers of ECS, whilst promoting the interests of end-users of ECS.³
3. An “end-user” is defined in the European Union (Electronic Communications Code) Regulations⁴ (the “**Code Regulations**”) as “*a user not providing public electronic communications networks or publicly available electronic communications services*”. Accordingly, “end-users” includes both consumer⁵ and business customers, insofar as they are not providing their own public ECN or ECS.
4. Regulation 27 of the Universal Service and Users' Rights Regulations⁶ required relevant undertakings to implement a code of practice for settling unresolved disputes, including, complaints, within the scope of that Regulation. The code of practice was required to make provision for specified matters. In 2017 ComReg, following public consultation⁷, specified the minimum requirements⁸ for codes of practice to ensure access to, and compliance with, a uniform code of practice for complaints handling for ECN and ECS providers (“**D04/17**”)⁹ (the “**2017 Requirements**”).

¹ For the definitions of ECN and ECS see Part 1(2) of the European Union (Electronic Communications Code) Regulations (“ECC Regulations”) [Online:] [[S.I. No. 444 of 2022](#)], published 12 September 2022

² Section 12(2)(c)(ii) of the Communications Regulation Act 2002, as amended [Online:] [[Communications Regulation Act, 2002](#)]

³ As set out in Sections 10 and 12 of the Communications Regulation Act 2002, as amended [Online:] [[Communications Regulation Act, 2002](#)]

⁴ S.I. No. 444 of 2022 commenced 9th June 2023 [Online:] [[S.I. No. 444 of 2022](#)]

⁵ The Code Regulations define ‘consumer’ to mean ‘*any natural person who uses or requests a publicly available electronic communications service for purposes which are outside his or her trade, business, craft or profession*’;

⁶ S.I. No. 337/2011 European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011

⁷ Consultation Document 17/62

⁸ The requirements imposed to date by ComReg (ComReg D04/17, ComReg 01/67 and ComReg D16/03) proceeded on the basis of minimum requirements that providers should seek to exceed in order to ensure the highest quality of consumer care.

⁹ Electronic Communications Complaints Handling Code of Practice - Response to Consultation and Decision (ComReg Document 17/62, D04/17) [Online:] [[ComReg D04/17.pdf](#)]

5. Commenced on 9 June 2023, the Code Regulations and the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023¹⁰ (the "**2023 Act**") (referred to together as "**the legislation**"), transpose the European Electronic Communications Code Directive¹¹ (the "**Code**") into Irish Law.
6. Part 5 of the 2023 Act replaces the provisions of Regulation 27 of the Universal Service and Users' Rights Regulations.
7. Section 56 of the 2023 Act continued in force the measures specified in D04/17 and these are deemed to be made under and in accordance with Part 5 of that Act. Nonetheless, Part 5 introduced changes to the legislative framework that are relevant to D04/17 and require consideration. ComReg's proposed new minimum requirements ("**proposed requirements**") build upon these long-standing statutory requirements with a view to ensuring that providers have efficient and effective complaints handling practices in place consistent with statutory aims for the benefit of end-users.
8. Taking account of these developments, together with complaints received from end-users who have experienced difficulty in making a complaint to their provider, this consultation paper sets out ComReg's proposed revised requirements for a code of practice, and the reasons for them, and it seeks the views of interested parties on these requirements.
9. The proposals to make amendments are the focus of this consultation. It is proposed to retain many aspects of the 2017 Requirements, and those aspects to be retained are not the focus of this consultation. It is proposed to revoke and replace ComReg Decision No D04/17 for the ease of end-users and providers alike and to ensure readability.
10. In summary, ComReg is proposing the following changes to the current requirements:
 - 10.1 Revisions to the definition of complaint, complaint acknowledgement, proposed complaint resolution and complaint response.
 - 10.2 Addition of definitions for end-user and complaint update.
 - 10.3 Complainants will be able to obtain a copy of their written submissions in certain instances.
 - 10.4 Minor amendments have been made to reflect terminology in the legislation.

¹⁰ [Online:] <https://www.irishstatutebook.ie/eli/2023/act/4/enacted/en/pdf>

¹¹ Directive 2018/1972 of the European Parliament and of the Council of 11 December 2018, see [Online:] <https://eurlex.europa.eu/legal-content/EN/TXT/PDF/?uri=CELEX:32018L1972>

- 10.5 Additional requirements are proposed for providers at the first point of contact in respect of directing end-users to appropriate complaint handling channels when making a complaint.
 - 10.6 Additional requirements are proposed for providers in respect of the minimum information they are required to record in relation to complaints.
 - 10.7 Additional requirements for providers are proposed in respect of response timeframes and resolution procedures.
 - 10.8 Additional requirements are proposed for providers in respect of publishing a Code of Practice.
 - 10.9 Additional requirements are proposed for providers in respect of retention of records.
11. ComReg is of the preliminary view that its proposed revised requirements for a code of practice will help provide a more transparent and consistent approach to complaint handling for the benefit of all stakeholders. Providers can continue to go beyond the minimum requirements in their handling of complaints which help promote effective competition.

2 Introduction

2.1 Background and legislative context

12. This consultation reviews the 2017 Requirements in light of legislative changes and experience gained in their application and considers whether those minimum requirements can be improved upon to better protect end-users in their interactions with providers.
13. ComReg, in considering the proposals for revised specifications of requirements for a code of practice for complaints handling has also reviewed the approach taken in other sectors and jurisdictions including those enforced by (i) the Commission for Regulation of Utilities ('CRU')¹² for Electricity and Gas suppliers in Ireland (ii) Ofcom for UK communications providers¹³ and (iii) the Australian Communications and Media Authority ('ACMA') for Telcos operating in Australia¹⁴. ComReg has also considered relevant international standards including ISO 10002:2018 '*Quality management — Customer satisfaction — Guidelines for complaints handling in organizations of relevance to providers*' ('ISO 10002:2018')¹⁵ [use of ISO 10002:2018 is with permission from NSAI] .
14. With regard to what is meant by a “**provider**”, this term is defined in Section 40 of the 2023 Act as meaning:

“(a) an undertaking within the meaning of the Principal Act¹⁶,

(b) an undertaking within the meaning of Regulation 2 of the Regulations of 2019¹⁷, or

(c) an undertaking within the meaning of Regulation 2 of the Roaming Regulations¹⁸”.

¹² See Commission for Regulation of Utilities (CRU) '*Energy and Gas Suppliers' Handbook*' [Online:] [Electricity and Gas Suppliers' Handbook](#)

¹³ See Ofcom '*General Conditions of Entitlement*', [Online:] [Ofcom General Conditions of Entitlement](#)

¹⁴ See ACMA '*How telcos must handle complaints*' [Online:] [How telcos must handle complaints](#)

¹⁵ Available from the National Standards Authority of Ireland ('NSAI') [Online:] [ISO 10002:2018 Quality management — Customer satisfaction — Guideline](#)

¹⁶ Section 2(1) of the 2023 Act provides that Principal Act” means the Communications Regulation Act 2002 [Online:] <https://www.irishstatutebook.ie/2002/en/act/pub/0020/index.html>

¹⁷ Section 40 of the 2023 Act provides that “Regulations of 2019” means the European Union (Open Internet Access) Regulations 2019 ([Online:] [S.I. No. 343 of 2019](#))

¹⁸ Section 40 of the 2023 Act provides that “Roaming Regulations” means the European Communities (Mobile Telephone Roaming) Regulations 2022 ([Online:] [S.I. No. 315 of 2022](#))

15. Providers are required by Section 41 of the 2023 Act to have in place procedures for dealing with complaints and for settling disputes with end-users that are accessible, fair, prompt, transparent, inexpensive and non-discriminatory. Section 41(2) of the 2023 Act empowers ComReg to specify requirements to be met by providers to ensure compliance with these obligations.
16. Section 42(1) of the 2023 Act requires every provider to prepare, publish, keep updated and implement a code of practice for dealing with complaints and for settling relevant disputes.
17. Section 42(2) (a) to (g) of the 2023 Act sets out the matters that each provider's code of practice must include.
18. Section 42(3) of the 2023 Act provides that ComReg:

“...may specify requirements to be met for the purpose of ensuring compliance with subsection (1) and the manner of publication of a code of practice referred to in that subsection including, without limitation, any requirements to ensure that the code of practice and procedures for dealing with complaints and settling disputes are fair, prompt, transparent, inexpensive and non-discriminatory.”
19. It is these requirements, as set out in Sections 41 and 42 of the 2023 Act, that are the focus of this consultation.

2.2 Structure of Document

20. The structure of this consultation paper, including its appendices, is as follows:
 - Chapter 3: Definition of ‘Complaint’
 - Chapters 4 and 5: Proposed requirements
 - Chapter 6: Draft Regulatory Impact Assessment
 - Chapter 7: How to submit comments and envisaged next steps
 - Appendix 1: The proposed requirements
 - Appendix 2: Draft Decision Instrument
 - Appendix 3: Legal basis
 - Appendix 4: Consultation Questions
21. In Chapters 3, 4 and 5 ComReg sets out its position regarding the definition of a ‘Complaint’ and the proposed requirements relating to the preparation, publication, and implementation of a code of practice for the handling of complaints and resolution of disputes.
22. Appendix: 1 contains a tracked changes version comparing the provisions of D04/17 to the proposed new minimum requirements with the changes highlighted to aid review and comparison.
23. Appendix: 2 sets out the full ‘clean’ version of the proposed requirements in the draft Decision Instrument.

2.3 Effective Date

24. ComReg is proposing that the effective date for its proposed Decision Instrument will be 3 months after the publication date of the Response to Consultation and Decision.
25. It is proposed that any issue which has been deemed a complaint prior to the Effective Date will be processed in compliance with the provider’s code of practice in place prior to the Effective Date. Any issue which is deemed a complaint on or after the Effective Date must be processed in compliance with this Decision and Decision Instrument.

2.4 Proposed changes

26. ComReg is of the preliminary view after careful consideration that the following amendments are required to ComReg Decision D04/17, full details of which are outlined in this consultation and in Appendix: 1.
 - 26.1 The definition of Complaint is proposed to be revised;
 - 26.2 The definition of Complaint Acknowledgement is proposed to be revised;
 - 26.3 The definition of Proposed Complaint Resolution is proposed to be revised;
 - 26.4 A new definition of Complaint Update is proposed to be added;
 - 26.5 The definition of Complaint Response is proposed to be revised;
 - 26.6 The definition of Undertaking has been replaced with a new definition of Provider;
 - 26.7 A definition for End-User is proposed to be inserted;
 - 26.8 It is proposed that complainants will be able to obtain a copy of their written submissions in certain instances where an electronic means of contact is used.
 - 26.9 Minor amendments are proposed to be made to reflect terminology in the legislation.
27. Additional requirements are proposed for providers at the first point of contact in respect of directing end-users to appropriate complaint handling channels when making a complaint as follows:
 - 27.1 Where an end-user seeks to make a complaint other than through a specified complaints channel and where that channel is one used by the provider for customer service contacts, a provider is entitled to indicate that the complaint needs to be made through a specified complaint channel, but the provider shall in such a scenario:
 - (i) deal with the complaint in accordance with its code of practice in the same manner as if a specified complaint channel had been used, or
 - (ii) the provider shall transfer the end-user directly to the appropriate complaint handling channel unless technically infeasible, and where this is technically infeasible re-direct the end-user to the relevant complaint handling channel(s) and to the code of practice so the end-user can make the complaint in accordance with the code of practice.

28. Additional requirements are proposed for providers in respect of the minimum information they are required to record in relation to complaints, to include the following additional minimum information to that specified in D04/17, as follows:
 - (i) The dates of communications throughout the lifecycle of the complaint to the date the complaint is finally closed;
 - (ii) Any communications with the complainant.
29. Additional requirements for providers are proposed in respect of response timeframes and resolution procedures, to include:
 - (i) Notification to an end-user of their right to refer a complaint to ComReg;
 - (ii) The provision of a Complaint Acknowledgement to a complainant, within a maximum timeframe of 2 working days from the day on which the Complaint was first notified to the Provider, on a durable medium;
 - (iii) Additional minimum information requirements for inclusion in Complaint Acknowledgment;
 - (iv) Updated provisions in respect of the requirement to issue a Complaint Update (in certain circumstances) and a Complaint Response in respect of all complaints, on a durable medium.
30. Additional requirements are proposed for providers in respect of publishing a Code of Practice, to include:
 - (i) A requirement that providers ensure a direct link to their code of practice from the home page of the corporate website is at all times a working link, and
 - (ii) A requirement that providers ensure their code of practice does not contain information other than information relevant to the handling of complaints and resolution of disputes.
31. Additional requirement that providers retain records of complaints for a period not less than one year from the date the complaint is finally closed.

3 Definition of Complaint

32. There is no definition of a 'complaint' in the 2023 Act.
33. ComReg in D04/17 defined a complaint as follows:
- 'Complaint' means an issue raised by an end-user to an undertaking relating to that undertakings product or service or its complaints handling process where the issue remains unresolved following an initial attempt by the undertaking to resolve it or where there has been no attempt by the undertaking to resolve it and the end-user expresses dissatisfaction, through one of the channels set out in the code of practice, that the issue remains unresolved.'*
34. ComReg is aware that end-users have encountered difficulties with complaints handling by providers. These difficulties include, but are not limited to, the following:
- 34.1 an unanswered issue not being considered a complaint;
 - 34.2 issues raised through different channels than those set out in a code of practice not being considered a complaint;
 - 34.3 end-users who raise several issues within a complaint not having all of these issues considered;
 - 34.4 end-users with a recurring problem being required to treat each instance as unrelated to the previous instance(s);
 - 34.5 end-users having issues and/or complaints closed without their knowledge;
 - 34.6 end-users not being provided with a complaint reference number on request; and
 - 34.7 end-users being told their issue does not warrant a formal complaint.
35. ComReg is proposing to amend the definition of 'complaint' in a number of respects:
- 35.1 The definitions used in the 2023 Act replace those that were in the Universal Service and Users' Rights Regulations (S.I. 337/2011);
 - 35.2 The definition clarifies that a complaint relating to a provider's complaint handling process includes a complaint that an end-user has experienced difficulty in making a complaint;
 - 35.3 The definition requires an expression of dissatisfaction by the end-user however this may be explicit or implicit;

- 35.4 Where there has been no attempt by a provider to resolve an issue and 2 working days have elapsed since the issue was raised to the provider by the end-user, the issue will be deemed to be a complaint from the date that the issue was raised to the provider by the end-user.¹⁹
36. The purpose of having specific complaint handling channels in a code of practice is to facilitate end-users in making complaints²⁰, it is not to frustrate them in doing so. It is reasonable that having identified specific complaints handling channels in their codes of practice, providers should be able to direct end-users to these channels to make a complaint. However, where an end-user seeks to make a complaint other than through a specified complaint handling channel, this should not prevent the matter being properly handled and classified as a complaint by a provider.²¹ This may involve the provider handling complaints through channels other than those specified in its code of practice (where it chooses to do this), directly transferring the end-user to the appropriate complaint handling channel or otherwise re-directing them to available complaint handling channels.
37. It should not be the case that an unresolved issue that would otherwise be a complaint is not deemed a complaint on the sole basis that the issue was raised other than through a complaint handling channel set out in the provider's code of practice. End-users should not be frustrated in attempts to make a complaint.

¹⁹ ComReg notes that it can and does raise issues to providers on an exceptional basis that have been brought to its attention by end-users and which may not meet the definition of a Complaint. This exceptional basis is important to address those cases of immediate urgency that cannot await the normal process timelines (e.g. that may involve threats to the health or safety of an end-user). Another example of an exceptional basis is where ComReg's intervention is required to ensure the continuity and availability of complaint handling processes for end-users. End-users should have convenient ways of contacting service providers, to obtain timely, effective, and fair resolution of issues and ComReg may intervene directly with a provider if it has concerns regarding these processes. ComReg will continue to raise exceptional issues with providers as it considers appropriate in pursuance of its statutory functions and objectives.

²⁰ ComReg notes that the terms '*making complaints*', '*complaints made*' and '*complaint was first notified*' are used in Part 5 of the 2023 Act. ComReg is of the view that they refer to the same date, taking account of the definition of a Complaint.

²¹ See below for further details on first point of contact requirements for providers.

38. This is linked to a further proposed amendment to the definition of a complaint, namely a clarification that an unresolved issue relating to a provider's complaint handling process includes cases where an end-user has experienced difficulty in making a complaint. It would run counter to the aims and objectives of Part 5 of the 2023 Act (concerning the resolution of complaints and disputes) if a provider could deny the statutory entitlements of an end-user to redress by preventing that end-user from making a complaint or frustrating them in doing so. It would not be an acceptable position in this context, if inadequacies in a provider's own complaints handling process could result in that provider receiving and processing fewer complaints. To protect against this possibility, an end-user should be able to raise issues with their provider concerning difficulties experienced in making a complaint. While in ComReg's view, such matters are covered by the current definition (given its reference to "complaints handling process") this amendment is proposed to bring clarity for stakeholders.
39. An end-user seeking to rely on this basis should be able to establish their efforts to make a complaint and the difficulties they have experienced in doing so. Where an end-user is unable to make a complaint with a provider, expressly providing for this scenario within the definition of a complaint should help end-users in exercising their statutory rights, including their right to refer a dispute to ComReg for resolution. It also provides a mechanism for end-users to seek redress where they are dissatisfied with their provider's complaint handling process.
40. In a similar vein to the above, an end-user should not be frustrated in making a complaint by reason of a provider not responding to the issue raised by that end-user. To guard against inaction by providers that may frustrate end-users in their pursuit of redress, and to ensure end-users can engage their statutory rights relevant to complaint and dispute resolution, ComReg is proposing to make explicit that if there is no attempt made by a provider to resolve an issue raised by an end-user through a complaint handling channel set out in the provider's code of practice within 2 working days from the issue being raised, the issue will be deemed to be a complaint made at the time the issue was raised to the provider by the end-user. While providers retain the option to issue a templated/automated response on receipt of a contact by an end-user (such as an auto-acknowledgment), ComReg does not consider such communication to amount to an attempt to resolve that issue. To be considered an 'attempt to resolve an issue' there must be meaningful, specific and demonstrable engagement by a provider on the resolution of the issue raised by the end-user.

41. All of the obligations pertaining to complaints will be engaged in these circumstances (e.g. the requirement to issue a Complaint Acknowledgement) and the end-user will be able to refer an unresolved complaint to ComReg for dispute resolution if and when they satisfy the criteria for doing so as set out in section 47(1) of the 2023 Act. ComReg notes that where a 'deemed complaint' occurs, there will be an immediate obligation to issue a Complaint Acknowledgement and therefore providers will need to track issues raised through complaints channels to ensure this obligation is met.
42. With regard to the other difficulties identified above, where an end-user raises several issues with a provider, the provider is required to respond to each issue and make an initial attempt to resolve it. If some, but not all of the issues raised are resolved, the end-user should not be prevented from pursuing any outstanding unresolved issues as complaints solely on the basis that some of the issues raised have been resolved.
43. It is possible that a resolution proposed by a provider in response to a complaint made by an end-user may be accepted by the end-user but the underlying problem actually persists. An example of this is where a resolution is proposed by the provider over the telephone which the end-user accepts however after the call ends the problem is not resolved as proposed by the provider. In this scenario, the end-user may be required to recontact the provider and commence the same process in order to make the same complaint. While it is not possible to entirely prevent these scenarios from occurring, it is ComReg's view that any re-contact by an end-user with a recurring complaint should be promptly addressed by the provider. The provider should have regard to any prior related issues or complaints made by the end-user and the attempts already made by the provider to resolve them so as to ensure that an effective resolution can be promptly achieved.
44. ComReg is aware of instances where end-users have had their case closed with their provider without their knowledge. This can happen, for example, where the end-user has made a complaint other than through a complaint handling channel set out in their provider's code of practice. Any resolution proposed by a provider should be clearly made and a Complaint Acknowledgement and Complaint Response must be provided in respect of every complaint.
45. It is important to emphasise that whether or not an issue raised becomes a complaint is not dependent on the merit of that issue. The key elements of the proposed definition of a complaint are that there is an issue raised, it remains unresolved following an initial attempt to resolve it, and the end-user expresses dissatisfaction, or, there is no attempt made to resolve the issue raised. These elements can be met even where the underlying issue does not have merit. The perceived merits of an issue raised by an end-user are not determinative of whether or not it may give rise to a complaint.

46. Finally, in relation to the difficulties identified earlier in this section, ComReg is making separate proposals in this consultation paper to address the problems faced by end-users in obtaining a complaint reference number.
47. ComReg is proposing that an expression of dissatisfaction is required for an issue to become a complaint where there is an initial attempt made by the provider to resolve it. As the issue must remain unresolved following that initial attempt, the expression of dissatisfaction must follow the attempted resolution by the provider. It will frequently be the case that an end-user will express dissatisfaction when raising an issue; what is important for the purposes of meeting the definition of complaint is that the expression of dissatisfaction takes account of the initial attempt made by the provider to resolve the issue raised.
48. An overly literal approach to a requirement that dissatisfaction is expressed could undermine the process. For example, a provider might choose not to treat an issue raised as having met the definition of a complaint on the basis that the end-user did not expressly use the words “I am dissatisfied” in response to the attempted resolution of the issue, even if it was quite apparent from the interaction that the end-user was dissatisfied. Therefore, ComReg is proposing that the expression of dissatisfaction can be explicitly or implicitly made. This aims to avoid situations in which an end-user is prevented from making a complaint to their provider on artificial or technical grounds based around specific wording having been used or not having been used. For example, a clear expression of dissatisfaction by an end-user (be it explicit or implicit) following an initial attempt to resolve an issue by the provider should mean that the end-user is not required to state “I want to make a complaint” in order to be able to do so. ²²
49. While this proposed revision has the potential to result in more issues becoming complaints, this can be mitigated against by providers by simply inquiring of the end-user whether they are satisfied with the provider’s proposed resolution if this is not otherwise apparent from the circumstances.

²² ISO 10002:2018 in defining “customer satisfaction” notes ‘*It can be necessary for achieving high customer satisfaction to fulfil an expectation of a customer even if it is neither stated nor generally implied or obligatory*’.

3.1 Complaint Handling Channels

50. End-users can contact providers via different complaint handling channels which ComReg considers can be grouped as follows:

50.1 real-time exchanges – including phone calls, live web chat²³, in person;

50.2 non-real-time exchanges - e.g. submissions that require processing - including online forms, emails, physical mail and social media posts²⁴.

It is necessary to briefly address certain considerations that arise from these different complaints handling channels.

3.1.1 Real-time exchanges

51. In the context of a real-time exchange, such as those conducted in person or on the telephone, the raising of an issue by an end-user, an initial attempt to resolve that issue by the provider, and an expression of dissatisfaction (or satisfaction) with that proposed resolution will frequently happen in close proximity of time.

52. The position is similar with live web-chat, albeit that this medium may not be as immediate as a real-time conversation in person or on the telephone. It is important that the assessment of whether an issue remains unresolved following an initial attempt by the provider to resolve it, and of whether the end-user has expressed dissatisfaction, are consistent irrespective of the particular means of real-time exchange used. In this regard, the full live web-chat text exchange (or other real-time exchange) should be considered for context and understanding.

3.1.2 Non-real-time exchanges (e.g. submissions that require processing)

53. Unlike the position with real-time exchanges where the interactions are immediate, non-real-time exchanges may arise including via the use of online complaint forms, email, physical mail and social media channels. These can be slower forms of interaction where the end-user's issue is provided in written form. Where the initial attempt to resolve and the end-user's response are also in written form for example, there may be gaps in time between these various interactions. The end-user may not respond to the initial attempt to resolve the issue raised immediately, or at all.

²³ ComReg notes that some web chats have the option to save a transcript into a file or receive a copy via email.

²⁴ ComReg notes that real-time exchanges are also possible on some social media channels.

54. Taking these various factors into account in respect of non-real-time exchanges, where an end-user raises an issue to a provider and the provider makes an initial attempt to resolve the issue and the end-user does not express dissatisfaction (explicit or implicit) following that initial attempt within a reasonable period sufficient to enable them to do so, ComReg is of the view that the issue may be deemed to have been dealt with to the satisfaction of the end-user, and therefore it will not be a complaint.
55. ComReg is of the view that it would bring clarity if providers using non-real-time exchanges sought confirmation from end-users that they were satisfied with the provider's proposed resolution. In this way, a positive response or non-response by the end-user could be relied upon by the provider as a basis for not treating the matter as a complaint.

Proposed approach:

56. Taking all of the foregoing into account ComReg proposes to re-define a complaint as follows:

'Complaint' means an issue raised by an End-User to a Provider through one of the complaint handling channels in the Provider's code of practice for complaints handling or an issue that is otherwise handled by the Provider in accordance with section [...] of this Decision²⁵, relating to the Provider's product, service, or its complaint handling process (which includes difficulty experienced making a complaint) and either:

- (a) the issue remains unresolved following an initial attempt by the Provider to resolve it and the End-User expresses dissatisfaction either explicitly or implicitly, or
- (b) there has been no attempt by the Provider to resolve the issue and 2 Working Days have elapsed since the issue was raised to the Provider by the End-User; in such circumstances the issue will be deemed to be a Complaint from the date the issue was raised to the Provider by the End-User.

²⁵ This will be the section of the Decision Instrument that enables the provider to handle the complaint through a channel that is not a complaint handling channel.

Q. 1 Do you have any comments on the proposed approach ComReg has set out in Chapter 3 or other comments on this chapter? Please explain the basis of your response in full, referring to the appropriate paragraph number and provide any relevant information to support your response.

4 Proposed requirements arising from Section 42(1)

57. Section 42(1) of the 2023 Act requires that:

“A provider shall prepare, publish, keep updated and implement a code of practice for dealing with complaints and for settling relevant disputes.”

4.1 Prepare a code of practice

58. In advance of the publication of a code of practice due care and attention must be given by providers to the accuracy and reliability of its content and a provider must ensure the procedures set out in its code of practice are transparent and non-discriminatory.

59. The European Accessibility Act (“**EAA**”)²⁶ has been transposed into national law and from 28 June 2025 ComReg will be a Compliance Authority in accordance with S.I. 636/2023²⁷. Providers will have new requirements to comply with, including the provision of accessible information about their accessible ECS.

60. ComReg put in place equivalence measures in 2014 and 2015 to meet the needs of end-users with disabilities to choose and use ECS with confidence. These include requirements that providers must make available specific services and information, including accessible complaints procedures²⁸. Providers will need to take account of these various requirements as they relate to their complaint’s procedures.

4.2 Publishing a code of practice

61. Section 41(1) of the 2023 Act requires providers to have in place procedures for dealing with complaints and for settling disputes with end-users that are **accessible**, fair, prompt, **transparent**, inexpensive and non-discriminatory (emphasis added). Section 41(2) allows ComReg to specify requirements to ensure compliance with section 41.

²⁶ The European Accessibility Act, Directive 2019/882; Available [Online:] [Directive \(EU\) 2019/882](#)

²⁷ [S.I. No. 636/2023 - European Union \(Accessibility Requirements of Products and Services\) Regulations 2023](#)

²⁸ Further details are published in ComReg 25/04R; Available [Online:] [ComReg 25/04R](#)

62. As noted previously Section 42(3) provides that ComReg may specify requirements to be met for the purpose of ensuring compliance with Section 42(1) and

“...**the manner of publication of a code of practice** referred to in that subsection..” (emphasis added)

63. ComReg, in D04/17, set out requirements regarding the manner of publication of a code of practice as follows:

“4.5.1 Undertakings shall ensure that a direct link to the code of practice is clearly displayed on the Home page of the corporate website, and web pages established by the Undertakings for dealing directly with end-user complaints including web pages established by third parties where possible.

4.5.2 Undertakings shall ensure that the code of practice is returned or displayed to end-users using search terms which include ‘code of practice’, ‘complaint’, ‘how to make a complaint’ or ‘how to complain’, using the search facility of its corporate website and any web pages created for dealing directly with end-user complaints.

4.5.3 Undertakings shall ensure that details of an internet/web link to the code of practice is included in the Complaint Acknowledgement; and on receipt of a request from an end-user, undertakings shall without undue delay, provide a copy of the code of practice to the end-user in a format accessible to that end-user.”

64. ComReg considers it appropriate to maintain these requirements in D04/17, subject to some minor amendments.

65. Providers are required under the Code Regulations²⁹ and the Consumer Rights Act 2022³⁰ to set out their complaint ‘*contact information*’ in contract summaries and their ‘*complaint handling policy*’ in their contracts. ComReg is of the view that there should be consistency between the information given to consumers (and other end-users) in these contexts. The complaint contact information in the contract summary should be consistent with that in the code of practice, and the ‘*complaint handling policy*’ in contractual information if it is not the code of practice itself, should be consistent with it. ComReg considers that there would be benefit in providers including details of their code of practice (linked to its published web link) in these instances as a provider’s code of practice will be required to set out relevant information in an accessible and transparent manner.

²⁹ Section 87(7)(1) of the Code Regulations

³⁰ Schedule 2 and 3 of the Consumer Rights Act 2022; Available [Online:] <https://www.irishstatutebook.ie/eli/2022/act/37/enacted/en/>

66. Providers should also have regard to the matters addressed in section [4.1](#) of this paper when publishing their codes of practice.
67. ComReg is aware of a divergence in the presentation and content of providers' codes of practice; some providers' codes of practice are contained within lengthier documents (containing additional information apart from the code of practice), others are segmented and not presented as a single standalone document, and many do not reference that their code of practice relates to complaint handling.
68. Section 42 of the 2023 Act sets out the matters a code of practice shall provide for. ComReg considers that to ensure the transparency of the code of practice for end-users, providers must ensure that only information relating to the handling of complaints and resolution of disputes is included in a code of practice.
69. The requirements set out in Section 41(1) of the 2023 Act require providers to ensure their procedures are accessible and fair. The retention of the requirement for a direct link is therefore necessary to ensure that end-users have easy access to important information. ComReg is also of the view that in order to ensure transparency providers should ensure that their codes of practice do not contain extraneous information that is not relevant to complaint handling or the resolution of disputes.

Proposed approach:

70. ComReg proposes to maintain the requirements that were set out in Section 4.5 of D04/17 'Manner of publication' subject to minor amendments necessary to reflect the terminology used in the 2023 Act.
71. ComReg proposes to further require that a working direct link to an up-to-date code of practice is clearly displayed on the home page of the corporate website, and web pages established by the provider for dealing directly with end-user complaints including web pages established by third parties where possible.
72. ComReg proposes to further require that a code of practice shall include only information relating to the handling of complaints and resolution of disputes and exclude other extraneous material.

4.3 Implementing a code of practice

73. ComReg is of the view that all employees, contractors or other agents of a provider who work in the area of customer service and/or deal directly with end-users should be familiar with the provider's code of practice and its complaint handling procedures so as to be able to identify a complaint in a timely manner.

74. ComReg is of the view that providers should ensure that its personnel understand either how to handle complaints themselves or, to direct end-users appropriately so that their complaint can be handled by someone else.³¹ The purpose of specifying complaint handling channels is to provide clarity for end-users as to how they can make complaints. It is not to frustrate them in making a complaint through technical distinctions (e.g. that the end-user used the wrong telephone number to complain).
75. Providers may have various channels through which end-users can contact them that are not complaints handling channels specified in their code of practice (a “specified complaint channel”) (e.g. a provider may choose to use social media channels³² for customer service contacts but not for complaints handling). Where an end-user is making a complaint other than through a specified complaint handling channel and where that channel is one used by the provider for customer service contacts (through “alternative means”), a provider is entitled to indicate that the complaint needs to be made through a specified complaint channel, but the provider shall in such a scenario:
- (i) deal with the complaint in accordance with its code of practice in the same manner as if a specified complaint channel had been used, or
 - (ii) the provider shall transfer the end-user directly to the appropriate complaint handling channel unless technically infeasible, and where this is technically infeasible re-direct the end-user to the relevant complaint handling channel(s) and to the code of practice so the end-user can make the complaint in accordance with the code of practice³³.
76. This proposal limits the obligation on providers to monitor alternative means of contact by end-users (beyond specified complaint handling channels) only to those additional means used by the provider for customer service contacts.

³¹ ComReg note that ISO 10002:2018 states that ‘*All personnel should: — be aware of their roles, responsibilities and authorities in respect of complaints; — be aware of what procedures to follow and what information to give to complainants...*’

³² This is not to say providers cannot use social media channels as complaint handling channels.

³³ ComReg notes that many communications channels enable automated responses to be sent which can be used to re-direct end-users to the relevant complaint handling channel(s) and to the code of practice. Providers could also use a prominent statement made on channels that are not complaint handling channels to re-direct end-users to the relevant complaint handling channel(s) and to the code of practice.

77. The provider should not deem the matter not to be a complaint solely on the basis that the contact was not made through a specified complaint handling channel. Either the provider re-directs/directly transfers the end user as described above, or the provider attempts to resolve the issue. Where the provider attempts to resolve the issue, an unsuccessful attempt, where the end-user expresses dissatisfaction in accordance with the proposed definition, will result in the matter becoming a complaint.
78. ComReg expects that providers have procedures to ensure personnel dealing directly with end-users are in a position to assist end-users with accessibility requirements, vulnerable end-users and end-users from non-English speaking backgrounds who wish to make a complaint or require information about the code of practice and complaint handling procedures.
79. ComReg considers that providers, in responding to and resolving an end-user's complaint, must implement and adhere to the timeframes set out in a code of practice. ComReg intends to keep the standard of quality of service afforded to ECS/ECN end-users in the handling of complaints under review and it may consider imposing minimum quality of service standards³⁴ in this area if it considers this appropriate.

Proposed approach:

80. ComReg proposes to specify the following requirement:

Where an end-user seeks to make a complaint other than through a complaint handling channel specified in the provider's code of practice and where that channel is one used by the provider for customer service contacts, a provider is entitled to indicate that the complaint needs to be made through a complaint handling channel specified in the provider's code of practice, but the provider shall in such a scenario:

(i) deal with the complaint in accordance with its code of practice in the same manner as if a complaint handling channel specified in the provider's code of practice had been used, or

(ii) the provider shall transfer the end-user directly to the appropriate complaint handling channel unless technically infeasible, and where this is technically infeasible re-direct the end-user to the relevant complaint handling channel(s) and to the code of practice so the end-user can make the complaint in accordance with the code of practice.

³⁴ In accordance with Section 37(1) of the 2023 Act

Q. 2 Do you have any comments on the proposed approach ComReg has set out in Chapter 4 or any other comments on this chapter? Please explain the basis of your response in full, referring to the appropriate paragraph number and provide any relevant information to support your response.

5 Proposed requirements arising from Section 42(2)

81. Section 42(2) of the 2023 Act details the matters that must be provided for in the code of practice for the handling of complaints and resolution of disputes to be provided for in a code of practice as follows:

“ ...

(a) first point of contact for complainants, including the channels of making complaints;

(b) a means of recording complaints;

(c) time-frames within which a provider shall respond to and resolve complaints;

(d) procedures for resolving complaints;

(e) informing the complainant that a dispute may be referred to the Commission where—

(i) the dispute has been resolved in accordance with the code of practice and the complainant is dissatisfied with the resolution, or

(ii) the dispute has not been resolved and at least 10 working days have passed since the day on which the complaint was first notified to the provider;

(f) cases where reimbursement of payments, payments of compensation and payments in settlement of losses incurred will be made;

(g) retention of records of complaints (including copies of the complaint, any response to it, any determination in respect of the complaint and any documentation considered in the course of such determination).”

82. ComReg is proposing to align its requirements with the matters set out in Section 42(2)(a) to (g). ComReg is of the view that this approach will help provide certainty to providers and end-users by being clear and unambiguous as to what the minimum requirements are.

5.1 First point of contact for complainants, including the channels of making complaints

83. Section 42(2)(a) states that a code of practice shall provide for “...*first point of contact for complainants, including the channels of making complaints*”.
84. ComReg in D04/17 set out that it considered a number of channels were necessary to meet the needs of all end-users and specified the following:
- “4.1.1. Undertakings shall ensure that their Code of Practice contains details of all first points of contact offered to end-users and the following minimum information shall be included through which end-users can make contact:*
- i. A Freephone (1800) number or a 19XX Customer Support Short Code number or a geographic or mobile telephone number or a number that is free to all end-users and*
 - ii. An electronic means of contact and*
 - iii. An address (excluding an address for an electronic means of contact)”*
85. ComReg additionally specified that:
- “4.1.2. While a complaint is being made, an undertaking shall not transfer a complainant, to any form of information technology support line or other service if the transfer results in the complainant incurring a premium rate or higher call cost rate than the standard rate of calling a geographic or mobile telephone number involved in making a complaint.”*
86. ComReg in D04/17 defined ‘Electronic means of contact’ as follows:
- “...‘Electronic means of contact’ is a method of conveyance of the complaint over the internet or world wide web without any limitations or restrictions on attaching documents, with no word character restriction and provides the end-user with a record in durable form.”*
87. ComReg is of the view that to accord with Section 41(1) of the 2023 Act the channels of making complaints provided must ensure complaints, amongst other things, are dealt with in an accessible, fair, prompt, transparent, inexpensive and non-discriminatory manner.
88. ComReg notes that there have been technological advancements in the eight years since D04/17 was published, with new communications channels and enhanced electronic means of contact onboarded by many providers.

89. ComReg remains of the view that an 'Electronic means of contact' used to make a complaint or used to raise an issue that leads to a complaint, must adhere to the requirements of the definition. To ensure prompt, transparent, inexpensive and non-discriminatory handling of complaints ComReg is of the view that providers who use as an electronic means of contact:
- 89.1 chat bots, web-based chat, direct messaging tools (or equivalents to the foregoing), should provide end-users with an option to download or print a copy of the 'chat' or message or provide this to the end-user automatically;
 - 89.2 an online form, should provide the end-user with a facility to download or print a copy of what they have submitted via the online form or provide this to the end-user automatically;
90. A provider may use more than one electronic means of contact, at least one of which must enable a record to be provided to the end-user in durable form. In this scenario, the provider is required to make a statement in its code of practice identifying the electronic means of contact used, those that provide the end-user with a record in a durable form and those that do not, and indicating how the end-user may obtain and retain a record of their complaint.

Proposed approach:

91. ComReg proposes to maintain the requirements that were set out in section 4.1 of D04/17, subject to some minor amendments in the new requirements.
92. As noted previously (see paragraph [80](#)) ComReg is, in addition, proposing to require that providers support and direct end-users who contact a provider other than through a specified complaints channel.
93. ComReg notes the existing requirements regarding electronic means of contact. Where a Provider offers more than one first point of contact for Complainants electronically and only one of these is an Electronic means of contact providing an End-User with a record in a durable form, the Provider shall make a statement in its code of practice proximate to where it details its first points of contact for complaints, identifying the other electronic first points of contact used (the "other means"), confirming that the other means will not provide the end-user with a record in a durable form, identifying the Electronic means of contact that will provide such a record in durable form, and indicating how the end-user may obtain and retain a record of a complaint made using the other means.

5.2 A means of recording complaints

94. Section 42(2)(b) states that a code of practice shall provide for “a means of recording complaints”.
95. ComReg in D04/17 specified that:
- “4.2.1 Undertakings shall ensure that all complaints are recorded and tracked regardless of contact medium.*
- 4.2.2 Undertakings shall specify in their code of practice how they record and track complaints and provide details of how a unique reference number is used in their complaint tracking process.*
- 4.2.3 Undertakings shall ensure the minimum information recorded in relation to a complaint includes:*
- i. The complainant’s name, account number and contact details including a phone number;*
 - ii. The date the complaint was raised by the end-user and dates of all communication throughout the life cycle of the complaint to final closure;*
 - iii. A copy of the written complaint or notes made from the voice / online communications with the complainant relating to the complaint;*
 - iv. All communications with the complainant including details of the response to the complaint, final resolution and any determination in respect of the complaint with associated documentation”*
96. ComReg notes the obligation on providers under Section 42(1)(g) of the 2023 Act to provide for the ‘retention of records of complaints (including copies of the complaint, any response to it, any determination in respect of the complaint and any documentation considered in the course of such determination)’ in their code of practice.
97. Given that a complaint will arise from an unresolved issue raised by an end-user, ComReg is of the view that ‘records of complaints’ include records relating to the issue that forms the basis of the complaint. ³⁵

³⁵ Section 7.2 of ISO 10002:2018 deals with the receipt of complaints and lists information that ‘...should be recorded with supporting information and a unique identifier code. The record of the initial complaint should identify the remedy sought by the complainant and any other information necessary for the effective handling of the complaint including: — a description of the complaint and relevant supporting data...’

98. Noting the introduction in the 2023 Act of complaint reporting requirements³⁶, ComReg considers that all communications had with an end-user, regardless of the contact channel or medium used relating to a complaint must be recorded (including call recordings where applicable).
99. To ensure the transparency of complaints handling and to ensure all complaints are handled in a non-discriminatory manner, ComReg considers it appropriate to retain the requirements from D04/17, subject to minor amendments to reflect terminology changes under the 2023 Act.
100. ComReg is of the view that any written complaint or notes made from communications with the complainant on *any* channel (not just '*the voice/online communications*') should be recorded.

Proposed approach:

101. Subject to the below, ComReg proposes to maintain the requirements set out in 4.2 of D04/17, subject to minor amendments to reflect terminology changes under the 2023 Act and bring clarity.
102. ComReg proposes to amend the requirement set out in Section 4.2.3 (iii) of D04/17 to detail that any written complaint or notes made from communications with the complainant on any channel shall be recorded.

5.3 Time-frames within which a provider shall respond to and resolve complaints

103. As set out previously (see Chapter 3), ComReg is of the view that having raised an issue to a provider, and the end-user expresses dissatisfaction, either explicitly or implicitly following an initial attempt by the provider to resolve the issue, it is a complaint. Additionally, where there is no attempt made by a provider to resolve an issue raised by an end-user through a complaint handling channel set out in the provider's code of practice within a maximum timeframe of 2 working days from the date the issue was raised, the issue will be deemed to be a complaint made at the time the issue was raised to the provider by the end-user. At this point, a provider needs to outline certain key information to the end-user.
104. The 2023 Act enhances the matters that need to be provided for in a code of practice relating to timeframes in the handling of complaints. In addition to requirements for the timeframe within which a provider will '*respond*' to an end-user regarding a complaint being provided, the timeframe within which a provider will '*resolve*' a complaint is also required to be provided for.

³⁶ See Sections 43 and 44 of the 2023 Act; See also [Online:] [ComReg 25/12](#) and [ComReg 25/12a](#).

105. ComReg in D04/17 specified that:

“4.3.1 Undertakings shall inform End-Users of the code of practice at the first point of contact on making a complaint.

An undertaking shall ensure that:

(i) The Complaints Acknowledgement is provided to the end-user (including the communication of the unique identifier to be used in respect to complaints and an internet/world wide web link to their code of practice) within a maximum timeframe of two Working Days;

(ii) The Complaints Response is provided to the end-user within a maximum timeframe of 10 Working Days;

(iii) The Proposed Complaints Resolution responds to all aspects of the complaint raised;

(iv) Where a Complaint remains unresolved after 10 Working days the escalations team must communicate to the end-user an email address to progress the complaint in addition to any other forms of contact”.

106. The terms ‘Complaint Acknowledgement’, ‘Complaint Response’ and ‘Proposed Complaint Resolution’ relating to timeframes were defined in ComReg D04/17. ComReg is proposing to make changes in respect of these definitions and amend related timeframes where appropriate.

107. Given the requirements of Sections 45 and 42(2)(e) of the 2023 Act³⁷ ComReg is proposing to amend the information that is required to be provided to end-users making a complaint.

5.4 Complaint Acknowledgement

108. D04/17 defined a Complaint Acknowledgement as follows:

“...‘Complaint Acknowledgment’ means a response from an undertaking, in the same medium the complaint was made which includes the following minimum information:

- i. Acknowledgement of the complaint,
- ii. Confirmation that the complaint is recorded,

³⁷ Concerning the right to refer disputes to ComReg for resolution.

- iii. A timeframe for Complaint Response and Resolution and any other steps in the process,
 - iv. Details of the unique reference number to identify and track the individual complaint
 - v. Appropriate contact details for the end-user to use in order for the consumer to contact the undertaking
 - vi. Next steps in the process
 - vii. Details of the internet/world wide web link to the Code of Practice”
109. Section 45 of the 2023 Act, headed ‘Notification to end-user of right to refer dispute to Commission’, provides as follows:
- “Where a provider receives a complaint from an end-user in respect of its services, the provider shall inform the end-user of his or her right to refer a relevant dispute³⁸ to the Commission for resolution in accordance with section 47”.*
110. Section 47 of the 2023 Act, headed “Resolution of relevant disputes by the Commission” provides for two statutory bases for the referral by an end-user of a relevant dispute to ComReg for dispute resolution. The first, under Section 47(1)(a), is when:
- “a period of **at least 10 days** has elapsed since the complaint giving rise to the dispute was made.”* (emphasis added)
- The second, under Section 47(1)(b), is when:
- “the procedures for the resolution of disputes provided for in the provider’s code of practice have been completed.’*
111. ComReg proposes to amend its definition of Complaint Acknowledgement to reflect the statutory requirement to inform the end-user of their right to refer a relevant dispute to the Commission for resolution in accordance with Section 47 of the 2023 Act and to reflect other changes proposed in this consultation.

³⁸ The meaning of ‘relevant dispute’ is set out in Section 40 of the 2023 Act

112. ComReg notes that by definition a Complaint Acknowledgement records a complaint already made and is not itself the point in time when a complaint is made. This is important for the purposes of reckoning relevant time periods, including those for referral of a complaint for dispute resolution under Section 47 of the 2023 Act.
113. ComReg is aware of difficulties experienced by end-users in obtaining a complaint reference. This is problematic for end-users, in particular for those who have need to re-contact their provider about the complaint but are unable to cite any prior interaction with the provider as they do not have a complaint reference. This can result in end-users having to recommence the process. Considering the importance of the information contained within the Complaint Acknowledgement (which must include a unique reference number to identify the complaint), ComReg is of the view that the Complaint Acknowledgement should be provided to an end-user as soon as practicable³⁹ but within a maximum timeframe of 2 working days from the day on which the Complaint was first notified to the provider.

5.5 Information to be provided during the course of dealing with a complaint

114. D04/17 defined the 'Complaint Response' as follows:
- "... 'Complaint Response' means a communication from the undertaking to the end-user that addresses all aspects of the complaint raised by the end-user and provides reasons, where Complaint Resolution is not provided as part of the response, for any delay and the steps being undertaken by the undertaking in investigating and resolving the complaint together with a provisional resolution date where available."
115. ComReg remains of the view that in a situation where it is not possible for a provider to resolve the complaint within the time frame indicated in the Complaint Acknowledgement, the provider should advise the end-user by means of an update, which would serve the purpose of explaining why a Proposed Complaint Resolution could not be provided within the specified time frame and indicating when such a Proposed Complaint Resolution might be provided. ComReg proposes to introduce a requirement for a 'Complaint Update' to be issued by providers to give effect to this. However, elements of what is contained in the 'Complaint Update' overlap with elements of the former definition of Complaint Response and in this regard, it is not an entirely new proposal.

³⁹ ComReg notes that ISO 10002:2018 recommends '*receipt of each complaint should be acknowledged to the complainant immediately*'.

116. ComReg is of the view that a provider must communicate to an end-user when it has considered all aspects of a complaint raised, and when either:
- a) the action(s) required to address/remedy the complaint have been identified and are being proposed or, where applicable, have been completed;
 - or
 - b) the provider is unable to take any, or any further action(s) to address/remedy the complaint or will not be doing so.
117. ComReg proposes to revise the definition of Complaint Response to be issued to give effect to this. ComReg proposes that a Complaint Response is issued by providers within a maximum timeframe of 10 working days from the day on which the complaint was first notified to the provider to accord with Section 42(e)(ii) of the 2023 Act⁴⁰.
118. It is important to note how these two requirements (relating to a Complaint Update and a Complaint Response) are interrelated. A provider is required to issue a Complaint Response in every case no later than 10 working days after the date on which the complaint was first made. A Complaint Response can simply state that a provider is unable to take any (further) action or is not willing to do so. Therefore, even if a provider is not resolving the complaint after 10 working days, it must still convey this to an end-user in a Complaint Response.
119. The purpose of a Complaint Update is different. It serves to inform the end-user why the provider has not been able to resolve the complaint, what action it has taken, and is taking, to do so, and when it expects it may be in a position to provide a Proposed Complaint Resolution.⁴¹
120. A Complaint Update is not in lieu of a Complaint Response and arises only in cases where a provider intends to propose a resolution after the expiry of 10 working days from the date on which the complaint was first made. In most cases there should be no requirement to issue a Complaint Update. In cases where a Complaint Update issues, a Complaint Response should also issue. ComReg is of the preliminary view that these communications could be made at the same time in a single communication, however if done this way appropriate headings should be

⁴⁰ Section 42(2)(e) of the 2023 Act states that a code of practice shall provide for:
“...informing the complainant that a dispute may be referred to the Commission where—
“(i) the dispute has been resolved in accordance with the code of practice and the complainant is dissatisfied with the resolution, or (ii) the dispute has not been resolved and at least 10 working days have passed since the day on which the complaint was first notified to the provider.”

⁴¹ Research conducted by Ofcom in 2023 showed that keeping complainants informed of the progress / status of their complaint contributed to a more positive experience for them: See [Online:] <https://www.ofcom.org.uk/siteassets/resources/documents/phones-telecoms-and-internet/comparing-service-quality/2023/complaints-handling-experience-qualitative-insight-2023.pdf?v=329677>

used to clearly communicate the different aspects to the end-user and also to demonstrate that the provider has complied with both obligations.

121. It is important that a Complaint Acknowledgment, a Complaint Update and a Complaint Response is personally addressed to the end-user and is accessible by them for future use, whether that is with the provider in follow-up contacts, with ComReg in the context of a referral for dispute resolution, or in another relevant forum. In this regard and taking account of the varying means and channels by which complaints may be made by end-users, an end-user should be provided with each of these communications on a durable medium.
122. D04/17 defined the 'Proposed Complaint Resolution' as follows:

“...‘Proposed Complaint Resolution’ means a resolution offered by an undertaking to an end-user to resolve the complaint.”
123. ComReg proposes to revise this definition, which is an important aspect of the Complaint Response and the Complaint Update, to clarify that it relates to the final Proposed Complaint Resolution offered by the provider.
124. ComReg is proposing to remove the requirement that was in Section 4.3.1(iv) of D04/17 that after 10 working days and in respect of an unresolved complaint, an escalations team communicate to an end-user an email address to progress the complaint in addition to any other forms of contact. Under ComReg’s proposals in this consultation paper, after 10 working days a provider would already have to issue a Complaint Acknowledgement and a Complaint Response and potentially a Complaint Update also. The provider will also already have informed the end-user in the Complaint Acknowledgement of the right to refer a dispute to ComReg for resolution. In these circumstances, it is unnecessary to mandate a further communication regarding the escalations team. For the avoidance of doubt however, there is nothing preventing a provider from including contact details for escalations in its code of practice.
125. ComReg is of the view that a provider may offer a Proposed Complaint Resolution at any time but must do so within a maximum timeframe of 10 Working Days from the day on which the complaint was first notified to the provider for it to form part of its Complaint Response.

Proposed approach:

126. ComReg proposes to define '**Complaint Acknowledgment**' to mean:

126.1 a response from a provider, issued to a complainant on a durable medium, which includes the following minimum information:

- (i) an acknowledgement of the receipt of the complaint;
- (ii) confirmation of the date the complaint was made;
- (iii) details of the unique reference number the provider has attributed to identify and track the individual complaint;
- (iv) appropriate contact details for the end-user to use in order to contact the provider;
- (v) any other steps in the provider's complaint handling process;
- (vi) the date the provider expects to issue the 'Complaint Response';
- (vii) details of the web link to the code of practice; and
- (viii) a statement informing the end-user of their right to refer a relevant dispute to ComReg for resolution when either:
 - a) a period of at least 10 days has elapsed since the complaint giving rise to the dispute was made, or
 - b) the procedures for the resolution of disputes provided for in the provider's code of practice have been completed.

127. ComReg proposes to define '**Proposed Complaint Resolution**' to mean

127.1 a response issued to a complainant on a durable medium, which sets out the final resolution offered by a provider to an end-user to resolve the complaint.

128. ComReg proposes to define '**Complaint Response**'⁴² to mean:

128.1 a response issued to a complainant on a durable medium, which includes the following minimum information:

⁴² Ofcom, in its General Conditions related to Complaints Handling Procedures, requires regulated providers to issue an 'ADR letter' to a complainant when a complaint reaches 'deadlock' or remains unresolved. The letter, amongst other things, must be written in plain English and provide details of an ADR Scheme that the complainant may utilise, and be issued on a durable medium. See [Online:] [General Conditions of Entitlement Unofficial Consolidated Version 1 Oct 24](#)

- (i) a list of the aspects of the complaint considered;
- (ii) confirmation that the provider has considered each aspect listed, and confirmation, as applicable:
 - (a) of the aspects of the complaint that have been resolved;
 - (b) of the Proposed Complaint Resolution for the aspects of the complaint as listed that are not resolved and the related date(s) by which the provider expects these aspects will be resolved; or
 - (c) that the provider is unable to take further action(s) to resolve the complaint or aspects of the complaint, or will not do so; and
- (iii) information to advise that a dispute may be referred to ComReg where either:
 - (a) the complainant is dissatisfied with the complaint resolution undertaken or proposed by the provider; or
 - (b) the dispute has not been resolved.

129. ComReg proposes to define '**Complaint Update**' to mean:

129.1 a response issued to a complainant on a durable medium, which includes the following minimum information:

- (i) confirmation that it has not been possible for the provider to resolve the complaint within the time frame indicated in the 'Complaint Acknowledgement';
- (ii) an explanation of why the provider could not resolve the complaint within the time frame indicated in the 'Complaint Acknowledgement';
- (iii) details of the steps the provider has taken, and is taking, to investigate and resolve the complaint;
- (iv) any revised date by which the provider will issue a Proposed Complaint Resolution.

130. ComReg proposes to remove the requirement in Section 4.3.1(iv) in D04/17.

5.6 Procedures for resolving complaints

131. Section 42(2)(d) states that a code of practice shall provide for “*Procedures for resolving complaints*”.
132. A provider is required to ensure that its code of practice and procedures for dealing with complaints and settling disputes are fair, prompt, transparent, inexpensive and non-discriminatory. ComReg considers that a complaints handling process should be straight-forward and easy to follow.
133. ComReg is of the view that a code of practice must set out the steps, using clear and simple terms, that a provider will follow in its handling of a complaint from the date of receipt to the date the complaint is finally closed, and the associated timelines for each step.
134. ComReg notes that a resolution proposed by a provider may not prove acceptable to a complainant.
135. While Section 47(1) of the 2023 Act gives an end-user the right to refer a dispute to ComReg, it does not preclude a provider continuing to engage with an end-user and offering the means for a complaint to be further reviewed in an effort to resolve it.

5.7 Informing the complainant that a dispute may be referred to the Commission

136. Providers are required to detail the matters outlined in Section 42(2)(e) of the 2023 Act. ComReg is proposing that these are advised to end-users in the ‘Complaint Response’ (see paragraph [128](#)).
137. Nothing the foregoing paragraph, providers must also be aware of the proposed requirement set out at (viii) in the ‘Complaint Acknowledgment’ (see paragraph [126](#)).

5.8 Reimbursements, compensation and settlement of losses

138. Section 42(2)(f) states that a code of practice will make provision for
“...cases where reimbursement of payments, payments of compensation and payments in settlement of losses incurred will be made”.
139. ComReg in D04/17 specified the following:
“Undertakings shall specify in their code of practice the mechanism whereby end-users can avail of refunds”.

140. ComReg has undertaken analysis of a number of provider's existing codes of practice and notes that differing approaches have been taken by providers in relation to the information provided to end-users concerning refunds and compensation.
141. ComReg is of the view that '*cases where reimbursement of payments, payments of compensation and payments in settlement of losses incurred will be made*' include cases whereby an end-user is entitled to, or is entitled to apply for, compensation under a provider's compensation scheme relating to a '*specified failure*'⁴³. Accordingly, details of compensation schemes or links to them are to be provided for in a code of practice.

Proposed approach:

142. ComReg proposes that providers include details of, or links to, any compensation schemes published by them under Section 39 of the 2023 Act, in their codes of practice.

5.9 Retention of records of complaints

143. Section 42(2)(g) states that a code of practice will make provision for:
- "...retention of records of complaints (including copies of the complaint, any response to it, any determination in respect of the complaint and any documentation considered in the course of such determination)".*
144. Providers were previously required to make provision in their codes of practice for retention of similar records of complaints and were required to do so for a period of not less than one year following the resolution of the complaint.⁴⁴ ComReg has analysed the codes of practice of certain providers and notes that some of them make provision for the retention of records of complaints for a period not less than 12 months.
145. ComReg notes the important and often pivotal role that records of complaints can play not only in complaints handling but also in dispute resolution. The subsequent availability of these records may be fundamental to the determination of legal rights and remedies. In this regard, an end-user may need to request copies of records of their complaint from their provider in order to seek and obtain redress.

⁴³ Compensation schemes, including that provided for under '*Switching and Number Portability – End User Compensation*' [Online:] [ComReg D01/24](#); [ComReg 24/01](#).

⁴⁴ Regulation 27(1)(e) of the Universal Service and Users' Rights Regulations 2011 (S.I. 337/2011).

146. In accordance with Section 43 of the 2023 Act⁴⁵, providers are required to submit a complaints report to ComReg every 6 months on complaints received from end-users.
147. ComReg has a statutory objective to take all reasonable measures to ensure a high level of protection for consumers in the performance of its functions⁴⁶. ComReg's functions include ensuring compliance by providers with their obligations.⁴⁷ To fulfil these objectives and functions, taking account of the obligation to make provision for the retention of records of complaints in Section 42(2)(g) of the 2023 Act, of past and current practices in respect of the retention of records of complaints, and of related statutory obligations in respect of complaints reporting and the cyclical nature of same, ComReg is proposing that providers retain records of complaints for a period not less than 12 months after the date that the date the complaint is finally closed.⁴⁸

Proposed approach:

148. ComReg proposes to require that all records relating to a complaint are retained for a period not less than 12 months after the date the complaint is finally closed.

Q. 3 Do you have any comments on the proposed approach ComReg has set out in Chapter 5 or any other comments on this chapter? Please explain the basis of your response in full, referring to the appropriate paragraph number and provide any relevant information to support your response.

⁴⁵ ComReg has consulted on "End-user Complaints Reporting and Data Provision" in ComReg 25/12. This consultation paper is relevant to the reporting and information provision proposed in that consultation. In ComReg 25/12 the following was stated at footnote 13: "*References to D04/17 or to specific provisions of D04/17 in this paper (which includes the Annexes and Appendices thereto) should be understood as referring to that decision/those provisions as may be amended by ComReg from time to time and/or to any Decision made by ComReg replacing D04/17, whether in whole or in part. To the extent that the provisions of any ComReg Decision replacing D04/17 (whether in whole or in part) express the same idea in a different form of words but are in substance the same as those in D04/17, the idea in the new ComReg Decision shall not be taken to be different merely because a different form of words is used.*"

⁴⁶ Section 12(2)(c)(ii) of the Communications Regulation Act, 2002.

⁴⁷ See, for example, sections 10(1)(a), (aa), (ad), (af) and (ag) of the Communications Regulation Act 2002. Section 10(3) of the 2002 Act also provides that ComReg shall have all such powers as are necessary for or incidental to the performance of its functions under this or any other Act.

⁴⁸ See Section [5.2](#) regarding the recording of information related to complaints

149. ComReg has set out a comparison of the requirements under D04/17 tracked to reflect the new requirements proposed in Appendix: 1 with a full 'clean' version of the proposed requirements set out in the draft Decision Instrument in Appendix: 2.

Q. 4 Do you have any comments on the draft Decision Instrument in Appendix: 2?
Please document clearly the basis of your response and reference the paragraph number(s) where appropriate. Please explain the basis of your response in full and provide any supporting information.

6 Draft Regulatory Impact Assessment (RIA)

150. ComReg has published RIA Guidelines⁴⁹ (ComReg 07/56a), in accordance with a Ministerial Policy Direction to ComReg⁵⁰, which states that ComReg will conduct a RIA in any process that may result in the imposition of a regulatory obligation, or the amendment of an existing obligation to a significant degree, or which may otherwise significantly impact on any relevant market or any stakeholders or consumers.
151. The analysis presented in this section represents ComReg's draft RIA. It sets out ComReg's preliminary conclusions on the likely effect of the specification of new minimum requirements for inclusion in providers' codes of practice for complaint handling on stakeholders and competition.
152. ComReg's aim in conducting a RIA is to ensure that any specific requirements imposed are appropriate, proportionate⁵¹ and justified in light of the analysis conducted, having regard to its functions and objectives under the Communications Regulation Act 2002 (as amended).

6.1 Structure for the RIA

153. In assessing the available regulatory options, ComReg's approach to the RIA is based on the following five steps
- **Step 1:** describes the policy issue and identifies the objectives;
 - **Step 2:** identifies and describes the regulatory options;
 - **Step 3:** determines the likely impacts on stakeholders;
 - **Step 4:** determines the likely impacts on competition; and
 - **Step 5:** assesses the likely impacts and choose the best option.

⁴⁹ Which have regard to the RIA Guidelines issued by the Department of An Taoiseach in June 2009.

⁵⁰ Ministerial Policy Direction made by Dermot Ahern T.D. Minister for Communications, Marine and Natural Resources on 21 February 2003.

⁵¹ ComReg is required, in carrying out its functions, to seek to ensure that the measures taken by it are proportionate having regard to the objectives set out in Section 12 of the Communications Regulation Act 2002.

154. Of themselves, the RIA Guidelines and the Ministerial Policy Direction on Regulatory Impact Assessment do not determine how much weight should be given to the positions and views of each stakeholder group (Step 3); or the impact on competition (Step 4). Accordingly, ComReg has been guided by its primary statutory objectives which it is obliged to seek to achieve when exercising its functions.
- 154.1 promote competition⁵²;
 - 154.2 contribute to the development of the internal market⁵³;
 - 154.3 promote the interests of users within the Community⁵⁴; and ensuring a high level of protection for consumers in their dealings with suppliers⁵⁵;
155. In addition, ComReg is guided by regulatory principles and obligations provided for under the 2023 Act.

6.2 Step 1: Describe the policy issues and identify the objectives

156. The electronic communications sector plays a vital role in supporting both end-users and businesses to, live, work and communicate. In the provision of their products and services to end-users, there can be instances of dissatisfaction in the delivery of these products and services and with the service received from providers. These instances of dissatisfaction can lead to the making of complaints by end-users.
157. As has been set out previously (see Chapter 4) Section 42(1) of the 2023 Act requires that every provider:
- “...shall prepare, publish, keep updated and implement a code of practice for dealing with complaints and for settling relevant disputes.”
158. Section 42(1) sets out the matters that a code of practice must provide for namely:
- “(a) first point of contact for complainants, including the channels of making complaints;
 - (b) a means of recording complaints;
 - (c) time-frames within which a provider shall respond to and resolve complaints;

⁵² Section 12 (1)(a)(i) of the 2002 Act

⁵³ Section 12 (1)(a)(ii) of the 2002 Act

⁵⁴ Section 12(1)(a)(iii) of the 2002 Act

⁵⁵ Section 12(2)(c)(ii) of the 2002 Act

- (d) procedures for resolving complaints;
- (e) informing the complainant that a dispute may be referred to the Commission where—
 - (i) the dispute has been resolved in accordance with the code of practice and the complainant is dissatisfied with the resolution, or
 - (ii) the dispute has not been resolved and at least 10 working days have passed since the day on which the complaint was first notified to the provider;
- (f) cases where reimbursement of payments, payments of compensation and payments in settlement of losses incurred will be made;
- (g) retention of records of complaints (including copies of the complaint, any response to it, any determination in respect of the complaint and any documentation considered in the course of such determination).”

- 159. It is a function of ComReg to ensure compliance by providers with their obligations in relation to the supply of and access to electronic communications services,
- 160. In accordance with Section 42(3) of the 2023 Act, ComReg may specify requirements which providers must meet to ensure compliance with Section 42(1) of the 2023 Act. ComReg may also specify requirements for providers to meet regarding the manner of publication of a code of practice. In considering whether to specify requirements ComReg aims to ensure compliance by providers with their obligations to have in place procedures for dealing with complaints and for settling disputes with end-users that are accessible, fair, prompt, transparent, inexpensive and non-discriminatory.
- 161. ComReg has previously specified requirements for providers in accordance with the legislative regime in place at the time (the 2017 Requirements). The aim of those requirements was to standardise the approach taken by providers to the minimum information to be provided in a code of practice including that concerning the contact channels, complaint handling processes and related timeframes through the life cycle of the complaint handling.
- 162. Notwithstanding the 2017 Requirements, ComReg is aware that the experience of end-users in the handling of their complaints by some providers, since these requirements were specified in 2017, has been mixed.

163. ComReg has received complaints from end-users that their complaints to their providers are not being handled in accordance with the provisions of those providers' codes of practices and ComReg has also undertaken related investigations. Issues highlighted include difficulties encountered by end-users in raising a complaint, having an issue deemed to be a complaint and/or being accepted as a complaint by a provider, delays in the issuance of a complaint reference number and complaints not handled in accordance with the timeframes set out in a code of practice.
164. The 2023 Act introduced new legislative provisions regarding the provision of certain information related to the escalation of a complaint to ComReg that also needs to be reflected in providers' codes of practice.
165. ComReg's objectives in the performance of its functions include promoting competition⁵⁶ (ensuring that all end-users derive maximum benefit in terms of choice, price and quality)⁵⁷ and promoting the interests of users in the community⁵⁸. In relation to these objectives, ComReg is required to take all reasonable measures aimed at achieving them, including by ensuring a high level of protection for consumers in their dealings with suppliers (in particular by ensuring the availability of simple and inexpensive dispute resolution procedures carried out by a body that is independent of the parties involved)⁵⁹, by promoting the provision of clear information⁶⁰, and by addressing the needs of specific social groups, in particular disabled users⁶¹.
166. Having regard to its objectives and functions as set out in the 2002 Act and in the Code Regulations⁶², and in the context of its regulatory obligations, ComReg aims to specify minimum requirements in relation to the procedures that providers have in place for dealing with complaints and for settling disputes.

⁵⁶ Section 12(1)(a)(i)

⁵⁷ Section 12(2)(a)(i)

⁵⁸ Section 12(1)(a)(iii)

⁵⁹ Section 12(2)(c)(ii)

⁶⁰ Section 12(2)(c)(iv)

⁶¹ Section 12(2)(c)(vi)

⁶² Regulation 4(3)(d) of the Code Regulations sets out a general objective of ComReg to promote the interests of the consumers and businesses in the State by, among other things, ensuring a high and common level of end-users through the necessary sector-specific rules and by addressing the needs of specific social groups, in particular end-users with disabilities, elderly end-users and end-users with special social needs, and choice and equivalence of access for end-users with disabilities. It should be noted that Article 25 of the Code Directive (Directive (EU) 2018/1972) provides for Out-of-court dispute resolution. This is addressed in Part 5 of the 2023 Act. The processes and procedures in place in respect of dispute resolution provided for in that Part take account of providers' procedures for the resolution of disputes, including their codes of practice for complaints handling.

6.3 Step 2: Identify and describe the Regulatory Options

167. ComReg recognises that any regulatory measure should be kept to the minimum necessary whilst ensuring the needs of providers and end-users are met.
168. ComReg, in this consultation, gives consideration to a number of regulatory options relating to the minimum requirements for a code of practice and procedures for dealing with complaints and settling disputes that are fair, prompt, transparent, inexpensive and non-discriminatory and regarding the manner of publication of a code of practice.
169. ComReg's approach is to ensure that any requirements placed on providers are appropriate and proportionate.
170. In that context, ComReg is of the preliminary view that in considering its aims a number of options need to be taken in to account: –
- 170.1 Do nothing (i.e. retain the status quo); or
 - 170.2 specify new minimum requirements for providers' codes of practice for complaint handling; or
 - 170.3 specify minimum Quality of Service standards for complaint handling

6.4 Step 3: Determine the impacts on stakeholders

171. Step 3 assesses the likely impact of the proposed regulatory measures on stakeholders.
172. Pursuant to Section 42 of the 2023 Act, the proposed policy decisions will apply to all providers⁶³. The impacts envisaged for providers, end-users and competition, are considered against the following three identified options:
- 172.1 Option 1: Do nothing (i.e. maintain the status quo).
 - 172.2 Option 2: Specify new minimum requirements for a Code of Practice that align with the requirements of Sections 42(1) and 42(2) of the 2023 Act.
 - 172.3 Option 3: Specify minimum Quality of Service standards for complaint handling with related compensation obligations in the event of a breach of those standards.

⁶³ As defined in Section 40 of the 2023 Act

Option 1:

173. Under option 1, providers would continue to operate as at present. In practice this would mean that providers would continue to be bound by sections 41 and 42 of the 2023 Act and the 2017 Requirements.
174. There would be a financial benefit for providers in retaining the *status quo* as there would not be any additional costs for them as the process would remain unchanged. However, providers are already required to have codes of practice for complaints handling and to comply with minimum requirements in respect of them similar to those proposed in (and proposed to be maintained by) this consultation.
175. Having considered the additional cost likely to be incurred by providers in relation to the proposed changes, ComReg is of the view that many of the proposals do not involve changes to existing requirements that would incur significant cost to address, and they merely build upon established concepts and processes. Other proposals are dictated by legislative change. To the extent that the more significant proposed changes will incur costs, (including I.T. systems development and staff training) ComReg's preliminary view is that these costs are necessary and proportionate to achieving the aims, objectives and benefits of the proposals.
176. Conversely, maintaining the *status quo* may have a detrimental effect on end-users who currently experience difficulties in making complaints and in having their complaints resolved by providers. The identified benefits of the proposals for end-users may not be realised if further minimum requirements are not specified and these matters are left to providers to address. The 2017 Requirements are now long established, and providers may not be incentivised to make the identified changes in the absence of further requirements being imposed on them. To the extent that some providers may be so incentivised, having an industry-wide minimum set of requirements provides certainty and consistency for stakeholders.
177. It is also the case that certain legislative changes necessitate revision to the 2017 Requirements and therefore certain additional costs for providers are unavoidable.
178. Taking account of the foregoing, ComReg's preliminary view is that the proposed changes are necessary and proportionate, and they will lead to a more efficient, transparent and accessible process that addresses identified issues with current processes which will assist in managing the expectations of end-users, whilst providing more clarity for providers when classifying complaints.

Option 2:

179. ComReg has identified proposed new minimum requirements for a code of practice and procedures for dealing with complaints and settling disputes that it considers are fair, prompt, transparent, inexpensive and non-discriminatory; and requirements regarding the manner of publication of a code of practice that it deems appropriate. Option 2 would mean that different requirements to those currently in place would be specified.
180. ComReg proposes to revise the definition of a complaint in the manner, and for the reasons, set out in this consultation.
181. ComReg proposes to make it explicit that complaints made by end-users need to be made through a complaint handling channel specified in the provider's code of practice unless the provider elects to deal with the complaint in some other way. This provides certainty for providers and end-users alike in terms of what they can expect (and in the case of providers, what is expected of them). There is a consequent additional proposal however, which seeks to guard against overly literal approaches by providers that result in adverse experiences and outcomes for end-users. The proposal is that providers are proactive in dealing with situations in which end-users seek to make complaints through a channel used by the provider for customer service contacts but not a specified complaints channel (alternative means) and that they either proceed to deal with the complaint or, they re-direct the end-user to the appropriate channel by direct transfer unless this is not technically feasible, in which case the end-user is to be re-directed to the relevant complaints handling channel(s) and to the code of practice. The potential regulatory burden for providers by this proposal has been considered and it is proposed to confine the re-direction obligation to instances where the alternative means are used by the provider for customer service contacts. In this way providers' re-direction obligations are limited to those channels they would normally be using for customer contacts in any event.

182. ComReg has taken note of developments in the breadth of communications channels available and which providers use to facilitate their customers in interacting and engaging with them. ComReg is of the view that providers should provide end-users with an option to download or print a copy of a 'chat' or message if they have used chat bots, web-based chat, or direct messaging tools as their electronic means of contact, or provide this to the end-user automatically. If an online form is provided as the electronic means of contact the end-user should also have the facility to download or print a copy of what they have submitted via the online form, or this should be provided to the end-user automatically. This proposal seeks to advance the transparency and fairness of the process by ensuring that end-users in these circumstances have a record of their submission on a durable medium similar to those end-users who may use a different electronic means of contact. ComReg notes in this regard that some providers' webchats already have the option to save a transcript into a file or receive a copy via email.
183. Providers may use multiple channels but at least one Electronic means of contact must enable a record to be provided to the end-user in durable form. ComReg proposes to require a provider to make a statement in its code of practice identifying the electronic means of contact used, those that provide the end-user with a record in a durable form and those that do not, and indicating how the end-user may obtain and retain a record of their complaint.
184. ComReg has assessed the regulatory impact this will have for both providers and end-users. Providers will face I.T and/or training costs associated with either of these alternative options. They have a choice however, in terms of how they comply with the proposed requirements and can therefore choose the approach that is most suitable for their circumstances, with the ability to revise this approach over time if they see fit. ComReg's preliminary view that the costs likely to be incurred by providers associated with this proposal are proportionate to the aims, provide certainty for stakeholders, enhance end-user protection, and are consistent with the principles of accessibility, fairness, promptness and transparency as set out in sections 41 and 42 of the 2023 Act.
185. In ComReg's experience resolutions and redress for end-users can be delayed, frustrated and sometimes denied, in the absence of an adequate records. While separate obligations arise in respect of providers' records retention, an end-user should have the ability to easily and conveniently generate a record of their interactions with their provider so that in the event of a subsequent disagreement they are in a position to substantiate their position by reference to their own records.

186. It is proposed to revise the definition of a complaint so that the expression of dissatisfaction can be made explicitly or implicitly. ComReg understands that this proposal has the potential to result in more matters meeting the definition of a complaint and the impact this could have on providers. ComReg notes however, that these are merely different tests to assess dissatisfaction. The dissatisfaction will be present in either scenario and it is only the manner in which it is expressed that is different.
187. A dissatisfied end-user whose issue remains unresolved following an initial attempt to resolve it by the provider, should not be prevented from having the issue progress to complaint status simply due to their choice of words if their dissatisfaction can clearly be implied. ComReg, as per its statutory objectives, has had regard to international developments in this regard and notes that similar tests of dissatisfaction are used by Ofcom⁶⁴ and the ACMA⁶⁵. In particular, ComReg notes and agrees with the following statement made by Ofcom in its review of Consumer Complaints Procedures:
- “We accept there will often be an element of subjectivity in determining whether a consumer is making a complaint under our definition – for example, it may not always be readily apparent whether a consumer is expressing dissatisfaction or making a query. However, we still consider this definition to be most suitable for capturing those scenarios where consumers are unhappy with the status quo and require their provider to take positive steps to address their concerns. As outlined in our consultation we do not think the definition of complaint should be linked to the scale of harm suffered by a consumer or be linked to any other specific test (such as use of the term ‘complaint’). The nature of harm suffered by a consumer is more relevant to the steps a CP should take in response to a complaint rather than whether the matter should be considered a complaint or not.”⁶⁶*
188. ComReg is of the preliminary view that any additional burden created by this proposal for providers can be greatly mitigated against by the provider simply inquiring as to whether or not the end-user is satisfied with resolution proposed by the provider.

⁶⁴ See [Online]: Ofcom’s [‘Consumer Protection Condition 2’](#) and Ofcom’s [‘A Review of Consumer Complaints Procedures’](#)

⁶⁵ See [Online:] <https://www.legislation.gov.au/F2018L00727/latest/text> - “complaint means an expression of dissatisfaction made to a carriage service provider by a consumer in relation to its telecommunications products or the complaints handling process itself, where a response or resolution is explicitly or implicitly expected by the consumer.”

⁶⁶ At paragraph 4.26

189. An end-user who raises an issue to their provider and expresses dissatisfaction explicitly or implicitly with the attempted resolution by the provider and the matter remains unresolved, will have made a complaint. A complaint can be made in this scenario at the first point of contact. Where a provider makes no attempt to resolve an issue the provider should be in no better position – and the end-user in no worse position – than if an attempt *had* been made to resolve the issue. There should be no incentive for providers to ignore issues raised by their customers through complaints handling channels to prevent them becoming complaints. As noted above, ComReg has been contacted in cases where end-users have been unable to make a complaint to their provider and where no attempt has been made by the provider to resolve the issue raised by the end-user. It is important that an end-user can make a complaint and that it is not within the gift of their provider to prevent this from happening once a reasonable opportunity has been provided to the provider to resolve the issue.
190. ComReg is proposing to expressly provide that where a provider makes no attempt to resolve an issue raised by an end-user through a complaint handling channel then after 2 working days the issue raised will be deemed to be a complaint made when the issue was raised by the end-user to the provider.
191. End-users have to date been able to make a complaint where there has been no attempt made to resolve an issue raised through a complaint handling channel. ComReg’s proposal aims to make clear the specific point in time by which an attempt must be made to resolve an issue. This does not mean that in all cases a Proposed Complaint Resolution must be provided by this time (i.e. two working days after the issue is raised). What is required is that there is “an attempt to resolve” the issue. To amount to an attempt to resolve, the engagement by the provider must be specific to the issue raised and be a meaningful attempt to resolve it. It is not sufficient that an automated or generic response has been issued by the provider.
192. A key aim of this proposal is to engage end-users’ rights that are founded upon them having made a complaint. Section 47 of the 2023 Act reflects the legislative intention that end-users should be able to have unresolved complaints referred to ComReg for resolution within a relatively short period of time. It would undermine this legislative aim and frustrate end-users in obtaining redress if a provider could prevent this from happening simply by not making an attempt to resolve an issue. Deeming a complaint made does not mean the matter is immediately referable to ComReg for dispute resolution, however; the criteria in Section 47(1) of the 2023 Act would still have to be met by the end-user.

193. Where no attempt is made to resolve an issue raised by an end-user, ComReg is of the view that an end-user should not have to make further contact with their provider to express dissatisfaction in order for the issue to become a complaint. Furthermore an end-user may be unsure how long they have to wait for a response to their issue before expressing dissatisfaction and they may also be unsure how long they must wait after such an expression of dissatisfaction. Accordingly, in such circumstances ComReg is proposing that no expression of dissatisfaction is required from the end-user. This is a simple but important measure to safeguard against adverse outcomes for end-users, particularly in circumstances where end-users may feel they are being deliberately frustrated in progressing their complaint.
194. ComReg is of the preliminary view that while this proposal does impose a regulatory burden on providers, consistent with the statutory requirement in Section 41(1) of the 2023 Act that providers' complaints handling procedures are accessible, fair, prompt, transparent, inexpensive and non-discriminatory, those procedures cannot be permitted to prevent a complaint being made through a provider's own inaction. Therefore, ComReg considers the measure to be proportionate to the identified aims.
195. Similarly, it is proposed to clarify that unresolved issues relating to complaint handling include difficulties experienced by end-users in making a complaint. Complaint handling is already something in respect of which end-users may raise issues and which can give rise to complaints and the proposed amendment is aims to provide certainty on this matter. ComReg's preliminary view is therefore that this proposal should not have any significant impact on providers and is of benefit to end-users as it adds clarity.
196. Complaint Acknowledgements, Proposed Complaint Resolutions, Complaint Updates and Complaint Responses all reflect existing concepts within the 2017 Requirements and in terms of their proposed content, ComReg is of the preliminary view that the proposed revisions are proportionate to the aims cited in this consultation and/or are required due to legislative changes.
197. Taking account of the importance of a Complaint Acknowledgement for an end-user and the uses to which it may be put (referenced above), it is proposed that the information in the Complaint Acknowledgement is personally addressed (noting it already requires a unique reference number) and provided in a form that enables storage and future unchanged reproduction. For these reasons ComReg is also proposing that the Complaint Acknowledgement is provided on a durable medium. These considerations apply also to the Proposed Complaint Resolution, the Complaint Response and the Complaint Update where similar proposals are made. It should be noted that this consultation proceeds on the basis that in most cases the Proposed Complaint Resolution should form part of the Complaint Response. It is only if it has not been possible to provide a Proposed Complaint Resolution within 10 working days that a Complaint Update will be required and the Proposed Complaint Resolution will be provided at or after this stage.

198. ComReg notes that providers currently have to provide a Complaint Acknowledgement “in the same medium the complaint was made”. For some channels ComReg’s proposals that the Complaint Acknowledgement is personally addressed and is provided on a durable medium will create an additional burden for providers. ComReg’s preliminary view is that this burden and the associated cost are proportionate to the aims of having complaints procedures for end-users that are accessible, fair, prompt and transparent. Where the information required to be given in each of these instances is not given in a manner than enables easy storage and unchanged future reproduction there could be subsequent disagreements regarding the nature of the information given or statements made. This serves neither the interests of providers nor end-users.
199. ComReg proposes to require that providers retain complaint records for a period not less than 12 months from the date the complaint was finally closed. ComReg notes that the retention of “*records of complaints (including copies of the complaint, (and) any response to it..*” arises directly from Section 42(2)(g) of the 2023 Act. In ComReg’s view this obligation extends across the various complaint handling channels that may be utilised by providers and extends to call recordings where that particular channel is used to record complaints.
200. ComReg’s preliminary view is that a 12 month retention period for complaints records strikes a balance between data protection principles and rights including the protection of personal data and privacy, ComReg’s objectives to promote and protect the interests of end-users, and ComReg’s functions to monitor and ensure compliance by providers with their obligations.⁶⁷ As providers are required by statute to retain these records and as providers must report to ComReg at 6-monthly intervals on complaints received by them, and taking account of existing and current practices of providers in respect of retention of these records, ComReg considers that the proposed retention period should not impose any significant burden or additional cost on providers and is proportionate to the benefits identified in this consultation for retaining the records for this period. ComReg must ensure that codes of practice for dealing with complaints and for settling relevant disputes are fair, prompt, transparent, inexpensive and non-discriminatory.
201. It is also proposed that additional requirements will be placed on providers in relation to ensuring that links to the Code of Practice are maintained in working order at all times, in addition providers will be required to ensure links to relevant compensation schemes will also be embedded in the Code of Practice. These requirements will benefit end-users, who will be able to access key information in a straightforward and simple manner. ComReg is of the preliminary view that these proposals are proportionate to the identified aims.

⁶⁷ ComReg has consulted with the DPC on this proposal.

202. It is proposed that the Effective date will be 3 months from the date of publication of the Response to Consultation and Decision. It is ComReg's view that this is an appropriate and reasonable timeframe to allow providers make the necessary changes to their processes.
203. ComReg accepts that the introduction of new minimum requirements will likely involve additional costs for providers. On balance, ComReg is of the view that any cost consequences are not disproportionate, taking account of the fact that providers are currently obliged to have processes in place for complaint handling, and in ComReg's view the proposed new minimum requirements will assist the prompt resolution of complaints in a fair and transparent way and assist in managing the expectations of end-users.

Option 3:

204. Option 3 would involve ComReg specifying minimum quality of service standards under Section 37(1) of the 2023 Act. In respect of complaint handling, this could include standards in respect of available complaint handling channels, acknowledgement times, and time taken to resolve a dispute. ComReg has considered this option and is of the view that there is a significant overlap with the complaint handling standards that could be imposed and existing requirements in respect of complaints handling (including the 2017 Requirements).
205. Under Section 39 of the 2023 Act ComReg may specify as a compensable failure a failure to comply with a minimum quality of service standard specified under Section 37. This could apply to any minimum quality of service standard specified in respect of complaint handling.
206. At this time ComReg is not proposing to specify minimum quality of service standards under Section 37(1) with associated compensation obligations under Section 39 in order to implement the proposed changes, including those necessitated by legislative change. However, ComReg proposes to keep complaints handling quality of service under review and it may move to impose minimum quality of service standards and associated compensation obligations in the future if it considers this appropriate.

6.5 Step 4: Determine the impacts on competition

207. Step 4 assesses the impact on competition, of the various regulatory options available to ComReg. In that regard, ComReg notes that it has various statutory functions, objectives and duties which are relevant to the issue of competition.
208. The requirements proposed by ComReg will apply to providers.

209. It is possible that new regulatory obligations act unevenly in the market and may impact smaller providers and market entrants to a disproportionate extent. ComReg does not have discretion to apply these obligations selectively on providers. Even if it did, ComReg is of the view that end-users of services provided by smaller enterprises are entitled to expect the same protections as end-users who are customers of larger enterprises.
210. Therefore, while some impact on competition is conceivable and even likely as a result of these measures, it is not a reason to disapply or vary the requirements for providers.

6.6 Step 5: Assess the impacts and choose the best option

211. ComReg is of the preliminary view that the most appropriate option is Option 2, to specify requirements to ensure a code of practice and procedures for dealing with complaints and settling disputes are fair, prompt, transparent, inexpensive and non-discriminatory; and requirements regarding the manner of publication of a code of practice.
212. By doing so, ComReg aims to ensure that new legislative provisions set out in the 2023 Act are reflected in provider's codes of practice and address problems experienced by end-users in their use of provider's codes of practice which have been highlighted to ComReg through complaints it has received and compliance investigations.
213. ComReg expects this will provide certainty for providers in respect of minimum information requirements for a code of practice and the requirements regarding the manner of publication of a code of practice. ComReg also expects that this will assist end-users in comparing the level of service they can expect from a provider.
214. The other options considered would either, in the case of Option 1, not contribute to a significant change in terms of the existing requirements for a code of practice and thereby leave identified issues unaddressed; or, in the case of Option 3, could place additional regulatory and financial burden on providers.

Q. 5 Do you have any comments on ComReg's draft regulatory impact assessment?
Please provide detailed reasons and supporting evidence for your view.

7 Submitting comments and next steps

215. The consultation period will run from 22 April 2025 to 27 May 2025, during which ComReg welcomes written comments. It is requested that comments be cross-referenced to the relevant question numbers from this document.
216. Responses must be submitted in written form (post or email) to the following address/email and clearly marked "Submission to ComReg 25/23": Commission for Communication Regulation One Dockland Central 1 Guild Street North Dock Dublin 1 D01 E4XO Ireland Email: retailconsult@comreg.ie
217. Having analysed and considered the comments received, ComReg intends to publish a response to consultation and decision in June 2025.
218. In order to promote further openness and transparency, ComReg will publish respondents' submissions to this consultation subject to the provisions of ComReg's Guidelines on the Treatment of Confidential Information⁶⁸. If Respondents believe that parts of their responses are confidential or contain confidential information, the confidential elements of responses should be clearly marked as such and be set out in a separate confidential version of the response, which must be provided to ComReg by the closing date indicated above. Respondents should ensure that a non-confidential version of their response is also provided by the above closing date.

⁶⁸ ComReg 05/24

Appendix: 1 Tracked changes to 2017 Requirements

Table 1: Differences between 2017 Requirements and Proposed Requirements

The steps of the proposed requirements have each been numbered and to aid review are provided as a linked bookmark within this tracked change Table 1. The new paragraph number relates to that in the consolidated version at Appendix: 2; when clicked it will direct the reader to the appropriate paragraph in Appendix: 2.

Legend:

New: **Text is in red**

Deleted: ~~Text is single strikethrough~~

D04/17 Ref #	D04/17 (ComReg 17/62)	Tracked	New Para Ref #	Proposed text of Requirement
1.	STATUTORY FUNCTIONS AND POWERS			STATUTORY FUNCTIONS AND POWERS
	This Decision and Decision Instrument (“Decision Instrument”) is hereby made by ComReg for the purposes of imposing minimum requirements to ensure access to and compliance with a uniform code of practice for complaints handling which is fair, prompt, transparent inexpensive and non-discriminatory and to ensure that end-users are informed in respect of the complaints handling services provided	This Decision and Decision Instrument (“Decision Instrument”) is hereby made by the Commission for Communications Regulation (“ComReg”) established under Section 6 of the Communications Regulation Act 2002 as amended (“the 2002 Act”) and is made: for the purposes of imposing minimum requirements to ensure access to and compliance with a uniform code of practice for complaints handling which is	1.1	This Decision and Decision Instrument (“Decision Instrument”) is made by the Commission for Communications Regulation (“ComReg”) established under Section 6 of the Communications Regulation Act 2002, as amended (“the 2002 Act”) and is made:

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	by ECN and ECS Providers (Electronic Communications Providers).	fair, prompt, transparent inexpensive and non-discriminatory and to ensure that end-users are informed in respect of the complaints handling services provided by ECN and ECS Providers (Electronic Communications Providers).		
		Having regard to the functions and objectives of ComReg as set out in Sections 10 and 12 of the 2002 Act, and Regulations 12 and 16 of the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011.	(i)	Having regard to the functions and objectives of ComReg as set out in Sections 10 and 12 of the 2002 Act,
	Pursuant to Regulations 27(1), 27(2) and 27(3) of The Universal Service Regulations;	Pursuant of the functions and powers conferred upon ComReg by sections 41 and 42 of the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023,	(ii)	Pursuant of the functions and powers conferred upon ComReg by sections 41 and 42 of the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023,
	Pursuant to Regulation 30 of the Universal Service Regulations;			
	Having regard to the provisions of Regulation 27 of the European Union (Consumer Information, Cancellation and Other Rights) Regulations 2013			

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		Having regard to Directive 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications code (Recast),	(iii)	Having regard to Directive 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications code (Recast),
		Having regard to European Union (Electronic Communications Code) Regulations 2022 (“S.I. 444 of 2022”),	(iv)	Having regard to European Union (Electronic Communications Code) Regulations 2022 (“S.I. 444 of 2022”),
		Having regard to S.I. No. 636/2023 - European Union (Accessibility Requirements of Products and Services) Regulations 2023,	(v)	Having regard to S.I. No. 636/2023 - European Union (Accessibility Requirements of Products and Services) Regulations 2023,
	Having regard to the analysis and reasoning set out by ComReg in Decision No D13/01 (Document ODTR 01/67) Codes of Practice for the Handling of Consumer Complaints by Telecommunications operators and in Decision D16/03 (Document 03/86) Users’ Rights to Communications Services – Protecting users in the developing communications market (25 July 2003):	Having regard to the analysis and reasoning set out by the Commission in: Decision No (1) D13/01; (Document ODTR 01/67) Codes of Practice for the Handling of Consumer Complaints by Telecommunications operators and in (2) Decision D16/03; and (Document 03/86) Users’ Rights to Communications Services – Protecting users in the developing communications market (25 July 2003); D04/17;	(vi)	Having regard to the analysis and reasoning set out by the Commission in: (1) D13/01; (2) D16/03; and D04/17;
	Having regard to the analysis and reasoning set out by ComReg in ComReg 16/118 ECS Complaints			

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	Handling Code of Practice' (22 December 2016); and			
	Having regard to the analysis and reasoning set out in the responses to consultation and final decision document entitled ComReg Document No. 17/62 which shall, where appropriate, be construed together with this Decision Instrument.			
	Having regard to the Commission's functions and objectives under sections 10 and 12 respectively of the Communications Regulation Act 2002 (as amended) and Regulations 12 and 16 of the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011.	Moved to 1.1 (i)		
	Having, pursuant to Section 13 of the 2002 Act, complied with Ministerial Policy Directions where applicable.	[no change]	(vii)	Having, pursuant to Section 13 of the 2002 Act, complied with Ministerial Policy Directions where applicable.
		Having regard to Sections 43 and 44 of the 2023 Act concerning the provision of information to the Commission by providers in relation to end-user complaints	(viii)	Having regard to Sections 43 and 44 of the 2023 Act concerning the provision of information to the Commission by providers in relation to end-user complaints

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		Having regard to Section 45 of the 2023 Act concerning the right of an end-user to refer a dispute to ComReg for resolution.	(ix)	Having regard to Section 45 of the 2023 Act concerning the right of an end-user to refer a dispute to ComReg for resolution.
		Interpretation	2	Interpretation
		In this Decision Instrument terms used are as defined in the 2002 Act, the 2023 Act or the European Union (Electronic Communications Code) Regulations 2022 (S.I. 444/2022), unless the context otherwise admits or requires.	2.1	In this Decision Instrument terms used are as defined in the 2002 Act, the 2023 Act or the European Union (Electronic Communications Code) Regulations 2022 (S.I. 444/2022), unless the context otherwise admits or requires.
		References to European legislation, primary or secondary national legislation shall be construed as references to that legislation (as amended from time to time).	2.2	References to European legislation, primary or secondary national legislation shall be construed as references to that legislation (as amended from time to time).
		Words in the singular form shall be construed to include the plural, and vice versa, unless the context otherwise admits or requires.	2.3	Words in the singular form shall be construed to include the plural, and vice versa, unless the context otherwise admits or requires.
		Examples shall not be construed to limit, expressly or by implication, the matters they illustrate.	2.4	Examples shall not be construed to limit, expressly or by implication, the matters they illustrate.
		A reference to a section, clause, schedule or annex is a reference to a	2.5	A reference to a section, clause, schedule or annex is a reference to a

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		section, clause, schedule or annex of this Decision Instrument, unless the context otherwise admits or requires.		section, clause, schedule or annex of this Decision Instrument, unless the context otherwise admits or requires.
2.	Definitions		<u>3</u>	Definitions
	The following words and phrases shall have the following meaning unless the context otherwise requires	In this Decision Instrument, the following words and phrases shall have the following meaning unless the context otherwise requires	<u>3.1</u>	In this Decision Instrument, the following words and phrases shall have the following meaning
	“The 2002 Act” means the Communications Regulation Act 2002 (as amended)	[no change]		<u>‘The 2002 Act’</u> means the Communications Regulation Act 2002 (as amended)
		“The 2023 Act” means the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023		<u>‘The 2023 Act’</u> means the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023
		“The Code Regulations” means the European Union (Electronic Communications Code) Regulations 2022 (S.I. 444/2022).		<u>‘The Code Regulations’</u> means the European Union (Electronic Communications Code) Regulations 2022 (S.I. 444/2022).
	‘Complaint’ means an issue raised by an end-user to an undertaking relating to that undertakings product or service or its complaints handling process where the issue remains unresolved following an initial attempt by the undertaking to	‘Complaint’ means an issue raised by an End-User to an undertaking a Provider through one of the complaint handling channels in the Provider’s code of practice for complaints handling or an issue that is otherwise handled by the		<u>‘Complaint’</u> means an issue raised by an End-User to a Provider through one of the complaint handling channels in the Provider’s code of practice for complaints handling or an issue that is otherwise handled by the Provider in

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	<p>resolve it or where there has been no attempt by the undertaking to resolve it and the end-user expresses dissatisfaction, through one of the channels set out in the code of practice, that the issue remains unresolved.</p>	<p>Provider in accordance with section 5.1.3(i) of this Decision Instrument, relating to that undertakings the Provider's product, or service or its complaints handling process (which includes difficulty experienced making a complaint) and either: where (a) the issue remains unresolved following an initial attempt by the undertaking Provider to resolve it and the End-User expresses dissatisfaction either explicitly or implicitly, or (b) where there has been no attempt by the undertaking Provider to resolve it and the end-user expresses dissatisfaction, through one of the channels set out in the code of practice, that the issue remains unresolved. and 2 Working Days have elapsed since the issue was raised to the Provider by the End-User; in such circumstances the issue will be deemed to be a Complaint from the date the issue was raised to the Provider by the End-User.</p>		<p>accordance with section 5.1.3(i) of this Decision Instrument, relating to the Provider's product, service, or its complaint handling process (which includes difficulty experienced making a complaint) and either:</p> <p>(a) the issue remains unresolved following an initial attempt by the Provider to resolve it and the End-User expresses dissatisfaction either explicitly or implicitly, or</p> <p>(b) there has been no attempt by the Provider to resolve the issue and 2 Working Days have elapsed since the issue was raised to the Provider by the End-User; in such circumstances the issue will be deemed to be a Complaint from the date the issue was raised to the Provider by the End-User.</p>
	<p>'Complainant' means the end-user making the complaint and includes non-customers.</p>	<p>'Complainant' means the eEnd-User making the complaint and includes non-customers.</p>		<p>'<u>Complainant</u>' means the End-User making a Complaint</p>

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	‘Complaint Acknowledgment’ means a response from an undertaking, in the same medium the complaint was made which includes the following minimum information:	‘Complaint Acknowledgment’ means a response issued from an undertaking a Provider , issued to a Complainant in the same medium the complaint was made on a Durable Medium , which includes the following minimum information:		<u>‘Complaint Acknowledgment’</u> means a response from a Provider, issued to a Complainant on a Durable Medium, which includes the following minimum information:
	(i) Acknowledgement of the complaint,	(i) an A acknowledgement of the receipt of the complaint;		(i) an acknowledgement of the receipt of the complaint;
	(ii) Confirmation that the complaint is recorded,	(ii) C confirmation of the date the Complaint was made is recorded ;		(ii) confirmation of the date the Complaint was made;
	(iii) A timeframe for Complaint Response and Resolution and any other steps in the process,			
	(iv) Details of the unique reference number to identify and track the individual complaint	(iv) (iii) details of the unique reference number the Provider has attributed to identify and track the individual eComplaint ;		(iii) details of the unique reference number the Provider has attributed to identify and track the individual Complaint;
	(v) Appropriate contact details for the end-user to use in order for the consumer to contact the undertaking	(v) (iv) Appropriate contact details for the eEnd-u User to use in order to contact the undertaking Provider		(iv) appropriate contact details for the End-User to use in order to contact the Provider
	(vi) Next steps in the process	(vi) (v) Next any other steps in the process Provider’s Complaint handling process ;		(v) any other steps in the Provider’s Complaint handling process;

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		(vi) the date the Provider expects to issue the 'Complaint Response';		(vi) the date the Provider expects to issue the 'Complaint Response';
	(vii) Details of the internet/world wide web link to the Code of Practice	(vii) Details of the internet/world wide web link to the Code of Practice; and		(vii) Details of the web link to the Code of Practice; and
		(viii) a statement informing the End-User of their right to refer a Relevant Dispute to ComReg for resolution when either: (a) a period of at least 10 days has elapsed since the complaint giving rise to the dispute was made, or (b) the procedures for the resolution of disputes provided for in the provider's code of practice have been completed.		(viii) a statement informing the End-User of their right to refer a relevant dispute to ComReg for resolution when either: (a) a period of at least 10 days has elapsed since the complaint giving rise to the dispute was made, or (b) the procedures for the resolution of disputes provided for in the provider's code of practice have been completed.
	'Complaint Response' means a communication from the undertaking to the end-user that addresses all aspects of the complaint raised by the end-user and provides reasons, where Complaint Resolution is not provided as part of the response, for any delay and the steps being undertaken by the undertaking in investigating and resolving the complaint together with a provisional resolution date where available.	'Complaint Response' means a communication response issued from the undertaking to the end-user a Complainant on a Durable Medium, which includes the following minimum information: (i) a list of the aspects of the Complaint considered; (ii) confirmation that the Provider has that addresses all considered each aspects of the complaint raised by the		'Complaint Response' means a response issued to a Complainant on a Durable Medium, which includes the following minimum information: (i) a list of the aspects of the Complaint considered; (ii) confirmation that the Provider has considered each aspect listed; and confirmation, as applicable: (a) of the aspects of the Complaint that have been resolved;

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		<p>end user listed; and confirmation, as applicable:</p> <p>(a) of the aspects of the Complaint that have been resolved;</p> <p>(b) of the Proposed Complaint Resolution for each aspect of the Complaint as listed that are not resolved and provides reasons, where Complaint Resolution is not provided as part of the response, for any delay and the steps being undertaken by the undertaking in investigating and resolving the complaint together with a provisional resolution and the related date(s) where available. by which the Provider expects these aspects will be resolved; or</p> <p>(c) that the Provider is unable to take further action(s) to resolve the Complaint or will not do so; and</p> <p>(iii) information to advise that a dispute may be referred to ComReg where either:</p> <p>(a) the Complainant is dissatisfied with the complaint resolution</p>		<p>(b) of the Proposed Complaint Resolution for each aspect of the Complaint as listed that are not resolved and the related date(s) by which the Provider expects these aspects will be resolved; or</p> <p>(c) that the Provider is unable to take further action(s) to resolve the Complaint or will not do so; and</p> <p>(iii) information to advise that a dispute may be referred to ComReg where either:</p> <p>(a) the Complainant is dissatisfied with the complaint resolution undertaken or proposed by the provider; or</p> <p>(b) the dispute has not been resolved.</p>

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		<p>undertaken or proposed by the provider; or</p> <p>(b) the dispute has not been resolved.</p>		
		<p>'Complaint Update' means a response issued to a Complainant on a Durable Medium, which includes the following minimum information:</p> <p>(i) confirmation that it has not been possible for the Provider to resolve the Complaint within the time frame indicated in the 'Complaint Acknowledgement';</p> <p>(ii) an explanation of why the Provider could not resolve the Complaint within the time frame indicated in the 'Complaint Acknowledgement';</p> <p>(iii) details of the steps the Provider has taken, and is taking, to investigate and resolve the Complaint;</p> <p>(iv) any revised date by which the Provider will issue a Proposed Complaint Resolution.</p>		<p><u>'Complaint Update'</u> means a response issued to a Complainant on a Durable Medium, which includes the following minimum information:</p> <p>(i) confirmation that it has not been possible for the Provider to resolve the Complaint within the time frame indicated in the 'Complaint Acknowledgement';</p> <p>(ii) an explanation of why the Provider could not resolve the Complaint within the time frame indicated in the 'Complaint Acknowledgement';</p> <p>(iii) details of the steps the Provider has taken, and is taking, to investigate and resolve the Complaint;</p> <p>(iv) any revised date by which the Provider will issue a Proposed Complaint Resolution.</p>

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	‘ComReg’ means the Commission for Communications Regulation established under Section 6 of the 2002 Act.	[no change]		‘ ComReg ’ means the Commission for Communications Regulation established under Section 6 of the 2002 Act.
		‘Durable Medium’ has the same meaning as in Section 2 of the Consumer Rights Act 2022.		‘ Durable Medium ’ has the same meaning as in Section 2 of the Consumer Rights Act 2022.
	“Decision Instrument” means this Decision Instrument ComReg Document 17/62 D04/17 which is made pursuant to, inter alia, Regulation 27 of the Universal Service Regulations.	“Decision Instrument” means this Decision Instrument ComReg Document [XX/XX] which is made pursuant to, inter alia, Sections 41 and 42 of the 2023 Act.		‘ Decision Instrument ’ means this Decision Instrument ComReg Document [XX/XX] which is made pursuant to, inter alia, Sections 41 and 42 of the 2023 Act.
	“Distance Selling Regulations” means the European Union (Consumer Information, Cancellation and Other Rights) Regulations 2013, S.I. No. 484 of 2013.			
	‘Electronic Communications Provider’ means an undertaking providing Electronic Communications Networks (ECN) or Electronic Communications Service (ECS);			
	‘Electronic means of contact’ is a method of conveyance of the complaint over the internet or world wide web without any limitations or restrictions on	‘Electronic means of contact’ is a method of conveyance of the complaint if it is sent initially and received at its destination by means of electronic		‘ Electronic means of contact ’ is a method of conveyance of the complaint if it is sent initially and received at its destination by means of electronic

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	attaching documents, with no word character restriction and provides the end-user with a record in durable form.	equipment for the processing (this expression includes digital compression) or storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means over the internet or world wide web—without any limitations or restrictions on attaching documents, with no word character restriction and provides the eEnd-uUser with a record in durable form.		equipment for the processing (this expression includes digital compression) or storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means without any limitations or restrictions on attaching documents, with no word character restriction and provides the end-user with a record in durable form.
	‘Framework Regulations’ means the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011, S.I. No. 333 of 2011.			
	‘Internal Escalation Process’ means the process where a person or persons handling the complaint conducts a further investigation of the complaint with a view to final resolution of the complaint.			
	“Ministerial Policy Directions” Means the policy Directions made by Dermot Ahern	[‘Means’ replaced by ‘means’]		‘Ministerial Policy Directions’ means the policy Directions made by Dermot Ahern

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	<p>TD, then Minister for Communications, Marine and Natural Resources, pursuant to Section 13 of the Communications Regulation Act 2002 (as amended), dated 21 February 2003 and 26 March 2004.</p>			<p>TD, then Minister for Communications, Marine and Natural Resources, pursuant to Section 13 of the Communications Regulation Act 2002 (as amended), dated 21 February 2003 and 26 March 2004.</p>
	<p>'Proposed Complaint Resolution' means a resolution offered by an undertaking to an end-user to resolve the complaint.</p>	<p>'Proposed Complaint Resolution' means a resolution offered by an undertaking a response issued to an end-user Complainant on a Durable Medium, which sets out the final resolution offered by a Provider to an End-User to resolve the complaint.</p>		<p><u>'Proposed Complaint Resolution'</u> means a response issued to a Complainant on a Durable Medium, which sets out the final resolution offered by a Provider to an End-User to resolve the complaint.</p>
	<p>'Undertaking' has the same meaning as it has in Regulation 2 of the Framework Regulations.</p>			
	<p>'Unique reference number' is a number that is used to exclusively identify and locate records in relation to the individual end user's complaint. It can be an account number, phone number or other unique number.</p>	<p>[no change]</p>		<p><u>'Unique reference number'</u> is a number that is used to exclusively identify and locate records in relation to the individual End-User's Complaint. It can be an account number, phone number or other unique number.</p>
	<p>'The Universal Service Regulations' means the European Communities (Electronic Communications Networks</p>			

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	and Services) (Universal Service and Users' Rights) Regulations, S.I. 337 of 2011.			
		'Working Day' means a day other than a Saturday, Sunday, or public holiday		'Working Day' means a day other than a Saturday, Sunday, or public holiday
	References to European Union legislation or to Irish primary legislation or secondary legislation shall be construed as references to that legislation as amended from time to time.			
	Words in the singular form shall be construed to include the plural and vice versa, unless the context otherwise admits or requires.			
	Examples shall not be construed to limit, expressly or by implication, the matters they illustrate.			
	Other terms that are used in this Decision Instrument shall have the same meaning as when they are used in the Universal Service Regulations and the Framework Regulations, unless the context otherwise admits or requires.			

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3.	Scope	[no change]	4	Scope
3.1	This Decision Instrument applies to all undertakings providing electronic communications networks (ECN) or services (ECS).	This Decision Instrument applies to and is binding upon undertakings Providers. providing electronic communications networks (ECN) or services (ECS).	4.1	This Decision Instrument applies to and is binding upon Providers.
	This Decision Instrument specifies minimum requirements to be implemented and complied with by undertakings in complaint handling codes of practice.	[‘undertaking’ changed to ‘Provider’]	4.2	This Decision Instrument specifies minimum requirements to be implemented and complied with by Providers in complaint handling codes of practice.
			5	Application
4.1	First point of contact for Complainants	[no change]	5.1	First point of contact for Complainants:
4.1.1	Undertakings shall ensure that their Code of Practice contains details of all first points of contact offered to end-users and the following minimum information shall be included through which end-users can make contact:	[‘Undertaking’ changed to ‘Provider’]	5.1.1	Providers shall ensure that their Code of Practice contains details of all first points of contact offered to end-users and the following minimum information shall be included through which end-users can make contact:
(i)	A Freephone (1800) number or a 19XX Customer Support Short Code number or a geographic or mobile telephone number or a number that is free to all end-users and	A Freephone (1800) number or a 19XX Customer Support Short Code number or a geographic or mobile telephone number or a number that is free to all end-users and		(i) A Freephone (1800) number or a 19XX Customer Support Short Code number

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(ii)	An electronic means of contact and	[no change]		(ii) An Electronic means of contact and
(iii)	An address (excluding an address for an electronic means of contact);	[no change]		(iii) An address (excluding an address for an electronic means of contact);
		Where a Provider offers more than one first point of contact for Complainants electronically and only one of these is an Electronic means of contact providing an End-User with a record in a durable form, the Provider shall make a statement in its code of practice proximate to where it details its first points of contact for complaints, identifying the other electronic first points of contact used (the “other means”), confirming that the other means will not provide the End-User with a record on a Durable Medium, identifying the Electronic means of contact that will provide such a record on a Durable Medium, and indicating how the End-User may obtain and retain a record of a Complaint made using the other means.	5.1.2	Where a Provider offers more than one first point of contact for Complainants electronically and only one of these is an Electronic means of contact providing an End-User with a record in a durable form, the Provider shall make a statement in its code of practice proximate to where it details its first points of contact for complaints, identifying the other electronic first points of contact used (the “other means”), confirming that the other means will not provide the End-User with a record on a Durable Medium, identifying the Electronic means of contact that will provide such a record on a Durable Medium, and indicating how the End-User may obtain and retain a record of a Complaint made using the other means.
		Where an End-User is making a Complaint other than through a complaint handing channel specified in the Provider’s code of practice and	5.1.3	Where an End-User is making a Complaint other than through a complaint handing channel specified in the Provider’s code of practice and

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		<p>where that channel is one used by the provider for customer service contacts, a Provider is entitled to indicate that the Complaint needs to be made through a complaint handling channel specified in the Provider’s code of practice, but the Provider shall in such a scenario:</p> <p>(i) deal with the Complaint in accordance with its code of practice in the same manner as if a complaint handling channel specified in the Provider’s code of practice had been used; or</p> <p>(ii) the Provider shall transfer the End-User directly to the appropriate complaint handling channel unless technically infeasible, and where this is technically infeasible re-direct the End-User to the relevant complaints handling channel(s) and to the code of practice so the End-User can make the Complaint in accordance with the code of practice.</p>		<p>where that channel is one used by the provider for customer service contacts, a Provider is entitled to indicate that the Complaint needs to be made through a complaint handling channel specified in the Provider’s code of practice, but the Provider shall in such a scenario:</p> <p>(i) deal with the Complaint in accordance with its code of practice in the same manner as if a complaint handling channel specified in the Provider’s code of practice had been used; or</p> <p>(ii) the Provider shall transfer the End-User directly to the appropriate complaint handling channel unless technically infeasible, and where this is technically infeasible re-direct the End-User to the relevant complaints handling channel(s) and to the code of practice so the End-User can make the Complaint in accordance with the code of practice.</p>
4.1.2	While a complaint is being made, an undertaking shall not transfer a complainant, to any form of information technology support line or other service if the transfer results in the complainant	[‘An undertaking’ changed to ‘a Provider’]	5.1.4	While a Complaint is being made, a Provider shall not transfer a Complainant, to any form of information technology support line or other service if the transfer results in the Complainant

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	incurring a premium rate or higher call cost rate than the standard rate of calling a geographic or mobile telephone number involved in making a complaint			incurring a premium rate or higher call cost rate than the standard rate of calling a geographic or mobile telephone number involved in making a Complaint.
4.2	A means of recording complaints	[no change]	5.2	A means of recording Complaints
4.2.1	Undertakings shall ensure that all complaints are recorded and tracked regardless of contact medium.	['Undertaking' changed to 'Provider']	5.2.1	Providers shall ensure that all Complaints are recorded and tracked regardless of contact medium.
4.2.2	Undertakings shall specify in their code of practice how they record and track complaints and provide details of how a unique reference number is used in their complaint tracking process.	['Undertaking' changed to 'Provider']	5.2.2	Providers shall specify in their code of practice how they record and track Complaints and provide details of how a unique reference number is used in their Complaint tracking process.
4.2.3	Undertakings shall ensure the minimum information recorded in relation to a complaint includes:	['Undertaking' changed to 'Provider']	5.2.3	Providers shall ensure the minimum information recorded in relation to a Complaint includes:
(i)	The complainant's name, account number and contact details including a phone number;	[no change]		(i) The Complainant's name, account number and contact details including a phone number;
(ii)	The date the complaint was raised by the end-user and dates of all communication throughout the life cycle of the complaint to final closure;	The date the cComplaint was raised made by the eEnd-uUser and dates of all communication throughout the life cycle of the eComplaint up to and		(ii) The date the Complaint was made by the End-User and dates of all communication throughout the life cycle of the Complaint up to and including the date the Complaint is finally closed';

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		including the date the Complaint is finally closedure;		
(iii)	A copy of the written complaint or notes made from the voice / online communications with the complainant relating to the complaint;	A copy of the any written eComplaint or notes made from the voice / online any communications with the eComplainant relating to the eComplaint;		(ii) A copy of any written Complaint or notes made from any communication with the Complainant relating to the Complaint;
(iv)	All communications with the complainant including details of the response to the complaint, final resolution and any determination in respect of the complaint with associated documentation;	All communications with the complainant including copies of: (a) the Complaint, details of the (b) any response to the eComplaint, final resolution and (c) any determination in respect of the eComplaint and (d) with associated any documentation considered in the course of such determination.;		(iv) All communications with the complainant including copies of (a) the complaint, (b) any response to the complaint, (c) any determination in respect of the complaint and (d) any documentation considered in the course of such determination.
4.3	Response timeframes and Resolution Procedures	[no change]	<u>5.3</u>	Response timeframes and Resolution Procedures
4.3.1	Undertakings shall inform End-Users of the code of practice at the first point of contact on making a complaint.	['Undertaking' changed to 'Provider']	<u>5.3.1</u>	Providers shall inform End-Users about the code of practice at the first point of contact on making a Complaint.
	An undertaking shall ensure that:	['Undertaking' changed to 'Provider']	<u>5.3.2</u>	A provider shall ensure that:
(i)	The Complaints Acknowledgement is provided to the end-user (including the	The A 'Complaints Acknowledgement' is provided to the e End-uUser (including		(i) A 'Complaint Acknowledgement' is provided to the End-User within a

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	communication of the unique identifier to be used in respect to complaints and an internet/world wide web link to their code of practice) within a maximum timeframe of two working days	the communication of the unique identifier to be used in respect to complaints and an internet/world wide web link to their code of practice) within a maximum timeframe of 2 working days from the day on which the Complaint was first notified to the Provider;		maximum timeframe of 2 working days from the day on which the Complaint was first notified to the Provider;
(ii)	The Complaints Response is provided to the end-user within a maximum timeframe of 10 Working Days;			
(iii)	The Proposed Complaints Resolution responds to all aspects of the complaint raised;			
		(ii) A 'Complaint Update' is provided to an End-User if a Complaint will not be resolved in the timeframe indicated in the Complaint Acknowledgement;		(ii) A 'Complaint Update' is provided to an End-User if a Complaint will not be resolved in the timeframe indicated in the Complaint Acknowledgement;
		(iii) A 'Complaint Response' is provided to an End-User, within a maximum timeframe of 10 working days from the day on which the Complaint was first notified to the Provider.		(iii) A 'Complaint Response' is provided to an End-User, within a maximum timeframe of 10 working days from the day on which the Complaint was first notified to the Provider.
(iv)	Where a Complaint remains unresolved after 10 Working days the escalations team must communicate to the end-user an email address to progress the			

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	complaint in addition to any other forms of contact.			
4.4	Refunds and reimbursements	[no change]	5.4	Refunds and reimbursements
4.4.1	Undertakings shall specify in their code of practice the mechanism whereby end-users can avail of refunds.	Undertakings Providers shall specify in their code of practice the mechanism whereby eEnd-u Users can avail of refunds reimbursement of payments, payments of compensation and payments in settlement of losses.	5.4.1	Providers shall specify in their code of practice the mechanism whereby End-Users can avail of reimbursement of payments, payments of compensation and payments in settlement of losses.
		A code of practice shall refer to any compensation scheme a Provider is required to publish in accordance with Section 39 of the 2023 Act and a working direct link to any such published compensation scheme shall be contained within the code of practice.	5.4.2	A code of practice shall refer to any compensation scheme a Provider is required to publish in accordance with Section 39 of the 2023 Act and a working direct link to any such published compensation scheme shall be contained within the code of practice.
4.5	Manner of publication		5.5	Manner of publication
4.5.1	Undertakings shall ensure that a direct link to the code of practice is clearly displayed on the Home page of the corporate website, and web pages established by the Undertakings for dealing directly with end-user complaints including web pages	Undertakings Providers shall ensure that a working direct link to the an up-to-date code of practice is clearly displayed on the Home page of the corporate website, and web pages established by the Undertakings Provider for dealing directly with eEnd-u User complaints	5.5.1	Providers shall ensure that a working direct link to an up-to-date code of practice is clearly displayed on the Home page of the corporate website, and web pages established by the Provider for dealing directly with End-User Complaints including web pages

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	established by third parties where possible.	including web pages established by third parties where possible.		established by third parties where possible.
4.5.2	Undertakings shall ensure that the code of practice is returned or displayed to end-users using search terms which include 'code of practice', 'complaint', 'how to make a complaint' or 'how to complain', using the search facility of its corporate website and any web pages created for dealing directly with end-user complaints.	['Undertaking' changed to 'Provider']	5.5.2	Providers shall ensure that the code of practice is returned or displayed to End-Users using search terms which include 'code of practice', 'complaint', 'how to make a complaint' or 'how to complain', using the search facility of its corporate website and any web pages created for dealing directly with end-user complaints.
4.5.3	Undertakings shall ensure that details of an internet/web link to the code of practice is included in the Complaint Acknowledgement; and on receipt of a request from an end-user, undertakings shall without undue delay, provide a copy of the code of practice to the end-user in a format accessible to that end-user.	['Undertaking' changed to 'Provider']	5.5.3	Providers shall ensure that details of an internet/web link to the code of practice is included in the Complaint Acknowledgement; and on receipt of a request from an End-User, Providers shall without undue delay, provide a copy of the code of practice to the End-User in a format accessible to that End-User.
		Providers shall ensure that a code of practice does not contain information other than information relating to the handling of Complaints and resolution of disputes.	5.5.4	Providers shall ensure that a code of practice does not contain information other than information relating to the handling of Complaints and resolution of disputes.
		Retention of records of complaints	5.6	Retention of records of complaints

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		Providers shall ensure that records relating to a Complaint are retained for a period not less than 12 months after the date the complaint is finally closed.	5.6.1	Providers shall ensure that records relating to a Complaint are retained for a period not less than 12 months after the date the complaint is finally closed.
5.	Compliance	[no change]	6	Compliance
5.1.1	Undertakings shall comply with this Decision Instrument and shall confirm and demonstrate to ComReg’s satisfaction that they are in compliance with this Decision Instrument by 31 December 2017.	Undertakings Providers shall comply with this Decision Instrument and shall confirm and demonstrate to ComReg’s satisfaction that they are in compliance with this Decision Instrument by 31 December 2017 within 1 month of the Effective Date.	6.1	Providers shall comply with this Decision Instrument and shall confirm and demonstrate to ComReg’s satisfaction that they are in compliance with this Decision Instrument within 1 month of the Effective Date.
•	STATUTORY POWERS NOT AFFECTED	[no change]	7	Statutory powers not affected
o	Nothing in this Decision Instrument shall operate to limit ComReg in the exercise and performance of its statutory powers or duties conferred on it under any primary or secondary legislation (in force prior to or after the Effective Date of this Decision Instrument) from time to time.	[no change]	7.1	Nothing in this Decision Instrument shall operate to limit ComReg in the exercise and performance of its statutory powers or duties conferred on it under any primary or secondary legislation (in force prior to or after the Effective Date of this Decision Instrument) from time to time.
•	MAINTENANCE OF OBLIGATIONS	[no change]	8	Maintenance of obligations
o	If any section, clause or provision or portion thereof contained in this	[no change]	8.1	If any section, clause or provision or portion thereof contained in this

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	Decision Instrument 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 Decision Instrument and rendered ineffective as far as possible without modifying the remaining section(s), clause(s) or provision(s) or portion thereof of this Decision Instrument, and shall not in any way affect the validity or enforcement of this Decision Instrument or other Decision Instruments.			Decision Instrument 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 Decision Instrument and rendered ineffective as far as possible without modifying the remaining section(s), clause(s) or provision(s) or portion thereof of this Decision Instrument, and shall not in any way affect the validity or enforcement of this Decision Instrument or other Decision Instruments.
•	EFFECTIVE DATE AND DURATION	REVOCATION AND EFFECTIVE DATE AND DURATION	9	Revocation and effective date
o	This Decision and Decision Instrument is effective from the date of its publication (the Effective Date), and shall remain in full force unless otherwise amended by ComReg.	This Decision and Decision Instrument is effective from the date of its publication (the Effective Date), and shall remain in full force unless otherwise amended by ComReg and will revoke and replace ComReg Decision No. 04/17, which remains effective up to the Effective Date.	9.1	This Decision Instrument will take effect from the date of its publication (the Effective Date) and will revoke and replace ComReg Decision No. 04/17, which remains effective up to the Effective Date.
		Duration	10	Duration

D04/17 Ref #	D04/17 (ComReg 17/62)	Tracked	New Para Ref #	Proposed text of Requirement
		<p>This Decision and Decision Instrument shall remain in full force and effect from, the Effective Date, unless otherwise amended by ComReg.</p>	<p>10.1</p>	<p>This Decision and Decision Instrument shall remain in full force and effect from, the Effective Date, unless otherwise amended by ComReg.</p>

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Appendix: 2 Draft Decision Instrument and Schedules

Draft Decision Instrument

1 Statutory Functions and Powers

1.1 This Decision and Decision Instrument (“Decision Instrument”) is made by the Commission for Communications Regulation (“**ComReg**”) established under Section 6 of the Communications Regulation Act 2002, as amended (“**the 2002 Act**”) and is made:

- (i) Having regard to the functions and objectives of ComReg as set out in Sections 10 and 12 of the 2002 Act,
- (ii) Pursuant of the functions and powers conferred upon ComReg by sections 41 and 42 of the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023,
- (iii) Having regard to Directive 2018/1972 of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications code (Recast),
- (iv) Having regard to European Union (Electronic Communications Code) Regulations 2022 (“S.I. 444 of 2022”),
- (v) Having regard to S.I. No. 636/2023 - European Union (Accessibility Requirements of Products and Services) Regulations 2023,
- (vi) Having regard to the analysis and reasoning set out by the Commission in: (1) D13/01; (2) D16/03; and (3) D04/17,
- (vii) Having, pursuant to Section 13 of the 2002 Act complied with Ministerial Policy Directions where applicable, and
- (viii) Having regard to Sections 43 and 44 of the 2023 Act concerning the provision of information to ComReg by providers in relation to end-user complaints.
- (ix) Having regard to Section 45 of the 2023 Act concerning the right of an end-user to refer a dispute to ComReg for resolution.

2 Interpretation

2.1 In this Decision Instrument terms used are as defined in the 2002 Act, the 2023 Act or the European Union (Electronic Communications Code) Regulations 2022 (S.I. 444/2022), unless the context otherwise admits or requires.

- 2.2 References to European legislation, primary or secondary national legislation shall be construed as references to that legislation (as amended from time to time).
- 2.3 Words in the singular form shall be construed to include the plural, and vice versa, unless the context otherwise admits or requires.
- 2.4 Examples shall not be construed to limit, expressly or by implication, the matters they illustrate.
- 2.5 A reference to a section, clause, schedule or annex is a reference to a section, clause, schedule or annex of this Decision Instrument, unless the context otherwise admits or requires.

3 Definitions

- 3.1 In this Decision Instrument, the following words and phrases shall have the following meaning:

'The 2002 Act' means the Communications Regulation Act 2002 (as amended).

'The 2023 Act' means the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023.

'The Code Regulations' means the European Union (Electronic Communications Code) Regulations 2022 (S.I. 444/2022).

'Complaint' means an issue raised by an End-User to a Provider through one of the complaint handling channels in the Provider's code of practice for complaints handling or an issue that is otherwise handled by the Provider in accordance with section 5.1.3(i) of this Decision Instrument, relating to the Provider's product, service, or its complaint handling process (which includes difficulty experienced making a complaint) and either:

- (a) the issue remains unresolved following an initial attempt by the Provider to resolve it and the End-User expresses dissatisfaction either explicitly or implicitly, or
- (b) there has been no attempt by the Provider to resolve the issue and 2 Working Days have elapsed since the issue was raised to the Provider by the End-User; in such circumstances the issue will be deemed to be a Complaint from the date the issue was raised to the Provider by the End-User.

'Complainant' means the End-User making a Complaint.

‘Complaint Acknowledgment’ means a response from a Provider, issued to a Complainant on a Durable Medium, which includes the following minimum information:

- (i) an acknowledgement of the receipt of the Complaint;
- (ii) confirmation of the date the Complaint was made;
- (iii) details of the unique reference number the Provider has attributed to identify and track the individual Complaint;
- (iv) appropriate contact details for the End-User to use in order to contact the Provider;
- (v) any other steps in the Provider’s Complaint handling process;
- (vi) the date the Provider expects to issue the ‘Complaint Response’;
- (vii) Details of the web link to the code of practice; and
- (viii) a statement informing the End-User of their right to refer a Relevant Dispute to ComReg for resolution when either:
 - (a) a period of at least 10 days has elapsed since the Complaint giving rise to the dispute was made, or
 - (b) the procedures for the resolution of disputes provided for in the Provider’s code of practice have been completed.

‘Complaint Response’ means a response issued to a Complainant on a Durable Medium, which includes the following minimum information:

- (i) a list of the aspects of the Complaint considered;
- (ii) confirmation that the Provider has considered each aspect listed; and confirmation, as applicable:
 - (a) of the aspects of the Complaint that have been resolved;
 - (b) of the Proposed Complaint Resolution for each aspect of the Complaint as listed that are not resolved and the related date(s) by which the Provider expects these aspects will be resolved; or
 - (c) that the Provider is unable to take further action(s) to resolve the Complaint or will not do so; and
- (iii) information to advise that a dispute may be referred to ComReg where either:
 - (a) the Complainant is dissatisfied with the complaint resolution undertaken or proposed by the provider; or

(b) the dispute has not been resolved.

'Complaint Update' means a response issued to a Complainant on a Durable Medium, which includes the following minimum information:

- (i) confirmation that it has not been possible for the Provider to resolve the Complaint within the time frame indicated in the 'Complaint Acknowledgement';
- (ii) an explanation of why the Provider could not resolve the Complaint within the time frame indicated in the 'Complaint Acknowledgement';
- (iii) details of the steps the Provider has taken, and is taking, to investigate and resolve the Complaint;
- (iv) any revised date by which the Provider will issue a Proposed Complaint Resolution.

'ComReg' means the Commission for Communications Regulation established under Section 6 of the 2002 Act.

'Durable Medium' has the same meaning as in Section 2 of the Consumer Rights Act 2022.

'Decision Instrument' means this Decision Instrument ComReg Document [XX/XX] which is made pursuant to, inter alia, Sections 41 and 42 of the 2023 Act.

'Electronic means of contact' is a method of conveyance of the complaint if it is sent initially and received at its destination by means of electronic equipment for the processing (this expression includes digital compression) or storage of data, and entirely transmitted, conveyed and received by wire, by radio, by optical means or by other electromagnetic means without any limitations or restrictions on attaching documents, with no word character restriction and provides the End-User with a record in durable form.

'Ministerial Policy Directions' means the policy Directions made by Dermot Ahern TD, then Minister for Communications, Marine and Natural Resources, pursuant to Section 13 of the Communications Regulation Act 2002 (as amended), dated 21 February 2003 and 26 March 2004.

'Proposed Complaint Resolution' means a response issued to a Complainant on a Durable Medium, which sets out the final resolution offered by a Provider to an End-User to resolve the complaint.

‘Unique reference number’ is a number that is used to exclusively identify and locate records in relation to the individual End User’s Complaint. It can be an account number, phone number or other unique number.

‘Working Day’ means a day other than a Saturday, Sunday, or public holiday.

4 Scope

4.1 This Decision Instrument applies to and is binding upon Providers.

4.2 This Decision Instrument specifies minimum requirements to be implemented and complied with by Providers in respect of complaint handling codes of practice, and for dealing with Complaints and settling disputes.

5 Application

5.1 First point of contact for Complainants:

5.1.1 Providers shall ensure that their code of practice contains details of all first points of contact offered to End-Users and the following minimum information shall be included through which End-Users can make contact:

- (i) A Freephone (1800) number or a 19XX Customer Support Short Code number;
- (ii) An Electronic means of contact; and
- (iii) An address (excluding an address for an Electronic means of contact).

5.1.2 Where a Provider offers more than one first point of contact for Complainants electronically and only one of these is an Electronic means of contact providing an End-User with a record in a durable form, the Provider shall make a statement in its code of practice proximate to where it details its first points of contact for complaints, identifying the other electronic first points of contact used (the “other means”), confirming that the other means will not provide the End-User with a record on a Durable Medium, identifying the Electronic means of contact that will provide such a record on a Durable Medium, and indicating how the End-User may obtain and retain a record of a Complaint made using the other means.

5.1.3 Where an End-User is making a Complaint other than through a complaint handling channel and where that channel is one used by the provider for customer service contacts, a Provider is entitled to indicate that the Complaint needs to be made through a complaint handling channel specified in the Provider’s code of practice, but the Provider shall in such a scenario:

- (i) deal with the Complaint in accordance with its code of practice in the same manner as if a complaint handling channel specified in the Provider's code of practice had been used, or
- (ii) the Provider shall transfer the End-User directly to the appropriate complaint handling channel unless technically infeasible, and where this is technically infeasible re-direct the End-User to the relevant complaint handling channel(s) and to the code of practice so the End-User can make the Complaint in accordance with the code of practice.

5.1.4 While a Complaint is being made, a Provider shall not transfer a Complainant, to any form of information technology support line or other service if the transfer results in the Complainant incurring a premium rate or higher call cost rate than the standard rate of calling a geographic or mobile telephone number involved in making a Complaint.

5.2 A means of recording Complaints:

5.2.1 Providers shall ensure that all Complaints are recorded and tracked regardless of contact medium.

5.2.2 Providers shall specify in their code of practice how they record and track Complaints and provide details of how a unique reference number is used in their Complaint tracking process.

5.2.3 Providers shall ensure the minimum information recorded in relation to a Complaint includes:

- (i) The Complainant's name, account number and contact details including a phone number;
- (ii) The date the Complaint was made by the End-User and dates of all communication throughout the life cycle of the Complaint up to and including the date the complaint is finally closed;
- (iii) A copy of any written Complaint or notes made from any communication with the Complainant relating to the Complaint;
- (iv) All communications with the Complainant including copies of:
 - (a) the Complaint,
 - (b) any response to the Complaint,
 - (c) any determination in respect of the Complaint and

- (d) any documentation considered in the course of such determination.

5.3 Response timeframes and Resolution Procedures

5.3.1 Providers shall inform End-Users about the code of practice at the first point of contact on making a Complaint.

5.3.2 A Provider shall ensure that:

- (i) A 'Complaint Acknowledgement' is provided to the End-User within a maximum timeframe of 2 Working Days from the day on which the Complaint was first notified to the Provider;

- (ii) A 'Complaint Update' is provided to an End-User if a Complaint will not be resolved in the timeframe indicated in the Complaint Acknowledgement;

- (iii) A 'Complaint Response' is provided to an End-User, within a maximum timeframe of 10 Working Days from the day on which the Complaint was first notified to the Provider.

5.4 Refunds and reimbursements

5.4.1 Providers shall specify in their code of practice the mechanism whereby End-Users can avail of reimbursement of payments, payments of compensation and payments in settlement of losses.

5.4.2 A code of practice shall refer to any compensation scheme a Provider is required to publish in accordance with Section 39 of the 2023 Act and a working direct link to any such published compensation scheme shall be contained within the code of practice.

5.5 Manner of publication

5.5.1 Providers shall ensure that a working direct link to an up-to-date code of practice is clearly displayed on the Home page of the corporate website, and web pages established by the Provider for dealing directly with End-User Complaints including web pages established by third parties where possible.

5.5.2 Providers shall ensure that the code of practice is returned or displayed to End-Users using search terms which include 'code of practice', 'complaint', 'how to make a complaint' or 'how to complain', using the search facility of its corporate website and any web pages created for dealing directly with end-user complaints.

5.5.3 Providers shall ensure that details of an internet/web link to the code of practice is included in the Complaint Acknowledgement; and on receipt of a request from an End-User, Providers shall without undue delay, provide a copy of the code of practice to the End-User in a format accessible to that End-User.

5.5.4 Providers shall ensure that a code of practice does not contain information other than information relating to the handling of Complaints and resolution of disputes.

5.6 Retention of records of complaints

5.6.1 Providers shall ensure that records relating to a Complaint are retained for a period not less than 12 months after the date the complaint is finally closed.

6 Compliance

6.1 Providers shall comply with this Decision Instrument and shall confirm and demonstrate to ComReg's satisfaction that they are in compliance with this Decision Instrument within 1 month of the Effective Date.

7 Statutory powers not affected

7.1 Nothing in this Decision Instrument shall operate to limit ComReg in the exercise and performance of its statutory powers or duties conferred on it under any primary or secondary legislation (in force prior to or after the Effective Date of this Decision Instrument) from time to time.

8 Maintenance of obligations

8.1 If any section, clause or provision or portion thereof contained in this Decision Instrument 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 Decision Instrument and rendered ineffective as far as possible without modifying the remaining section(s), clause(s) or provision(s) or portion thereof of this Decision Instrument, and shall not in any way affect the validity or enforcement of this Decision Instrument or other Decision Instruments.

9 Revocation and effective date

9.1 This Decision Instrument will take effect 3 months following the date of its publication (the Effective Date) and will revoke and replace ComReg Decision No. 04/17, which remains effective up to the Effective Date.

10 Duration

- 10.1 This Decision and Decision Instrument shall remain in full force and effect from the Effective Date, unless otherwise amended by ComReg.

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Appendix: 3 Legal Basis

- 1 ComReg's objectives under Section 12(1)(a) of the Communications Regulation Act 2002 (as amended) in exercising its functions in relation to the provision of electronic communications networks, electronic communications services, and associated facilities, are to (i) to promote competition; (ii) to contribute to the development of the internal market, and (iii) to promote the interests of users within the Community. In relation to its objectives, ComReg is required to take all reasonable measures which are aimed at achieving those objectives, including in so far as promotion of the interests of users within the Community is concerned, ensuring a high level of protection for consumers in their dealings with suppliers [Section 12(2)(c)(ii)].
- 2 It is an objective of ComReg under Regulation 4(3)(d) of the European Union (Electronic Communications Code) Regulations 2022 ("the ECC Regulations") to promote the interests of the consumers and businesses in the State, by ensuring connectivity and the widespread availability and take-up of very-high-capacity networks, including fixed, mobile and wireless networks, and of electronic communications services, by enabling maximum benefits in terms of choice, price and quality on the basis of effective competition, by maintaining the security of networks and services, by ensuring a high and common level of protection for end-users through the necessary sector-specific rules and by addressing the needs, such as affordable prices, of specific social groups, in particular end-users with disabilities, elderly end-users and end-users with special social needs, and choice and equivalent access for end-users with disabilities.
- 3 It is a function of ComReg under Section 10(1)(a) of the Communications Regulation Act 2002 (as amended) to ensure compliance by undertakings with obligations in relation to the supply of and access to electronic communications services, electronic communications networks and associated facilities and the transmission of such services on such networks.
- 4 Section 10(3) of the Communications Regulation Act 2002 (as amended) provides that the Commission shall have all such powers as are necessary for or incidental to the performance of its functions under this or any other Act.
- 5 Section 41(1) of the 2023 Act requires that every provider:

"..shall ensure that it has in place procedures for dealing with complaints and for settling disputes with end-users that are accessible, fair, prompt, transparent, inexpensive and non-discriminatory."

6 Section 41(2) of the 2023 Act provides that ComReg

“...may specify requirements to be met by a provider for the purpose of ensuring compliance....”

7 Section 42(1) of the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023 (“**the 2023 Act**”) requires that every provider⁸:

“...shall prepare, publish, keep updated and implement a code of practice for dealing with complaints and for settling relevant disputes.”

8 Section 42(2) of the 2023 Act details that every provider’s code of practice must provide:

“(a) first point of contact for complainants, including the channels of making complaints;

(b) a means of recording complaints;

(c) time-frames within which a provider shall respond to and resolve complaints;

(d) procedures for resolving complaints;

(e) informing the complainant that a dispute may be referred to the Commission where—

(i) the dispute has been resolved in accordance with the code of practice and the complainant is dissatisfied with the resolution, or

(ii) the dispute has not been resolved and at least 10 working days have passed since the day on which the complaint was first notified to the provider;

(f) cases where reimbursement of payments, payments of compensation and payments in settlement of losses incurred will be made;

(g) retention of records of complaints (including copies of the complaint, any response to it, any determination in respect of the complaint and any documentation considered in the course of such determination).”

9 Section 42(3) of the 2023 Act provides that ComReg

“...may specify requirements to be met for the purpose of ensuring compliance with subsection (1) and the manner of publication of a code of practice referred to in that subsection including, without limitation, any requirements to ensure that the code of practice and procedures for dealing with complaints and settling disputes are fair, prompt, transparent, inexpensive and non-discriminatory.”

10 Section 43 of the 2023 Act provides that:

A provider shall, within each period of 6 months beginning with the period beginning on the date on which this section comes into operation, report to the Commission on—

(a) complaints made to it by end-users within the preceding 6 month period, and

(b) such other matters relating to complaints by end-users made during that period as may be specified by the Commission.

11 Section 45 of the 2023 Act provides that “*where a provider receives a complaint from an end-user in respect of its services, the provider shall inform the end-user of his or her right to refer a relevant dispute to the Commission for resolution in accordance with section 47*”.

12 Section 47 of the 2023 Act provides for the resolution of relevant disputes by Commission where : -

(1) An end-user may refer a dispute with a provider to the Commission and, where the Commission is satisfied that the dispute is a relevant dispute, and—

(a) a period of at least 10 days has elapsed since the complaint giving rise to the dispute was made, or

(b) the procedures for the resolution of disputes provided for in the provider’s code of practice have been completed,

the Commission, or such independent person as may be appointed by the Commission, shall, in accordance with such procedures as may be specified by the Commission under section 48 , carry out a dispute resolution process and propose a resolution to the dispute referred.

(2) Where the Commission proposes a resolution under subsection (1) the end-user that referred the dispute may elect to accept the resolution proposed and where the end-user so elects the resolution shall be binding on the provider concerned.

(3) An end-user who has referred a dispute to the Commission for resolution under this section may withdraw the dispute at any stage up to the time at which the Commission, or such independent person as may be appointed by the Commission, proposes a resolution to the dispute, by notifying the Commission, or the person, in writing to that effect, or, where there is an oral hearing in relation to the dispute, by notifying the Commission, or the person, at the hearing.

13 Section 56 of the 2023 Act provides for the continuation of measures under the USR :

(1) Any measure that is in force under Regulation 27 of the Universal Services Regulations on the coming into operation of this section shall continue in force and *be deemed to have been made under, and in accordance with, this Part.*

(2) *Without prejudice to the generality of subsection (1), for the purposes of this section “measure” includes any decision, specification, requirement, direction, notification and notice, and any other act of an equivalent nature.*

Appendix: 4 Questions

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