



Commission for
Communications Regulation

Response to Consultation and Final Determination regarding the Emergency Call Answering Service Call Handling Fee Review 2013/2014

Response to Consultation

Reference: ComReg 13/02

Decision: D01/13

Date: 11/01/2013

Content

Section	Page
1 Introduction.....	3
2 Executive Summary	5
3 Consultation responses.....	7
3.1 Cost Stack.....	7
3.2 Relevant cost standard	9
3.3 Reasonable costs.....	10
3.4 Call Volumes and call volume relationship	12
3.5 Draft determination.....	16
4 Determination	17
Annex 1: General comments.....	18

1 Introduction

The Communications Regulation Act, 2002 ("the Act ") outlines ComReg's statutory role in respect of the Emergency Call Answering Service ("ECAS") and, in particular, its duties relating to the review of the maximum permitted call handling fee ("CHF") that the ECAS provider is allowed to charge for handling emergency calls.¹

This response to Consultation and Determination is published to provide background and context into the review and to provide information on ComReg's consideration of the responses to the Consultation and draft Determination² ("the Consultation"). In addition, this response to Consultation and Determination contains ComReg's determination on the maximum CHF that the ECAS provider is allowed to charge for handling emergency calls for the period 12 February 2013 to 11 February 2014.

ComReg received three responses to the Consultation namely from:

- Eircom Group ("Eircom");
- Hutchinson 3G Ireland ("H3GI"); and
- Magnet Networks ("Magnet").

All of these responses have been reviewed and have been fully taken into account for the purposes of ComReg's statutory review and its final determination on the maximum permitted CHF.

It is important to note that in discharging its duties under the Act, ComReg is also doing so within the context of a contract (known as the Concession Agreement ("the CA")) made between the Department for Communications, Energy and Natural Resources ("DCENR") and the ECAS provider, BT Communications (Ireland) Limited ("BT"). ComReg is not a party to this CA and, in many instances, ComReg has no discretion in relation to the treatment of certain cost categories, such as depreciation, or the sinking fund. In both of these examples, the costs borne by the ECAS provider is derived directly from the manner in which the CA was agreed. It is not appropriate for ComReg to comment on its specifications or requirements. ComReg has, however, reviewed the costs incurred by the ECAS provider in its implementation of the CA including commercial arrangements between the ECAS provider and third party suppliers. Where ComReg considers the costs of these commercial arrangements to be unreasonable, it has disallowed them.

¹ See section 58D of the Communications Regulation (Amendment) Act 2002, as inserted by section 16 of the Communications Regulation (Amendment) Act 2007.

² ComReg Document No 12/112.

The draft Determination contained in the Consultation proposed a maximum permitted CHF of €2.96 comprising a reduction of approximately 12% from the previous CHF. A major factor influencing this decrease has been the stabilisation in the annual rate of decline of call volumes to approximately 2.0%. In this final Determination, ComReg considers that an annualised rate of decline of 2.0% to be appropriate. This reflects the views of respondents, the current rate of decline of c. 2.0% from January 2012 to November 2012, the removal of certain hoax calls and also allows for possible further declines given that recent weather has not been as severe as in previous years. **ComReg has determined a maximum permitted CHF of €2.93 for the period 12 February 2013 to 11 February 2014.**

This CHF represents the reasonable costs that the ECAS provider has incurred and is expected to incur in delivering the service and handling the expected emergency call volume. ComReg has disallowed some costs where it deemed them to be unreasonable.

While some respondents to the Consultation wished to see the precise value of the reasonable costs incurred by BT, ComReg has redacted commercially sensitive and confidential information from the review in order to respect the legitimate interests of the ECAS provider and its third-party suppliers. ComReg is satisfied that, notwithstanding these redacted values, the process relating to the review has been comprehensive, extremely detailed and rigorous and that it has provided sufficient detail for stakeholders to properly understand the basis for the Determination on the CHF.

2 Executive Summary

The ECAS is the means by which emergency calls made to 112 or 999 are handled by a dedicated Public Safety Answering Point ("PSAP") and forwarded to the relevant emergency service on the basis of the service required and the location of the incident.

BT provides the ECAS on a 24-hour, 365-day basis, using three PSAPs located in Ballyshannon, County Donegal, Navan, County Meath, and Eastpoint, Dublin 3. The three PSAPs act as one "virtual" centre, with emergency calls being handled on a "next available agent" basis. The ECAS also has two data centres which provide the points of interconnection between telecommunications providers and the ECAS.

Under section 58D of the Act, ComReg is required to carry out a review of the reasonable costs incurred by the ECAS provider and to determine the maximum permitted CHF on an annual basis. This Determination is made under section 58D of the Act and pursuant to the Consultation held during October/November 2012.

In making this Determination, ComReg has taken full account of the responses to the Consultation and the recommendations made by its consultants, Tera Consultants ("Tera") and its partners, Orbita Consultancy ("Orbita") (who assisted Tera with its conduct of the review).

Ultimately, ComReg disallowed some of the costs incurred by the ECAS provider, because they were not considered reasonable. These costs have been excluded from the CHF calculation.

In the Consultation ComReg asked the views of respondents to six questions and, in general, their responses agreed with most of ComReg's preliminary views. There was general agreement (or no comments provided) on:

- ComReg's proposals for the cost categories for inclusion in the calculation of the CHF;
- the methodology to be applied in calculating the CHF;
- the hourly rate payable to the specialist call-centre company; and
- the wording of ComReg's draft Determination.

In some cases, the respondents partially agreed with ComReg's preliminary views but:

- Eircom considered that there was insufficient information provided to allow a more informed response on the hourly rate payable to the specialist call-centre company; and
- Eircom, while agreeing with the cost categories, disagreed with the treatment of certain costs within them.

Magnet and Eircom disagreed with ComReg's preliminary views on its proposed rate of decline in call volumes. None of the respondents identified specific remediation programmes which might impact upon call volumes.

- Magnet considered that the actual rate of decline of 1.5% to be more appropriate; and
- Eircom considered that the issue of SIM-less calls must be addressed.

In responding to the preliminary views, ComReg has detailed its final conclusions in respect of the specific questions asked in the Consultation. Other points that were made by the respondents that are not directly related to the questions are dealt with separately in Annex 1.

ComReg notes that some of these other related issues are either operational, engineering, performance or policy ones and it considers these to be beyond the scope of this review. However, ComReg suggests that these issues can be dealt with further within the context of the ECAS Quarterly Forum ("the Forum") chaired by ComReg and attended by the DCENR, ComReg, and members of the telecommunications industry. ComReg believes it is appropriate that the Forum would continue to address these issues.

As ComReg considers that the cost base is now relatively stable, the main factor in determining the CHF for 2013/2014 is the estimation of call volumes. After a period of significant decline from July 2010 (when the ECAS provider commenced live operations), call volumes are now demonstrating more stability³. In the Consultation ComReg was of the preliminary view that an annual rate of decline in call volumes of 2.5% would be appropriate. However, in light of responses to the Consultation, additional volume data for 2012 and the consistency of figures in that data, ComReg now considers that an annual rate of decline of 2.0% to be a more appropriate estimate for the annual rate of decline.

³ ComReg document No. 12/105 - Volume of emergency calls January 2012-June 2012

3 Consultation responses

As outlined in the Consultation, ComReg identified six main areas for the subject matter of its review:

- i. Section 3 - Cost stack
- ii. Section 5 - Relevant cost standard
- iii. Section 6 - Reasonable costs
- iv. Section 7 - Call volumes
- v. Section 8 - Call volume relationship
- vi. Section 10 – Draft Determination

Section 4 of the Consultation outlined ComReg's approach when undertaking the reasonable cost review. Section 8 of the Consultation outlined ComReg's continuing view that international benchmarking was not appropriate when reviewing the CHF.

3.1 Cost Stack

ComReg's preliminary views

In Section 3 of the Consultation, ComReg outlined the main cost categories it had included when determining the reasonable costs of the CHF. These were:

- Pay costs
- Non-pay costs
- Depreciation/amortisation
- Guaranteed rate of return
- Cost of capital rebate
- Sinking fund
- Prior period under-recovery

These cost categories reflected the cost categories in the 2012-2013 CHF review and their annualised costs approximated to €7.9m.

This section incorporated question 1 which stated:

Figure 4 represents the basis of the cost stack for the determination of the CHF for 2012-2013. Please provide any comments on whether the cost categories should remain the same for the determination of the CHF for 2013-2014, including detailed reasoning for your answer.

Main issues raised by respondents

Eircom agreed with the general cost categories included in the cost stack but had concern with how some of the costs were derived (which primarily related to those determined under the CA). These concerns related to the guaranteed rate of return, the use of straight line depreciation over the duration of the CA and the sinking fund. H3GI referred to its response to ComReg Document No. 11/81⁴ where it considered that joint and common costs should be excluded. Magnet did not comment on this question.

ComReg's conclusions

ComReg is of the view that Eircom's comments relating to the CA in respect of reasonable costs are beyond the scope of this review. ComReg was not a party to the CA and, thus, it cannot review or amend its terms, conditions or specifications. The main costs, their treatment or specification determined by the CA and which ComReg considers to be beyond the scope of this review are:

- The guaranteed rate of return - The rate and basis for calculating the guaranteed rate of return has been set in the CA.
- The sinking fund – The value and use of the sinking fund has been set in the CA.
- The depreciation/amortisation of assets over the life of the CA – the basis for depreciating/amortising assets over the life of the CA has been set in the CA.
- The requirement to have a third PSAP.
- The performance metrics to which the ECAS provider must adhere.

ComReg, in its review, has assessed, those costs not directly governed by the CA and which are under the control of the ECAS provider for reasonableness. Where it considered costs were unreasonable, these were disallowed.

⁴ Emergency Call Answering Service: Call Handling Fee Review 2012/2013

In respect of H3GI's response to ComReg Document No. 11/81 and, as noted in ComReg document 12/01, ComReg has excluded "joint and common costs" from the CHF calculation and those costs described as "indirect" relate to the provision of support functions to ECAS by BT personnel who are not 100% dedicated to ECAS. Their time is recorded and charged to ECAS on a task by task basis.

Therefore, ComReg remains of the view that the main cost categories to be included in the cost stack for the determination of the 2013/2014 CHF are as follows:

- Pay costs
- Non-pay costs
- Depreciation/amortisation
- Guaranteed rate of return
- Cost of capital rebate
- Sinking fund
- Prior period under-recovery

3.2 Relevant cost standard

ComReg's preliminary views

In Section 5 of the Consultation, ComReg outlined the cost standard it has applied when calculating the CHF. The calculation of the CHF was based on:

- a hybrid costing methodology, based on HCA⁵ accounts (appropriately adjusted for reasonableness) and reflecting forward-looking cost and volume data is the most appropriate way to determine the CHF;
- avoidable cost which is the appropriate cost principle to be used in assessing the CHF, combined with a hybrid cost model;
- the costs associated with the provision of the ECAS are:
 - Direct costs
 - Indirect costs
 - Fixed costs
 - Variable costs

This approach is consistent with that adopted during the CHF review of 2012/2013.

⁵ HCA means Historical Cost Accounts

This section incorporated question 2 which stated:

Do you agree or disagree that it is appropriate to continue to apply the above methodologies for the 2013-2014 CHF review? Please provide detailed reasoning and calculations for your views.

Main issues raised by respondents

Both Magnet and Eircom agreed with ComReg's preliminary views. H3GI referred to its response to ComReg Document No. 11/81 where it agreed that a hybrid costing methodology based on HCA to be appropriate in determining the CHF.

ComReg's conclusions

ComReg considers that, in ComReg Document No. 12/01 and in ComReg Document No. 12/112, it has previously addressed all of the points raised by H3GI.

Therefore, ComReg remains of the view that:

- the calculation of the CHF is based on a hybrid costing methodology, based on HCA accounts (appropriately adjusted for reasonableness) and reflecting forward-looking cost and volume data is the most appropriate way to determine the CHF;
- avoidable cost is the appropriate cost principle to be used in assessing the CHF, combined with a hybrid cost model;
- the costs associated with the provision of the ECAS are:
 - Direct costs
 - Indirect costs
 - Fixed costs
 - Variable costs

3.3 Reasonable costs

ComReg's preliminary views

In Section 6 of the Consultation, ComReg described the various costs which are charged by the ECAS provider in running the ECAS operation. Within each category, ComReg provided an overview of how the cost is derived and whether or not it considers it to be reasonable. Due to the commercial sensitivity and confidential nature of the data to the ECAS provider and its suppliers, many of the specific values could not be published in the Consultation.

In the Consultation, ComReg noted that while there had been some variation in the level of costs incurred (both up and down), there had not been any major change in the nature/classification of the costs incurred since the CHF review of 2012/2013. ComReg further noted that it considered the majority of costs to be reasonable.

ComReg was also of the preliminary view that €28.07 was a reasonable hourly rate payable to the specialist call-centre company.

This section incorporated question 3 which stated:

Do you agree or disagree with ComReg's preliminary view that €28.07 is a reasonable hourly rate payable to the specialist call centre company, based on what costs have been allowed and what costs have been disallowed? Please provide detailed reasoning and calculations for your views.

Main issues raised by respondents

Magnet agreed that €28.07 was a reasonable hourly rate payable to the specialist call-centre company. Eircom considered that the salary related element (€12.79) of the hourly rate payable to the specialist call-centre company was within industry norms. However, Eircom submitted that there was insufficient information provided to enable it to comment on the remaining €15.28 but that it seemed high for a labour intensive operation. H3GI referred to its response to ComReg Document No. 11/81 where it agreed that a rate of €28.07 per hour payable to the specialist call-centre company appeared reasonable.

ComReg's conclusions

During the review process ComReg has examined each of the cost components within the remaining €15.28 of the hourly rate payable to the specialist call-centre company and considers them to be reasonable. However, as the hourly rate is subject to commercial arrangements between the ECAS provider and the specialist call-centre company, ComReg has decided that it is not appropriate to disclose further aspects of it due to the commercial sensitivity and confidentiality of the information. Furthermore, within the hourly rate are elements which relate to the salary of particular staff (such as recruiters and trainers). Unlike the salaries payable to the CSRs, this information is not publically available.

ComReg, however, remains of the view that €28.07 is a reasonable hourly rate payable to the specialist call-centre company.

3.4 Call Volumes and call volume relationship

ComReg's preliminary views

In Section 7 of the Consultation, ComReg described how call volumes had evolved and how it expected them to continue evolving to the end of the CA. It also requested respondents to provide details on any network remediation programmes or any such initiatives in the short to medium term (1 to 3 years) which may affect the forecasted volume of emergency call. This section incorporated questions 4 and 5 which stated:

Please outline if you are aware of any network remediation programme or any such initiatives in the short to medium term (1 to 3 years) which may affect the forecasted volume of emergency calls.

Do you agree or disagree with the proposed forecast of the call volume decline rate of 2.5% per annum? Please provide detailed reasoning and calculations for your views.

In Section 8 of the Consultation, ComReg noted that there had been a significant decline in call volumes since 2009, primarily due to remediation work being carried out by Eircom in its network but that this rate of decline had slowed significantly.

ComReg was of the preliminary view that there would be an ongoing net annual decrease of 2.5% in call volumes to the end of the CA. This was based on an average of:

- ComReg's predicted 3.5% decline in the CHF review of 2012/2013; and
- An actual 1.5% decline being recorded between January and June 2012.

ComReg was of the preliminary view that a forecasted rate of decline 1.5% was not appropriate as it did not consider the possibility of externalities such as remediation programmes.

In addition to requesting information in respect of any network remediation programmes, ComReg also requested views on the proposed forecast of the call volume decline rate of 2.5% per annum.

ComReg also noted that a 1% change in call volumes would not necessarily bring about a corresponding 1% change in the CHF. This is because the reasonable costs of the ECAS are divided by emergency call volumes to arrive at the CHF. If volumes are less, this tends to increase the CHF given that the majority of the costs (even the in-life costs) of the ECAS are fixed.

Main issues raised by respondents

Both Magnet and H3GI indicated that they were not aware of any remediation programmes in the short to medium term which could affect the forecasted volumes of emergency calls.

Eircom commented that it continued to monitor and repair faults on its network.

Magnet considered that an annualised rate of decline of 1.5% to be appropriate as this was based on the actual rate of decline between January and June 2012.

Eircom did not provide direct comment on the proposed rate of decline. However, it considered that SIM-less calls should be removed from the calculation of call volumes. H3GI did not comment on this question.

ComReg's conclusions

Based on the views of the respondents, ComReg is of the view that no specific remediation programmes will be undertaken within the short to medium term which could affect the forecasted volumes of emergency calls. However, ComReg notes the ongoing remediation programmes being implemented by operators, as required.

Call volumes from July to November 2012 indicate that ComReg's assumptions remain valid, but given the somewhat unpredictable nature of the remediation work by operators (which is outside the ECAS provider's role), this will continue to be monitored.

Between July and November 2012, actual call volumes increased by approximately 0.4% when compared to the corresponding period in 2011. Therefore, on an annualised basis the rate of decline for 2012 would be 0.8%:

	Average
• January to June	<1.5%>
• July to November	0.4%
• December (estimate)	<2.0%>
• Annualised	<u><0.8%></u>

It should be noted, however, that during the period since August 2012 a particular issue has been identified by the ECAS provider where a significant number of hoax calls were received. This issue has since been resolved.

The number of calls forwarded to the ECAS relating to this particular issue has had a noticeable impact upon the call volumes as outlined below. It should be noted that in order to comply with Regulation 20 of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011, every ECAS operator shall ensure that end-users are able to call emergency services free of charge. Further, Section 58C of the Act, states that a call handling fee is payable in respect of an emergency call⁶ even if the call is not forwarded to the emergency service concerned. Therefore, when a call is forwarded to the ECAS provider:

- it must be answered;
- is reflected in the reported call volumes; and
- the cost included in the CHF.

ComReg considers, therefore, that when forecasting call volumes for 2013, that the hoax calls from August to November 2012, in particular, which required specific intervention, should be ignored. ComReg considers that it is unlikely that there will be a repeat of the same level of hoax calls. By removing these specific hoax calls, the annualised rate of decline would be approximately 1.8% when compared to the corresponding period in 2011.

	Average
• January to June	<1.5%>
• July to November	<u><2.2%></u>
• December (estimate)	<u><2.0%></u>
• Annualised	<u><1.8%></u>

ComReg notes that from September to November 2012, the rate of decline (following the exclusion of specific hoax calls) was approximately 6% on average. From discussions with the ECAS provider, this increased rate of decline is primarily due to less calls being made, not as a result of remediation programmes, but due to more favourable weather. As noted in the Consultation, there was severe weather in October 2011⁷ which caused severe flooding in many parts of the country. This level of flooding has not re-occurred in 2012.

⁶ 'emergency call' means an electronic communication (such as a telephone call) that is forwarded from an undertaking to the ECAS operator for onward transmission to an emergency service, and includes a call that may not be a genuine one.

⁷ Paragraph 77 of the Consultation

ComReg is of the view that to apply a rate of decline of 1.5% to the forecasted call volumes could result in call volumes being understated. While this reflects the call volume decline from January to June 2012, it understates the decline from July to November 2012. This increased rate of decline has been primarily driven by an improvement in weather conditions when compared to the corresponding period in 2011 (resulting in lower call volumes). While no specific remediation programmes have been identified by respondents, ComReg is of the view that ongoing and ad hoc network maintenance could further reduce call volumes.

Following consideration of respondents submissions and continued analysis of the actual rate of decline data, ComReg is now of the view that an annual rate of decline of 2.0% is appropriate. A 2.0% rate of decline also reflects the removal of the particular issue of hoax calls. While hoax calls are a feature of the ECAS operation, the same level of hoax calls is not expected to re-occur. If there is any under or over recovery in costs, this will be addressed in the subsequent CHF review (i.e. the CHF review for 2014/2015).

ComReg is also of the view that the costs of operating the ECAS are now relatively stable:

- The pay costs of the specialist call-centre company are based on forecast hours derived from estimated call volumes and, as noted above, these call volumes appear to have stabilised.;
- Pay costs relating to the ECAS provider are also highly stable – the organisational chart remains unchanged and the costs of support functions and engineering time is consistent with the prior year. The ECAS provider has not indicated that any additional support functions or engineering time, above what is currently forecast, will be required;
- Non-pay costs also remain largely stable and many of these are linked to service agreements or lease agreements;
- While some level of capital expenditure may occur between now and the end of the CA (and if incurred would be required to be written off between now and the end of the CA under the terms of the CA), no ECAS specific expenditure has been identified;
- The amounts payable to the ECAS provider by way of the guaranteed rate of return and into the sinking fund are determined by the CA; and
- As much of the prior period under-recovery has now been recovered by the ECAS provider, the level of under recovery has been greatly reduced. With more stable call volumes, ComReg is of the view that future fluctuations in the prior period under/over recovery will also be greatly reduced.

Therefore, as costs appear to be stable and as the rate of decline in call volumes has also stabilised, ComReg considers that possible fluctuations in future CHF's are greatly reduced.

In relation to Eircom's comments on SIM-less calls these are dealt with in Annex 1.

3.5 Draft Determination

ComReg's preliminary views

In Section 10 of the Consultation, ComReg issued its draft Determination and requested views on its proposed wording.

This section incorporated question 5.

Main issues raised by respondents

Both Magnet and Eircom agreed with the proposed wording. H3GI did not comment on this question.

ComReg's conclusions

ComReg is of the view that no amendments are required to the wording in the Determination (apart from the CHF).

4 Determination

1 Definitions

1.1 In this Determination:

- "*the Act*" means the Communications Regulation Act 2002;
- "*the Commission*" means the Commission for Communications Regulation established under Section 6 of the Act;
- "*emergency call*" has the same meaning as in Section 58A of the Act; and
- "*the emergency provider*" means BT Communications Ireland Limited.

2 Determination

2.1 The Commission makes this Determination:

- In exercise of its powers under section 58D (2) of the Act;
- Pursuant to its functions at section 10(1)(ca) of the Act;
- Pursuant to the review conducted by it under section 58D (1) of the Act;
- Having had due regard to section 58D (3) of the Act;
- Pursuant to Commission Document No. 12/112 and Commission Document No. 12/112a;
- Having duly taken account of the responses received to Commission Document No. 12/112 and Commission Document No. 12/112a; and
- Having regard to the reasoning and analysis conducted by the Commission and set out in this Response to Consultation and Determination.

2.2 The Commission hereby determines that for the period 12 February 2013 to 11 February 2014, the maximum permitted call handling fee that the emergency provider may charge to entities who forward emergency calls to it shall be €2.93.

2.3 This Determination is effective from the date of the publication of this response to consultation and determination.

Annex 1: General comments

Eircom raised a number of points not addressed by the questions posed in the Consultation. Many of the points raised relate to the CA, which, as previously stated, is an agreement between the DCENR and BT. ComReg is not a party to the CA.

In discussing the various points raised by respondents ComReg has addressed them under the following headings:

- Concession Agreement
- ECAS efficiencies
- ECAS specifications
- Unnecessary Calls
- Efficiency Measures
- Depreciation Charges
- Regulatory Impact Assessment
- ECAS contract period

Concession Agreement

Eircom raised a number of concerns with regards to the Concession Agreement and how the reasonable cost review was conducted:

- Operator attempts to reduce the number of spurious calls results in an increase in the CHF and this is inconsistent with the requirements of the Act;
- What amounts to reasonable costs is for ComReg to determine and not for the ECAS provider and the Minister;
- The ECAS network is underutilised and ComReg must consider this when determining the reasonable costs of the ECAS provider;
- Any new CA must be designed to meet a realistic volume of genuine calls.

As stated above in section 3.1, ComReg is of the view that as certain costs and their treatment or specification are determined by the CA, ComReg cannot review or amend these. ComReg has reviewed those costs not directly governed by the CA and, where it considers these costs to be unreasonable, it has disallowed them.

ECAS efficiencies

Eircom was of the view that the information presented did not allow a full evaluation of the ECAS operations and that certain comments made in the Consultation suggested that efficiencies were not being achieved.

ComReg considers that the ECAS provider has devoted significant resources and effort in ensuring that the ECAS operation runs as smoothly and efficiently as possible. This is reflected in its continued adherence to the performance metrics as set out in the CA.

Where efficiencies were not achieved, ComReg has disallowed certain costs and the ECAS provider has implemented changes to its systems to address these inefficiencies.

The specific performance metrics which the ECAS provider must comply with are contained within the CA.

ECAS capacity

Eircom considered that the utilisation rates being achieved and expected to be achieved by the ECAS provider are an inefficient use of resources which the industry should not be expected to fund.

As noted in the Consultation,⁸ emergency call answering services tend to have lower utilisation rates compared to commercial call centres. Levels of utilisation in emergency call answering services cannot be measured in simple monetary terms or simple percentages. ComReg is of the view that spare capacity must be built into the ECAS in order to ensure that the users of the ECAS can be assured that their calls will be answered promptly, efficiently and with the highest level of professionalism. This cannot be seen as an inefficient use of resources. There are also times for which demand for the ECAS exceeds that planned for (e.g. major weather events or other such national events). Capacity must also be in place within the ECAS to allow for these unforeseen events.

⁸ Paragraph 107

ComReg, through its review, has analysed and considered that the utilisation rates being achieved by the ECAS provider reflect those of other emergency call centres. As noted in the Consultation, an ECAS operation, by its very nature, cannot be *truly efficient*. This is because it cannot be run similar to a fully commercialised call-centre operation, given its life critical nature. A certain level of excess capacity has to be built in to ensure that the performance metrics as set out in the CA are met. In this review, ComReg has reviewed the adherence to the performance metrics and where it considers these could be achieved more effectively, without endangering the service levels, it has requested the ECAS provider to make these changes. However, ComReg has recommended the gradual implementation of the changes (within a relatively short time-frame) to ensure the continued smooth running of the ECAS operation and these recommendations are being adopted by the ECAS provider. This should result in a continued improvement to the rate of staff utilisation.

In order to vary the utilisation rates, a change to the performance metrics would be required and, as noted previously, these are contained within the CA, which is beyond the remit of ComReg.

ECAS specifications

Eircom questioned the need for a third PSAP.

As noted in the Consultation (and also dealt with in ComReg document 12/01), the requirement to have the third PSAP is in order to ensure resilience in the ECAS network and to adhere to the performance metric that the service be available 99.999% of the time.

The requirement for a third PSAP is contained within the CA, which is beyond the remit of ComReg.

Unnecessary calls

Eircom considered that inefficient calls, such as spurious or SIM-Free calls be eliminated.

ComReg agrees with Eircom, but notes that:

- Under current legislation all calls must be forwarded to ECAS provider;
- Unnecessary calls can only be removed so long as there is no impact upon uninterrupted access;
- The current ECAS network configuration was designed to handle 4.8m calls.

Efficiency measures

Eircom noted that:

- It was endeavouring to reduce spurious calls from its fixed network;
- Increased effort is made by all stakeholders to reduce SIM Free calls and that, in particular, ComReg should review the requirement in some mobile licences to carry SIM-Free calls.

ComReg welcomes Eircom's efforts to remove spurious calls emanating from its fixed network.

With regard to SIM Free calls, ComReg considers that these are a subset of calls without Calling Line Identity ("CLI"). As noted in the Consultation, spurious calls without CLI have been a feature of the ECAS call volumes for many years and this has only become a matter for discussion very recently. It must be emphasised that is not open to ComReg to disregard spurious calls without CLI because it has no power to do so under the Act and also because it is not a party to the CA.

ComReg would once again refer Eircom to Regulation 20 of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011, which states that every ECAS operator shall ensure that end- users are able to call emergency services free of charge. This applies regardless of whether the call is SIM-Free or spurious.

Depreciation charges

Eircom disagreed with the depreciation of fixed asset investment over five years (i.e. the term of the Concession Agreement).

As noted in this years and last year's consultation, fixed asset investment is depreciated over the life of the CA and this is set out in the CA, which is beyond the remit of ComReg.

International benchmarks

Eircom noted that it was not possible to internationally benchmark the CHF. However, it considered that the proposed CHF of €2.96 was three times the UK equivalent and, therefore, excessive and unreasonable.

In the Consultation, ComReg Document No. 12/01 and in ComReg Document No. 12/112, ComReg outlined that it considered that a comparison with the UK was not possible for the following reasons:

- Differences in population;
- Differences in the number of PSAPs;
- The provision of ancillary services in the UK PSAPs;

- Variations in the application of performance metrics.

ComReg has undertaken a thorough review of the costs incurred by the ECAS provider in operating the ECAS. Based on its review, it considers the CHF to be reasonable.

Regulatory Impact Assessment

Eircom considered that ComReg should have conducted a Regulatory Impact Assessment (“RIA”) as the level at which it sets the maximum permitted CHF has an impact on all operators who forward calls to the ECAS.

ComReg would like to point out that it is not imposing a new regulatory obligation upon any stakeholder. The obligation to pay the CHF is imposed by the Act. The Act also obliges ComReg to conduct the review and to determine the CHF annually. ComReg has no discretion to refuse to do so. ComReg is of the view that a RIA is not required in this instance as it is carrying out its obligations under the Act and Regulations for which a RIA has already been undertaken. ComReg has acted in accordance with its obligation, under section 12(3) of the Act to carry out its functions in a proportionate manner and, also, has followed its own Guidelines in respect of when a RIA is required.⁹

ECAS contract period

Eircom noted that it understood that the CA ran for a five year period to February 2014.

While the CA was awarded in February 2009, it expires on the fifth anniversary of the ECAS provider commencing live operations. Live operations commenced on 14 July 2010. Therefore, the CA is due to expire mid July 2015. There has not been a contractual change to the CA.

It should also be noted that there is an option within the CA for a further two year extension to the CA should the parties to the CA agree to this. ComReg is not aware of any application to extend the CA having been made at this time.

⁹ Guidelines on ComReg’s Approach to Regulatory Impact Assessment – Document No. 07/56A