



Universal Service - Provision of Public Payphones

Usage Threshold for Removals

Response to Consultation and Decision

Reference: ComReg 16/62

Version: Final

Date: 26/07/2016

Content

Section	Page
1. Executive Summary	4
2. Background	6
3. Payphone Trends.....	9
3.3.1 Respondents' submissions.....	13
3.3.2 ComReg's response.....	20
3.3.3 ComReg's position	24
4 Regulatory Impact Assessment (RIA)	26

Annex

Section	Page
Annex: 1 Decision Instrument D08/14.....	31
Annex: 2 Statutory Basis	35

1. Executive Summary

- 1 In 2014, the Commission for Communications Regulation (“**ComReg**”) designated Eircom Limited (“**Eir**”) as the Universal Service Provider (“**USP**”) for the provision of public pay telephones (“**public payphones**”) for a period of 4 years.¹ We also decided that the number of public payphones in operation at that time should be maintained by Eir, unless their usage fell below a certain level.² If their usage did fall below a certain level however, Eir was permitted to remove them. These usage levels ensured that consumers who used public payphones could still have access to them, whilst permitting Eir to remove public payphones for which there was no longer a reasonable need.
- 2 Although the designation for payphones remains in place until 30 June 2018, we stated that we would conduct a review, by 30 June 2016, of the usage thresholds below which Eir is permitted to remove public payphones. On 27 May 2016 we issued a consultation document, Consultation 16/43³ which sought the views of interested stakeholders on the level of usage below which public payphones provided under the universal service obligation can be removed.
- 3 The conditions set out in Decision D08/14 were established so as to ensure consumers using public payphones still have access to them in the State, yet allow for the removal by Eir, if it so wishes, of public payphones where there is no longer a reasonable need, based on usage levels.
- 4 This Response to Consultation and Decision sets out our views and decisions on those issues which define the way in which the designated USP can remove public payphones.
- 5 We have now completed our review and we have decided to maintain the current usage thresholds which we set out in Decision D08/14. We have decided therefore that there will be **no change to the status quo** and that the current regime in relation to the usage thresholds for the removal by Eir of public payphones remains appropriate in all the circumstances. Therefore, the regime which has been in place since 2014 is not changed.
- 6 Accordingly, Decision D08/14 remains in force until 30 June 2018.

¹ ComReg Document No. 14/69 and ComReg Decision No. D08/14: “*Provision of Public Pay Telephones- Universal Service: Scope and Designation*”, July 7 2014 (“**Decision D08/14**”).

² See Decision D08/14 as contained in Annex 1.

³ ComReg Document No. 16/43, “*Provision of Public Payphones, Universal Service: Scope and Designation*”, dated 27 May 2016. (“**Consultation 16/43**”).

- 7 Some respondents appeared to be of the view that we could *require* Eir to remove public payphones. This is not the case. To be clear: while we can mandate a USP to provide public payphones and set the conditions under which they can be removed, we do not have the legal powers to mandate their removal. This is ultimately a commercial decision by Eir, as the current USP for the provision of public payphones.
- 8 However, Eir are not obliged to retain any payphone where there is evidence of anti-social behaviour, even if it has usage above the threshold level.
- 9 We consider that consumer usage levels continue to be the most appropriate measure of the reasonable need of consumers. That is, the reasonable need is not determined by the quantity or distribution of payphones throughout the State, but by usage of currently provided public payphones. If a public payphone is sufficiently used, the USP must maintain it, however, the USP is not required to retain a public payphone where there is evidence of anti-social behaviour, or its removal is requested by a Local Authority.
- 10 In making our decision, we have taken into account the submissions received in response to Consultation 16/43, the information which we collected on foot of an information request, together with other relevant material. We have endeavoured to summarise the key aspects of respondents' views, comments provided, and our views in relation to these.
- 11 We are satisfied that the maintenance of the measures will ensure the reasonable needs of consumers will continue to be met and that this will not result in any additional costs to the USP, nor will they result in substantial consumer detriment.

2. Background

- 12 Under the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011 (the "**Regulations**")⁴ the USP (currently Eir) must, to comply with its Universal Service Obligations ("**USO**") ensure that public payphones⁵ are provided in order to meet the reasonable needs of consumers in terms of the geographical coverage, the number of public payphones, accessibility to consumers with disabilities, and quality of service. Public payphones which are required under the USO, are those located on the street and in other public areas. They must be available to the public at all times.
- 13 On 7 July 2014, we designated Eir as the USP for the provision of public payphones for a period of 4 years. This was primarily because of Eir's geographical ubiquity, its experience, and its capability. At that time, we stated that we would review the usage thresholds below which Eir is permitted to remove universal service payphones, by 30 June 2016.
- 14 Accordingly, Consultation 16/43 did not concern itself with the designation of the USP for the provision of public payphones. It was solely concerned with reviewing the threshold for usage, below which the USP is permitted to remove public payphones.
- 15 Under Decision D08/14, Eir is not required to retain – and therefore, is permitted to remove – public payphones on a single site where:
- i. there is evidence of anti-social behaviour; or
 - ii. usage in the previous 6 months was low, i.e. the average usage is less than 1 minute per day and the average usage to Freephone numbers and ECAS is not more than 30 seconds of these minutes;⁶ or
 - iii. there is more than 1 payphone on the site and the combined average does not meet the low usage standards; or
 - iv. it is requested to remove the public payphone(s) by a Local Authority.

⁴Regulation 5 of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011 (the "**Regulations**").

⁵Regulation 2 (2) of the Regulations defines a public pay telephone as: "...a telephone available to the general public for the use of which the means of payment may include coins, credit cards, debit cards, or prepayment cards including cards for use with dialling codes."

⁶Subject to it being in working order for the previous period.

- 16 Accordingly, Decision D08/14 permits Eir to remove existing public payphones based on usage, as we considered usage levels to be the most appropriate measure of the reasonable needs of consumers.
- 17 Public payphones continue to be used and we wish to ensure that the applicable threshold level is set appropriately for the next 2 years.
- 18 Consultation 16/43 reviewed current public payphone usage in order to determine an appropriate usage level for the remaining 2 years of the public payphone USO, and proposed that the current threshold should be maintained.
- 19 We consulted on a number of proposed options in relation to the current public payphones USO in Consultation 16/43 and we sought views on whether the usage threshold should be maintained at its current level.
- 20 The consultation period for Consultation 16/43 ran from Friday 27 May 27 to Friday 24 June 2016. We received 21 responses and we have fully taken them into account. These respondents are as follows:
 1. Abbey Theatre.
 2. Bradshaw, Mr Jonathan.
 3. Cuff, Councillor Ciaran.
 4. Dalkey Community Council.
 5. Dublin City Council.
 6. Dublin Town.
 7. Eircom Limited (Eir).
 8. Flood, Mr Andrew.
 9. Gear, Mr Jeff (Gear Jewellers).
 10. Helly, Mr Jamie.
 11. Hennessy, Mr Darren.
 12. Kiely, Mr Ger.
 13. Lyons, Cllr. Donal.
 14. Lyons, Mr F.
 15. Lyons, Mr J.

16. McDonagh, Ms C.

17. Phibsboro Tidy Towns.

18. Phizzfest Reimagining Phibsborough Campaign.

19. Solitaire Payphones.

20. Tannam, Mr Frank.

21. Women's Aid.

- 21** We wish to thank all of the above respondents for their very helpful submissions. A copy of all non-confidential responses which we received will be made available on our website.
- 22** All submissions were fully considered and account has been taken of the merits of the views expressed. However, it is not practical for us to respond to every comment made and therefore, this Response to Consultation and Decision summarises the key elements of comments provided and our views in relation to these.

3. Payphone Trends

- 23** Section 3 of Consultation 16/43 contained a detail review of payphone usage trends in Ireland. It noted that usage of public payphones has been in steady decline. Eir is currently the only operator of public payphones in Ireland. Primarily because of the growth in mobile telephony and a decline in demand for the use of public payphones (urban and rural) reductions in the number of public payphones may be unavoidable.
- 24** Public payphones include those located on the street and in other public areas available to the public at all times. Payphones that are placed in shopping centres or other outlets and which are not available to the public at all times are not considered to be universal service public payphones.
- 25** Although usage is declining, some public payphones continue to provide a basic voice telephony service to many people. The reasons why consumers still use public payphones include the following:
- Consumers either could not use their mobile (e.g. they had no call credit or no mobile coverage or due to no battery or lost or forgotten phone).
 - Consumers who have their own landline or mobile, but they use a public payphone when they have no alternative means of making a call, or for privacy reasons.
 - Consumers have no landline/mobile phone e.g. the most vulnerable people in society, such as the homeless.
- 26** Since Eir was designated as the USP in 2014, there has been a large decrease in the overall number of public payphones in Ireland. This is due to a combination of (i) declining demand; and (ii) the rules and processes which we have put in place that allow for their gradual removal by Eir. In Consultation 16/46 we noted there were just under 900 public payphones remaining in Ireland. Figure 4 in Consultation 16/43 illustrated the counties in which these public payphones are located and that 32% of remaining public payphones are in County Dublin.
- 27** Since we published Consultation 16/43, Eir has notified us of its intention to remove a further 355 payphones in the coming months⁷. Once these public payphones are removed, there will be approximately 500 public payphones remaining in the State. Eir must post a notice on the public payphones which are to be removed, for a minimum of six weeks in advance of the proposed removal, to clearly inform users of its intention to remove the public payphone and include the proposed date of cessation of service and the removal of the payphone.⁸

⁷ Eir notified us in June 2016 of these removals, which are planned for August 2016.

⁸ Eir has also publicly notified its intention to remove these public payphones on its website: <https://www.eir.ie/regulatoryinformation/public-payphones/>

- 28** Public payphones may be particularly valued by disadvantaged and vulnerable consumers. Eir supplied us with usage data which shows that calls continue to be made from public payphones e.g. to 1800 numbers and to emergency call answering services (“**ECAS**”) as well as to local, national, and mobile numbers. Customers also use public payphones for the reverse charge calls service and for pre-paid phone cards.
- 29** At this time, public payphones continue to provide a valuable service in society. Figure 2 of Consultation 16/43 illustrated that a large percentage of calls from public payphones are to Freephone numbers: in most months from Aug 2014 - Dec 15, calls to Freephone numbers account for more than 50% of calls.
- 30** Freephone calls from public payphones are the result of reverse charge calls, pre-paid calling card services, and calls to helplines. The nature of calls to Freephone numbers means that the call may be of a sensitive nature and the calling party may not want anyone to know that the call has been made. In Consultation 13/119⁹ we found that 26% of Freephone calls from public payphones were to a helpline.
- 31** Consultation 16/43 noted that on average, less than 1 call per day with an average duration of 1 - 2 minutes was made from public payphones¹⁰ in 2014/15. While usage varies substantially by public payphone (some public payphones have a lot of usage, whereas others have little or no usage) the majority of those remaining have less than 2 minutes usage per day as was illustrated by Figure 3 in Consultation 16/43.
- 32** Public payphone calls to the ECAS accounted on average for less than 1 call per month in the period.
- 33** However, as demonstrated in Figure 1 below, of the approximately 900 public payphones remaining at that time, a majority (640) have less than 1 minute of usage per day; 118 have 1 - 2 minutes usage per day; while the remainder have more than 2 minutes (up to a maximum of about 25 minutes per day).

⁹ ComReg Document 13/119: “*Provision of Public Pay Telephones, Universal Service: Scope and Designation*” 19 December 2013.

¹⁰ Based on all public payphones, many of which had low usage and have since been removed.

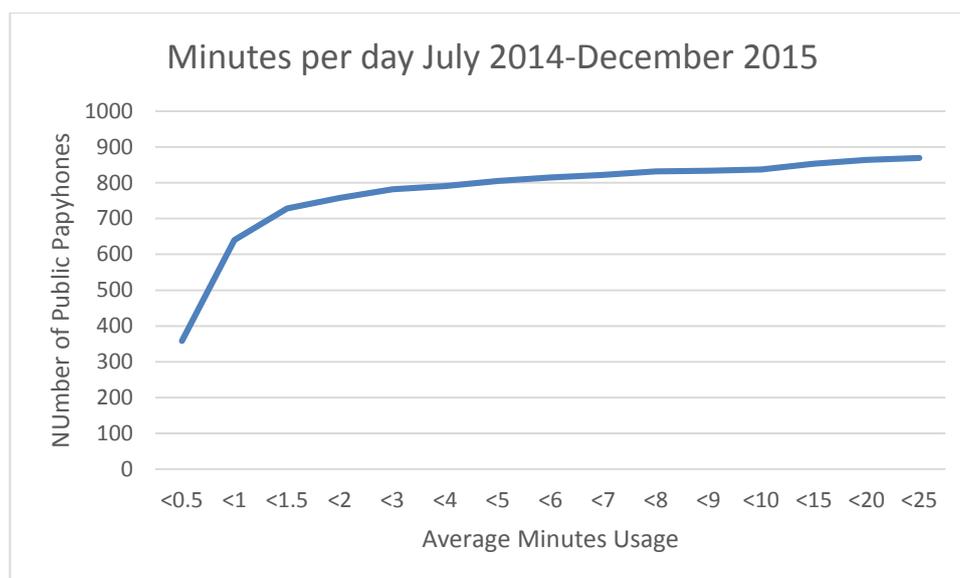


Figure 1: Average usage of public payphones as at Dec 2015

- 34** Under the current usage level of 1 minute per day, a large number of public payphones could be removed by Eir in the future.¹¹ If Eir chooses to remove these public payphones, there will be some counties which no longer have public payphones. However, the public payphones which would remain do continue to be sufficiently used.

Options Available to ComReg

- 35** In Consultation 16/43 we considered whether the usage levels which we set in Decision D08/14 should be amended.
- 36** The current usage threshold of 1 minute per day (with no more than 30 seconds of these to ECAS and Freephone) means that, based on average usage as illustrated in Figure 1 below, Eir could remove approximately 71% of the about 900 remaining public payphones, should it decide to do so. Since the publication of Consultation 16/43, Eir has notified us of its intention to remove a further 355 public payphones at 236 sites.

¹¹ See Figure 1 below.

Average Minutes per day from USO Payphones	# USO Payphones that Eir could decide to remove	% Total USO payphones
45 seconds	535	62%
1 minute	621	71%
2 minutes	697	80%

Figure 2: Current profile of payphone usage

37 In Consultation 16/43 we proposed that the usage thresholds should ensure that public payphones continue to be provided where they are currently used (and hence needed) by consumers, while also allowing for those public payphones with low usage (not needed) to be removed, so that unnecessary costs are not incurred.

38 We set out the options available to us, namely to:

- Increase the threshold which would permit the removal of a larger number of public payphones; or
- Maintain the usage threshold at its current level; or
- Decrease the threshold.

39 We considered the impacts of each of these options and proposed that public payphones that are still being used by consumers (particularly vulnerable consumers) to make Freephone and the ECAS, should not be removed.

40 We found no evidence at the time to suggest that the usage threshold level should be increased or decreased.

41 In Consultation 16/43 we noted that Eir has not to date removed all of the public payphones that it could remove under the current usage threshold.¹² We were of the preliminary view that the usage thresholds which we set in 2014 remain appropriate and we therefore proposed to maintain them for the 2 years that remain of Eir's public payphone USO. This would mean that Eir could still remove public payphones where usage is low (indicating that the public payphone is *not* required to meet the reasonable needs of the public).

¹² Eir has since notified us of its intention to remove 355 more public payphones.

- 42 Where public payphones are being used predominantly by vulnerable users, the percentage of calls from these to Freephone and the ECAS would be high and therefore, we were of the view the condition that no more than 30 seconds of the payphone minutes should be to the ECAS and Freephone should also be maintained.
- 43 We were of the preliminary view that maintaining these usage levels will ensure that the reasonable needs of consumers are met, without resulting in additional costs to Eir and that therefore, Decision D08/14 (see Annex 1) did not need to be amended at this time.

Q. 1 Do you agree with our preliminary view that the usage threshold levels should be maintained at the levels set in D08/14? Please give reasons to support your view.

3.3.1 Respondents' submissions

- 44 The responses we received were varied. Many respondents had concerns about the continued presence of certain public payphones in their area. Other respondents raised concerns about the removal of public payphones. Many respondents also raised concerns about the maintenance of payphones.
- 45 Mr. Bradshaw was of the following view: *"Phone boxes should be retained, in a mobile wireless world where infrastructure and customer equipment is subject to failure the role of the public phone box while diminished remains important. The role of the Phone Box as a point of public communicates should be extended to adopt modern communications technology and practice. Opportunities to extend the usage and relevance of the Public Phone Box infrastructure might include public access WiFi and 3G/4G Pico Cells."*
- 46 Councillor Cuffe requested of Eir to: "...remove all phone boxes where:
- i. there is evidence of anti-social behaviour; or*
 - ii. usage in the previous 6 months was low, i.e. the average usage is less than 1 minute per day and the average usage to Freephone numbers and ECAS is not more than 30 seconds of these minutes; or*
 - iii. there is more than 1 payphone on the site and the combined average does not meet the low usage standards; or*
 - iv. it is requested by a Local Authority."*
- 47 Councillor Cuffe also noted in relation to Eir as follows: *"...the recent and significant increase in urban blight caused by your flagrant use of your phone boxes for advertising for third parties in recent years and ask that you discontinue this use of your phone boxes for such advertising immediately."*

- 48 Mr. Flood was of the view: "...that in certain areas where the phone box once stood perhaps a free wifi spot for tourist to log onto could be installed."
- 49 Mr. Jeff Gear also requested the removal of certain payphones as: "Currently they are being used for a toilet; we have witnessed people urinating in them. Also People smoking inside them, Regular drug taking Personally I would not feel safe inside one of them for fear of mugging or being attacked. If they have to stay in position, there is no reason why they should not be like the American style of an open pole, this would instantly resolve all the problems with unsocial behaviour."
- 50 Mr. Helly raised concerns about the level of antisocial behaviour taking place in a particular public payphone, which he noted: "...has become out of control." Mr Helly provided us with a series of photographs: "...as examples of the abhorrent events that are happening in front of passing children and commuters on a daily basis." Mr. Healy also noted "We have campaigned to have the phone box removed to the Garda, who say they are powerless. Dublin County Council have told us it an eircom [eir] matter Senior operations in eir have told us we need to take it up with the regulator I note that in your Review document, you highlight the fact the eir are entitled to remove a phone box should there be evidence of antisocial behaviour. [see attached 2] Unfortunately, eir are refuting this. Essentially, no one is taking any responsibility to act to prevent activities that are entirely socially unacceptable and ruining local businesses and tourism." Mr Helly also asked: "...how the Communications Regulator can help deal with this appalling situation."
- 51 Mr. Hennessy was concerned there are: "...too many in some areas, not enough in more demand areas, poorly managed/ maintained and often can attract anti-social behaviour" and questioned how to deal with these issues. He also noted that: "...too many people can't afford mobile/ regular contracts and this is increasing - this system provides an option be it only in some cases an emergency to those people". Mr Hennessy also was of the view that: "We have significant numbers of homeless people within the country - no access to communications and require charity / access to other persons phone - having a balanced number of these available assists. Lastly in the event of any member of the public having or witnessing an incident and not in possession of a mobile phone / phone lost/ stolen in and so many cases daily - having option available assists." He also raised concerns around the ability of tourists to use public payphones.

- 52 Mr. Kiely was of the opinion that public payphones: *“No longer serve any useful purpose They are unsightly. They are regularly and continuously vandalised and or “Graffiti-ed” and thus are a blight on the Streetscape. - They are a walking hazard that is no longer necessary to tolerate for such as blind and disabled persons. - Their sole remaining function appears to be the provision of a cheap marketing and advertising tool for one company that can no longer be justified on the grounds of the provision of a public service, as the public no longer have any wish or need to use the service. They are dangerous and a potential source of hazard to the public in that they are in a state of disrepair.”*
- 53 Councillor Lyons requested the removal of specific public payphones: *“...due to the fact that both are in a state of major disrepair, there are unsightly, obstructing a busy thoroughfare and at night they are continually being used as urinals in this busy tourist location”,* the submission noted the payphones *“have been out of order for some time”*. It also noted that *“there are further kiosks located....less than 100metres for the kiosks”*. This submission also noted that Eir stated in response to a request for the removal of these public payphones that: *“...the only way to get the kiosk removed therefore, is to get your local council to request and fund the recovery.”*
- 54 Mr. F Lyons noted that although a notice to remove a particular payphone has been posted, the payphone was not removed over a year later, but was *“out of order and unusable”* he also noted that particular public payphones were out of order and he lost money in them. He also was of the view that: *“...usage cannot be properly measured if phones are out of order for long periods.”* He was also of the view that public payphones: *“...should be spread more evenly throughout the country.”* Mr. F Lyons was also of the view that: *“...if payphones worked more people would use them”,* and that *“despite the low usage of public phones, I cannot emphasise enough how necessary they can be in certain situations.”*
- 55 Mr. J Lyons stated his view that: *“...the Dun Laoghaire are has lost more than its fair share [of public payphones] in the last few months”* He also noted: *“...at the moment payphone service between Bray and Dun Laoghaire consists of just two kiosks”* and urged us: *“...to request Eir not to remove these two kiosks”* and requested that *“the payphones be maintained and kept in working order.”*
- 56 Ms. McDonagh was of the view the public payphones should be kept, noting: *“It’s important that all people have access to a phone if they need it. We cannot assume all people are mobile users.”*

- 57 Mr. Tannem was of the view that: *“...some additional aspects needs to be considered. Public hygiene after drug usage...The reality is that Eir are not cleaning the payphones properly (just walk into any payphone and you will see) which is causing a very serious public hygiene issue.”* He also raised issues in relation to terrorism, advertising and vandalism. Mr Tannem was of the view that we should: *“Change the criteria to encourage Eir to remove all payphones that do not meet existing minimum call volumes.... For remaining payphones, have minimum cleaning standards, i.e. payphones are cleaned at least twice a week. Phones are kept in working order. Drug residue is dealt with appropriately. Payphones are a blight, not a service anymore, we need to encourage a socially responsible speedy removal of the remaining payphones.”*
- 58 Dalkey Community Council stated: *“...on behalf of a number of concerned residents in Dalkey who are very upset that Dalkey may lose the eircom phone box at the Square about in the town. It is in a position to serve one end of the town and the local residents find it as a re-assuring facility.”*
- 59 Dublin City Council agreed with the proposal to leave usage thresholds unchanged and suggested that the current rules be amended: *“...such that each payphone unit should individually meet the minimum use standards.”* It was also of the view that *“...when calculating the 30 seconds of payphone minutes for ECAS and Freephone usage, consideration should be given to relevant measurement criteria. For example unanswered Freephone calls should note be reckonable”*. It also noted that: *“...under planning law, planning permission is required for change of use of a payphone to use other than telephony.”*
- 60 Dublin Town was of the view that: *“...while levels of use as outlined in the consultation document is obviously one key indicator for the removal of phone boxes, it is just one consideration”* and that *“other considerations should come into play, such as the relative importance for competing uses of space on our streets. Local resident and businesses should be consulted and should be able to petition Eir for the removal of a phone box from the street.”* It noted mobile phone penetration and was of the view *“this poses a question as to the need for active telephone kiosks.”*
- 61 It also noted that: *“Dublin Town’s cleaning crews are regularly called upon to clean up after the mis-use of phone boxes within Dublin city centre”* and that *“Dublin Town members regularly complain about the mis-use of phone boxes and it is fair to say that the vast majority of businesses would prefer not have such units on their streets. It was also of the view that “there could be a rationale to maintain a small number of public payphones for the use of emergency and Freephone numbers”* and suggested *“that is any phone boxes are maintained for these purposes that they should be of the open kiosk variety rather than the larger closer variety”*, which in its view would minimize issues around *“public defecation, litter build up and drug consumption”* and would be *“more accessible for wheelchair users”*, it also suggested these *“could be enabled to function as WiFi hotspots which may be of specific benefit to tourists.”*

62 In particular, Eir made submissions in respect of the following:

- The designation.
- The threshold and stranded payphones.
- The lower threshold and international calling cards.
- The wording of the removal criteria and notification requirements.
- The RIA.

63 Eir set out its view that: *“ComReg has not provided any objective justification for its continuation of this USO in this current consultation”* and that: *“...the USO designation itself should be removed.”* In respect of the public payphone USO in other European Countries it noted that: *“Invariably they have identified the substitution of mobile services as a key justification for ending the USO. ComReg should have an even more compelling reason for relying on such justification given that mobile phone service in Ireland for low End-Users is according Figure 1 the cheapest among the western European countries used to compare mobile price in its quarterly market report, three of which have seen fit to dispose of the public payphones USO.”*

64 It also set out its view that: *“...the logistical and economic challenges of efficient payphone removal are compounded by the inefficiencies arising from the current designation and removals criteria.”* Eir further stated that: *“...there is an administrative overhead in respect of the notification requirement”* and that: *“if usage thresholds were set to a higher level.....eir could remove payphones more efficiently and significantly reduce the geographic area covered by its maintenance team delivering further potential efficiencies”*. Eir also suggested that we: *“...exaggerate the number of payphones that eir could remove.”*

65 Eir stated that the: *“...upper threshold must increase to at least 2 minutes to avoid having stranded payphones”* and that our approach is flawed was it based on a *“premise that because a payphone is used it is meeting a social need for inclusion”*. It also stated that it is: *“...facing a situation whereby large regions of the country have so few payphones that there can be absolutely no objectively justified or proportionate reason for the continued retention of the USO in these areas.”* Eir’s submission included an illustration of the reduction in the geographic area covered by USO public payphones if the usage threshold was increased by 1 minute and claimed that: *“...this would remove an extra 7 counties from the area to be covered”* and this *“could result in a potential reduction in overhead of 20%.”*

- 66 Eir was also of the view that: *“ComReg has not provided any evidence of any significant End-User detriment nor any objection from either End-Users or their representative groups arising from the exercise of the 1 minute upper threshold”*. Eir noted *“one minute per day compares to 30 minutes per month. This is equivalent to just 60% of the low usage prepaid mobile usage basket that ComReg presents in its Quarterly Market reports; a basket that has been established by the OECD as a means of comparing the price of the typical very low single user of a subscription. This is despite the fact that a 1 minute threshold has been applied to payphones which are supposed to provide service to a large number of End-Users, not just one user compared payphone usage to that of a standard phone subscription in our previous responses.”*
- 67 Eir was also of the view that: *“The fact that the USO regulations require ComReg to take account of population density in the geographic area under consideration suggests that the intention of the USO is to serve a significant number of people with each payphone. It might be reasonable to determine the threshold based on usage levels that would be many multiples of low prepaid mobile usage. ComReg might consider the OECD residential standalone fixed basket as a more appropriate benchmark.”*
- 68 Eir was concerned that: *“...usage thresholds alone inevitably give rise to payphones being isolated hundreds of kilometres from the nearest payphone”, and “this is extremely inefficient and contrary to ComReg’s duties.”*
- 69 Eir was also of the view that: *“...international Calling Cards must be removed from the lower threshold as they do not address ComReg’s claimed social inclusion criteria for payphone retention.”* In this respect Eir noted that the PAC¹³ has not been reviewed in a number of years and that: *“...this has the effect of inflating the volume of Freephone traffic, particularly in the case of calling card services.”* It also stated its view that: *“Unlike helpline and emergency service access, they do not service vulnerable End-Users. Therefore the lower 30 second usage criteria should exclude these numbers.”*
- 70 Eir also suggested that: *“Adjustments are needed in the wording of the notification requirements as they do not adequately cater for the logistics of removing payphones in batches”* and suggested wording to address its concerns.

¹³ Payphone Access Charge.

- 71 Eir also was of the view that *“ComReg claims that it is not obliged to carry out a RIA on the basis that it is “not imposing regulatory obligations on eir”. ComReg overlooks the important fact that the onus on ComReg to carry out an RIA also applies to decisions to maintain existing obligations as this has the same effect as the imposition of regulatory measures, an effect which cannot be justified without a comprehensive RIA.”* Furthermore Eir was of the view that *“ComReg cannot excuse itself from its clear obligation and prior commitment to carry out a thorough RIA. ComReg’s draft RIA lacks the necessary detailed analysis that is warranted. The dearth of any quantitative evaluation of the possible impacts of the options under consideration is particularly remarkable. The RIA merely lists options along with speculative effects that have no grounding other than their arising from ComReg’s views. ComReg neglects to consider the cost of piecemeal removals as opposed to the reduction in costs that would be achieved if ComReg decides not to re-designate the USO. With respect to claimed benefits, ComReg’s estimation of claimed benefits from Public Payphones remain entirely un-quantified and without any supporting evidence.”*
- 72 Phibsboro Tidy towns were of the view *payphones “are little used as phone boxes but may attract unsocial behaviour”*. However they also observed that, *“one of the boxes was used by a homeless man seeking hostel accommodation for that night. He was hours on the phone waiting his turn to secure a place.”* They were also of the view that *“As the majority of the population use mobile phones it is easy to assume that Eir phones are not required but a few are.”* They also suggested the removal of certain payphones.
- 73 Phizzfest Reimagining Phibsborough Campaign, requested the removal of certain payphones, noting *“they are a source of continued anti-social behaviour, they are used for urinating in and for drug taking. Admittedly, they are occasionally used to make a phone call - by people standing in out of the rain to make a call on their mobiles! They are also unsightly and foul-smelling urban clutter.”*
- 74 Solitaire noted *“Our take on this matter comes from what we have witnessed in the UK, decline of street payphone numbers and a continued marketplace in indoor supervised environment payphones..... Our vote on this latest consultation is for thresholds to remain at current levels and for Eir to seek suitable indoor supervised locations where pay telephony services can continue to operate without the anti-social/higher cost aspects of street locations.”*
- 75 The Abbey Theatre noted *“The phone box at the corner of Abbey and Marlborough Street outside the Abbey Theatre is a prime example of how much of an eyesore that public phone boxes have become. It’s neglected. It’s an advertising space, has a broken pane of glass and tends to be used by those contributing to antisocial behaviour and not the general public.”*

76 Women's Aid noted the Women's Aid National Freephone "...provides vital support and information to individual callers and is a gateway to our other services and local refuges and support services around the country." It was of the view that: "It is vitally important that the Women's Aid National Freephone Helpline is as accessible as possible to every woman who may need it in every part of the country. We know that some women who call our Helpline sometimes use payphones to make the call. This may be because it is the only private space they have or they have no landline or mobile phone. It may also be that women are afraid of their partner's behaviour and how he monitors their every move, including what calls she makes." It was of the view that: "...the number of payphones in the country should not be reduced as for some women this may be their only access point to the Women's Aid National Freephone Helpline. It is for this reason that we are in favour of maintaining the current usage threshold at the levels set in D08/14."

3.3.2 ComReg's response

77 We note the varying views of respondents to the consultation. A number of respondents requested the removal of particular public payphones. While we can mandate a USP to provide public payphones and set the conditions under which they may be removed, we cannot require the removal of public payphones. This is a commercial decision for Eir to make. However, we would like to draw respondents' attention to the criteria for permissible removals as set out in section 4 of the Decision Instrument. This sets out that in addition to the usage levels, a public payphone may be removed when for example it is a focus for anti-social behaviour.

78 A number of respondents also requested that public payphones are not removed (either in a specific area or throughout the country). The designation of Eir as the USP to provide public payphones throughout the State required that the number of public payphones in operation at that time should be maintained by Eir, unless their usage fell below the threshold levels. If the usage falls below a certain level however, Eir is permitted to remove them. These usage levels were set to ensure that consumers who used public payphones could still have access to them, whilst permitting Eir to remove public payphones for which there was no longer a reasonable need. Therefore, it cannot be guaranteed that a public payphones which has usage below the specified levels will be maintained by Eir.

79 Alternative uses such as Wi-Fi hotspots were suggested for public payphones by respondents. However, this again, is a decision for Eir to make and it is outside the scope of this consultation process.

- 80** A number of respondents noted the use of public payphones by homeless people and their need in the event of an emergency. As set out in Consultation 16/31, we are of the view that public payphones are of value to disadvantaged and vulnerable consumers and again, we note that in Consultation 13/119¹⁴ we found that 26% of Freephone calls from public payphones were to a helpline.
- 81** In response to those submissions which were concerned that payphones are a focus for anti-social behaviour, we draw attention to the criteria for removals which specify that a public payphones can be removed in these circumstances. We are aware from notifications of public payphones removals that there have been instances where they have been removed by Eir following requests from the Gardaí or Local Authorities.
- 82** In the interests of maintaining the visual landscape and public safety, where a payphone is removed, the entire payphone kiosk must be removed, not merely the public payphone unit. This would prevent the kiosk becoming subject to vandalism or anti-social behaviour.
- 83** Of those who specifically commented on the threshold level the vast majority were in agreement (e.g. Solitaire, Dublin City Council, and Women’s Aid). Eir disagreed, and was of the view the usage threshold should be increased to 2 minutes.
- 84** In response to Eir’s comment that the USO designation should be removed, on 7 July 2014, we designated Eir as the USP for the provision of public payphones for a period of 4 years. This was primarily because of Eir’s geographical ubiquity, its experience, and its capability. We noted in paragraph 9 of Consultation 16/43 that the consultation was not concerned with the designation of the USP for the provision of public payphones but with a review of the threshold for usage, below which the USP is permitted to remove public payphones. Further, the information shown in Figure 1 of Eir’s submission is not relevant in the cases of homeless, calls to helplines, or emergency, or unexpected situations.
- 85** We do not agree with Eir’s view that we exaggerated the number of public payphones that it could remove. We assessed in detail information provided to us by Eir in response to an information request. We consider that our judgment on this issue has proved correct: since we published Consultation 16/43, Eir has notified its intention to remove a further 355 public payphones at 236 sites. We also note that Eir omitted to mention this in its response to Consultation 16/43.

¹⁴ ComReg Document 13/119: *“Provision of Public Pay Telephones, Universal Service: Scope and Designation”* 19 December 2013.

- 86** In response to Eir's view that we have not provided any evidence of significant end-user detriment nor any objection from end-users or their representatives, we refer Eir to the submissions we received in response to Consultation 16/43, many of which object to the removal of public payphones, for a wide variety of reasons. For example, Women's Aid note that some women who call their helpline use public payphones. Phibsboro Tidy Towns noted the use of a particular public payphone by a homeless person. A number of respondents requested that particular payphones be maintained; such as Dalkey Community Council and a number of individuals.
- 87** Eir appears to aligning the benefit to society with actual (low) use of a particular public payphone. We consider however that public payphones are provided for use by anyone, in particular as a back-up. The people using them and the reason for use will vary depending on the circumstances and it is not relevant to compare it with the general phone usage of other consumers of electronic communications services.
- 88** In coming to our preliminary views in Consultation 16/43, we considered the option of increasing the usage threshold, which would permit the removal of a larger number of public payphones.
- 89** Figure 4 of Consultation 16/43 illustrated that were the threshold to increase to 2 minutes (and maintaining the condition that calls to ECAS and Freephone numbers should account for not more than 30 seconds of these minutes) only 1 in 5 public payphones would remain. This could result in there being less than 200 public payphones in Ireland. Since we published Consultation 16/43, Eir has notified us of the planned removal of a further 355 public payphones in August 2016. This represents a reduction of over one-third of the current number of public payphones being operated by Eir. This is a very significant number of removals and we would note that Eir will be able to carry out these removals under the current usage threshold of 1 minute per day, notwithstanding its request that we increase the usage threshold to 2 minutes per day.
- 90** We also considered the impact of increasing the level above 2 minutes and noted this would result in very few public payphones remaining as only a very small number of public payphones have usage of more than 3 minutes per day. Increasing the threshold to 5 minutes may have a similar effect to removing the obligation to provide public payphones.

- 91 We note Eir’s concern that some public payphones may become isolated. In fact, Figure 4 of Consultation 16/43 highlighted that if the threshold remained at 1 minute, there would be a number of counties which would no longer have any public payphones. We are aware that the maintenance fee (for cash collection, cleaning and maintenance structure) is driven by geographic location. We are of the view that regardless of the usage threshold we choose, there remains a risk that some public payphones may become isolated in any event. However, we remain of the view that our usage thresholds are the most appropriate measure of the reasonable needs of consumers.
- 92 In relation to our assessment of need, the evaluation of where a public payphones is situated in relation to any other public payphone is irrelevant (except for multi-site) if the public payphone is being used. We are of the view there are models that could be explored by Eir (local maintenance) to minimise travel and therefore, maintenance costs. We also note that a number of respondents raised issues in relation to the current maintenance of public payphones.
- 93 In relation to the identification and exclusion of International Calling cards from Freephone calls, we refer again to Consultation 13/119, in which we analysed a sample of call data as supplied by Eir, in order to determine the reasons contributing to the high call minutes to Freephone numbers. The types of Freephone numbers are set out in Figure 3 below.

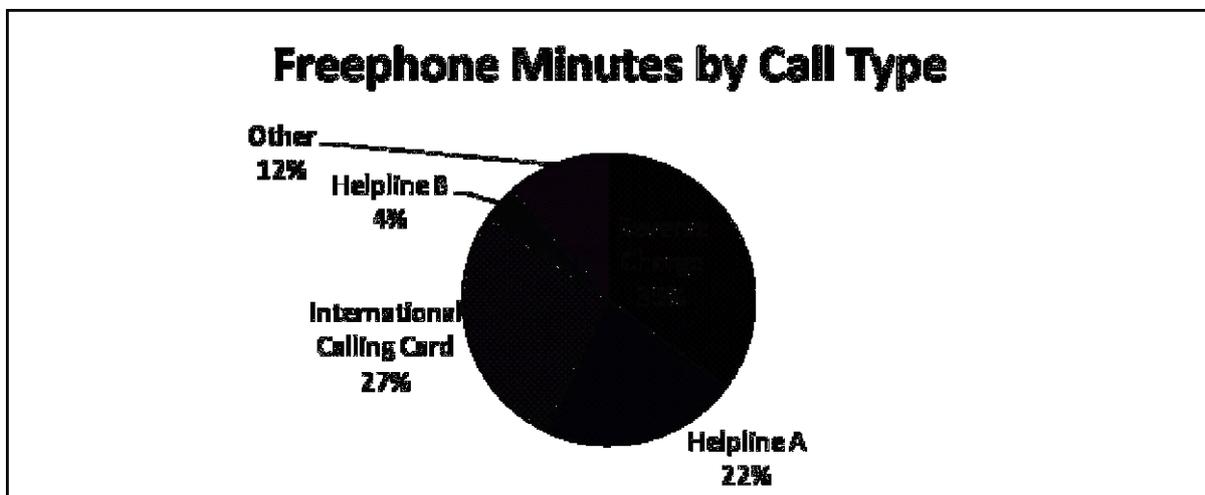


Figure 3: Freephone Minutes Split

- 94 This demonstrates that 27% of Freephone minutes were due to International Calling Cards at that time. We consider that excluding these minutes from the calls will not have a material impact. In Consultation 16/43 we noted that 640 payphones had less than 1 minute usage per day, while 621 could be removed using the current usage thresholds. This suggests therefore that less than 20 public payphones would be maintained solely due to the Freephone and ECAS threshold.

- 95** In response to Eir's view in relation to our RIA, we have conducted the RIA as part of our assessment of the available options, because of the continued importance of public payphones to certain sections of the public and in order to help us to better take account of the potential impacts on end-users as a result of the gradual removal of public payphones. We note that Eir has not provided us with any information which would assist us in quantifying the costs and benefits. We also note Eir has suggested that if the usage threshold was increased by 1 minute that this: "...could result in a potential reduction in overhead of 20%." Eir did not however quantify the potential saving.
- 96** We disagree with Eir's contention that: "*ComReg neglects to consider the cost of piecemeal removals.*" Eir has recently notified us of the further removal of 355 payphones. We consider that we can therefore reasonably infer that under the current usage threshold, Eir can remove public payphones and with potential cost reductions and greater efficiency. Thus, there may scope for Eir to remove a large number of public payphones at once. Therefore, costs savings may be capable of being achieved by Eir by removing many public payphones throughout the country at the same time.
- 97** Further, Eir suggested amendments to the wording of the Decision Instrument, many of which would not in fact change the way the current notification process works. We do not consider that it is necessary for us to effect these proposed amendments at this time.

3.3.3 ComReg's position

- 98** We remain of the view that the current threshold levels this obligation will allow for the removal of public payphone service where usage is low and that it should also result in a reduction in the costs to Eir of the uneconomic provision of the USO.
- 99** We remain of the view that the current level is the most appropriate to ensure the reasonable needs of consumers are met. The current usage level ensures that those most vulnerable in society have the ability to make phone calls, regardless of their reason for needing to do so.
- 100** In addition, we do not believe it would be appropriate to reduce the lower threshold.
- 101** Under the current usage levels, Eir has the ability to remove further public payphones, we therefore do not believe the maintenance of the current usage levels will result in any additional costs to Eir. We expect that a reducing base of public payphones should result in reduced costs to Eir.

102 Where these usage criteria are met, the entire payphone kiosk may be removed (unless interested parties want the kiosk left in place for other purposes) and not only the payphone unit. This would prevent the kiosk becoming subject to vandalism or anti-social behaviour.

103 However, while we can mandate a USP to provide public payphones and set the conditions under which they may be removed, we cannot require the removal of public payphones. This is a commercial decision for Eir to make.

4 Regulatory Impact Assessment (RIA)

- 104** A RIA is an analysis of the likely effect of a proposed new regulation or regulatory change. It helps identify regulatory options, and should indicate whether or not a proposed regulation is likely to have the desired impact. The RIA should also in certain cases suggest whether regulation is or is not appropriate. The RIA is a structured approach to the development of policy, and analyses the probable impact of regulatory options on different stakeholders.
- 105** Our approach to RIA is set out in our Guidelines published in August 2007.¹⁵ In conducting this RIA, we take account of the RIA Guidelines,¹⁶ adopted under the Government's Better Regulation programme.
- 106** A RIA should enable us to determine the impact of any regulatory change or new regulation, and should assess the alternatives to regulation - such as no intervention, self-regulation, or performance based regulation, amongst others. RIAs aim to identify areas where regulation can be reduced.
- 107** A RIA should identify the impact of the various options on stakeholders, on competition and on consumers and also the key risks associated with each option. RIAs therefore increase transparency of decision making and ensures the best possible outcome for stakeholders, consumers and competition.
- 108** We are not required by the Communications Regulation Act 2002 to consult upon, or conduct a RIA, for the purposes of this consultation or our final decision. This is because we are not imposing any new regulatory obligations on Eir, or other industry participants.
- 109** Nonetheless, we have decided to conduct a RIA because of the continued importance of public payphones to certain sections of the public and in order to help us to better take account of the potential impacts on end-users as a result of the gradual removal of public payphones.

¹⁵ComReg Document No. 07/56 & 07/56a.

¹⁶http://www.taoiseach.gov.ie/eng/Publications/Publications_2011/Revised_RIA_Guidelines_June_2009.pdf

Step 1: Describe the Policy Issue and identify the Objectives

110 We reviewed the current public payphone usage levels to assess whether or not the current levels should be amended or maintained. Payphone numbers have declined in recent years, as have the volumes of calls. However we are of the view that payphones continue to provide a vital service to consumers, particularly to disadvantaged and vulnerable consumers.

111 We committed to complete a review of the usage levels by 30 June 2016.

Step 2: Identify and Describe the Regulatory Options

112 We identified the following regulatory options which may be adopted in order to meet the objectives set out above.

- **Option 1 Maintain the Current Usage Threshold:** The USP may remove public payphones subject to the conditions set out in Decision D08/14.
- **Option 2 Amend the Current Usage Threshold by:**

Option 2(a): Increasing the Current Threshold: The USP may remove public payphones subject to an increased usage threshold.

Option 2(b): Decreasing the Current Threshold: The USP may remove public payphones subject to a decreased usage threshold.

Steps 3 & 4: Determine the impacts on stakeholders and competition

113 In order to determine the impact of each of the options, the impact on industry, consumers and other stakeholders are set out below.

Measure Proposed	Impact on Industry		Impact on Consumer		Impact on other Stakeholders
	Costs	Benefits	Costs	Benefits	
<p>Option 1</p> <p>Current Usage threshold is Maintained</p>	<p>Eir may incur costs for the physical removal of public payphones, however maintenance costs would decrease.</p> <p>Where net costs results in an unfair burden industry may be required to contribute to in respect of sharing of any unfair burden</p> <p>USP may lose the brand benefit of having its logo displayed on phone boxes throughout the country.</p>	<p>Eir could benefit from the removal of uneconomic public payphones & may therefore benefit from reduced costs resulting in reduced net cost claim.</p> <p>71% of payphones could be removed.</p> <p>Potential for reduced maintenance costs due to reduced number of payphones</p> <p>Net cost will reduce over time however not as quickly as if the threshold was increased.</p>	<p>In some areas, all public payphones may be removed. However, the number of calls made from these payphones is low and so the consumer impact is minimised.</p> <p>Vulnerable consumers and consumers who wish to use payphones may no longer have access to service that they currently use.</p> <p>Large number of payphones may be removed.</p>	<p>Consumers living in areas where payphones have become the location for anti-social behavior may benefit from their removal.</p> <p>Some payphones remain; these may be primarily in urban locations.</p> <p>Vulnerable consumers may still be able to use payphones, once average usage is above the threshold and Freephone calls do not account for more than 30 seconds of these calls.</p>	<p>Local Authorities may benefit from reduced cleaning costs (where kiosks are physically removed). No longer negative impact on streets where public payphone usage is source of anti-social behaviour.</p> <p>Pavement space can be used for bicycle stands/information points</p> <p>Eir is the only provider of public payphones in the state and hence there is no competitive impact of maintaining the threshold.</p>
<p>Option 2 (a)</p> <p>Increase Current Usage threshold</p>	<p>Eir may incur costs for the physical removal of public payphones, however maintenance costs would decrease.</p> <p>USP may lose the brand benefit of having its logo displayed on phone boxes</p>	<p>Eir could benefit from the removal of uneconomic public payphones & would therefore benefit from reduced costs resulting in reduced net cost claim.</p> <p>For a 2 minute threshold 80% of payphones could be</p>	<p>In some areas, all public payphones may be removed. Consumers needing to make calls in certain locations may now need to find alternative means of making calls.</p> <p>Vulnerable consumers and consumers who wish to use</p>	<p>Consumers living in areas where payphones have become the location for anti-social behavior may benefit from their removal.</p> <p>Some payphones remain; these may be primarily in urban</p>	<p>Local Authorities may benefit from reduced cleaning costs (where kiosks are physically removed)</p> <p>No longer negative impact on streets where public payphone usage is source of</p>

Measure Proposed	Impact on Industry		Impact on Consumer		Impact on other Stakeholders
	Costs	Benefits	Costs	Benefits	
	<p>throughout the country.</p> <p>Where net costs results in an unfair burden industry may be required to contribute to a fund, however this may decrease if the threshold is increased.</p>	<p>removed.</p> <p>Potential for reduced maintenance costs due to reduced number of payphones</p> <p>Net cost will reduce over time.</p>	<p>payphones no longer have access to service that they currently use.</p> <p>Additional Payphones may be removed subject to increased usage criteria, very few payphones are likely to remain.</p>	<p>locations.</p> <p>Vulnerable consumers may still be able to use payphones, once average usage is above the threshold and Freephone calls do not account for more than 30 seconds of these calls.</p>	<p>anti-social behaviour.</p> <p>Pavement space can be used for bicycle stands/information points.</p>
	<p>Eir may incur costs for the physical removal of public payphones, however maintenance costs would decrease.</p> <p>USP may lose the brand benefit of having its logo displayed on phone boxes throughout the country.</p> <p>Where net costs results in an unfair burden industry may be required to contribute to a fund, however this may decrease if the threshold is increased.</p>	<p>Eir could benefit from the removal of uneconomic public payphones & may therefore benefit from reduced costs resulting in reduced net cost claim</p> <p>62% of payphones could be removed.</p> <p>Potential for reduced maintenance costs due to reduced number of payphones</p> <p>Net cost will reduce over time, however not as quickly as if the threshold was maintained or increased.</p>	<p>Obligation may exceed reasonable need and the benefit of some payphones is in doubt due to low usage.</p> <p>In some areas, all public payphones may be removed. However, the number of calls made from these payphones is low and so the consumer impact is minimised.</p> <p>Vulnerable consumers and consumers who wish to use payphones may no longer have access to service that they currently use.</p>	<p>Consumers living in areas where payphones have become the location for anti-social behavior may benefit from their removal.</p> <p>Some payphones remain; these may be primarily in urban locations.</p> <p>Vulnerable consumers may still be able to use payphones, once average usage is above the threshold and Freephone calls do not account for more than 30 seconds of these calls.</p>	<p>Local Authorities may benefit from reduced cleaning costs (where kiosks are physically removed)</p> <p>No longer negative impact on streets where public payphone usage is source of anti-social behaviour.</p> <p>Pavement space can be used for bicycle stands/information points.</p>

Step 5: Assess the Impacts and choose the best option.

- 114** Usage data as supplied by Eir shows that calls continue to be made from payphones. Payphones continue to be used to make calls to 1800 numbers and to emergency services as well as to local, national and mobile numbers. Furthermore, customers also use payphones for the reverse charge calls service and for prepaid phone cards. Payphones are often used by consumers to make Freephone calls many of which are to helplines.
- 115** Consumers therefore continue to rely on public payphones to make calls, and if the usage threshold is increased, we are of that view that many of these payphones would be removed (subject to the other criteria), leading to detriment to consumers who continue to use these payphones. Increasing the threshold could result in a large percentage of public payphones being removed.
- 116** Maintaining the thresholds at the current level, this would still allow for the removal of a large percentage of remaining public payphones.
- 117** We therefore remain of the view that maintaining the usage thresholds as set out in Decision D08/14 is unlikely to result in a disproportionate cost burden and for the reasons set out above Option 1 would best achieve our objectives. Therefore we consider that Option 1 is the best option and should be implemented.
- 118** For regulation to be effective, we must ensure that compliance with obligations can be monitored and, where necessary enforced. Our compliance functions include monitoring ongoing compliance with obligations, enforcing existing obligations, and handling formal disputes. We will monitor and enforce compliance with any public payphone obligations in line with these functions.

Annex: 1 Decision Instrument D08/14

1. STATUTORY FUNCTIONS AND POWERS GIVING RISE TO DECISION

1.1 This Decision and Decision Instrument, made by the Commission for Communications Regulation (“ComReg”), relates to the provision of universal services in the Irish telephony market and is made:

- i. Having regard to sections 10 and 12 of the Communications Regulation Act 2002;
- ii. Pursuant to the functions and powers conferred upon ComReg under and by virtue of Regulation 7(1) of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011 (“the Regulations”);
- iii. Having regard to Regulation 5(2) of the Regulations;
- iv. Having taken account of the representations of interested parties submitted in response to ComReg Document No. 13/119 and 14/27; and
- v. Having regard to the analysis and reasoning set out in ComReg document No. 14/69.

2. DESIGNATION OF UNIVERSAL SERVICE PROVIDER

Public Pay Telephones

2.1 In accordance with Regulation 7 of the Regulations, Eircom Limited and its subsidiaries, and any undertaking which it owns or controls, and any undertaking which owns or controls it and its successors and assigns (“Eircom”) is hereby designated as the Universal Service Provider (“USP”) for the purpose of complying with the following obligations, as provided for by Regulation 5 of the Regulations.

2.2 The USP shall do the following:

- i. Ensure that public pay telephones are provided to meet the reasonable needs of end-users in terms of the geographical coverage, the number of telephones or other access points, accessibility to disabled end-users and the quality of services by retaining and maintaining the current USO public pay telephone phones except in accordance with the criteria for permissible removal specified in section 4 of this Decision Instrument.
- ii. Ensure that it is possible to make emergency calls from a public pay telephone using the single European emergency call number “112”, the National emergency call number “999” and any national emergency call

number that may be specified by ComReg, in each case free of charge and without the necessity to use coins or cards or any other means of payment.

- iii. Ensure that users of its public pay telephones have access to a directory enquiry service.
- iv. Ensure that all public pay telephones provide appropriate payment means;

Geographically Averaged Pricing

2.3 As provided for by Regulation 8 (3) of the Regulations, Eircom, as the USP, shall apply geographically averaged prices throughout the State for the services referred to in this Decision.

3. CONTINUATION OF COMREG DECISIONS

3.1 All other decisions imposed by ComReg in relation to universal service obligations, which were immediately in force prior to the effective date of this Decision and Decision Instrument, shall continue to have full force and effect. Such obligations include, without limitation, those set out in the following:

- i. ComReg Decision No. D9/05.
- ii. ComReg Decision No. D02/08.
- iii. ComReg Decision No. D04/11.

4 REMOVAL OF PUBLIC PAY TELEPHONES

Criteria for permissible removals

4.1 The USP is permitted to remove a public pay telephone on a single site where:

- i. there is demonstrable evidence that the removal of the public pay telephone is necessary as the public pay telephone concerned is a focus for anti-social behaviour; or
- ii. the usage in the previous six months of the public pay telephone (while in reasonable working order) has been low, indicating an absence of “reasonable need” in that location, where “low” is considered to mean:
 - Average Usage (including local, national, international, emergency calls, DQ calls, Freephone calls and reverse charge minutes) for the previous six months is less than 1 minute per day and
 - Average minutes for the previous six months to Freephone numbers and Emergency Services combined is not more than 30 seconds of these minutes;

or

- iii. there is more than 1 public pay telephone on the site and the average usage across all of the public pay telephones on the single site does not meet the low usage standards as set out in 4.1(ii); in such instances the USP shall ensure 1 public pay telephone remains on the single site; or
- iv. it is requested by a local authority.

4.2 For the purposes of the above a “single site” means one or more payphones located within 100 meters of each other or within a line of sight which includes either side of a road or on any adjacent roads, and “average usage” is determined based on the previous 6 months usage.

Notification requirements

3.4 The USP must notify ComReg eight (8) weeks in advance of any public pay telephone removal

- i. This notification to ComReg should contain at a minimum:
 - Details of the proposed public pay telephone to be removed
 - Proposed date of cessation of service and for removal of public pay telephone
 - Details of which of the above criteria have been met and how
 - Demonstrative evidence that the public pay telephone was in full working order, i.e. within reasonable repair standards, for 6 months prior to its removal except in cases where it has been repeatedly vandalised.
 - Usage reports for the relevant six month period, in a format specified by ComReg.

3.5 The USP must post a notice on the public pay telephone for a minimum period of six (6) weeks in advance of the proposed removal, to clearly inform users of the intention to remove the public pay telephone and include the proposed date of cessation of service and for removal of public pay telephone.

3.6 Notification should also be posted on the USP’s website.

4. REVOCATION

5.1 ComReg Document 06/14¹⁷ is hereby revoked.

5. EFFECTIVE DATE AND DURATION

6.1 This Decision and Decision Instrument is effective from 7 July 2014 until 30 June 2018, unless otherwise amended by ComReg.

KEVIN O'BRIEN

CHAIRPERSON

THE COMMISSION FOR COMMUNICATIONS REGULATION

THE 7th DAY OF JULY 2014

¹⁷ Information Notice “Universal Service Obligation – Removal/Relocation of Public Pay Telephones “ Document No. 06/14, dated March 3rd 2006

Annex: 2 Statutory Basis

In addition to our functions under the Act of 2002, Regulation 5 of the Regulations provides as follows:

“(1) A designated undertaking shall ensure that public pay telephones or other public voice telephony access points are provided to meet the reasonable needs of end-users in terms of the geographical coverage, the number of telephones or other access points, accessibility to disabled end-users and the quality of services.

(2) The Regulator may, with the consent of the Minister, specify terms and conditions applicable to the provision of public pay telephones or other public voice telephony access points for the purpose of ensuring that the requirements specified in paragraph (1) are met.

(3) Where the Regulator determines, after consultation with the Minister and having regard to views expressed to it under a public consultation carried out in accordance with Regulation 26, that there exists a sufficient number of public pay telephones or other public voice telephony access points in any geographic area to satisfy the reasonable needs for such service in that area, taking into account the population density in such geographic area and the state of development of the communications market in that area, the Regulator may decide not to designate an undertaking under Regulation 7 for the purpose of paragraph (1) in relation to that area or a specified part of that area, as the case may be.

(4) (a) The Regulator shall conduct a review of any decision it makes under paragraph (3) as and when it considers appropriate.

(b) Where the Regulator makes a decision that the number of public pay telephones or other public voice telephony access points is no longer sufficient to serve the reasonable needs for such services in that area, the Regulator may designate an undertaking under Regulation 7 as having an obligation under paragraph (1) in respect of public pay telephones or other public voice telephony access points in that area.

(5) An undertaking providing public pay telephones shall ensure that it is possible to make emergency calls from a public pay telephone using the single European emergency call number “112” and any national emergency call number that may be specified by the Regulator, in each case, free of charge and without the necessity to use coins or cards or any other means of payment.

(6) Any undertaking providing public pay telephones shall ensure that the users of those telephones have access to a directory enquiry service referred to in Regulation 4.

(7) An undertaking that fails to comply with—

(a) a requirement of paragraph (1), (5) or (6), or

(b) a term or condition specified under paragraph (2),

commits an offence.

(8) In proceedings for an offence under paragraph (7) it is a defence to establish that—

(a) reasonable steps were taken to comply with the relevant requirement, term or condition, or

(b) it was not possible to comply with the relevant requirement, term or condition.”
