Emergency Call Answering Service

Call Handling Fee review

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Content

Section

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Response to ComReg Consultation and Draft Determination 14/109

Emergency Call Answering Services Call Handling Fee review 2015-2016

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Executive Summary

eircom welcomes the opportunity to contribute to ComReg's consultation on its review of the Emergency Call Answering Service (ECAS) Call Handling Fee (CHF) for 2015-2016[1].

eircom is surprised that ComReg has proposed an increase in the CHF for 2015-2016, having been given an explicit indication by the DCENR that the CHF could reduce by about €0.50[2]. Furthermore, we are astounded by the scale of the increase proposed – a 50% increase on the current CHF is unjustifiable and unsustainable, at a time when the focus of all operators is on increased operational efficiency and cost containment.

It is concerning that the CHF is rising against a backdrop where the ECAS Operator has fully recovered its capital investment, which means capital costs have fallen and call volumes have halved since the ECAS was conceived. It follows from this that operating costs should also have fallen.

The ECAS is a monopoly established by the State and consequently we consider ComReg has a duty to ensure it is operated in an efficient manner.

As outlined in detail throughout this response, ComReg's analysis is seriously flawed in a number of important areas, and the entire approach needs a fundamental rethink.

Background

The ECAS is a public service providing access to emergency services to the general public in Ireland, funded through the CHF. The CHF presents a significant cost to telecommunications providers and ultimately their customers. Therefore ComReg must ensure, in the best interests of the public and our customers, and that all costs on which the CHF is based are incurred efficiently by the ECAS operator. The matter of efficiency is addressed in more detail below.

Up until July 2007 eircom provided the ECAS service to operators **free of charge**. It then began to receive a call handling fee (CHF) of **€1.55** per call. This charge was set by ComReg, and was based on the reasonable cost and rate of return at that time to deliver the service. The service has not changed appreciably in the interim. Nevertheless, the transfer of the operation of the service from eircom to BT in 2010 has resulted in (if ComReg's current proposal for 2015/16 were to be implemented) a **200%**[3] increase in little over 7 years, or a staggering 30% per annum - at a time when CPI in Ireland has been essentially stationary or reducing. (Between Dec. 2011 and June 2014, overall CPI in Ireland increased by 2%, while in the same period, the Communications sub-component of CPI fell by over 8%)[4]. Against this background,

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[1] ComReg Document 14/109 – "*Emergency Call Answering Services - Call Handling Fee review 2015-2016*"

[2] Ref. mail from ✂ of DCENR to ✂ of eircom on 7th April 2014 – "…✂…"

[3] €1.55 to €4.63

[4] See figure 1.4.1 of ComReg documents 14/97 and 12/134 "*Consumer Price Index and Communications Sub-Component*"

the exorbitant 50% increase in the CHF currently being proposed by ComReg bears no relationship to the prevailing commercial realities.

The series of increases in the CHF since 2010 have been overseen and approved by ComReg, with apparently little or no critical review of the costs being incurred to provide the service, or of the efficiency of the overall ECAS operation.

The basis for the increase being proposed for 2015/16, according to ComReg, is to ensure that BT recovers all of its capital and current ECAS costs over the lifetime of the Concession Agreement (CA). For full transparency the operators who fund the service and the general public need to be assured that the operation is efficiently run. This efficiency would be adversely impacted by handling calls such as spurious[5] and SIM Free[6] calls that do not reflect the needs of the public. In this response eircom raises concerns on the efficiency of the ECAS operations. However, in the absence of full transparency, as expanded upon below, it is difficult to adequately espouse these concerns through detailed analysis.

ComReg attempts to justify the CHF increase by assuming a fixed cost base which is being recovered exclusively from ECAS volumes, so that a fall in volumes automatically translates to an increase in CHF. Even within these erroneous and misleading confines, it is difficult to understand or accept how a drop of ~20% in call volumes could possibly lead to a consequential increase of 50% in the CHF. However, as explained below, the complete absence of transparency, and the wholesale redactions implemented by ComReg deny all stakeholders their rightful opportunity, as part of the purported consultation process, to critically examine the inputs and calculations adopted by ComReg to arrive at their proposed level of €4.63. Instead, we are all expected to accept ComReg's deliberations in an act of blind faith.

There is a number of over-arching themes that eircom wish to highlight at this point.

1. Lack of proper transparency

There is a major problem for all stakeholders in attempting to respond to this consultation document, in that it is impossible to respond comprehensively and informatively to a consultation document where virtually all of the pertinent data has been redacted by ComReg, thus removing any semblance of transparency. For example, in ¶ 18 on page 7, where the proposed increase in the CHF is "explained" in the table underneath. The table consists of the opening figure of **€3.08**, followed by a reduction of **€0.36**[7], a series of "✂" (scissors) symbols, and a result of **€4.63**. It is difficult to see how any stakeholder is expected to provide meaningful input in these circumstances.

We do not believe that such a level of redaction is necessary or desirable, and we believe that ComReg should have facilitated the consultation process and aided transparency by making the required level of relevant data available to stakeholders, while also, of course, safeguarding all data that is genuinely commercially sensitive.

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[5] Calls generated by faulty customer equipment or network connections

[6] ECAS calls made from a mobile telephone without a SIM card

[7] This reduction should be far greater, as explained below

2. Report of the Comptroller and Auditor General[8] (C&AG)

In September 2014, the office of the C&AG issued an independent and very informative report, following a review BT's ECAS operation. This was reported on in the Cork Examiner newspaper of 27 September[9]. At various points in the report, the C&AG makes observations and criticisms, some of which are referenced in this response. One might have expected ComReg to have addressed these points, as part of this consultation. Yet, ComReg makes virtually no reference to it in 14/109, and appears to regard it as irrelevant.

This approach on the part of ComReg is not acceptable.

3. ComReg should encourage greater efficiency, rather than penalising it.

eircom is concerned at the apparent leniency which ComReg shows in the review of the CHF. The approach taken contrasts sharply with the usual approach to regulatory pricing, where they (rightly) encourage and foster, as far as possible, improved levels of efficiency by disallowing any costs, for price setting purposes, which they deem to have been incurred inefficiently by the relevant operator.

In the same vein, the drop in ECAS call volumes due to increased efficiencies should be welcomed by ComReg. However, ComReg's total acceptance of a fixed cost base for BT unquestionably serves to discourage efficiency, to the detriment of the Industry, and ultimately consumers. ComReg needs to address this significant flaw in the construct of the current regulatory arrangement, whereby any efforts by telecoms operators to improve efficiency through the elimination of invalid emergency calls inevitably lead to increases in the CHF In essence, eircom and other telecomms operators are now being penalised by ComReg for improving their emergency call handling procedures. Although this regulatory failure has been a persistent backdrop to the previous ComReg CHF reviews, it has never been more apparent or damaging than it is on this occasion, where the absence of any proper critical or fundamental review of BT's costs on the part of ComReg has led to ComReg proposing a wholly excessive 50% increase in the CHF.

As a case in point, ComReg's "laissez-faire" approach to efficiency is evident in the "*average speed of answer*" statistics, referred to in the report of the C&AG. At ¶ 8.61 the C&AG notes that "*The average speed of answer for a caller to ECAS is 0.6 seconds which is one of the fastest in Europe*…". This is in contrast to a required standard of more than double this interval - "*No more than 1.3 seconds*" (ref. ¶ 8.61 of the C&AG report). While, on the face of it, a fast response time might be considered desirable, a performance which is so far ahead of what is considered an acceptable performance indicates clearly that the operation is significantly over-staffed. With the operation fully funded by the CHF, this serious omission by ComReg is costing the Industry dearly. Clearly, ComReg should have critically assessed the staffing levels against the levels that would be needed to provide the required levels of service, rather than oversee an operation where staff are clearly under-utilised, as evidenced by the above statistics. ComReg has a duty to balance the obligation for BT to attain

[8] http://www.audgen.gov.ie/documents/annualreports/2013/report/en/Chap08.pdf

[9] http://www.irishexaminer.com/ireland/state-relies-on-bts-own-data-to-review-999-calls-288899.html

the required speed of answer, against the additional cost to operators if BT significantly exceeds this standard. ComReg has demonstrable failed in this duty, allowing BT to staff the operation (at virtually no cost to themselves) to a level that is totally unnecessary in order to comfortably achieve the required standards.

In addition, BT, as one of the major operators in Ireland, offering a full range of telecommunications services, would be able to leverage off its undoubted economies of scale and scope in delivering its ECAS service. These could certainly improve the overall efficiency of the process, if implemented. However, as BT is being fully remunerated for all costs incurred (efficient or not), and so has no incentive to pursue these economies of scale and scope, and ComReg makes no mention of these in its review.

The only party benefiting from this approach by ComReg is BT, for whom the ECAS service has undoubtedly become a very generous “cash cow” – one that, in the 3.5 years to Feb 2014 yielded to BT a figure in excess of €30M[10] (see table below). This is a staggering figure and contrasts sharply with the €11M CAPEX figure referenced widely, e.g. Recommendation 8.3, at the end of the C&AG report – “… *the capital element of the establishment of ECAS was €11 million* …”

Figure 8.2 Amounts payable to ECAS provider (BT), July 2010 – February 2014

Year	Amount payable €m
Period ending 11 February 2011 (7 months)	3.86
Year ending 11 February 2012	9.42
Year ending 11 February 2013	9.30
Year ending 11 February 2014	7.76

Source: Analysis by the Office of the Comptroller and Auditor General

4. **Costs should not be regarded as fixed in the face of plummeting call volumes.**

ComReg’s opening assumption that the ECAS cost base is essentially fixed over the years, in the face of plummeting call volumes is unsustainable and incomprehensible. The volumes of ECAS calls have dropped by well over 50% since 2008 (when this process was initiated by ComReg and the service tendered for by BT), with a further 15% fall being (wrongly) predicted by ComReg for next year. Against this background, ComReg’s unquestioning acceptance that BT’s ECAS cost base has not reduced in that time does not stand up to scrutiny. There will inevitably be scope for BT to downscale considerably in the face of these reductions. Yet, inexplicably, ComReg makes no attempt to quantify this, or to mandate a move by the ECAS operator to far greater efficiency in the handling of emergency calls.

CAPEX investment and OPEX relating to the operation of the ECAS by BT must be based on a realistic forecast of call volumes covering the year under review (in this case Feb. 2015 to Feb 2016), in order to ensure that optimum efficiency is achieved in

[10] C&AG report ¶ 8.17

the operation of the ECAS, with CAPEX being analysed, to separate the variable element from the fixed element. The point around the depreciation/amortisation calculations is expanded upon further below.

From an OPEX perspective, we note that Tera references the 4.8% monthly turnover of ECAS staff[11]. In those circumstances, the ECAS operator or its agent clearly has (and doubtless takes) the opportunity to critically examine and reduce ongoing ECAS staffing levels, and to only replace departing staff, where current and future call volumes justifies their replacement.

5. ComReg's Depreciation/Amortisation Calculations are wrong

ComReg comes up with a figure of **€0.36** as the effect on depreciation of the extension of the CA by 1 year[12]. Even if one were to accept ComReg's starting point of a fixed capital cost base of €11m (which we do not, as we believe it should have substantially reduced), the calculations are still incorrect, with the reference to "5 months depreciation" being misguided and confusing, since we are setting the CHF for the full 12 month period to 11th Feb. 2016.

To be clear –

For the purposes of this calculation, we begin with **€11M** cost base

BT's ECAS operation commenced on 14th July 2010[13].

The ComReg policy up to Feb. 2015 has been that all ECAS capital assets are to be depreciated over 5 years[14].

Therefore, depreciation. = **€2.2M** per annum[15] (20% of €11M)

14th July 2010 – 11th Feb. 2015 = 4.6 years.

Therefore Asset Base is 92% depreciated at 11th Feb. 2015.

Depreciation charged up to 11th Feb. 2015 = **€10.084M**

Therefore NBV at Feb. 2015 = **€916K**

Note – CHF up to Feb. 2015 has been set by ComReg each year based on a CA of 5 years (to expire in July 2015).

Following the extension of the CA to July 2016, the **€916K** NBV is now being written off up to the end of July 2016, rather than to July 2015 –

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11 ComReg Document 14/109a – Tera Report – ¶ 2.2.6, page 14.

12 14/109 – ¶'s 18 & 19, page 7

13 http://www.audgen.gov.ie/documents/annualreports/2013/report/en/Chap08.pdf
¶ 8.16 "… *the previous operator (Eircom) continued to provide the service until 13 July 2010. After that date, the ECAS was fully operational, under the management of BT*."

14 http://www.audgen.gov.ie/documents/annualreports/2013/report/en/Chap08.pdf
¶ 8.32 "*The annual depreciation charge is calculated on the investment in the ECAS. BT is writing the cost of that investment off over the life of the contract (five years) which means that the depreciation charge is just over €2 million per annum*."

15 14/109 – ¶ 53, Figure 6, page 17 shows that ComReg is calculating the CHF for 2015/16 (12 months to Feb. 2016) by allocating €2.2M depreciation.

i.e. Remaining useful life is 1.42 years, rather than 0.42 years.

Therefore depreciation to be charged Feb '15 – Feb '16 = **€647K**

€2,2m[16] - €647K = €1.553M = Drop in Depreciation charge due to extension of CA

This difference should be recovered against the call volumes for Feb '15 – Feb '16 = **1.7M** calls[17]

i.e. **€0.91** per call, rather than ComReg's figure of **€0.36**.

This correction alone would reduce the proposed CHF for Feb '15 – Feb '16 from the current proposed price of **€4.63** down to **€4.08**.

It is imperative that ComReg correct this calculation before finalising the CHF for Feb. 2015 to Feb. 2016.The spreadsheet underlying these calculations is included as an annex to this response[18], and we are available, if ComReg wish to discuss further.

6. ComReg's call volume forecasts are wrong

ComReg's forecast of a 15.5% decrease in call volumes in the coming year is far greater than is realistic or likely to happen, and is not supported by any level of sound economic rationale. This is discussed further in our response to Q.4 below.

7. Errors and misleading statements in Tera report

The Tera report[19], on which ComReg relies to underpin its calculations and proposed CHF, contains many errors and omissions, and the overall standard of the report falls far short of what might reasonably be expected. These shortcomings appear to be agenda driven, in that they generally serve to justify the proposed increase in the CHF being put forward by ComReg.

As a case in point, on the very first page of the report, Tera presents a graph which purports to illustrate "*the changes in the level of CHF determined after each review **since the beginning of the ECAS operation by BT***" (our emphasis). This is misleading and incorrect. Instead, the graph is truncated at the left in order to portray the false impression that the CHF had actually reduced since BT took over the service. The very least that Tera should have done would have been to take a starting point of €2.23, which was BT's initial CHF in 2010, and as illustrated in Fig. 8.3 of the report of the C&AG (reproduced below). However it would have been more informative if Tera had taken as a start point the pre-2007 eircom CHF of zero, and take as the end point, ComReg's proposed CHF of €4.63. The incorrect misleading nature of Tera's graph is clear from contrasting the three graphs below.

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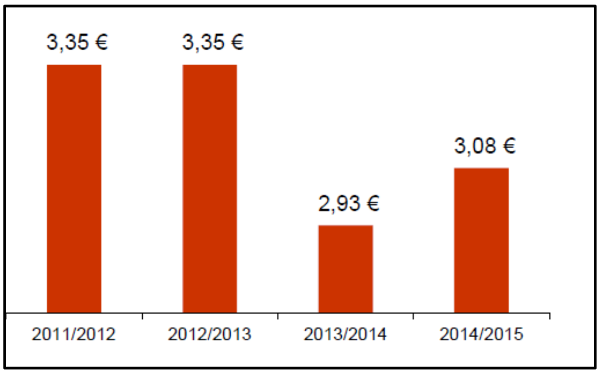
[16] 14/109 – ¶ 53, Figure 6, page 17

[17] If we were to accept the forecast in Figure 10 (page 39) of 14/109

[18] See "*141121_ECAS Response_Annex 1.xlsx*", worksheet "*Depn. Amort. Calc*." cell J19

[19] ComReg Document 14/109a – "*Recommendations for a Reasonable Call Handling Fee (CHF) associated with the Emergency Call Answering Services (ECAS)*",

(i) Tera's Graph



(ii) Factually Correct "BT CHF" graph[20]

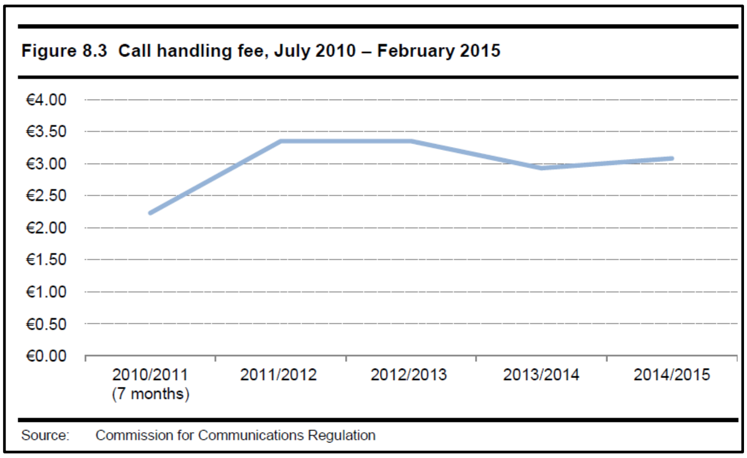
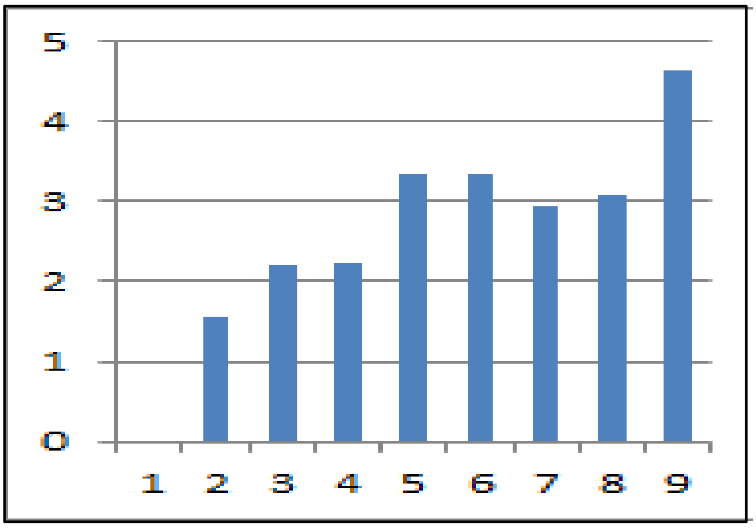


Figure 8.3 Call handling fee, July 2010 – February 2015

Source: Commission for Communications Regulation

(iii) More complete CHF Graph



[20] Extracted from the report of the Comptroller and Auditor General http://www.audgen.gov.ie/documents/annualreports/2013/report/en/Chap08.pdf ¶ 8.19

Another point which illustrates the one-sided nature of Tera's report is shown on page 14 of the report, and repeated elsewhere[21], is Tera's references to the high staff turnover rate, which ComReg uses to try to justify its proposed increase in CSR hourly wage rates. Tera quotes an average monthly attrition rate of **4.8%,** which they wrongly convert to an annual churn rate of **">60%".** With 12 months in the year, a monthly rate of **5%** would <u>equate</u> to an annual rate of **exactly 60%,** so the maths behind how 4.8% per month translates to more than 60% per annum is baffling.

8. Regulatory Impact Assessment (RIA)

eircom is extremely disappointed at ComReg's decision not to carry out a RIA yet again this year on the basis that ComReg is required to carry out a review of the CHF. ComReg's mandate to review the CHF is not in question. The matter at hand is the level at which the CHF is set, the massive increase from the existing level, and the approach taken by ComReg in determining whether the costs that BT is seeking to recover are reasonable. All of these issues involve a degree of discretion on the part of ComReg.

It is not acceptable that ComReg should propose such a massive 50% increase to the CHF, with the consequential impact on operators, and ultimately consumers, without carrying out a proper impact assessment of the various possible options, thereby denying stakeholders the opportunity to fully partake in a meaningful consultation process on the costs and benefits of these decisions.

eircom believes that the continuing failure to carry out a RIA undermines the validity of ComReg's determinations in respect of the CHF.

9. Sinking Fund

The CA makes provision for a sinking fund into which BT must pay €250,000 per annum, funded from the CHF. eircom calls on ComReg and/or DCENR to reveal the fate of any balance that remains on the sinking fund at the end of the CA. Any such funds should be distributed back to industry, as otherwise the surplus would constitute an additional tax on telecoms customers. This would be entirely unacceptable given that the funding of ECAS by operators gives rise to an effective communications service tax as the ECAS is a service that is of general benefit of society and its equivalents in other jurisdictions are typically funded by the exchequer.

[21] e.g. 14/109a, pages 5 & 15

Responses to Consultation Questions

Q. 1. Figure 6 represents the basis of the cost stack for the determination of the CHF for 2014-2015. Please provide any comments on whether the cost categories should remain the same for the determination of the CHF for 2015-2016, including detailed reasoning for your answer.

As has been mentioned previously, the lack of transparency is evident throughout ComReg document 14/109, and Table 6 is noteworthy for the numerous redactions it contains. Therefore, of necessity, our response to this question is somewhat hampered by the fact that there is no indication of the relative materiality of the various categories.

eircom agrees that most of the general cost categories listed in Figure 6 are reasonable to include in the cost stack for calculating the CHF for 2015/16 but does not agree with the level of these costs, or what ComReg has chosen to include in the respective categories.

Depreciation / Amortisation

The issue of depreciation / amortisation is dealt with at length above (and in the accompanying annex spreadsheet), and we would reiterate here that the figure of **€2.2M** for 2015/16 is grossly inflated, and should be **less than €647K**. As a result of this, and the 1-year extension to the CA, the resultant reduction to the CHF should have been **€0.91**, rather than **the €0.36** calculated by ComReg.

In our 2012 and 2013 responses, eircom criticised the use of straight line depreciation to write off assets over the duration of the contract while assuming that the residual value of the assets is nil in all cases. This has the effect of inflating the depreciation charge, and, by extension, the CHF cost stack, and should, even at this late stage in the lifetime of the CA, be reassessed by ComReg.

Cost of Capital Rebate

eircom does not believe that there should be a "cost of capital rebate" included in the cost model. The structure of the regulatory construct is that BT will be fully compensated for all of its relevant costs over the life span of the CA, based on forecasted call volumes (with the additional assurance being provided by the establishment of a substantial "sinking fund" by ComReg). The nature of forecasts is that they are uncertain, and the actuals are likely to deviate up or down from the forecasts. This means that the compensation to BT is likely to be "front loaded" (if actuals are higher than forecast) or "back loaded" (if actuals are lower than forecast). For ComReg to pay interest to BT by way of the "cost of capital rebate" is unjustified and again penalises operators who improve the efficiency of call handling processes.

Guaranteed Rate of Return

We also note that ComReg has not addressed the concerns previously raised by eircom in the 2012 and 2013 reviews of the CHF with respect to the guaranteed rate of return, which has been set at 6.63% on the Gross Book Value of its investment (fixed assets and set up costs) for the term of the CA. We once again highlight that normally the rate of return would be calculated on the Mean Capital Employed in any financial year, and so would decline as the asset values are depreciated over the life of the asset. Calculating the return on the Gross Book Value means that the ECAS operator is continuing to get a return on an asset that it has already depreciated, and further rewards it for its policy (approved by ComReg) to depreciate completely over the lifetime of the CA, all capital assets used in its ECAS operation.

The C&AG, in his report[22] specifically picks up on this point when he states –

- at ¶ 8.36 that "*… Because BT is recouping its capital investment over the life of the contract through a depreciation charge, in effect, its actual return on its capital investment is significantly higher than the guaranteed rate of return of 6.63% set in the concession agreement.",*

and

- at ¶ 8.64 that "*The guaranteed rate of return, which is specified in the concession agreement as 6.63%, is calculated annually on the gross book value of the contractor's investment for the full period of the contract. Because BT is also recouping its investment through an annual depreciation charge, in effect the actual return on the capital invested is significantly higher and increases over the life of the contract*." This is even more the case when one recalls that the depreciation rate applied is an accelerated depreciation rate, with all assets written off over 5 years.

Even disregarding the point about the accelerated nature of the depreciation applied, basing the return on GBV rather than the more normal NBV would translate into a massive **80%** ROCE on NBV by February 2015[23]. This is clearly excessive.

This issue regarding the rate of return lends further weight to our objections to ComReg's decision to approve additional Capital expenditure as an input to the CHF[24], as this further compounds the above issue.

[22] http://www.audgen.gov.ie/documents/annualreports/2013/report/en/Chap08.pdf

[23] "*141121_ECAS Response_Annex 1.xlsx*", worksheet "*Return on Capital*", cell B8

[24] Ref. 14/109, ¶ 143

Q. 2, Do you agree or disagree with ComReg's preliminary view that €29.34 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.

As already noted, the ComReg consultation document has been redacted to the extent that it provides insufficient detail to inform a comprehensive response. Indeed, we note that ComReg has consciously decided to make it more difficult for stakeholders to respond on this issue than in previous years, when ComReg was not proposing an increase to the hourly rate. For instance, in ComReg document 13/96[25], the make-up of the €28.07 hourly rate figure is shown to be partially made up of a salary related element of €12.79 (€10.50 + €1.05 + €1.24), and the remainder of €15.28. In 14/109, with no justification, ComReg has seen fit to redact these constituent figures. Clearly, if the figures were not confidential last year, they are not confidential this year, and ComReg should not have actively hampered the consultation process, and stakeholders' ability to respond in an informed manner, by redacting figures that should rightly be in the public domain. We reiterate our call for increased transparency to allow stakeholders to respond informatively.

That said, eircom sees no justification whatever for ComReg's proposal to increase the hourly rate by almost 5% compared to the current rate. On the contrary, we believe that the high churn rate of CSRs referred to by ComReg and Tera[26] is more likely to afford the employer the opportunity to put downward pressure on wage rates than it is to justify a wage rate increase. This is especially the case against a backdrop of relevant unemployment rates in Ireland remaining relatively constant year on year, and overall wage rates actually falling (at an increasing rate), as illustrated on the CSO website[27] ("*Average hourly earnings decreased from €22.01 per hour in Q2 2013 to €21.63 in Q2 2014, representing a decrease of 1.7% or €0.38. This compares with a revised decrease of 0.3% in average hourly earnings in the year to Q1 2014 from €22.20 to €22.14 per hour*").

We would also point out that average eircom hourly wage rates are not expected to increase in the coming year, and rates in recent years have, if anything, fallen.

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[25] ComReg's ECAS CHF Review for 2014/15.

[26] Page 14 of ComReg document 14/109a (the Tera report) quotes an average monthly CSR attrition rate of 4.8%

[27] http://www.cso.ie/en/releasesandpublications/er/elcq/earningsandlabourcostsq12014finalq22014preliminaryestimates/

Q. 3. Please outline any programme or initiatives, planned for the short to medium term (1 to 2 years), or any relevant market developments, in particular changes in the handset population profile, which may significantly affect the forecasted volume of emergency calls.

eircom does not have any particular programmes or initiatives planned for the short to medium term, which may significantly affect the forecasted volume of emergency calls. Our views on the likely trends in call volumes are outlined at length in our response to Q.4 below.

Tera's report (on which ComReg bases its analysis), forecasts **3M** smart phones by the end of 2014[28], which translates to approx. **62%** of the projected end of Dec. figure of **4.81M** mobile subscriptions (excl. Mobile Broadband and Machine to Machine) in Ireland[29]. We consider that Tera's analysis understates the current smartphone penetration in Ireland, and understates, to an even greater extent, the projected smartphone penetration by the end of 2014. For the reasons listed in the bullets below, we believe that penetration will be in excess of **70%** by the end of 2014. On this basis, it is clear that the reductions in call volumes due to the prevalence of smartphones, as at December 2014, have been under-estimated by ComReg, while the projected increases going forward have been over-estimated, for the same reason. ComReg must correct its call volume forecasts based on this information.

- As of October 2014, the penetration of smartphones among the eircom group mobile base was ✂. This is projected to **exceed 70%** penetration by the end of 2014, following the annual ramp up of phone sales and upgrades over the Christmas sales period.

- Vodafone had **61%** smartphone penetration at March 2014[30]. Assuming similar growth, this suggests that Vodafone will also have in **excess of 70%** smartphone penetration by the end of 2014.

- The eircom Household Sentiment Survey put smartphone penetration at **64%** in August 2014[31].

- ComReg's estimation of the number of smartphones in the market is understated due to the fact that ComReg estimates smartphone penetration using Quarterly Market Report data, by subtracting dedicated mobile broadband subscriptions from total active 3G/4G users. This overlooks a large portion of customers with 2G usage only, a significant portion of which may avail of reasonable speeds over 2G EDGE, and evidently avail of data plans when doing so. For instance in the July-September 2014 quarter, on the

[28] 14/109a, page 24

[29] ComReg's QKD 14/97 page 14 gives 4.768M mobile subs at the end of June 2014, with 1.8% annual growth rate.

[30] Ref - http://www.siliconrepublic.com/comms/item/36942-vodafone-says-61pc-of-custo

[31] Commissioned by eircom and conducted by Behaviour & Attitudes, the bi-annual report surveys over 1,100 Irish households

Meteor network there were ✂ subscribers that had a voice and data plan who did not register activity on the 3G or 4G network. It is likely that a significant portion of these customers may have smartphones, given that they have a data plan, operating on the 2G EDGE network. Furthermore ComReg's calculation is not using consistent measures as it subtracts broadband <u>subscriptions</u> (not necessarily active users) from <u>active 3G/4G, users</u> which would further understate the smartphone penetration figure that ComReg is seeking to estimate.

Q. 4. Do you agree or disagree with the proposed forecast of the call volume decline rate of 15.2% per annum? Please provide detailed reasoning and calculations for your views.

eircom certainly does not agree with ComReg's proposed forecast of a call volume decline rate of 15.2% per annum for the year to February 2016. This forecast is without foundation and the 15.2% figure is far in excess of anything that is likely to materialise.

Part of the reason for us disagreeing is outlined at length in our response to Q.3 above, and those arguments are also pertinent here.

In addition, ComReg should have put far more thought and method into their deliberations, rather than just indulging in a "join the dots" exercise, as demonstrated in the graph on page 42 of 14/109.

The very least one might have expected would be that ComReg would have analysed the underlying reasons for the recent falls in call volumes, and then make a judgement as to whether or not these events or causes were ongoing (in which case some form of extrapolation might be justified), or once-off or transient (in which case they should obviously be disregarded going forward). The latter is certainly the case (as explained in the bullets below), and consequently ComReg's extrapolation of the previous trends is not correct.

The reduction in call volumes in the last year was driven by a number of once off factors, which will not be repeated -

- Network renewal as part of storm damage, repairing some network black spots. In this context, it is worth noting that the eircom network has been subjected to some extreme weather events during the course of the winter of 2013/14. It is quite likely that this may have damaged the general integrity of the network. This, in turn, is likely to give rise, in the future, to the potential for additional false calls. This potential increase in the rate of false calls will clearly have the effect of tending to keep up the volumes of calls in the coming year.

- Increased focus during the past year on repair of lines/customers CPE or internal wiring generating spurious calls.

- Customer loss fixed line, ceasing lines to “tone only” where possible. Previously lines were ceases to soft dial tome which allowed pulse dialling, so ceased lines could generate spurious calls.

- Mobile handset software changes resulting in lower volumes of spurious calls.

We believe that the above factors accounted for the once off reduction in spurious/nuisance calls volumes and would not expect these to re-occur. Our expectation would be that call volumes would reduce by about **3%**, and certainly no more than **5%**, during the year up to Feb. 2016.

Even allowing for this clear miscalculation by ComReg, ComReg, in its simplistic extrapolation exercise, completely ignored the concept of diminishing returns. As the volumes are progressively reduced, it will become increasingly difficult to make similar reductions in the future, as we approach closer and closer to the “base level” of calls. Clearly, there will always be an underlying volume of “genuine” ECAS calls (which appears to be around 70,000 per month[32]). The graph can obviously therefore never go below this. Yet, if we extrapolate out the graph on page 42 of 14/109, we see that the selected line cuts through this base figure of 70k around the end of 2016. This is clearly irrational and illogical. ComReg has even compounded and exacerbated this error by picking the most pessimistic of the three options shown, with the apparent sole aim to maximising the proposed CHF. Clearly, even if it were appropriate to extrapolate simply based on past trends, and it is not, ComReg should at least have found some kind of logarithmic function to predict the volumes going forwards, so that the graph could never go below the “base line” of genuine calls.

Indeed, the monthly actual call volumes passed to BT ECAS service from eircom network shows an **increase of 6.5%** from Sept. 2014 (160,533) to Oct. 2014 (170,934). As this is the only interconnection point, this should include calls from all telecomms operators, and is therefore a very representative figure, and undermines and calls into serious question the validity of ComReg’s assumption the volumes will drop by 15.2% in the coming year..

[32] As per Figure 6 (Page 20) in 14/109a

Q. 5. Are there any other matters which you wish to raise as part of this review? Please provide detailed reasoning and calculations (where appropriate) for your views.

It is imperative that ComReg approach this consultation process with an open mind, and not just regard the process as a mere formality that must be gone through prior to them “rubber stamping” their current proposal.

eircom has demonstrated the significant shortcomings in ComReg’s analysis, and the calculations underpinning it, to the extent that their proposal is demonstrably unfit for purpose. The resultant proposed CHF is far in excess of any justifiable value.

ComReg must therefore correct its mistakes and propose CHF, based on a proper calculations and sound analysis.

Q. 6. Do you agree or disagree with the wording of ComReg’s Draft Determination? If not, please state your detailed reasoning

eircom objects to the prosed level of the maximum CHF for the reasons outlined above and disagrees with this element of the draft determination.

2 Hutchison 3G Ireland Limited

Emergency Call Answering

Call Handling Fee 2015 - 2016

Response from Three

ComReg Document 14/109

Three.ie

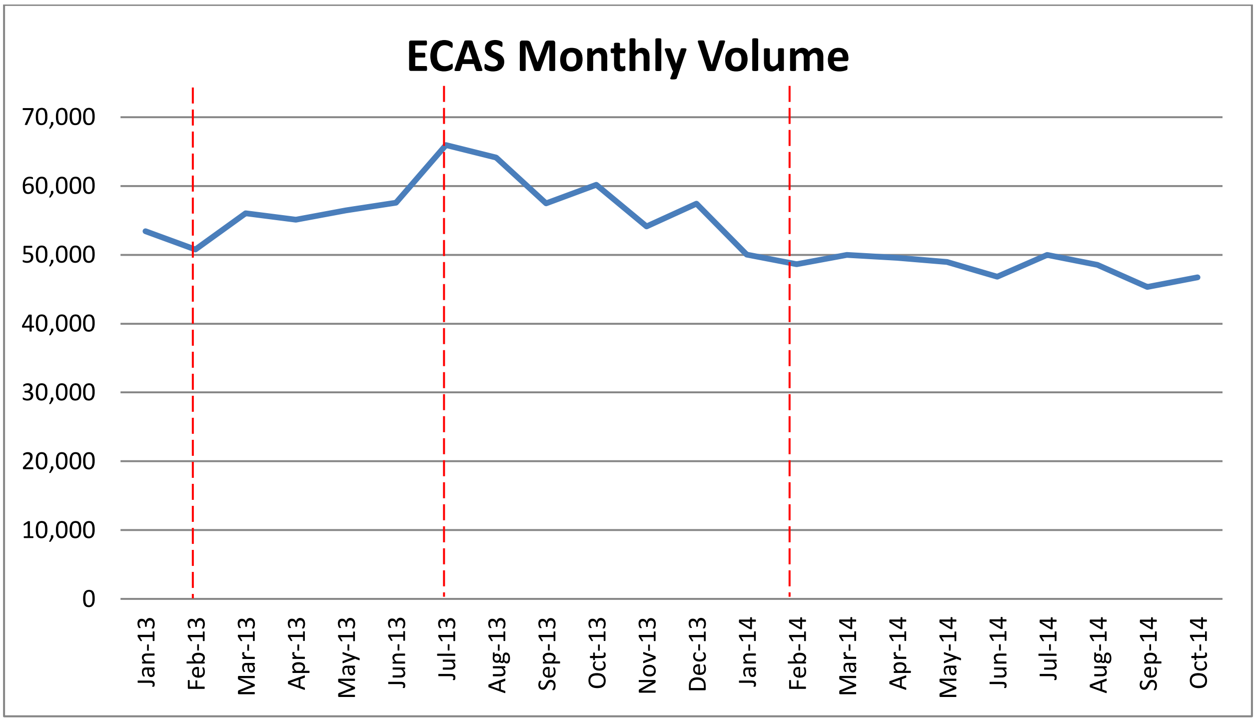
Response

Three was more than a little surprised to learn that the proposed call handling fee for calls to the emergency services (112 or 999) are to increase by over 50% to €4.63 per call for the year beginning in February 2015. Apart from being expensive per call on a pure cost basis, such an increase in cost is difficult to plan and budget for, and would cause Three to incur almost [ ] in cost over that budgeted for the final year of the concession agreement. We note that the Department of Communications, Energy, and Natural Resources has extended the existing ECAS contract by one year from February 2015 to February 2016.

Three believes there are a number of factors that have led ComReg to overestimate the call handling fee as detailed below.

1. Predicted Call Volume

ComReg has used a forecast decline in call volume of 15.2% for the year under review. Three believes this to be an overly pessimistic view. And instead believes a figure of 5% is more reflective of the expected decline. This figure is derived from the chart below, which shows the combined monthly ECAS call volume for Three, O2 (inc 48), and Tesco since January 2013.



ComReg has stated that 80% of all ECAS calls now originate from mobile networks. Three believes the above data represents approximately 40% of mobile calls to ECAS, and in addition, would expect that trends for these calls would be similar to those of the other operators. The above chart shows that there are some growth and decline phases, modulated by month-to-month variations. There is relatively high growth in call volume from February 2013 to July 2013, followed by a slightly less steep decline from July 2013 to February 2014. The most relevant period is the most recent one, from July to November 2014. By comparison, the data for this period shows a much lower gradient with volumes almost stable. The average monthly decline for the entire period is just 0.41%. This same average monthly decline would give a compounded annual decline of under 5%. Three believes this is a more reasonable forecast of volume decline for the remaining year of the concession agreement.

Three believes the reason for decline in overall call volume over recent years is mostly attributable to the elimination of unintended calls. Such calls generally have a different cause when originated on fixed vs mobile networks:

- Calls from the fixed network are largely as a result of technical issues on the copper local loop where weather conditions cause the copper lines to replicate dialling of 112;
- Calls from mobile networks are largely as a result of buttons being pressed by mistake. Some phones in particular would have made an emergency call if the main function button was pressed while the screen was locked.

Some gains have been made on fixed networks through the programme run by BT and eircom to identify and repair relevant lines. The Tera report showed the effect of bad weather during February this year, and the subsequent repair work carried out by eircom. The overall volume of calls has returned to what seems to be an on-going run-rate of about 10,000 per month. Given that fixed line calls account for only 20% of total calls, and that there seems to be an underlying rate of generation of unintended calls from the fixed network, Three does not believe further improvements in the copper loop network will have any significant impact on the volume of emergency calls over the final year of the ECAS concession.

For mobile originated calls, reductions in the volume of “silent” or “cleared without speech” calls have been made, particularly in the period from 2012 to 2014. Three believes this can be attributed to changes in handset function. The most significant change is the increase in penetration of smartphones (or more correctly touch-screen phones) which has been identified by Tera. Three believes changes to handset functionality since 2012 has also contributed to this reduction (the problem of unidentified emergency calls was raised with handset manufacturers, and modifications were made).

Three believes these improvements have largely been already made, and that there will be limited on-going gains. The growth of penetration of smartphones can be expected to continue, however at a reduced conversion rate. While handsets change frequently, many consumers who are willing to make the change have already done so, and are merely replacing one smartphone for another. There is also a significant group who prefer button phones, and will continue to choose this type of replacement.

For these reasons, Three believes the improvements in the rate of unintended calls made up to 2014 will not be sustained. The most recent rate of decline is a better prediction of future volume. For this reason, ComReg should use a rate of decline of no more than 5% when calculating the call handling fee.

2. Three Call Centres

We note that despite decreasing call volume, the ECAS service continues to be served by three call-centres. The minimum cost per centre contributes to the "floor" or fixed element of the ECAS call handling fee. ComReg does not seem to have considered whether it is appropriate to continue with three call-handling centres with the reduced call volume.

3. Sinking Fund

The purpose of the original sinking fund has been stated as being to fund any under-recovery by BT at the end of the 5-year term, and also to cover any continuation or handover at the end of the agreement. We note in the first place that ComReg's functions in carrying out the call handling fee review are specified in section 58D(3) of the communications act as follows:

(3) In making a determination under subsection (2), the Commission shall have regard to—

> *(a) the need for the ECAS operator to cover the reasonable costs likely to be incurred by it in operating the service and, in particular, to recover a guaranteed rate of return for providing the ECAS, and*
>
> *(b) the cost likely to be incurred by the Commission in monitoring the ECAS*.

No provision is made for ComReg to take account of the Sinking Fund, and ComReg would appear to be acting *ultra vires* by including this in the calculation of the call handling fee.

Notwithstanding the above point, as ComReg has determined the call handling fee should ensure there was no under-recovery by BT through the full 6-year duration of the concession agreement, then there is no need to build up the sinking fund to cover this.

4. Over-Recovery

We note the statement on page 53 of the Tera report that:

> "If the call volumes turn out to be greater than expected, BT will over recover its costs but any over recovery will be then paid back to the contributing operators."

Three would like ComReg to clarify how this refund will be applied, and when. It is preferable to adjust the call handling fee to ensure there is no over or under recovery. For this reason, Three recommends that ComReg specify the fee only after reviewing the most up-to-date call volume, and that this element is reviewed mid-way through the final year, and adjusted as necessary.

End.