



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

# Numbering Conditions of Use and Application Process

## Response to Consultation and Decision

Response to Consultation and Decision

**Reference:** ComReg 18/44  
and D05/18  
**Version:** Final  
**Date:** 01/06/2018

## Additional Information

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| Consultation:   | 17/102  |
| Draft Numbering Conditions of Use and Application Process | 17/102a |
| Submissions to Consultation:                              | 18/44s  |

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# 1 Introduction

- 1 This document is a response to the public consultation titled “Numbering Conditions of Use and Application Process”<sup>1</sup> (“Consultation 17/102”) which was published by the Commission for Communications Regulation (“ComReg”) on 7 December 2017.
- 2 There are six respondents to Consultation 17/102:
  - BT Communications Ireland Limited (“BT”)
  - Eircom Limited (“Eir”)
  - Magrathea Telecommunications Limited (“Magrathea”)
  - Three Ireland (Hutchison) Limited (“Three”)
  - Verizon Ireland Limited (“Verizon”)
  - Vodafone Ireland Limited (“Vodafone”)

ComReg thanks the respondents for their submissions, which are published<sup>2</sup> alongside this Document and considered herein.

- 3 ComReg, having carefully considered the submissions to Consultation 17/102, has decided to make some amendments to ComReg Document 15/136 – “Numbering Conditions of Use and Application Process” (the “Numbering Conditions”)<sup>3</sup>. The revised version of the Numbering Conditions<sup>4</sup> is also published alongside this Document.
- 4 This Response to Consultation sets out the basis for the decision to amend the Numbering Conditions and ComReg’s consideration of the submissions to Consultation 17/102. The Decision Instrument is contained in Annex 1 of this Document.
- 5 ComReg has conducted this consultation pursuant to its function to manage the national numbering resource under Section 10 of the Communications Regulation Act 2002 – 2017 (“2002 Act”). That function is exercised in accordance with any applicable directions issued by the Minister under section 13 of the 2002 Act, and subject to ComReg’s objectives as mainly set out in section 12 of the 2002 Act and regulation 16 of the Framework Regulations 2011.

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<sup>1</sup> ComReg Document 17/102 – Numbering Conditions of Use and Application Process: Consultation – Published 7 December 2017.

<sup>2</sup> ComReg Document 18/44s – Numbering Conditions of Use and Application Process: Submissions to Consultation 17/102 – Published 01/06/2018

<sup>3</sup> ComReg Document 15/136 – Numbering Conditions of Use and Application Process – Published 22 December 2015.

<sup>4</sup> ComReg Document 15/136R1 – Numbering Conditions of Use and Application Process – Published 01/06/2018.

- 6 The Numbering Conditions are structured so as to clearly distinguish between (a) the statutory obligations in respect of numbers which are imposed by the legislature, and (b) the regulatory conditions in respect of numbers which are imposed by ComReg (through the General Authorisation (“GA”) or individual rights of use). The various conditions are then further divided between those which apply to all classes of numbers and those which apply only to specific classes of numbers. The structure of the revised version of the Numbering Conditions is as follows:
- Sections 1 – 2 provide an introduction to the Numbering Conditions;
  - Section 3 sets out the conditions which attach to all classes of numbers;
  - Sections 4 and 5 set out the conditions which attach to the different classes of numbers and short codes, respectively;
  - Sections 6 – 7 together with Appendices 1 – 9 sets out the administrative processes and relevant information for applying for rights of use for numbers;
  - Appendix 10 describes the key statutory provisions relating to number management; and
  - Appendix 11 contains a glossary of key terms.
- 7 ComReg, in Consultation 17/102, also referred to two separate ongoing public consultations on Non-Geographic Numbers<sup>5</sup> and Mobile Numbering Resources<sup>6</sup>. This Response to Consultation does not identify or consider any revisions to the Numbering Conditions that may result from those still ongoing consultations.
- 8 Finally, please note that ComReg has also amended sections 4.7, 5.1, and 6.6 of the Numbering Conditions so as to include reference to the *Communications Regulation (Licensing of Premium Rate Services Regulations) 2012* (S.I. No. 111/2012) made by ComReg pursuant to the Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act 2010. This is a purely administrative amendment which does not impose any new condition or obligation.

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<sup>5</sup> ComReg Document 17/70 – Review of Non-Geographic Numbers – Published 16 August 2017

<sup>6</sup> ComReg Document 18/03 – Review of Mobile Numbering - Promoting Innovation and Facilitating New Services – Published 24 January 2018

## 2 Number Portability

### 2.1 Summary of ComReg's position in Consultation 17/102

- 9 ComReg, in Consultation 17/102, expressed its view that the new Fixed Number Portability ("FNP") solution would be the most appropriate method for porting large number blocks between operators. ComReg proposed to amend the GA Condition on Number Portability by removing Part C of the Condition, which states as follows:

*"In circumstances where:*

- i. a holder has assigned more than 25% of the numbers from a 1000-number block to a single end-user to which the holder provides services; and*
- ii. no other end-user has been assigned any numbers from that same 1000-number block; and*
- iii. the single end-user wishes to move from the holder and obtain its services from a new undertaking, while retaining the assigned numbers.*
- iv. then the holder of the 1000-number block may transfer the associated rights of use for the entire 1,000-number block to the new undertaking, rather than porting the relevant numbers individually, though only where the end-user consents to the transfer."*

ComReg asked the following question:

Q. 1 Do you agree with ComReg's proposed amendment to the condition on Number Portability? Please explain the basis for your response in full and provide any supporting information.

### 2.2 Views of Respondents

- 10 ComReg received varying views regarding the proposed amendment to the GA Condition on Number Portability. Four of the six respondents provided views on the proposal. One operator (Vodafone) agrees with ComReg's proposal while two operators (BT and Eir) disagree. A fourth operator (Three) does not have a strong opinion on this proposal.
- 11 BT agrees with ComReg's proposal in principle though, due to what BT describes as very high porting charges applied by one (unidentified) operator, BT is of the view that ComReg should retain the block re-allocation process in the Numbering Conditions. BT is also of the view that ComReg should review and "rectify" porting charges before amending the GA Condition on Number Portability, as proposed.

- 12 Eir does not agree with the proposal as it contends that the re-assignment of number blocks between operators on its network is a manual process that must be done at switch level. Eir also states that this manual process requires a notice period of any pending block reassignment, so as to enable Eir to update its network switches. Eir submits that it would not be feasible for number blocks to be reassigned through the FNP solution because there would be no pre-notification of a pending block reassignment to facilitate commencement of its underlying manual processes.
- 13 Three does not have a strong opinion on the proposal but considers that it is not appropriate to port unassigned numbers, as porting is a customer-led rather than an operator-led process.
- 14 Vodafone agrees with the proposed amendment because it considers that a FNP solution could effectively port blocks of numbers between operators.

### 2.3 ComReg's position

- 15 ComReg has carefully considered respondents' views on its proposal to remove Part C of the Condition on Number Portability. ComReg also notes ongoing discussions relating to this issue at the industry FNP Forum.
- 16 With particular regard to the responses from Eir and BT, ComReg considers that it may assist industry to reiterate the background to this issue and to thereby explain the underlying objective to ComReg's proposal (and now decision) to remove Part C. It may also assist operators to indicate to them when it may be appropriate to continue using a block reallocation process (herein referred to as a "block transfer process").
- 17 As stated in Consultation 17/102, Part C of the Condition on Number Portability was originally introduced in 2001, because at that time, it was considered more efficient and cheaper to sometimes reallocate number blocks, instead of using the number portability process that utilised the Central Reference Database ("CRDB"). However, the block transfer process was intended to only be used in certain limited circumstances, as specified in Part C (i.e. for a large corporate subscriber who would be the sole user of a 1,000 number block).
- 18 The process introduced in 2001 was intended to be an interim solution, to be used only in certain specific and limited circumstances, and only until such time as a more reliable and cost effective number portability solution was established.



- 19 In 2016, the new FNP solution was introduced, which replaced the CRDB. ComReg, and indeed industry, intended that this FNP solution should be used to port subscribers with large sets of numbers (including complete blocks of numbers) because it is the most appropriate method for porting numbers quickly and cost effectively. The introduction of the FNP solution should have effectively mitigated the need for a block transfer process.
- 20 There are also practical reasons for not using a block transfer process as a substitute for the FNP process. A block transfer process requires considerable manual intervention by operators (for example Eir submits that multiple individual exchanges would need to be visited and updated). It has also been highlighted at the FNP Forum, that a block transfer process may be prone to error and requires significant time (most likely several weeks) to implement.
- 21 ComReg notes that BT agrees in principle with ComReg's proposal to remove Part C of the Number Portability Condition, but that BT points to what it considers to be one operator's high charges for porting blocks as a reason for retaining the block transfer process. Whilst high charges are of ongoing concern to ComReg, they are not, in this case, considered to be a justification for retaining a block transfer process in lieu of using the FNP process as has been developed for, and indeed by, industry.
- 22 ComReg acknowledges BT's view that there may be other circumstances in which a block transfer process may be appropriate e.g. where an operator wishes to change wholesale providers. ComReg understands that a process to address such scenarios is currently being discussed at the FNP Forum and that the revised process is intended to address the potential issues with block transfer, highlighted in paragraphs 20 and 21 above. ComReg is also cognisant that there is ongoing testing by one operator and that any learnings will feed into any agreed industry process.
- 23 It is worth noting that Appendix 8 of the Numbering Conditions ('Transferring Rights of Use for Numbers') provides operators with a process to notify ComReg of any transfer of rights of use for numbers between undertakings. ComReg notes that industry has factored this process into the FNP Forum's consideration of a new block transfer process to address circumstances such as those highlighted by BT.
- 24 ComReg notes that whilst Three did not have a strong opinion on ComReg's proposal to remove Part C of the Condition on Number Portability, it considers that it is not appropriate to port unused numbers, as porting is a customer-led rather than an operator-led process. Since ComReg is not retaining the Part C block transfer process as an alternative to number portability, ComReg considers that the context of Three's view has now been removed.

- 25 Three's response does however raise a related issue which ComReg would like to highlight. There may be scenarios when a request to port unused numbers could be a customer-led process. For example, a subscriber may request a non-geographic number that is not in use, but the unused number is in a number block assigned to another operator. Without a process to be able to port such numbers, subscribers are not able to avail of a full choice of numbers with their original operator of choice, and may instead consider taking service from the operator holding the number block. This seems to be neither in subscribers' interests, nor promoting effective competition. ComReg urges the participants of the FNP Forum to consider this issue at future meetings.
- 26 Vodafone, which actively participates in the FNP Forum and considers that the FNP solution could effectively port blocks of numbers between operators, and agrees with ComReg's proposal.
- 27 Having considered all respondents' submissions, and having regard to the relevant background facts as outlined above and the intent of the proposal, ComReg remains of the position that the new FNP solution is the most appropriate and efficient method for porting large sets of numbers. Utilising the new FNP solution should best ensure that customers' services are not adversely impacted during the port, and should also best ensure that all operators are informed of the port via the FNP solution.
- 28 ComReg will continue to engage with the FNP Forum and industry in general on all of the issues highlighted above. On foot of any future discussions, ComReg may consider whether further amendments to the GA Condition on Number Portability are necessary.
- 29 ComReg's final position, therefore, is to amend the GA Condition on Number Portability in the Numbering Conditions by removing Part C of the Condition, while retaining Parts A and B, such that the entire GA Condition shall state as follows:

*"Number Portability - The following conditions support Regulation 25(1) of the Universal Service Regulations which requires undertakings to ensure that subscribers can, upon request, retain their numbers independently of the undertaking providing the service, at a specific location in the case of Geographic Numbers and at any location in the case of Non-Geographic Numbers:*

*(a) all undertakings involved in the porting of a number shall use the established industry processes relating to porting of numbers in compliance with all regulatory requirements for facilitating change of service provider; and*

*(b) porting of a Mobile Number shall include porting of the corresponding mailbox number."*

## 3 Calling Line Identification

### 3.1 Summary of ComReg's position in Consultation 17/102

30 ComReg, in Consultation 17/102, noted that Mobile Numbers were introduced in order to clearly distinguish mobile telephony services, which are provided by Mobile Network Operators and Mobile Virtual Network Operators over cellular networks, from fixed-line telephony services which are provided over the public switched telephone network ("PSTN"). ComReg also noted that this distinction means that a party who receives a call - where a Mobile Number is displayed as the CLI - can assume that that call originated on a mobile handset and not on a fixed-line terminal (for example, in a call centre or bank). ComReg also noted that retail and wholesale charges for calls to Mobile Numbers differ from retail and wholesale charges for calls to Geographic Numbers and therefore, and for example, if Mobile Numbers could be used as CLIs for calls that actually originate from fixed terminals then any return calls to those Mobile Numbers could result in higher than expected retail charges being incurred by callers.

31 ComReg, having set out the above observations, proposed (and has now decided) to further protect consumers' understanding of Mobile Numbers (and to prevent any deliberate attempt to mislead or deceive consumers as to the identity of the caller) by amending the current CLI condition in the manner specified. ComReg would again note that its overarching objective in taking this measure is to protect consumers. ComReg proposed to amend the GA Condition on Calling Line Identification ("CLI") and asked the following question:

Q. 2 Do you agree with ComReg's proposed amendment to the existing condition relating to CLI that Mobile Numbers are not used as the presentation or network CLI for calls that originate from a fixed terminal? Please explain the basis for your response in full and provide any supporting information.

32 ComReg also proposed to introduce the following definition of 'mobile service' to provide clarity as to what constitutes a mobile service.

*"mobile service" means a land based terrestrial publicly available mobile voice telephony, messaging and/or data service provided by means of a mobile network.*

33 ComReg asked the following question:

Q. 3 Do you agree with ComReg's proposed definition of a mobile service? Please explain the basis for your response in full and provide any supporting information.

## 3.2 Views of Respondents

### GA Condition on Calling Line Identification (“CLI”)

- 34 Five of the six respondents provided views on the proposed amendment to the GA Condition on CLI and their views vary - BT agrees, Eir does not object, and three operators (Magrathea, Three, and Vodafone) disagree.
- 35 Magrathea submits that the proposed amendment is unnecessary and would be difficult to implement. Magrathea further submits that called parties are unlikely to be negatively impacted if they believe that received calls originated on mobile handsets (though they actually originated from fixed terminals) and called parties can choose whether to return such calls or not. Magrathea further submits that, given modern telephony solutions, there may be valid reasons for using a Mobile Number CLI even if the call originated from a fixed terminal.
- 36 Three disagrees with the proposed amendment because it does not consider that ComReg has explained the legal requirement for, or the likely consumer benefit of, its proposal. Three submits that it may be cheaper for some called parties to return a call to a Mobile Number than to a Geographic or Nomadic Number. Three asks ComReg to clarify whether operators would be permitted to use a mobile CLI in cases where a mobile handset diverts inbound calls to a fixed terminal using call forwarding.
- 37 Vodafone disagrees with the proposed amendment because it is of the view that CLI conditions should support evolving converged fixed/mobile services. Vodafone submits that consumers are aware of Mobile Numbers and the associated costs for calling them.

### Definition of ‘mobile service’

- 38 Four of the six respondents submitted views on the proposed definition of a mobile service. Three operators (Eir, Three and Vodafone) agree with ComReg’s proposal while BT does not object but considers that a reference to radio access should be added to the definition to distinguish it from fixed services.

## 3.3 ComReg’s position

- 39 Consultation 17/102 outlines ComReg desire to provide clarity to consumers and industry on the correct usage of Mobile Number CLIs. ComReg has received queries from operators as to whether Mobile Numbers may be presented as CLIs for calls originating from fixed terminals.

- 40 CLI enables the calling party's telephone number to be displayed to the called party. This enables consumers to identify the person or entity that is calling them, and to make an informed decision about how to manage the incoming call i.e. to answer or not, and/or to call back. However, ComReg is concerned that allowing fixed-terminals to present mobile numbers as CLI on outbound calls may put at risk consumers' understanding of mobile numbers and the price they can expect to pay. Such usage may also result in less favourable treatment of end-users of fixed networks compared to end-users of mobile networks.
- 41 ComReg is also concerned that certain organisations may attempt to mislead or deceive consumers into answering calls by presenting mobile numbers as CLI. One scenario that was presented to ComReg that led to this consultation topic was that a financial organisation wished to present mobile numbers for calls from its fixed line call centre. In ComReg's view, this was a clear attempt to mislead the called party about the identity of the calling party, with a view to increasing the number of calls being answered or returned. Whilst ComReg appreciates the business drivers for such scenarios, it nevertheless cannot agree to allow such practices, as it undermines the principles and purposes of CLI for consumers.
- 42 ComReg therefore remains of the view that a Mobile Number CLI must indicate that the call in question originated on a mobile handset, over a mobile network, and not on a fixed-line terminal. This should ensure that any called party, who receives a call where a Mobile Number CLI is displayed, may be assured that the call originated on a mobile handset and not on a fixed-line terminal (for example, in a call centre). The importance of providing consumers with the correct information as to the origin of calls is critical to ensuring clarity and preventing confusion.<sup>7</sup>

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<sup>7</sup> ComReg notes that Ofcom shares similar concerns regarding use of Mobile Numbers and is currently consulting on a similar proposal to clarify that 07x numbers (known in the UK as Mobile Numbers) are to be used for identifying mobile handsets as the destination for electronic communications services. [https://www.ofcom.org.uk/data/assets/pdf\\_file/0015/107601/consultation-clarifying-mobile-numbers.pdf](https://www.ofcom.org.uk/data/assets/pdf_file/0015/107601/consultation-clarifying-mobile-numbers.pdf)

- 43 Part A of the Schedule to the Authorisation Regulations<sup>8</sup> lists the categories of conditions which may be attached to a general authorisation and the list includes, at no. 8 therein, “*consumer protection rules specific to the electronic communications sector including conditions in conformity with the Universal Service Regulations and conditions on accessibility for users with disabilities in accordance with Regulation 6 of those Regulations.*” ComReg’s 2015 decision to revise the CLI conditions was based on a number of consumer and industry complaints about incorrect use of network and ‘presentation’ CLIs.<sup>9</sup> ComReg, through its 2015 decision, sought to provide clarity to undertakings on the correct use of CLIs, in order to ensure consumer protection. The proposal in Consultation 17/102, to amend the GA Condition on CLI, is a further development of the 2015 decision in that its core purpose is to further protect consumers.
- 44 Three submits that it may be cheaper for some called parties to return calls to Mobile Numbers than to Geographic Numbers or Nomadic Numbers. ComReg is of the view that if fixed terminals were to present Mobile Numbers as CLI instead of Geographic Numbers, then the cost of a return off-net call to a Mobile Number for fixed-line subscribers would be relatively greater than a return call to a Geographic Number.
- 45 Presenting Geographic Numbers as CLIs, for all calls originating from fixed-line terminals, should best enable consumers to make return calls from fixed-lines (if available) and avail of lower tariffs. This would be in the best interests of consumers and would not unduly disadvantage one type of subscriber over another.
- 46 Three asked whether it is permitted to use a Mobile Number CLI where a mobile handset diverts inbound calls to a fixed terminal, using call forwarding. ComReg notes that call forwarding is an essential feature of Voice Telephony and mobile subscribers may forward inbound calls to a fixed-line terminal. However, any outbound call that presents a Mobile Number CLI must originate from a mobile handset.

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<sup>8</sup> S.I. No. 335 of 2011 – European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2011

<sup>9</sup> ComReg Document 15/137 and D08/15 – Numbering Conditions of Use and Application Process: Response to Consultation and Decision – Published 22 December 2015.

- 47 In relation to innovative fixed-mobile convergence (“FMC”) services, ComReg introduced GA Condition 4.1.4(b) in 2015 in order to support such services, where a Geographic Number and a Mobile Number can both be used on a mobile handset and which involve calls to Geographic Numbers terminating outside the designated MNA. ComReg is of the view that presenting a Geographic Number as the CLI, where the call originated from a mobile handset, should be more beneficial (or, at the very least, should not be harmful) to consumers who make return calls to such numbers (as tariffs for calling Geographic Numbers are generally lower than tariffs for calling Mobile Numbers).
- 48 BT submits that a reference to radio access should be added to the proposed “*mobile service*” definition to distinguish it from fixed services. ComReg considers this unnecessary as the current definition of “*mobile network*”<sup>10</sup> in the Numbering Conditions refers to radio access.
- 49 Notwithstanding its current position on the use of Mobile Number CLI, ComReg acknowledges that communications services and technologies continue to converge and evolve. ComReg, in that regard, will continue to engage with industry to ensure that the GA Conditions are fit for purpose and are in the best interests of consumers and industry.
- 50 Having considered respondents’ views, ComReg’s final position is that it will include the following amended GA Condition on CLI and the new definition of mobile services in the Numbering Conditions:

*“The following conditions apply in respect of Calling Line Identification (“CLI”):*

*(a) The undertaking which originates a call shall ensure:*

- i. that the presentation CLI for the call shall be the assigned Customer Support Short Code (for on-network calls), a Freephone Number, a Geographic Number, a Harmonised Code of Social Value, a Nomadic Number, a Mobile Number, or a ‘1850’ Shared Cost Number for the calling party;*
- ii. that the network CLI for the call shall be the assigned Geographic Number, Nomadic Number or Mobile Number, for the calling party; and*
- iii. that a Mobile Number is not used as the presentation or network CLI for any call that originates from a fixed terminal.”*

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<sup>10</sup> “mobile network” means a 2nd, 3rd or 4th Generation digital wireless network, or any intermediate evolution of those, using Mobile Numbers, in which seamless handover and roaming features are provided.

## 4 Access to Numbers and Services

### 4.1 Summary of ComReg's position in Consultation 17/102

51 In order to promote the interests of end-users and to ensure that they can access services that are available through Non-Geographic Numbers and other number ranges, ComReg proposed the following new GA Condition:

*“Undertakings shall ensure that, where technically and economically feasible and except where a called subscriber has chosen for commercial reasons to limit access by calling parties located in specific geographical areas, end-users shall be able to:*

*(a) access and use services using Non-Geographic Numbers within the European Union; and*

*(b) access all numbers provided in the European Union, regardless of the technology and devices used by the operator, including those in the national numbering plans of Member States, and Universal International Freephone Numbers (UIFN).”*

52 ComReg carried out a RIA in respect of the proposed condition (see Annex 2) and asked the following question:

Q. 4 Do you agree with ComReg's proposal to introduce a new GA Condition in relation to undertakings providing access to numbers and services? Please explain the basis for your response in full and provide any supporting information.

### 4.2 Views of Respondents

53 Four of the six respondents provided views and all four (BT, Eir, Three and Vodafone) agree with ComReg's proposal.

### 4.3 ComReg's position

54 Having considered the four respondents' views, ComReg's final position is that it will include the new GA Condition in the Numbering Conditions. This will ensure that ComReg is in accordance with its statutory objective to promote the interests of end-users within the European Community and in order to ensure that end-users can access all services that are available through NGNs and other number ranges.



# 5 Efficient use of Numbers

## 5.1 Summary of ComReg's position in Consultation 17/102

### Utilisation Targets for Geographic and Mobile Numbers

55 In Consultation 17/102, ComReg proposed to introduce new number utilisation targets for Geographic Numbers and Mobile Numbers, and asked the following question:

Q. 5 Do you agree with ComReg's proposed introduction of utilisation targets for undertakings when applying for additional Geographic and Mobile Numbers? Please explain the basis of your response in full and provide any supporting information.

### Geographic Number Audit Form

56 ComReg also proposed to introduce a new audit form in order to maintain accurate records of operators' utilisation of Geographic Numbers. ComReg asked the following question:

Q. 6 Do you agree with ComReg's proposal to introduce an audit form for undertakings to complete when applying for additional Geographic Numbers in an MNA? Please explain the basis for your response in full and provide any supporting information.

## 5.2 Views of Respondents

57 Five respondents (BT, Eir, Magrathea, Three and Verizon) agree with ComReg's proposal to introduce utilisation targets while one respondent (Vodafone) disagrees with introducing such targets at this time.

58 Four of the six respondents provided views on the proposed new audit form and all four (BT, Eir, Three and Vodafone) agree with its introduction.

59 BT agrees with the proposed number utilisation targets and new audit form because numbers are a scarce resource and should be managed responsibly, in order to avoid exhaustion and disruptive and costly number change programs.

60 Eir agrees with the proposed utilisation targets but believes that the formula should be amended to account for numbers in quarantine. Eir proposes that utilisation should be defined as "*Total active in use*" divided by "*total assigned-total ported out-total in quarantine*" [sic] because quarantined numbers are in an efficient state of use. Eir does not object to an audit form being introduced for Geographic Numbers.

- 61 Magrathea states that it provides its assigned numbers to other operators via wholesale agreements, but that it does not have insight into the use of those numbers by the other operators. Magrathea submits that utilisation targets should take into account the sub-allocation of numbers
- 62 Three agrees with the proposed utilisation targets but, similar to Eir, submits that the formula be amended to exclude numbers in quarantine, as they are unavailable for assignment. Three agrees with the proposal to introduce a new audit form for Geographic Numbers.
- 63 Verizon is of the view that access to free number blocks is key to ensuring it can operate, meet customer demands, and ultimately remain competitive. Verizon requests that ComReg consider exceptional cases for applications for new number blocks in a fair and open manner.
- 64 Vodafone agrees with ComReg monitoring number utilisation but submits that ComReg should not introduce utilisation target figures into the Numbering Conditions. Vodafone believes that the new FNP solution has led to an industry-wide clean-up of number databases and ComReg should allow time for FNP to bed in before introducing utilisation targets. Vodafone therefore suggests that utilisation targets should not be implemented now, but that ComReg should review the issue again at a later date.
- 65 Vodafone agrees with the proposal to introduce a new audit form.

### 5.3 ComReg's position

- 66 ComReg agrees with Eir and Three that quarantined numbers are an efficient use of numbers and therefore will take account of such numbers as part of the utilisation formula.
- 67 Regarding Magrathea's view that utilisation targets should take into account the sub-allocation of numbers, ComReg notes that in Document 15/60, ComReg stated: *"In order to be aligned with the Authorisation Regulations, the draft Numbering Conditions refer to the transfer of number rights of use between undertakings. The terms and concepts "sub-allocation" or "secondary allocation" are not supported by legislation and are no longer used".*<sup>11</sup> Since 2015, the Numbering Conditions no longer contains the terms "allocation" and "sub-allocation", but now refers throughout to the granting of a right of use for a number to an undertaking and such a recipient undertaking is described as a "holder".

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<sup>11</sup> ComReg Document 15/60 – Numbering Conditions of Use and Application Process: Consultation – Published 26 June 2015

- 68 ComReg also stated in Document 15/60: *“Where an authorised undertaking applies for and hosts numbers or short codes on behalf of a third-party that is not authorised, then the authorised undertaking, which holds the rights of use for the number or short code, is responsible for ensuring that the third-party complies with the conditions of use for the classes of number or short code.”*
- 69 Condition 3.2.10 of the Numbering Conditions requires holders to maintain accurate and current records in respect of rights of use for all classes of numbers granted to them. Where such a holder allows other undertakings to use its assigned numbers, the holder is responsible for ensuring that those other undertakings use the numbers efficiently and maintain accurate and current records as set out in condition 3.2.10. Therefore, sub-allocation of numbers will not be into account as part of the utilisation targets.
- 70 ComReg will consider exceptions to the number utilisation requirements, on a case by case basis and as they arise.
- 71 ComReg agrees that implementation of the new FNP solution has led to an overall industry-wide clean-up of number databases. Though the FNP solution should continue to be of assistance to undertakings in utilising numbers more efficiently, ComReg nevertheless remains of the view that utilisation targets are also appropriate, in order to ensure efficient utilisation of the national numbering resource. ComReg will continue to monitor the effect of number utilisation targets and will continue to engage with industry on this issue.
- 72 Pursuant to its number management function and its objectives to ensure the efficient use of the national numbering resource and to promote the interests of end-users, and having considered respondents’ views, ComReg’s final position is that it will include number utilisation targets in the Numbering Conditions by adding the following text:
- a) *Any undertaking which has been granted and which currently holds rights of use for Geographic Numbers in a specific MNA shall not be granted any new rights of use for Geographic Numbers in that same MNA unless ComReg is first satisfied that the undertaking is utilising, at a minimum, 65% of its currently assigned stock of Geographic Numbers for that same MNA.*
- b) *Any undertaking which has been granted and which currently holds rights of use for Mobile Numbers shall not be granted any new rights of use for Mobile Numbers unless ComReg is first satisfied the undertaking is utilising, at a minimum, 45% of its currently assigned stock of Mobile Numbers.*
- Exceptions to the above number utilisation requirements will be considered on a case by case basis.*

*ComReg will calculate number utilisation using the following formula:*

$$\frac{\text{Total numbers active and in use}}{\text{Total numbers assigned} - (\text{Total ported out numbers} + \text{Total quarantined numbers})}$$

## 6 Minimum Numbering Areas (MNAs)

### 6.1 Summary of ComReg's position in Consultation 17/102

73 A MNA means one of the 106 geographic areas associated with Geographic Numbers. A Geographic Number can only be assigned to an end-user whose residential/business premises is physically located within the designated MNA for that Geographic Number. In Consultation 17/102, ComReg sought respondents' views on the future relevance of the of the minimum numbering area ("MNA") concept by asking the following question:

Q. 7 Do you have any views on the future of the MNA concept? Please explain the basis of your response in full and provide any supporting information

### 6.2 Views of Respondents

74 Three of the six respondents provided views on the future relevance of the MNA concept.

75 BT agrees with maintaining the current MNA concept and requests more detailed mapping data. Eir also agrees with maintaining the current MNA concept and believes that future consideration of the MNA concept should be considered within the wider context of Eir's network modernisation programme.

76 Vodafone is of the view that the current MNA concept is outdated and that the division of area codes into MNA areas constitutes a significant administrative burden, frequently delaying porting and reducing the efficiency of number utilisation. Vodafone submits that it is appropriate to move the geographic boundary for Geographic numbers up to the area code areas.

### 6.3 ComReg's position

77 Having considered respondents' views, ComReg remains of the view that the geographic boundary for Geographic Numbers should remain at MNA level, at this point in time and subject to future review, as some operators may still rely on the MNA in setting tariffs. ComReg notes the valid points raised by Vodafone in opposition to this view. With this in mind, ComReg has no objection in principle to geographic boundaries for Geographic Numbers being increased. ComReg will continue to monitor this issue and to engage with industry, so as to ensure that appropriate geographic boundaries are adopted now and into the future.

78 ComReg is committed to making available updated boundary maps in a user-friendly electronic format and these will be available to industry in due course.

# Annex: 1 Decision to amend the General Authorisation and the “Numbering Conditions of Use and Application Process”

## **PART I – DEFINITIONS**

A 1.1 Unless otherwise indicated or the context so implies, terms herein have the same meanings as set out in regulation 2 of the Framework Regulations<sup>12</sup>, regulation 2 of the Authorisation Regulations<sup>13</sup>, or in Commission Document No. 15/136R1, as applicable.

## **PART II – STATUTORY REMIT**

A 1.2 The functions, objectives, duties, and powers of the Commission for Communications Regulation (“the Commission”) in relation to its management of the national numbering resource are set out in the Communications Regulation Acts 2002 – 2017, as amended (“2002 Act”) and in the Common Regulatory Framework (including the Framework Directive and the Authorisation Directive as respectively transposed into Irish law by the corresponding Framework Regulations and the Authorisation Regulations). These functions, objectives, duties and powers of the Commission are set out in greater detail in Annex 8 of the “Numbering Conditions of Use and Application Process”, first published by the Commission on 22 December 2015 (Commission Document No. 15/136) and a revised, second edition of which is hereby established by the Commission pursuant to this Decision (Commission Document No. 15/136R1).

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<sup>12</sup> European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011 (S.I. No. 333 of 2011)

<sup>13</sup> European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2011 (S.I. No. 335 of 2011)

## **PART III - THE DECISION**

### **A 1.3 The Commission:**

- pursuant to its function under section 10(1)(b) of the 2002 Act to manage the national numbering resource and its objectives in the exercise of that function as set out in section 12 of the 2002 Act and in regulation 16(1) of the Framework Regulations (as described in greater detail in Annex 10 of Commission Document No. 15/136R1);
- having regard to its duty under regulation 16(2) of the Framework Regulations to apply objective, transparent, non-discriminatory and proportionate regulatory principles in pursuit of its statutory objectives;
- having conducted a public consultation (Commission Document No. 17/102) and having considered all responses received by it on foot of that consultation;
- for the reasons set out in its written response to Document No. 17/102 to which this Decision is attached; and
- in exercise of its powers under regulations 8(1), 13(2), 14(1), and 15(1) of the Authorisation Regulations and Parts A and C of the Schedule thereto;

hereby makes the decisions as set out below.

1. The Commission hereby establishes and shall publish a revised second edition of its “Numbering Conditions of Use and Application Process” (first published on 22 December 2015 as Commission Document No. 15/136) setting out open, objective, transparent, non-discriminatory and proportionate procedures for the granting of rights of use for any class or description of number to any authorised undertaking. The revised second edition shall be identified as Commission Document No. 15/136R1 and shall come into effect at midnight on 30 June 2018 and Commission Document No. 15/136 shall stand revoked as and from that same time and date (except to note, for the avoidance of any doubt, that Commission Document No. 15/136 shall remain in full effect insofar as it may apply to any relevant matter as may occur prior to its revocation).
2. The Commission hereby specifies number utilisation targets that shall apply to all undertakings seeking to be granted a right of use for any Mobile Number or Geographic Number, by the inclusion of the following text in the “Numbering Conditions of Use and Application Process” (Document No. 15/136R1):

- a) *Any undertaking which has been granted and which currently holds rights of use for Geographic Numbers in a specific MNA shall not be granted any new rights of use for Geographic Numbers in that same MNA unless ComReg is first satisfied that the undertaking is utilising, at a minimum, 65% of its currently assigned stock of Geographic Numbers for that same MNA.*
- b) *Any undertaking which has been granted and which currently holds rights of use for Mobile Numbers shall not be granted any new rights of use for Mobile Numbers unless ComReg is first satisfied that the undertaking is utilising, at a minimum, 45% of its currently assigned stock of Mobile Numbers.*

*Exceptions to the above number utilisation requirements will be considered on a case by case basis.*

*ComReg will calculate number utilisation using the following formula:*

$$\frac{\text{Total numbers active and in use}}{\text{Total numbers assigned} - (\text{Total ported out numbers} + \text{Total quarantined numbers})}$$

3. The Commission, pursuant to regulation 8(1) of the Authorisation Regulations and Part A of the Schedule thereto, hereby attaches a new condition to the current General Authorisation (ComReg Document No. 03/81R5) and amends certain conditions as already attached thereto, as specified below:<sup>14</sup>

- (i). Commission Document 15/136R1 shall set out the following new GA Condition:

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<sup>14</sup> The Commission gives effect to this part of its decision by amending Condition No. 15.1 of Document No. 03/81R5 by the insertion of the text “R1, as amended” as indicated: “*The conditions attached to this General Authorisation which relate to use of numbers from the national numbering scheme, by any authorised undertaking, are set out in the “Numbering Conditions of Use and Application Process”, ComReg Document No. 15/136R1, as amended. For the purpose of monitoring and enforcing compliance by authorised undertakings with the number conditions attached to this General Authorisation, this document and the Numbering Conditions of Use and Application Process shall, as appropriate, be read as one.*”

The revised edition Document No. 03/81R5 shall be identified as Document No. 03/81R6 and shall come into effect at midnight on 30 June 2018 and Document No. 03/81R5 shall stand revoked as and from that same time and date (except to note, for the avoidance of any doubt, that Document No. 03/81R5 shall remain in full effect insofar as it may apply to any relevant matter as may occur prior to its revocation).



*“Undertakings shall ensure that, where technically and economically feasible and except where a called subscriber has chosen for commercial reasons to limit access by calling parties located in specific geographical areas, end-users shall be able to:*

*(a) access and use services using Non-Geographic Numbers within the European Union; and*

*(b) access all numbers provided in the European Union, regardless of the technology and devices used by the operator, including those in the national numbering plans of Member States, and Universal International Freephone Numbers (UIFN).”*

- (ii). Commission Document 15/136R1 shall amend the GA Condition on Number Portability by removing Part C therein, while retaining Part A and Part B, such that it shall state as follows:

*“Number Portability - The following conditions support Regulation 25(1) of the Universal Service Regulations which requires undertakings to ensure that subscribers can, upon request, retain their numbers independently of the undertaking providing the service, at a specific location in the case of Geographic Numbers and at any location in the case of Non-Geographic Numbers:*

*(a) all undertakings involved in the porting of a number shall use the established industry processes relating to porting of numbers in compliance with all regulatory requirements for facilitating change of service provider; and*

*(b) porting of a Mobile Number shall include porting of the corresponding mailbox number.”*

- (iii). Commission Document 15/136R1 shall amend the GA Condition on Calling Line Identification (“CLI”) such that it shall state as follows:

*“The following conditions apply in respect of Calling Line Identification (“CLI”):*

*(a) The undertaking which originates a call shall ensure:*

- (i). *that the presentation CLI for the call shall be the assigned Customer Support Short Code (for on-network calls), a Freephone Number, a Geographic Number, a Harmonised Code of Social Value, a Nomadic Number, a Mobile Number, or a '1850' Shared Cost Number for the calling party;*
- (ii). *that the network CLI for the call shall be the assigned Geographic Number, Nomadic Number or Mobile Number, for the calling party; and*
- (iii). *that a Mobile Number is not used as the presentation or network CLI for any call that originates from a fixed terminal."*

#### **PART IV. EFFECTIVE DATE**

A 1.4 The revised seventh version of the General Authorisation (Commission Document No. 03/81R6) and the revised second version of the "Numbering Conditions of Use and Application Process" (Commission Document No. 15/136R1) shall both come into effect at midnight on 30 June 2018.

A 1.5 The sixth version of the General Authorisation (Commission Document No. 03/81R5) and the first version of the "Numbering Conditions of Use and Application Process" (Commission Document No. 15/136) shall stand revoked from midnight on 30 June 2018 (save that both documents shall remain in full effect insofar as they may apply to any relevant matters as may occur prior to their revocation).

Signed:

**Gerry Fahy**

Chairperson,

The Commission for Communications Regulation

Dated this 1<sup>st</sup> day of June 2018

# Annex: 2 RIA

## Introduction

A 2.1 This RIA considers a proposal by ComReg to attach the following new condition to Non-Geographic Numbers (“NGNs”) which would form part of the General Authorisation and would be made under regulation 8, and Part A of the Schedule, to the Authorisation Regulations:

*“Undertakings shall ensure that, where technically and economically feasible and except where a called subscriber has chosen for commercial reasons to limit access by calling parties located in specific geographical areas, end-users shall be able to:*

*access and use services using Non-Geographic Numbers within the European Union; and*

*access all numbers provided in the European Union, regardless of the technology and devices used by the operator, including those in the national numbering plans of Member States, and Universal International Freephone Numbers (UIFN).”*

## RIA Framework

A 2.2 This RIA has been prepared in accordance with ComReg’s RIA Guidelines (Doc 07/56a) and having regard to the RIA Guidelines issued by the Department of An Taoiseach in June 2009 (“the Department’s RIA Guidelines”) and relevant Policy Directions issued to ComReg by the Minister for Communications, Climate Action and Environment under section 13 of the 2002 Act (the “Policy Directions”). In addition, all numbering conditions must be justified, proportionate, transparent and non-discriminatory and they may be amended from time to time.

A 2.3 ComReg’s RIA Guidelines set out the circumstances in which a RIA might be appropriate. In summary, ComReg will generally conduct a RIA in any process that might result in the imposition of a regulatory obligation (or the amendment of an existing regulatory obligation to a significant degree), or which might otherwise significantly impact on any relevant market or on any stakeholders or consumers.

## Structure of RIA

A 2.4 There are five steps to a RIA:

- Step 1: Identify the policy issue and identify the objectives;

- Step 2: Identify and describe the regulatory options;
- Step 3: Determine the impacts on stakeholders;
- Step 4: Determine the impacts on competition and consumers; and
- Step 5: Assess the impacts and choose the best option.

### Step 1: Identify the policy issue and objectives

A 2.5 In 2009, the EU harmonised framework for the regulation of electronic communications was substantially revised by Directive 2009/136/EC<sup>15</sup> including certain revisions to Article 28 of the Universal Service Directive (“USD”)<sup>16</sup> which now states as follows:

*“Member States shall ensure that, where technically and economically feasible, and except where a called subscriber has chosen for commercial reasons to limit access by calling parties located in specific geographical areas, relevant national authorities take all necessary steps to ensure that end-users are able to:*

*(a) access and use services using non-geographic numbers within the Community; and*

*(b) access all numbers provided in the Community, regardless of the technology and devices used by the operator, including those in the national numbering plans of Member States, those from the ETNS and Universal International Freephone Numbers (UIFN).”*

A 2.6 With regard to Article 28(1) of the USD, Recital 46 of Directive 2009/136/EC states:

*“A single market implies that end-users are able to access all numbers included in the national numbering plans of other Member States and to access services using non-geographic numbers within the Community, including, among others, Freephone and premium rate numbers. End-users should also be able to access numbers from the European Telephone Numbering Space (ETNS) and Universal International Freephone Numbers (UIFN). Cross-border access to numbering resources and associated services should not be prevented, except in objectively justified cases, for example to combat fraud or abuse (e.g. in connection with certain premium-rate services), when the number is defined as*

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<sup>15</sup> Directive 2009/136/EC of The European Parliament and of The Council of 25 November 2009 amending Directive 2002/22/EC on universal service and users' rights relating to electronic communications networks and services.

<sup>16</sup> Directive 2002/22/EC of The European Parliament and of The Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services.

*having a national scope only (e.g. a national short code) or when it is technically or economically unfeasible. Users should be fully informed in advance and in a clear manner of any charges applicable to Freephone numbers, such as international call charges for numbers accessible through standard international dialling codes.”*

A 2.7 Article 28(1) of the USD thus requires Member States to ensure that relevant national authorities (ComReg, in the case of Ireland) take all necessary steps to ensure that end-users can access and use services using NGNs within the Community, and that they can access all numbers provided in the Community.

A 2.8 The only permitted exemptions to the requirement under Article 28(1) are that (a) the access must be technically and economically feasible, and (b) a called subscriber (such as a “service provider”<sup>17</sup> using a number to offer a service) may choose for commercial reasons to limit access to specific geographic areas.

A 2.9 Article 28(1) serves and reflects the stated intent, as set out in Recital 46 of Directive 2009/136/EC, to ensure that end-users can access all numbers included in the national numbering plans of other Member States and that they can access services using NGNs within the Community and that cross-border access to numbering resources and associated services is not prevented except where objectively justified.

A 2.10 Subparagraph (a) of Article 28(1) of the USD emphasises the entitlement of all EU citizens to access services through numbers irrespective of from where in the EU those services are being provided.

A 2.11 Subparagraph (b) of Article 28(1) of the USD does not concern itself with access to services but only requires access to all numbers (including ETNS<sup>18</sup> and UIFN). Subparagraph (b) concerns the obligation imposed on all network operators to interconnect their networks.

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<sup>17</sup> “Service Provider” for the purpose of this consultation means organisations such as businesses, charities, public bodies, etc. that provide services (e.g. telemarketing, helplines, sales, public services, etc.) to consumers via a telephone number from the national numbering scheme.

<sup>18</sup> The ITU allocated country calling code +388 for a trans-Europe numbering plan known as the European Telephony Numbering Space (“ETNS”). ETNS was abolished in 2008 and the country calling code +388 was reclaimed by the ITU at the end of 2010.

A 2.12 Article 28(1) of the USD was transposed into Irish law as Regulation 23(1) of the Universal Service and Users' Rights Regulations 2011<sup>19</sup> which in very similar terms empowers ComReg (again where technically and economically feasible and except where a called subscriber has chosen for commercial reasons to limit access by calling parties located in specific geographical areas) to specify requirements to be complied with by undertakings for the purpose of ensuring that end-users are able to:

- access and use services using NGNs within the EU;
- access all numbers provided in the EU; and
- access Universal International Freephone Numbers.

A 2.13 ComReg is thus empowered, under Regulation 23(1) Universal Service and Users' Rights Regulations 2011, to require undertakings operating in Ireland to ensure that end-users are able to access all services within the EU that use NGNs and all numbers in the EU and all Universal International Freephone Numbers. ComReg proposes to create such a requirement through the following new GA Condition which would apply to all numbers assigned to and used by undertakings:

*“Undertakings shall ensure that, where technically and economically feasible and except where a called subscriber has chosen for commercial reasons to limit access by calling parties located in specific geographical areas, end-users shall be able to:*

- (a) access and use services using Non-Geographic Numbers within the European Union; and*
- (b) access all numbers provided in the European Union, regardless of the technology and devices used by the operator, including those in the national numbering plans of Member States, and Universal International Freephone Numbers (UIFN).”*

A 2.14 Therefore, the policy objective relating to this proposed GA Condition is to promote the interests of end-users within the European Community by ensuring that they can access all services that are available through NGNs and other number ranges.

## **Step 2: Identify and describe the regulatory options**

A 2.15 ComReg considers that two regulatory options are available to it:

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<sup>19</sup> S.I. No. 337 of 2011 – <http://www.irishstatutebook.ie/eli/2011/si/337/made/en/print>

**Option 1:** Do not attach the new GA Condition requiring undertakings to provide access to numbers and services.

**Option 2:** Attach the new GA Condition requiring undertakings to provide access to numbers and services.

### Step 3: Determine the impacts on stakeholders

A 2.16 There are three main stakeholder groups for the purposes of considering the proposed new GA Condition – undertakings, service providers, and end-users.

A 2.17 Under Option 2, undertakings would be required (where technically and economically feasible and except where a called subscriber has chosen for commercial reasons to limit access by calling parties located in specific geographical areas) to ensure that end-users can:

- access and use services using NGNs within the EU;
- access all numbers provided in the EU; and
- access Universal International Freephone Numbers.

A 2.18 ComReg considers that Option 2 would have a minimal impact upon undertakings as they would only be required to provide universal access to numbers and services where doing so was technically and economically feasible. For example, Premium Rate Service (PRS) numbers are generally not internationally accessible because of the complexity of any commercial agreements (such as VAT and pricing differences) and the risk of fraud. Therefore, ComReg would not consider it to be technically or economically feasible to require undertakings to provide access to PRS numbers from other EU countries.

A 2.19 ComReg considers that Option 2 should provide maximum benefit to service providers and end-users because it would enable service providers to offer their services across borders and it would enable end-users to avail of a wide range of services. ComReg also considers that exemptions from the requirement could be applied to specific number ranges, such as the PRS ranges.

A 2.20 ComReg considers that Option 1 would not be in accordance with its statutory objective to promote the interests of end-users within the European Community nor would it give proper effect to Article 28(1) of the USD as transposed into Irish law by Regulation 23(1) of the Universal Service and Users' Rights Regulations 2011.

#### **Step 4: Determine the impacts on competition and consumers**

A 2.21 For largely the same reasons as set out under Step 3, ComReg does not consider that Option 1 or Option 2 would have any significant negative impact on competition in any market, as the proposed condition would be an ancillary condition intended to support and clarify what is required under existing statutory objectives.

A 2.22 ComReg is also of the view that consumers and other end users would prefer Option 2 as it would provide the access to a larger range of services across the European Union.

#### **Step 5: Assess the impacts and choose the best option**

A 2.23 In light of the above, ComReg is of the preliminary view that Option 1 - the imposition of a condition under the GA requiring undertakings to provide access to numbers and services – outweighs Option 2. ComReg considers that Option 1 would be a justified, non-discriminatory, proportionate and transparent regulatory measure which should not have any significant negative impact on undertakings or on competition. Option 1 should also promote the interests of service providers by enabling them to offer their services across borders and it should promote the interests of all other end-users by enabling them to avail of a wide range of services.