



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Provision of Directory of Subscribers

Universal Service: Scope and designation

NON-CONFIDENTIAL

Response to Consultation and Decision

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An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

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1 Executive Summary

1.1 ComReg's statutory mandate

- 1 Universal service is an important measure to ensure end-user welfare by providing a safety net that ensures certain basic fixed line services are available at an affordable and uniform price to all citizens throughout the State, particularly in rural or sparsely populated areas where the market might not deliver these services.
- 2 Services provided under the universal service obligation ("USO") include a comprehensive directory of subscribers available to all end-users. The Commission for Communications Regulation ("ComReg") is cognisant of its statutory objectives, in particular as set out in Section 12 (1) (a) (iii) of the Communications Regulation Act, 2002 (as amended) ("the Act").
- 3 Regulation 4 of the European Communities (Electronic Networks and Services) (Universal Service and Users' Rights) Regulations¹ ("the Regulations") provides that a designated undertaking, amongst other things, shall ensure that based on the data provided to it in accordance with Regulation 19(4):
 - A comprehensive directory of subscribers is made available to all end-users in a form approved of by the Regulator, whether printed or electronic or both, and is updated at least once a year, or
 - that a comprehensive telephone DQ service is made available to all end-users, including users of public pay telephones.
 - The designated undertaking shall ensure that the directory services comprise all subscribers of publicly available telephone numbers in the State (including those with fixed, mobile and personal numbers) who have not refused to have their personal particulars included in those directories (subject to Regulation 12 of the Privacy and Electronic Communications Regulations).

1.2 Consultation process

- 4 On 10 October 2018, ComReg published Consultation 18/90² outlining ComReg's preliminary view to designate Eircom Limited ("eir") as the universal service provider "**USP**" for an '*on request*' printed directory of subscribers service USO.

¹ S/I/ 337 of 2011

² Provision of Directory of Subscribers Universal Service: Interim Designation, ComReg Document no. 18/90, October 2018.

- 5 In this Consultation (18/90) ComReg sought the views of stakeholders on whether a directory of subscribers USO should continue to apply, and if applicable, what approach would be most likely to provide the optimum safety net to ensure that a comprehensive directory of subscribers is made available to all end-users (printed or electronic or both) and is updated at least once a year,
- 6 This consultation considered the additional information provided by eir, the Central Statistics Office's (CSO) internet availability and usage data, ComReg's Red-C market research, and ComReg's assessment of alternative printing and distribution options, all of which have assisted ComReg to better understand the various options available to it.
- 7 ComReg has received one response to consultation from Eircom Limited ("**eir**"),
- 8 This submission contained useful suggestions and observations, which have also helped to guide and inform ComReg in the making of its decision.
- 9 ComReg has now concluded its consultation process on the future scope and designation of the provision a directory of subscribers' universal service.

1.3 Final Decision

- 10 Below is a summary of the main aspects of ComReg's decision which is set out in the Decision Instrument at chapter 6 to this document and which is explained in more detail in this Response to Consultation and Decision document.
- 11 ComReg has decided that there continues to be a need in the short term to impose a USO, and to designate a USP, for the purposes of achieving its objectives that through the provision of a safety net that end-users are protected, and to ensure that the requirements of the Regulation are met.
- 12 ComReg, having regard to the wide range of facilities available to access phone numbers, has decided there are now reasons to change the specification of the obligation away from a blanket printing and distribution, throughout the State.
- 13 ComReg has decided that there is a continued need for an '*on request*' printed directory of subscribers USO to ensure that a comprehensive directory of subscribers is made available upon request to end-users. ComReg is designating eir as the USP for the period 17 December 2018 – 31 December 2019, for the entire State.
- 14 ComReg draws attention to the following:
- The '*on request*' printed directory of subscribers' obligation is limited to the end-users in a particular geographic area who request a printed directory, within the State.

- There is a requirement for eir, as the USP, to conduct a public information campaign with end-users, including the following:
 - Commencement/conclusion dates for receipt of end-users' requests via dedicated Freephone number, email address or letter; information notices in three national newspapers;
 - Date by which the printed phonebook directory will be available to end-users along with details of any associated distribution charge, if applicable.
- eir, as the USP, bears the physical production and packaging costs of the printed directory.
- eir, as the USP, has the discretion to decide whether or not to charge end-users a distribution charge (i.e. that equates to, and must not exceed the actual cost to the USP of the transit of a Directory of Subscribers to the primary place of residence or business of an end-users upon request). This distribution charge is subject to the following principles:
 - Any distribution method ultimately decided on by a USP will be subject to an open tender process to ensure efficient distribution to the end-user's primary residence or place of business;
 - Any distribution (transit) charge applicable to end-users should be based on geographically averaged pricing (GAP);
 - The distribution charge should exclude any printing and packaging costs (i.e. transit only).
- In the event that eir, as the USP, decides to charge end-users a distribution charge, eir must (1) demonstrate to ComReg how any such proposed distribution charge complies with the principles outlined above and (2) provide the option of a collection point from a distribution location convenient to the requesting end-users' primary place of residence or business, whereby the distribution of an 'on-request' directory of subscribers is free of charge to the end-user.
- The revised implementation timetable is outlined below.
 - Public information campaign (end-users' expressions of interest) – Quarter 2 2019/20
 - Printing and distribution of 'on-request' printed directory – Quarter 3 2019/20

- The designation period is one year. This is a proportionate approach that ensures end-users are protected while enabling ComReg to assess the actual level of end-user demand for a 'on request' printed directory of subscribers.

15 ComReg will carefully monitor the level of demand by end-users (i.e. number of expressions of interest received) going forward and will commence a review 3 months post the 2019 expiry date for receipt of end-users' expressions of interest. On foot of this review ComReg will decide if it will need to commence a new consultation process in relation to a directory of subscribers USO and ComReg will publish an information notice regarding this.

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2 Introduction

- 16 This chapter provides a brief overview of the regulation of universal services in the State.
- 17 ComReg is responsible for the regulation of the Irish electronic communications sector, in accordance with the national and EU legislation. One of ComReg's functions is to determine the need for, and scope of the USO for the Irish market and to decide which undertaking(s), if any, should be designated as the USP for a particular USO(s).
- 18 The concept of the universal service in the Universal Services Directive was designed to ensure that everyone irrespective of location, social standing or income can access basic telecommunications services at a fixed location. These are basic services that are considered essential for everyone.
- 19 The Universal Service Directive, transposed in Ireland by the Regulations, requires that Member States must ensure that national regulatory authorities, such as ComReg may impose obligations to ensure that a comprehensive directory of subscribers is made available to all end-users, in a form approved of by the Regulator.
- 20 As the European Commission is currently considering the scope of the universal service (which will include a comprehensive directory of subscribers), the existing universal service requirements, may be subject to change. Any changes will likely include provision of a directory of subscribers, but that would be after ComReg's review is completed under the current legislative requirements. There will also be a further period required to effect transposition of the Directive into national law.
- 21 A USP that is designated to provide the directory of subscribers USO must ensure, based on data provided to it in accordance with Regulation 19(4):
- that a comprehensive directory for subscribers is made available to all end-users in a format approved by the Regulator, whether printed or electronic or both, and is updated at least once in each year, or
 - that a comprehensive telephone directory enquiry service is made available to all end-users, including users of public pay telephones

The USP shall ensure that the directory of directory enquiry service comprises all subscribers of publically available telephones services in the State (including those with fixed, mobile and personal numbers) who have not refused to have their personal particulars included in those directories.

- 22 ComReg wishes to thank eir for its Response to Consultation submission. Having considered eir's views this Response to Consultation and Decision sets out ComReg's final views.
- 23 In coming to its decision ComReg has taken into account information collected on foot of information requests, and other relevant materials available to it at this time. The final Regulatory Impact Assessment ("RIA") reflects this.
- 24 A copy of the non-confidential response received will be made available on ComReg's website and a high level discussion of general views is set out in this document. It is however not practical for ComReg to respond to every comment made. This Response to Consultation and Decision summarises the key elements of the comments provided, and ComReg's views in relation to these. It should be noted that all views were considered and account has been taken of the merits of the views expressed.

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3 Requirement for a directory of subscribers USO Consultation issues and decision

25 Chapters 1 and 2 ComReg gave a brief overview of the regulation of the universal services in the State and the consultation process that has led to the publication of this decision. This chapter sets out ComReg's decision that there is a continued need for an '*on request*' printed directory of subscribers USO to ensure that a comprehensive directory of subscribers is made available to those end-users who specifically request it, and the reasons for its decision.

26 The structure for this chapter is:

- Rationale for ComReg's decision
- Summary of Consultation 18/90 – requirement for a directory of subscribers USO
- Summary of respondent's submission to Consultation 18/90 and ComReg's response

3.1 Rationale for ComReg's decision

27 ComReg has decided that there is a need to ensure that a comprehensive directory of subscribers is made available to end-users '*on request*', within the State.

28 ComReg's overall objective is to ensure that for the purposes of achieving its objectives through the provision of a safety net, that end-users are protected, and that the requirements of the Regulation are met. The '*on request*' printed directory of subscribers USO ensures the provision of basic telecommunications services, contributing to the social and economic inclusiveness and cohesiveness.

29 In Consultation 18/90 ComReg analysed amongst the additional information provided by eir, the CSO's³ internet availability and usage data, ComReg's Red-C market research⁴, and ComReg's assessment of alternative printing and distribution options.

³

Source:http://www.cso.ie/en/media/csoie/newsevents/documents/census2016summaryresultspart1/Presentation_Census_Summary_Results_Part_1.pdf)

⁴ "Market Research - Consumer behaviour regarding finding phone numbers" ComReg Document number 18/90a

- 30 The CSO's internet and usage data identified that 18.4% of dwellings have no internet connection⁵ and that broadband use in private households is at 70.7%. ComReg's Quarterly Report 2017⁶ demonstrated that there are circa 100,000 residential fixed line single play voice only customers in 2017, while ComReg's "*Mobile Customer Experience*" survey⁷ shows that smart phone ownership decreases by age profile. ComReg's Red-C survey to assess the usage and attitude towards finding phone numbers in Ireland identified that those aged 55+ are still likely to use the printed directory phonebook, particularly in Connaught and Ulster. It also highlighted that usage of the printed phonebook directory is significantly higher than the online directory, and that existing printed directory users are more willing to pay for a printed phonebook directory, and for whom the alternative of a commercial directory enquiry service may not be affordable. This signals the continued existence of a cohort of end-users who in the absence of a USO, would have limited options available to access telephone numbers at an affordable price. This analysis has assisted ComReg to better understand the various options available to it.
- 31 ComReg invited interested parties to submit their views. ComReg has taken account of the Response to Consultation submission it has received.
- 32 There currently is no programme or mechanism which ensures that a comprehensive '*on request*' printed directory of subscribers is made available to all end-users who need it, other than a regulatory decision by ComReg.
- 33 ComReg is of the view that while the demand for a printed phonebook directory is declining, the printed phonebook directory continues to provide a basic service to a cohort of end-users who have limited, or no means of accessing an online directory of subscribers, and for whom the alternative of a commercial directory enquiry service may not be affordable.
- 34 ComReg has decided, having regard to the analysis it has conducted and comparing the cost of the provision of an '*on request*' printed directory of subscribers to end-users (i.e. those who specifically request it), with the benefit to those end-users of its continued provision, upon request, that there is a need to maintain an '*on request*' printed directory of subscribers for end-users universal service obligation at this time.

⁵ Central Statistics Office 2016 Census 312,982 dwellings (18.4%) have no internet connection

⁶ March 2018.

⁷ ComReg Document 17/100a "*Mobile Consumer Experience Survey 2017*".

- 35 The obligations that ComReg is imposing in this decision go no further than ensuring that a comprehensive printed directory of subscribers is made available to those end-users who specifically request it. ComReg considers that without a comprehensive ‘on request’ printed directory of subscribers USO, the needs of those end-users who have limited or no means or ability of, accessing an online directory of subscribers, or for whom the alternative of a commercial directory enquiry service may not be affordable, would not be properly served, or served at all. It is unlikely that eir, absent of a USO, would have an incentive to provide an ‘on request’ printed phonebook directory to all end-users, where it is currently unprofitable to do so.
- 36 ComReg is mindful of its duty to act proportionately in relation to the length of time of the designation period. Accordingly ComReg has designated eir as the USP for the period 17 December 2018 – 31 December 2019. This is a proportionate approach that ensures end-users are protected while enabling ComReg to assess the actual level of end-user demand for a ‘on request’ printed directory of subscribers.
- 37 ComReg will carefully monitor the level of demand by end-users (i.e. number of expressions of interest received) going forward and will commence a review 3 months post the 2019 expiry date for receipt of end-users’ expressions of interest. On foot of this review ComReg will decide if it will need to commence a new consultation process in relation to a directory of subscribers USO and ComReg will publish an information notice regarding this.

3.2 Summary of Consultation 18/90

3.2.1 Requirement for an ‘on request’ printed directory of subscribers USO

- 38 In Consultation 18/90 ComReg recognises that the electronic communications market (“ECS”) is changing rapidly, and takes account of these technical, economic and social developments to ensure that the need for, and the scope of, any designation is appropriate, while ensuring that a comprehensive directory of subscribers is made available to all end-users through the provision of a safety net, and that end-users are protected.
- 39 ComReg analysed amongst the additional information provided by eir, the CSO’s⁸ internet availability and usage data, ComReg’s Red-C market research⁹, and ComReg’s assessment of alternative printing and distribution options.

⁸

Source:http://www.cso.ie/en/media/csoie/newsevents/documents/census2016summaryresultspart1/Presentation_Census_Summary_Results_Part_1.pdf

⁹“Market Research - Consumer behaviour regarding finding phone numbers” ComReg Document number 18/90a.

- 40 The CSO's internet and usage data identified that 18.4% of dwellings have no internet connection¹⁰ and that broadband use in private households is at 70.7%. ComReg's Quarterly Report 2017¹¹ demonstrated that there are circa 100,000 residential fixed line single play voice only customers in 2017, while ComReg's "*Mobile Customer Experience*" survey¹² shows that smart phone ownership decreases by age profile. ComReg's Red-C survey to assess the usage and attitude towards finding phone numbers in Ireland identified that those aged 55+ are still likely to use the printed directory phonebook, particularly in Connaught and Ulster. It also highlighted that usage of the printed phonebook directory is significantly higher than the online directory, and that existing printed directory users are more willing to pay for a printed phonebook directory, and for whom the alternative of a commercial directory enquiry service may not be affordable. This signals the continued existence of a cohort of end-users who in the absence of a USO, would have limited options available to access telephone numbers at an affordable price.
- 41 ComReg notes that the existence of other mechanisms for accessing telephone numbers does not preclude the need to ensure that a comprehensive directory of subscribers is made available to all end-users 'on request' within the State. However, because of the availability of alternative means of accessing telephone numbers, it may well be, on a forward looking basis that, a comprehensive directory of subscribers is made available to all end-users on a commercial basis using alternative means, for free and or at an affordable price.
- 42 ComReg's objective under a USO is to ensure that all end-users are provided with an affordable way to access phone numbers where such universal access is not provided to all under normal market conditions.
- 43 In Consultation 18/90 ComReg considered a number of possible ways in which a USO (if so decided) could be met to ensure availability and affordability to end-users¹³.
- Option 1 - No USO.
 - Option 2 - Maintain the status quo (as previously set out in Decision 07/14).
 - Option 3 – Varied subscriber directory USO.
 - Option 3a – Mandate the provision of a free online phonebook directory.

¹⁰ Central Statistics Office 2016 Census 312,982 dwellings (18.4%) have no internet connection

¹¹ March 2018.

¹² ComReg Document 17/100a "Mobile Consumer Experience Survey 2017".

¹³ Please refer to Consultation 18/90 to a fuller description of these possible options.

- Option 3b - Change from *'blanket'* to *'on request'* printed phonebook directory distribution model for end-users and/or
- Option 3c - Free printed phonebook directory, where the USP has the discretion whether or not to charge for distribution (i.e. transit cost) to an end-user's primary residence or place of business, where requested by end-users.
- Option 4 – Specified directory enquiry (DQ) service USO available to all end-users
 - Option 4i – Provide a capped number of directory enquiry calls/minutes free of charge.
 - Option 4ii – Introduce a special tariff for a minimum specified directory enquiry service.

44 ComReg took into consideration the following information when assessing the relevant options:

- Additional information provided by eir
- CSO data on internet access and usage.
- ComReg's Red-C survey 2018
- ComReg Key Quarterly Report
- ComReg's assessment of alternative printing and distribution options
- European context

45 In considering option 1 ComReg noted that a number of undertakings (including eir) currently provide access to an online directory of subscribers, free of charge, on a voluntary basis. ComReg recognises the changing end-user demands and the methods chosen to access subscribers' numbers, are now primarily through the internet. However as outlined in the CSO data¹⁴ there remains a cohort of the general population who either, do not have internet access, or where available, lack the relevant technical skills to utilise it. ComReg's concern relates to this cohort and particularly those within the 65+ group who are living alone, and who may be adversely impacted where there is no 'on-demand' printed directory of subscribers USO.

¹⁴ Information Society Statistics – Households 2017

- 46 In considering option 2 ComReg noted that D07/14¹⁵ provided eir with the flexibility to implement an ‘opt-out’ facility. ComReg has reviewed eir’s ‘opt-out’ facility, introduced in 2014. This offers end-users a facility to ‘opt-out’ of receiving the printed phonebook directory. To date the number of end-users who have registered for this ‘opt-out’ service has been low. ComReg noted eir’s view that the provision of the printed phonebook directory has become uneconomic due to falling advertising revenues and increased costs, and that its third party printing and distribution partner has exited the Irish print market in 2017.
- 47 In considering option 3 ComReg considered the three Option 3 variants outlined at paragraph 44 above. The first variant (free online phonebook directory) would exclude those end-users without access to internet or smartphones. The second variant (‘on request’ printed phonebook directory) would address the needs of the cohort of the general population that potentially would be excluded under the first variant, by providing all end-users with the capability to request a copy of the printed phonebook directory (during the expressions of interest period). The third variant would provide the USP with the discretion to decide whether or not to recover the distribution cost (i.e. transit costs) for the delivery ‘on request’ of the printed phonebook directory to requesting the end-users’ primary residence or place of business.
- 48 In considering option 4 ComReg considered the two option 4 variants outlined at paragraph 44. The first variant (capped number of DQ calls/minutes) would apply to all end-users and therefore may be too broad in its application (i.e. not addressing the relevant cohort within the general population). The second variant (special tariff for a minimum specified DQ service) would have to be imposed on every undertaking, otherwise there would be a potential risk of market distortion in the liberalised directory enquiries market.
- 49 As outlined in Consultation 18/90 ComReg needs to ensure that, if deemed necessary, a directory of subscribers USO is maintained. ComReg’s concern is that, if left to the operation of market forces alone, there is a risk that some end-users may not have access or no affordable access, or to a directory of subscribers in short to medium term. In these circumstances where there remains a cohort of the general population who either, do not have internet access, or where available, lack the relevant technical skills to utilise it, or cannot afford it at this time, the requirements of the Regulation would not be met.

¹⁵ Document no. 14/68 “Provision of Directory of Subscribers Universal Service: Scope and Designation”, 3 July 2014.

50 ComReg having regard to the changing conditions in the ECS market, end-users' potential alternatives to the printed phonebook directory; and the evolving end-user behaviour was of the preliminary view that there continues to be a need to designate a USP and to impose a USO for the purpose of achieving its objectives that that through the provision of a safety net that end-users are protected, and to ensure that the requirements of the Regulation are met.

51 In summary, in Consultation 18/90 ComReg was of the preliminary view that option 3b was the optimal choice (Option 3b - Change from 'blanket' to 'on request' free printed phonebook directory distribution model) as it ensures that end-users who request a printed phonebook directory can obtain it, without any risk of end-user affordability issues.

3.3 Summary of respondent's submission on consultation 18/90

3.3.1 Summary of respondent's submission - Q1

52 Consultation 18/90 asked the following question.

Q. 1 Do you agree with ComReg's preliminary view that there is a continued need to apply a USO to ensure availability and affordability of a directory of subscribers' service in the short term? Please provide evidence and reasons to support your views.

53 In response to Q.1, eir does not agree with ComReg's preliminary view that there is a continued need to apply a USO to ensure availability and affordability of a directory of subscribers' service for all end-users in the short term.

54 eir is of the view that there is no requirement to provide a printed directory, and that there are sufficient alternatives available to render the printed directories obsolete and unnecessary. eir is of the view that the primary format for the directory should be electronic (online). eir state that the online and directory enquiry databases are updated daily and are accordingly more accurate and up to date than a printed directory.

55 eir is of the view that it is entirely disproportionate to impose a printed directory USO in light of ComReg's own market research.

56 eir state that the printed directory USO was discharged by eir through an outsource supply arrangement and as such eir has no unique capability or experience in this regard.

57 eir is of the view that there is not any objective justification for a printed directory USO to be imposed on it over any other operator in the market including the operator managing the national directory database (“**NDD**”). eir is of the view that to purely consider eir in relation to this matter is a breach of ComReg’s legal obligations to act in an objective, proportionate and non-discriminatory manner.

3.3.2 ComReg’s response - Q1

58 ComReg, in response to eir’s submission on Q1 note that universal service is an important measure to ensure end-user welfare as it provides a safety net that ensures certain basic fixed line services are available at an affordable and uniform price to all citizens and consumers throughout the State, particularly in areas of the State (such as rural or sparsely populated areas) where the market might not deliver these services.

59 Accordingly it is precisely where the market might not deliver these services that universal service is critical.

60 ComReg’s high level goals and statutory objective to “promote competition” and encourage efficient investment in infrastructure and promote innovation¹⁶ does not ‘trump’ ComReg’s other statutory objectives, as set out in Section 12 (1) (a) (iii) of the Communications Regulation Act, 2002 (as amended) (“the Act”), including the promotion of interests of end-users of services and protecting end-user welfare.

61 ComReg does not agree with eir’s view that there are sufficient alternatives available to render the printed directory obsolete and unnecessary. The existence of other alternatives for obtaining numbers, where these alternatives are not available to all end-users¹⁷, does not preclude the need for an ‘on-request’ printed directory of subscribers for end-users.

62 As outlined in Consultation 18/90¹⁸ the CSO data¹⁷ clearly demonstrates that there is a cohort of end-users¹⁹ who have limited, or no means of accessing, an online directory of subscribers, and for whom the alternative of a commercial directory enquiry service may not be affordable. It is this cohort of end-users that ComReg is seeking to protect through the introduction of an ‘on-request’ printed directory of subscribers service. eir continues to provide the national directory database.

¹⁶ Section 12 of the Communications Regulation Act, 2002 to 2010.

¹⁷ Information Society Statistics – Households 2017

¹⁸ Consultation 18/90, Section 4.2 “Internet access and usage” and Section 5.2 “Option 2”

¹⁹ This cohort is more likely to be living alone with an age profile of 55+

- 63 ComReg disagrees with eir' view that *"it is entirely disproportionate to impose an 'on-demand' printed directory USO in light of ComReg's own market research"*. ComReg has used a combination of the Red-C market research, CSO data, ComReg's Quarterly Key Data Report, BEREK information, actual end-user demand in respect of the 2017 printed phonebook directory²⁰, and ComReg's analysis of available alternative printing and distribution options, in reaching its decision to impose an 'on-demand' printed directory. ComReg notes that eir has not commissioned any market research on the demand for, a use of, printed directory phonebook.
- 64 ComReg notes that any USO obligation it decides to put in place must be an "undertaking". In the absence of any expressions of interest ComReg has considered which undertaking is best placed to provide a printed directory for 2019. No other undertaking in the State has conducted this task. eir is the only undertaking in the State to have provided a comprehensive printed subscriber directories. eir is currently the only undertaking with experience in both managing the source numbers; selecting them from the NDD and preparing them for printing into the various area directories. While eir has outsourced the printing and distribution aspects of its obligation previously it was still ultimately responsible for it and eir also has experience in tendering and selecting an appropriate third party to assist it in meeting its obligation. eir also provides an online directory on a voluntary basis; again selecting and presenting appropriate numbers from the NDD it currently manages.
- 65 eir has also previously created an "opt-out" functionality for the printed directory which also demonstrates that eir also has the ability to manage associated consumer preferences for directories through a database.
- 66 In light of the above and eir's considerable and unique experience of the tasks associated with the provision of a printed directory; ComReg considers that currently no other undertaking would be better placed to carry out this obligation for 2019.
- 67 As outlined at paragraph 63 there is a cohort of the population who have a clear need for the service. eir has previous experience in providing a printed directory of subscribers, and in ensuring its distribution within the State. eir will continue to operate of the national directory database (NDD) until the end of quarter two of 2019 (including the transition period to the new national directory database provider), ComReg has previously designated eir as the USP for a printed directory USO. The manner in which eir, or indeed any other USP, chooses to execute this obligation is a commercial decision.

²⁰ [] end-user requests for a 2017/2018 printed phonebook directory receive by eir between (between April and June 2018).

3.3.3 Summary of respondent's submission - Q2

68 Consultation 18/90 asked the following question.

Q. 2 Do you agree with ComReg's preliminary view that imposing a USO requiring a USP to provide a printed phonebook directory under the same obligations in place hitherto may be sub-optimal compared to alternative approaches? Please give evidence and reasons to support your view.

69 In response to Q.2, eir agrees with ComReg's preliminary view that imposing a USO requiring a USP to provide a printed phonebook directory under the same obligations in place hitherto may be sub-optimal compared to alternative approaches. However eir is of the view that an adapted USO is sub-optimal, given the true level of demand for such a service and the costs of provision.

70 eir is of the view that it is no longer possible to provide the printed directory within normal commercial standards, citing insufficient advertising revenues to offset the costs of printing and distribution.

3.3.4 ComReg's response – Q2

71 ComReg, note that eir in its submission on Q2 agrees with ComReg's preliminary view that imposing a USO requiring a USP to provide a printed phonebook directory under the same obligations in place hitherto may be sub-optimal compared to alternative approaches.

72 ComReg does not agree with eir's view that that "*an adapted USO is sub-optimal, given the true level of demand for such a service and the costs of provision*". ComReg has reached its decision that an 'on-demand' printed directory of subscribers USO is the optimal choice, based on the cohort of end-users²¹ who have limited, or no means of accessing, an online directory of subscribers, and for whom the alternative of a commercial directory enquiry service may not be affordable.

73 Furthermore, ComReg note that after the 2017/18 printed phonebook directory had been distributed, eir still received an additional [REDACTED] end user requests for a copy of the printed phonebook directory ([REDACTED] telephone and [REDACTED] email requests between April and June 2018). This provides an indication of the actual demand, where a printed phonebook directory had already been distributed nationally.

²¹ This cohort is more likely to be living alone with an age profile of 55+.

74 ComReg is of the view that the demand for an ‘on-request’ printed directory of subscribers, in the absence of a mass distribution of the printed phonebook directory, would be significantly higher. ComReg’s expressions of interest approach to the provision ‘on-request’ printed directory of subscribers will ensure that the actual level of demand is established on a national basis and that the obligation imposed is commensurate with the *actual* level of demand and no more than this. ComReg will carefully monitor the level of demand by end-users (i.e. number of expressions of interest received) going forward and will commence a review 3 months post the 2019 expiry date for receipt of end-users’ expressions of interest. On foot of this review ComReg will decide if it will need to commence a new consultation process in relation to a directory of subscribers USO and ComReg will publish an information notice regarding this.

3.3.5 Summary of respondent’s submission – Q3

75 Consultation 18/90 asked the following question.

Q. 3 Do you agree with ComReg’s preliminary view to designate a USP and impose a USO to provide a printed directory of subscribers, upon request by an end-user. Please provide reasons to support your view.

76 In response to Q.3, eir does not agree with ComReg’s preliminary view to designate a USP and impose a USO to provide a printed directory of subscribers, upon request by an end-user. Notwithstanding this, where ComReg proceeds with the designation, eir acknowledges that that this approach will be more efficient as it identifies those users who have a need for a printed phonebook. eir is of the view that this approach is likely to be expensive to operate and therefore entirely inefficient.

77 eir is of the view that the number of end-users who ‘opt-in’ is likely to be significantly lower than those end-users who have opted out to date.

78 eir is of the view that ComReg’s proposed timelines do not allow sufficient time for implementation, and that the proposed timelines should be moved out by six months.

3.3.6 ComReg's response – Q3

- 79 ComReg note that eir in its submission on Q3 does not agree with ComReg's preliminary view to designate a USP and impose a USO to provide a printed directory of subscribers, upon request by an end-user. ComReg does not agree with eir's view and addresses the rationale for this in paragraphs 59 to 64 above. Furthermore an '*on request*' printed directory of subscribers' obligation offers a more flexible approach, as eir, as the USP may effectively match print runs to the actual level of demand. This solution accordingly is no more burdensome on eir, as the USP, USP(s) than is necessary in order to achieve ComReg's stated objective, and the regulatory burden is lightened.
- 80 ComReg also disagrees with eir's view that the number of users who '*opt-in*' is likely to be significantly lower than those who have opted out to date, and ComReg has addressed this in paragraphs 73 to 75 above.
- 81 eir is of the view that ComReg's proposed timelines do not allow sufficient time for implementation (i.e. the communications plan, tender/supplier agreement), and are of the view that the proposed timelines should be moved out by a further six months. ComReg has carefully considered the argument put forward by eir and has decided to extend the implementation timeline as follows:
- Public information campaign (expressions of interest) – by Quarter 2 2019/20
 - Printing and distribution of '*on-request*' printed directory – by Quarter 3 2019/20
- 82 This revised timetable will ensure that end-users receive an '*on-request*' printed directory in a timely manner, and will facilitate a review 3 months post the 2019 expiry date for receipt of end-users' expressions of interest.

3.3.7 Summary of respondent's submission – Q4

- 83 Consultation 18/90 asked the following question.

Q. 4 Do you agree with ComReg's preliminary view that, should a directory of subscribers service USO be required, a requirement on a USP to provide a printed phonebook directory, on request and free-of-charge (i.e. including all printing, packaging and distribution costs) to the end-user would likely be most appropriate to help ensure availability and affordability of directory services?

- 84 In response to Q.4, eir does not agree with ComReg's preliminary view that, should a directory of subscribers service USO be required, a requirement on a USP to provide a printed phonebook directory, on request and free-of-charge (i.e. including all printing, packaging and distribution costs) to the end-user would likely be most appropriate to help ensure availability and affordability of directory services.
- 85 eir is of the view that the USP should be allowed at a minimum to recover the cost of distribution.

3.3.8 ComReg's response – Q4

- 86 ComReg, note that eir in its submission on Q4 eir does not agree with ComReg's preliminary view that, should a directory of subscribers service USO be required, a requirement on a USP to provide a printed phonebook directory, on request and free-of-charge (i.e. including all printing, packaging and distribution costs) to the end-user would likely be most appropriate to help ensure availability and affordability of directory services. eir is of the view that the USP should be allowed to recover the cost of distribution.
- 87 ComReg notes eir's statement that it is no longer possible to provide the printed directory within normal commercial standards, due to insufficient advertising revenues to offset the costs of printing and distribution. This is precisely where the market might not deliver these services that and 'on-request' directory of subscribers' universal service is critical.
- 88 In Consultation 18/90 ComReg considered whether a USP(s) should have the discretion whether or not to impose an end-user charge for the transit of a printed phonebook directory to an end-user's primary residence or place of business. ComReg expressed some concern that any significant distribution charge imposed by the USP may result in end-user detriment. This is because end-users who have limited or no means of accessing an online directory of subscribers, or for whom the alternative of a commercial directory enquiry service may not be affordable, even where a printed phonebook directory is free of charge, save for the transit fee.
- 89 ComReg's preliminary view in Consultation 18/90 was, that on balance, a USO which puts in place an obligation on a USP to provide an 'on request' printed phonebook directory and distribution to the end-users' primary residence or place of business which is free of charge, would likely be the most appropriate to maintaining affordable access to universal services.
- 90 ComReg would be concerned that any significant distribution charge imposed by a USP may result in end-user detriment. ComReg noted that a USP, acting as a socially responsible commercial operator, may choose to voluntarily absorb any such distribution charge.

91 Notwithstanding this, ComReg considers that the nature of any USO should be no more burdensome on the USP than is necessary to achieve ComReg's stated objective. Accordingly ComReg has decided that the USP shall have the discretion whether to charge end-users for the transit of the 'on request' printed phonebook directory to their primary residence or place of business.

92 In the event that eir, as the USP, decides to charge end-users a distribution charge, eir must (1) demonstrate to ComReg how any such proposed distribution charge complies with the principles outlined in ComReg's response to Q5 below and (2) provide the option of a collection point from a distribution location convenient to the requesting end-users' primary place of residence or business, whereby the distribution of an 'on-request' directory of subscribers is free of charge to the end-user.

3.3.9 Summary of respondent's submission on Q5

93 Consultation 18/90 asked the following question.

Q. 5 Do you agree that (a) USP(s) should have the flexibility to impose a distribution charge for the transit of a printed phonebook directory to the primary place of residence or business of an end-user upon request) or (b) that the distribution of a printed phonebook directory should be free of charge to end-users who request a printed phonebook directory? Please provide reasons to support your views.

94 In response to Q.5, eir is of the view that USP(s) should have the flexibility to impose a distribution charge for the transit of a printed phonebook directory to the primary place of residence or business of an end-user upon request), to help defray the costs.

3.3.10 ComReg's response – Q5

95 ComReg notes eir's response. ComReg considers that the nature of any USO should be no more burdensome on a USP than is necessary to achieve the stated objective. Accordingly ComReg has decided that the USP shall have the discretion as to whether or not to charge end-users for the transit of the 'on request' printed phonebook directory to their primary residence or place of business.

96 Where the USP elects to charge end-users for the distribution (transit) of the printed phonebook directory, and to protect end-users from possible unreasonable costs, ComReg has decided that the USP's distribution (transit) pricing discretion will be subject to the following principles:

- Any distribution method ultimately decided on by a USP will be subject to an open tender process to ensure efficient distribution to the end-user's primary residence or place of business;

- Any distribution (transit) charge applicable to end-users should be based on geographically averaged pricing (GAP);
- The distribution (transit) charge should exclude any printing and packaging costs (i.e. transit only).

3.3.11 Summary of respondent's submission on Q6

97 Consultation 18/90 asked the following question.

Q. 6 If a USP(s) has discretion to impose a distribution charge for the transit of a printed phonebook directory to the primary place of residence or business of an end-user upon request, should this be subject to the parameters identified above? What other factors may be appropriate to consider in this regard? Please provide reasons to support your views.

98 In response to Q.6, eir has merely stated that it has noted the ComReg proposed parameters.

3.3.12 ComReg's response - Q6

99 ComReg notes that eir has not proposed any other factors other than those identified by ComReg in relation to the USP's discretion to impose a distribution charge for the transit of a printed phonebook directory to the primary place of residence or business of an end-user upon request.

4 Designation of universal service provider

100 In chapter 3 ComReg set out its decision that there is a need for an ‘on request’ directory of subscribers USO to ensure that a comprehensive printed directory of subscribers is made available to all end-users and the reasons for its decision. This chapter sets ComReg’s decision to designate eir as the USP for comprehensive ‘on request’ printed directory of subscribers within the State for a period of one year and the reasons for this decision.

101 The structure of this chapter is:

- Rationale for ComReg’s decision.
- Summary of Consultation 18/90 – USP, designation, duration and GAP.
- Summary of the respondent’s submission to Consultation 18/90 and ComReg’s responses to this submission.

4.1 Rationale for ComReg’s decision

102 ComReg has decided that there is a need for a directory of subscribers USO to ensure that a comprehensive ‘on request’ printed directory of subscribers is made available to all end-users. ComReg is designating eir as the USP for a directory of subscribers USO for the period 17 December 2018-31 December 2019. This is a proportionate approach that ensures end-users are protected while enabling ComReg to assess the actual level of end-user demand for an ‘on request’ printed directory of subscribers.

103 In the event that eir, as the USP, decides to charge end-users a distribution charge, eir must (1) demonstrate to ComReg how any such proposed distribution charge complies with the principles outlined in ComReg’s response to Q5 above and (2) provide the option of a collection point from a distribution location convenient to the requesting end-users’ primary place of residence or business, whereby the distribution of an ‘on-request’ directory of subscribers is free of charge to the end-user.

104 ComReg has decided that where eir, as the USP, elects to charge end-users for the distribution (transit) of the printed phonebook directory, and in order to protect end-users from possible unreasonable costs, that the eir’s distribution pricing discretion will be based on geographically averaged pricing (GAP);

- 105 In Consultation 18/90 ComReg asked for expression of interests from parties interested in providing a comprehensive directory of subscribers' service. No expressions of interest were received.
- 106 ComReg notes that any USO obligation it decides to put in place must be an "undertaking". In the absence of any expressions of interest ComReg has considered which undertaking is best placed to provide a printed directory for 2019. No other undertaking in the State has conducted this task. eir is the only undertaking in the State to have provided a comprehensive printed subscriber directories. eir is currently the only undertaking with experience in both managing the source numbers; selecting them from the NDD and preparing them for printing into the various area directories. While eir has outsourced the printing and distribution aspects of its obligation previously it was still ultimately responsible for it and eir also has experience in tendering and selecting an appropriate third party to assist it in meeting its obligation. eir also provides an online directory on a voluntary basis; again selecting and presenting appropriate numbers from the NDD it currently manages.
- 107 eir has also previously created an "opt-out" functionality for the printed directory which also demonstrates that eir also has the ability to manage associated consumer preferences for directories through a database.
- 108 In light of the above and eir's considerable and unique experience of the tasks associated with the provision of a printed directory; ComReg considers that currently no other undertaking would be better placed to carry out this obligation for 2019.
- 109 ComReg consider that eir, is best placed to ensure that a comprehensive directory of subscribers is made available to all end-users in a form approved of by ComReg. eir is currently the service provider of the national directory database and has prior printed phonebook expertise and experience.
- 110 ComReg has decided to designate eir as the USP for a directory of subscribers USO for the period 17 December 2018- 31 December 2019. ComReg will carefully monitor the level of demand by end-users (i.e. number of expressions of interest received) going forward and will commence a review 3 months post the 2019 expiry date for receipt of end-users' expressions of interest. On foot of this review ComReg will decide if it will need to commence a new consultation process in relation to a directory of subscribers USO and ComReg will publish an information notice regarding this.
- 111 End-users who require that a comprehensive 'on request' printed directory of subscribers are dispersed throughout the State. Accordingly ComReg must protect those end-users who would not be commercially served, and therefore the designation is for the entire State. The USP's obligation in respect of the 'on request' printed directory of subscribers' is limited to the number and geographical location of those end-users who make a request for a printed phonebook directory, within the State.

112 eir, as the USP, has the discretion to charge end-users a distribution charge that equates to, and must not exceed the actual cost to the USP of the transit of a Directory of Subscribers to the primary place of residence or business of an end-users upon request, subject to the following principles:

- Any distribution method ultimately decided on by a USP will be subject to an open tender process to ensure efficient distribution to the end-user's primary residence or place of business;
- Any distribution (transit) charge applicable to end-users should be based on geographically averaged pricing (GAP);
- The distribution charge should exclude any printing and packaging costs (i.e. transit only).

113 In the event that eir, as the USP, decides to charge end-users a distribution charge, eir must (1) demonstrate to ComReg how any such proposed distribution charge complies with the principles outlined above and (2) provide the option of a collection point from a distribution location convenient to the requesting end-users' primary place of residence or business, whereby the distribution of an 'on-request' directory of subscribers is free of charge to the end-user.

4.2 Summary of Consultation 18/90 – USP, designation and duration

4.2.1 Designation of the Universal Service Provider

114 In Consultation 18/90 ComReg outlined that the Regulations require ComReg to designate one or more operators to guarantee the provision of the universal services to ensure, where applicable, the entire State is covered.

115 Regulation 7 (2) states that "the Regulator may designate different undertakings or sets of undertakings to comply with one or more of the obligations, requirements or terms or conditions referred to in paragraph (1) or to cover different parts of the State.

116 The Regulations provide that the designation methods adopted must ensure that the obligations are provided in a cost effective manner and that they may be used as a means of determining the net cost of the universal service obligation²²

²² Regulation 7(3)

117 In principle, no undertaking should be excluded from being designated to provide the directory of subscribers' universal service, in all or part of the State. In the majority of Member States, the incumbent operator provides a directory of subscribers' universal service²³.

4.2.2 Designation period

118 In Consultation 18/90 ComReg outlined its preliminary view that a designation period of 2 years is most appropriate in relation to the directory of subscribers service universal service obligation, unless or until reviewed by ComReg.

119 ComReg has now decided that a designation from 17 December 2018 until 31 December 2019 is appropriate. This is a proportionate approach that ensures that end-users are protected while enabling ComReg to assess the actual level of end-user demand (i.e. number of expressions of interest received) for a 'on request' printed directory of subscribers.

120 As outlined earlier, ComReg will carefully monitor the level of the end-users' 'on-request' demand going forward and will commence a review 3 months post the 2019 expiry date (i.e. for receipt of expressions of interest for an 'on-request' printed directory of subscribers). On foot of this review ComReg will decide if it will need to commence a new consultation process in relation to a directory of subscribers USO and ComReg will publish an information notice regarding this.

4.2.3 Designation for the entire State

121 In Consultation 18/90 ComReg considered whether or not it is appropriate to continue to designate universal service obligations to cover the entire State.

122 End-users are dispersed throughout the State. To ensure that a comprehensive directory of subscribers is made available to all end-users (whether printed or electronic or both), a USO designation (if any) must be for the whole of the State.

123 ComReg recognises that there are differences in the methods of provision of directory services and that these are important considerations for a universal service designation for the entire State or for specific areas. ComReg however remains concerned that the existing methods of provision of a directory of subscribers' service might not be provided to all or some areas in the State without a universal service obligation.

²³ Sufficient scale, and ability to provide efficiently.

124 End-users who require that a comprehensive ‘on request’ printed directory of subscribers are dispersed throughout the State. Accordingly ComReg must protect those end-users who would not be commercially served, and therefore the designation is for the entire State. The USP’s obligation in respect of the ‘on request’ printed directory of subscribers’ is limited to the number and geographical location of those end-users who make a request for a printed phonebook directory, within the State

4.2.4 Affordability for end-users

125 In Consultation 18/90 ComReg considered whether a USP(s) should have the discretion whether or not to impose an end-user charge for the distribution (transit) of a printed phonebook directory to an end-user’s primary residence or place of business. ComReg expressed some concern that any significant distribution charge imposed by the USP may result in end-user detriment. This is because primarily elderly users value and use the printed phonebook directory and affordability concerns may arise, even where a printed phonebook directory is free of charge, save for the transit fee.

126 ComReg’s preliminary view in Consultation 18/90 was, that on balance, a USO which puts in place an obligation on a USP to provide an ‘on request’ printed phonebook directory and distribution to the end-user which is free of charge would likely be the most appropriate to maintaining affordable access to universal services.

127 ComReg would be concerned that any significant distribution charge imposed by the USP may result in end-user detriment. ComReg noted that a USP, acting as a socially responsible commercial operator, may choose to voluntarily absorb any such distribution charge.

128 Notwithstanding this, ComReg considers that the nature of any USO should be no more burdensome on a USP than is necessary to achieve the stated objective. Accordingly ComReg has decided that the USP shall have the discretion whether to charge the end-user for the transit of the ‘on request’ printed phonebook directory to their primary residence or place of business subject to the following principles:

- Any distribution method ultimately decided on by a USP will be subject to an open tender process to ensure efficient distribution to the end-user’s primary residence or place of business;
- Any distribution (transit) charge applicable to end-users should be based on geographically averaged pricing (GAP);
- The distribution charge should exclude any printing and packaging costs (i.e. transit only).

- 129 In the event that eir decide to levy a distribution charge, eir must demonstrate to ComReg how any such proposed charge complies with the principles outlined above.

4.3 Summary of respondent's submission to Consultation 18/90 and ComReg's response to this submission

4.3.1 Summary of respondent's submission – Q7

- 130 Consultation 18/90 asked the following question.

Q. 7 Do you agree or disagree with ComReg's preliminary view that the next designation period should run until the end of 2020, unless or until reviewed by ComReg? Please provide reasons to support your view.

- 131 In response to Q.7 eir disagrees with ComReg's preliminary view that the next designation period should run until the end of 2020, unless or until reviewed by ComReg. eir is of the view that there should be no designation. Notwithstanding this, eir consider that if ComReg proceeds with the designation, ComReg should commit to conducting an interim review in 2019, when the actual level of demand for a printed directory of subscribers' service becomes apparent.

4.3.2 Summary of ComReg's response – Q7

- 132 ComReg does not agree with eir's view that there should be no designation. End-users are dispersed throughout the State. To ensure that a comprehensive directory of subscribers is made available to all end-users (whether printed or electronic or both), a USO designation (if any) must be for the whole of the State. ComReg remains concerned that the existing methods of provision of a directory of subscribers' service might not be provided to all or some areas in the State without a universal service obligation ComReg has decided that it is not appropriate at this time to completely remove the obligation in respect of the existing methods of provision of a directory of subscribers' service and that a universal service for the entire State remains a requirement for the designation period.
- 133 As outlined earlier, ComReg will carefully monitor the level of the end-users' 'on-request' demand going forward and will commence a review 3 months post the 2019 expiry date (i.e. for receipt of expressions of interest for an 'on-request' printed directory of subscribers). On foot of this review ComReg will decide if it will need to commence a new consultation process in relation to a directory of subscribers USO and ComReg will publish an information notice regarding this.

4.3.3 Summary of respondent's submission – Q8

- 134 Consultation 18/90 asked the following question.

Q. 8 What do you consider amongst other things (e.g. the level of end-user demand, distribution costs etc.) should be taken into consideration in any ComReg interim review?

135 In response to Q.8 eir considers that ComReg should take the following into consideration in any ComReg interim review:

- the printing and packaging costs involved in fulfilling the obligation.
- the proportionality of the obligations in light of the overall costs and the level of demand identified by the opt-in mechanism.

4.3.4 Summary of ComReg's response – Q8

136 ComReg notes the aforementioned items eir' considers that ComReg should take the following into consideration in any ComReg interim review.

137 As outlined earlier, ComReg will carefully monitor the level of the end-users' 'on-request' demand going forward and will commence a review 3 months post the 2019 expiry date (i.e. for receipt of expressions of interest for an 'on-request' printed directory of subscribers). On foot of this review ComReg will decide if it will need to commence a new consultation process in relation to a directory of subscribers USO and ComReg will publish an information notice regarding this.

4.3.5 Summary of respondent's submission – Q9

Consultation 18/90 asked the following question.

Q. 9 Do you agree or disagree with ComReg's preliminary view that for the proposed next designation period, the required universal service should be designated for the entire State? Please provide reasons to support your view

138 In response to Q.9 eir is of the view that it cannot reach an informed view on the geographic scope for the proposed next designation without having further information about the actual level of demand for printed directories in each of the subscriber areas.

4.3.6 Summary of ComReg's response – Q9

139 ComReg considers that the nature of any USO should be no more burdensome on a USP than is necessary to achieve the stated objective. ComReg note that in this decision the 'on request' printed directory of subscribers' obligation is limited to the number and geographical location of the requesting end-users within the State.

4.3.7 Summary of respondent's submission – Q10

140 Consultation 18/90 asked the following question.

Q. 10 Do you agree or disagree with ComReg's proposal that where the legislative matter has not been addressed or where no expressions of interest are received, eir should continue to be the universal service provider for the on request printed directory of subscribers during the next designation period? Please provide reasons to support your view.

141 In response to Q.10 eir disagrees with ComReg's preliminary view that where the legislative matter has not been addressed or where no expressions of interest are received, eir should continue to be the universal service provider for the on request printed directory of subscribers during the next designation period.

142 eir is of the view that there is no impediment to other entities being designated as directory services USP. eir is of the view that the definition of the national directory database (NDD) 'operator' is linked to the printed directory USP. eir note that currently there is no designated printed directory USP and there is a designated manager of the NDD, while noting that ComReg is separately consulting on proposals to designate PortingXS as the NDD manager.

143 eir is of the view that ComReg's proposed designation process that eir will be the facto USP unless another entity expresses an interest in fulfilling the USO associated with directory services is not fair or non-discriminatory.

4.3.8 Summary of ComReg's response – Q10

144 In ComReg's view, there are no significant barriers which prevent an operator from entering the market for the provision of a printed phonebook directory. Currently there are no other providers providing directories of residential subscribers in the same volumes in the State.

145 Before designating a USP, to ensure it complies with its regulatory obligations, ComReg requires evidence about the willingness and capability of the undertaking in question to be a USP. Consultation 18/85 invited potential providers to express an interest in being designated with respect to subscriber directories. No expressions of interest were received; and hence ComReg understands that currently no undertaking is willing to provide this element of the universal service.

- 146 ComReg acknowledge eir's view and ComReg agrees that the legislative anomaly cannot affect the provision of a Directories USO. It is ComReg's expectation that this matter will be resolved. It remains the case that eir continues to manage and maintain the NDD to 1 July 2019. The designation period is one year. This is a proportionate approach that ensures that end-users are protected while enabling ComReg to assess the actual level of end-user demand for a 'on request' printed directory of subscribers.
- 147 In May 2018 eir advertised in three national newspapers and published on its website, the opportunity for end-users throughout the State to request eir's 2017-2018 printed phonebook directory by 31 June 2018. eir received a number of requests [REDACTED] eir has a basic operational process defined to provide the printed phonebook directory to end-users on an 'on-request' basis.
- 148 Consultation 18/85 set out the preliminary view that eir was the most appropriate undertaking to be designated for the directory services Universal Service for the next designation period.
- 149 ComReg notes that any USO obligation it decides to put in place must be an "undertaking". In the absence of any expressions of interest ComReg has considered which undertaking is best placed to provide a printed directory for 2019. No other undertaking in the State has conducted this task. eir is the only undertaking in the State to have provided a comprehensive printed subscriber directories. eir is currently the only undertaking with experience in both managing the source numbers; selecting them from the NDD and preparing them for printing into the various area directories. While eir has outsourced the printing and distribution aspects of its obligation previously it was still ultimately responsible for it and eir also has experience in tendering and selecting an appropriate third party to assist it in meeting its obligation. eir also provides an online directory on a voluntary basis; again selecting and presenting appropriate numbers from the NDD it currently manages.
- 150 eir has also previously created an "opt-out" functionality for the printed directory which also demonstrates that eir also has the ability to manage associated consumer preferences for directories through a database.
- 151 In light of the above and eir's considerable and unique experience of the tasks associated with the provision of a printed directory; ComReg considers that currently no other undertaking would be better placed to carry out this obligation for 2019.
- 152 ComReg has decided that eir the most appropriate undertaking to be designated for the directory services Universal Service for the period 17 December 2018 to 31 December 2019, which is for one annual cycle.

- 153 The provision of a universal directory of subscribers' service may result in USP providing a designated directory of subscribers' service(s) at a net cost (USO net cost). The Regulations allow the USP to seek funding to meet a net cost of the universal service.²⁴The Regulations provide that if ComReg finds that the net cost of the USO represents an unfair burden on the USP, that funding requirement must be shared by industry²⁵.

²⁴ Regulation 11(1) of the Regulations.

²⁵ Regulation 12(1) of the Regulations.

5 Final Regulatory Impact Assessment (“RIA”)

5.1 Introduction

- 154 The analysis presented in this section represents ComReg’s final RIA. It sets out ComReg’s conclusions of the effect upon stakeholders and competition, of ComReg exercising its powers to designate eir for provision of directory services and, of imposing associated USO measures on eir, as the designated USP.²⁶
- 155 The RIA forms part of ComReg’s overall analysis, having regard to changing conditions in the electronic communications market, end-users’ potential alternatives to the printed phonebook directory (the USO service hitherto) and evolving end-user behaviour, and taking account of the part played by existing regulation,²⁷ of the continued need (or absence of the need) for access to a comprehensive directory of subscribers under a USO designation beyond 30 June 2018 (when the designation under D07/14 expired).
- 156 The purpose the RIA is to assess the likely impact upon stakeholders and competition of options as regards a directory of subscribers’ USO. The RIA assists with assessing whether ComReg’s decided regulatory approach will to have the desired impact in terms of promotion of the interests of end-users and protecting end-user welfare by ensuring that end users can continue to benefit from access to universal directory services.²⁸ The RIA involved assessment of:
- An appropriate form for any proposed measure: whether the printed phonebook directory meets end-users’ needs or, what alternative form any future obligation(s) could take; and
 - Which undertaking or undertakings could be designated and for how long.

²⁶ Under Regulation 7(1) of the Universal Service Regulations, ComReg may designate one or more undertakings to comply with an obligation or requirement referred to in, inter alia, Regulation 4 of those Regulations, which relates to a subscriber directory or directory enquiry service.

²⁷ There are requirements already imposed on service providers in respect of disabled end-users pursuant to ComReg Decision D04/14.

²⁸ Pursuant to the Communications Regulation Acts 2002 to 2011, as amended, ComReg’s key statutory objectives in relation to the provision of electronic communications services (“ECS”) are to (i) Promote competition, (ii) Contribute to the development of the internal market, and (iii) Promote the interests of users in Ireland, as well as within the European Union.

157 ComReg's aim in conducting the RIA is to ensure that any specific obligations regarding affordable access to a directory of subscribers' service are appropriate, proportionate and justified in light of the analysis conducted, having regard to its objective that end-users are protected, while also taking into account the objective of promotion of competition and the principle of proportionality. The purpose of the RIA is to establish whether regulation is actually necessary, to identify any possible negative effects which might result from imposing a regulatory obligation and to consider any alternatives. Consistent with the RIA Guidelines²⁹ and, section 13(1) of the Act, ComReg's RIA considers the effect of proposed regulation. Therefore, ComReg in conducting this final RIA takes full account of its obligations under the Regulations.

158 The RIA in conjunction with the rest of the analysis and reasoning in Consultation 18/90 and this document represents the RIA and should be read together.

5.2 Summary of the draft RIA of impact of Consultation 18/90 proposals and options

159 Consultation 18/90 asked the following question in respect of ComReg's draft assessment of the impact of the proposed options.

Q. 11 Do you agree or disagree with ComReg's draft assessment of the impact of the proposed options? Please set out reasons for your answer.

160 eir does not agree with ComReg's draft assessment of the impact of the proposed options. eir is of the view that it is neither comprehensive nor thorough and represents a qualitative assessment. eir is furthermore of the view that the RIA should include a detailed examination of costs, benefits and impacts on stakeholders in addition to the consideration of the use of alternatives to regulation.

161 eir also state that the measure(s) chosen to address the issue identified should be the least intrusive means possible and should place the minimum burden on business, so that the most effective remedy that best meets the objectives can be selected.

162 In response to eir's comments on the RIA, ComReg considers that the nature of any USO should be no more burdensome on a USP than is necessary to achieve the stated objective. ComReg notes that in this decision that the 'on request' printed directory of subscribers' obligation is limited to the number and geographical location of those end-users who make a request, within the State.

²⁹ ComReg, "Guidelines on ComReg's Approach to Regulatory Impact Assessment", [ComReg Document 07/56a](#), 10 August 2007 (the "RIA Guidelines").

- 163 As set out in Consultation 18/90, to identify the optimal regulatory approach, ComReg considered the advantages and disadvantages of different implementation options, and compared to the counterfactual scenario.
- 164 Contrary to eir's claims, therefore, ComReg's RIA does take into account the benefits and impacts, as set out in the analysis and reasoning in Consultation 18/90 and this document. ComReg did conduct its own research regarding costs. ComReg notes that eir did not provide any alternative costing information or cost benefit analysis in its response to consultation.
- 165 ComReg has considered the number of possible ways in which the USO could be implemented to ensure availability and affordability to end-users. Having regard to the principle of proportionality, this is satisfied in that, on balance, the obligation is not more burdensome than necessary and the minimum intervention is likely to provide the optimum safety net to end-users in respect of access and affordability of directory services. This achieves the stated objectives.

5.3 Final RIA

- 166 ComReg has fully taken into account the response it received from eir in relation to the options and proposals in Consultation 18/90 before coming to a final RIA and decision. In addition, ComReg has carefully considered in section 3 of this decision document the specific issues raised on its proposals.
- 167 Having regard to all available evidence collated during the consultation process, including, the submission received in response to Consultation 18/90, and ComReg's statutory objectives, the following sets out ComReg's final RIA in relation to the designation of eir as the USP until 31 December 2019. This final RIA updates the assessment of impacts on stakeholders and competition to assist ComReg making a decision as to the most appropriate requirements with a view to ensuring that it responds to end-users' who specifically request the USO service. This final RIA is consistent with the 5 steps set out in the RIA Guidelines for conducting RIA's as follows.

5.4 Step 1 – Describe the policy issue and identify the objectives

- 168 Along with other universal services (e.g., access to an electronic communications network at fixed location, public pay telephones, etc.), under the Regulations, ComReg is required to ensure that a comprehensive directory of subscribers is made available to all end-users, whether printed or electronic or both, and is updated at least once a year, or that a comprehensive telephone directory enquiry service is made available to all end-users, including users of public pay telephones.³⁰
- 169 Universal service is an important measure to ensure end-user welfare. It provides a safety net that ensures universal services are made available at an affordable and uniform price to all end-users throughout the State, where the market might not deliver these services. Ensuring accessibility and affordability of the directory of subscribers' service, in particular, for those without internet access, for elderly users and users with special needs, contributes to social and economic inclusiveness in society.
- 170 ComReg is cognisant of its objectives, as set out in Section 12(1) (a) (iii) of the Act, including the promotion of interests of end-users of services and protecting end-user welfare.
- 171 ComReg assessed whether the market is sufficient to meet end-users' needs regarding accessible and affordable directory of subscribers service as demands and technology change. ComReg's concern was that, if left to the operation of market forces alone, a comprehensive directory of subscribers may not be provided commercially to everyone at an affordable price. There is a risk that some end-users will not have continued affordable access to a directory of subscribers' service, at least in the short term. There remains cohort of the general population who either, do not have internet access, or where available, lack the relevant technical skills to utilise it.
- 172 In these circumstances, and where these services are valued and needed at this time, the requirements of the Regulations would not be met. Therefore, ComReg's objective for applying the USO is that end-users have affordable access to at least one directory of subscribers service, where the market does not deliver these universal services to meet end-users' needs. As set out under the Regulations,³¹ ComReg must ensure all reasonable, proportionate measures to promote the interests of end-users by ensuring that they have access to universal service at an affordable price.

³⁰ Regulation 4 (1) of SI 337 specifies that a USP shall ensure access for all end users to a comprehensive directory of subscribers (a comprehensive subscriber directory or DQ service).

³¹ Transposing Directive 2002/21/EC119 of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services, as amended ('Framework Directive'), at Article 8.

173 In pursuing the objective to protect end-users, ComReg is also mindful of the objective to safeguard competition and the principle of proportionality. Having regard any potential for a disproportionate burden of regulation on the USP(s) or undertaking(s), ComReg's objective is to find the right balance between end-users' needs and changing commercial conditions, with a view to ensuring the benefits of intervention by ComReg reach those who need them.

5.5 Step 2 – Identify and describe the potential regulatory options

174 As set out in section 7.3 of the Consultation 18/90, ComReg considered the identified risks and a range of regulatory options open to addressing them and open to it to achieve the above stated objectives:

1. No designation of a USP: rely on normal market conditions to deliver a directory of subscribers service (**Option 1, No USO**); or
2. Designation of a USP to impose a USO to put in place the printed phonebook directory arrangements which were in place hitherto (**Option 2, the status quo**); or
3. Designation of a USP to impose a USO to make a directory of subscribers service available to end-users with a changed specification (**Option 3, a varied subscriber directory USO**);³² or
4. Designation of a USP to impose a USO to make a special DQ service available to end-users (**Option 4, a DQ USO**).³³

5.6 Step 3 and 4 – Determine the impacts on stakeholders and competition

175 In order to determine the impact on stakeholders and competition, ComReg has considered respondents' views including on the draft RIA and has taken into account the factors set out above.

176 Having regard to the submissions, this final RIA updates the assessment of the impact of each option set out above by comparing their impact against the counterfactual. This is set out below.

³² Regulation 4(1) (a) of the Regulations gives discretion to ComReg to stipulate that the form can be printed or electronic or both.

³³ Regulation 4(1) (b) of the Regulations gives discretion to ComReg in this regard.

Option 1: the counterfactual

177 Under the counterfactual no USO scenario, end-users would continue to benefit from access to phone numbers through a variety of channels.

178 Because of the ubiquity of the internet³⁴ arguably there is perhaps a more efficient way to access directory information compared to the printed phonebook directory. For example, internet access in particular on smart phones enables phone numbers to be found through the likes of a google search and/ or internet based applications. Therefore, a range of benefits already accrue to those with internet access, the online directory having a number of advantages, amongst others:

- It contains all relevant phone numbers, unlike the printed phonebook directory which contains only those phone numbers in the local area; and
- Access to online directories is currently free-of-charge.

179 ComReg acknowledges that there is an ongoing migration of phone number queries away from the traditional sources to the internet searches.³⁵ ComReg acknowledges that consumer preference varies and there is some substitutability across the range of directory services, as follows:³⁶

- Consumers are primarily using the internet to search for personal and business phone numbers, at 56% and 85% respectively;
- As well as the internet being the most likely used channel to search, the frequency of search is also higher with this channel versus more traditional channels; 36% use the internet more often than once a month to find a personal number while nearly 2 in 3 (64%) of those using the internet to source a business phone number do so more often than once a month;
- Almost a quarter (24%) of those who report not using the printed directory opt to use the internet instead in order to find a number; and
- In the event of the printed phonebook directory no longer being available, 38% of printed phonebook directory users report they would use the internet instead, this is driven by younger adults; whereas 15% of printed phonebook directory users would ask friends/colleagues/relatives, driven by those aged 55+.

³⁴ According to the CSO census 2016, 89% of households have internet access in 2017.

³⁵ See eir response to ComReg's information request February 2018.

³⁶ As demonstrated in ComReg's Survey 2018.

- 180 eir, as the current USP, may benefit in the absence of USO where it would have commercial freedom to cease providing a printed phonebook directory and, achieve possible cost savings (as set out in section 4.4, eir has claimed that there is a positive net cost for provision of the printed phonebook directory USO). As technically the directory of subscribers' service would no longer be a relevant cost absent a USO, any potential for a USO net cost claim in respect of a directory of subscriber service is removed. There would be no impact in respect of sharing of any unfair burden, if established, ultimately to the benefit of industry.
- 181 An additional benefit may accrue to industry where, as a result of no USO, service providers may experience increased volumes and associated revenues for alternatives services to the printed phonebook directory, such as, DQ.
- 182 Competition for the printed (White Pages) directory is an unlikely future prospect (although there may be some competition for Golden Pages printed and online). Previously, some providers other than the USP supplied printed directories, however, this would now appear negligible. The potential effect of implementing this option is likely to be largely competition neutral.
- 183 In contrast, the cost of having no USO at this time, is that, if left to the market forces, there is a risk that end-users will not have affordable access to a directory of subscribers' service (this risk is mitigated for disabled subscribers in light of special Directory Enquiry arrangements in place under D04/14).
- 184 Where the universal service available to end-users is not guaranteed, yet the services are valued and needed at this time, having no USO could result in a risk of detriment to end-users who do avail of internet access and to those who rely on the printed method as their primary/sole access to directory information:
- Households without access to the internet³⁷ or, without smartphones, may not have sufficient access to an online directory. For those users, the printed directory is the likely only free mechanism to access directory information;
 - Elderly users would no longer have access to the service that they currently use, and may only have access to expensive alternatives (in particular if they cannot access or use online alternatives). After the internet, the printed directory is the most important source used by those aged 55+ at (43%) followed by directory enquiries (26%);³⁸

³⁷ According to the CSO census 2016, 11% of households do not yet have internet access.

³⁸ ComReg's survey 2018, slide 6.

- In addition, ComReg notes from the research that eir's Online Phonebook usage is lower than the physical phonebook usage. Reasons for not using this service is primarily, 'lack of knowledge' (42%), followed by 'they didn't think of it' (27%) and 'used another internet service instead' (15%).
- As previously set out, no USO could lead to affordability concerns in particular for those aged 55+. In addition, the free online access to directory information currently voluntarily provided by undertakings may not be guaranteed in the future unless undertakings are required to do so.

185 Having regard to the importance of USO as a measure of end-user welfare and, having regard to the counterfactual scenario, ComReg is of the view that, on balance, the overall net impact of not imposing a USO would be negative on end-user welfare. This approach would not ensure that end-users' need regarding accessible and affordable directory of subscribers service are protected and that the requirements of the Regulations are met. Therefore, ComReg's objectives would not be achieved. In these circumstances, and where the possible cost to a USP is unlikely to be unduly burdensome, there is a strong case to keep in place a minimum USO safety net to help maintain end-user welfare in the short term.

186 The following sections set out the advantages and disadvantages of the different options (2 through 4) in relation to the potential nature of a directory services requirement, as compared to the counterfactual scenario of no USO.

Option 2: the status quo

187 This option considers that the printed phonebook directory or adequate alternative services, would not be available under normal commercial circumstances. As a result, at least for some end-users, it may be necessary to once again put in place a USO consisting of the same obligations in place hitherto for the last 4 years under D07/14 (the status quo approach).

188 Where the services are valued and needed at this time and, absent sufficient alternatives, the status quo approach would be expected to maintain end-user welfare because:

- As set out above, printed phonebook directories are likely used by end-users because they do not have internet access to get the information free of charge, if they are unable to use the internet or, because they choose to use it rather than going online or instead calling DQ which can be expensive;

- End-users can continue to have access to directory information by their chosen means. As identified by ComReg's Survey 2018, over 1 in 5 consumers use their local printed phonebook directory to find phone numbers. Also 16% of those using this channel to find a private individual's phone number do so more often than once a month; the corresponding percentage for sourcing business numbers is 20%.
- The provision of the printed phonebook directory brings important benefits to those who appear to particularly value and heavily rely on the use of traditional services. According to ComReg's Survey 2018, while 3 in 5 (59%) adults have access to and use a home landline telephone, this is higher among those 55+, at 86%. In addition, use of the local area printed phonebook directory to find phone numbers is more prevalent among those 55+.
- End-user protection concerns in relation to affordability, would also be mitigated.

189 However, ComReg recognises that with migration away from the more traditional channels and to internet searching and other sources of directory information, a printed phonebook directory may no longer be as relevant to the general population. In this light, the status quo approach may be considered a less cost effective solution compared to potential alternatives. There is a risk that this solution may have a negative environmental impact.

190 Moreover, this Option may involve imposing an unnecessary regulatory condition, if directories (printed or electronic) are provided for commercial reasons or, in the presence of other regulated measures, such as, the accessible DQ service for disabled end-user.

191 As compared to the counterfactual scenario of no USO and, to the extent that the provision of the printed phonebook directory is not a commercial proposition, a USP would incur costs (according to eir, the directory USO net costs are €1.4 million and € [REDACTED] in the financial years 2014/2015 and 2015/2016 respectively)]. In the event that ComReg determined an unfair burden in relation to the USO net cost on the USP, there would be a potential cost impact on industry in respect of sharing of any unfair burden associated with USO.

192 Because no electronic communications service provider other than the USP appear to supply comprehensive (White Pages) printed directories, the potential effect of implementing this option is likely to be largely competition neutral.

193 Based on the assessment set out above and, as compared to the counterfactual scenario, ComReg is of the view that, on balance, imposing a USO to continue the approach to universal directory of subscribers service in place hitherto would likely result in an overall net welfare benefit.

194 Obligations under D07/14 have till now helped ensure that there is affordable way to frequently access phone numbers, and is entirely consistent with developments at a European level.³⁹

195 The cost of this solution is unlikely to result in a disproportionate cost burden on a USP (where the approach hitherto allowed the USP to make available to end-users a directory on opt-out and an opt-in basis whichever was more cost effective⁴⁰). It is noted that the proportion of eir's claimed USO net cost associated with the printed phonebook directory has decreased in the financial year 2015/2016 compared to the previous financial year. Although maintaining the status quo would not result in any additional costs or administrative burden to a USP, should a USO be required, ComReg is cognisant to impose the least burdensome USO on a USP. ComReg considers possible costs (compared to possible benefits) under alternative specifications for a USO below.

Option 3: a varied subscriber directory USO

196 ComReg has identified three possible variants surrounding any practical implementation of a directory of subscribers service USO,⁴¹ and which are different from the above status quo approach as follows:

a. Mandate provision of a free online phonebook directory

197 Requiring free access to online phonebook directories would help reduce any risk of end-user detriment in the event that the printed phonebook directory was no longer available. Affordable access to directory information by this source would be guaranteed.

198 Online directories have a range of advantages compared to alternatives. Thus for example, they are currently free to access, likely more accessible when on the move, can often be more comprehensive (going beyond local numbers) and, in general provide a workable and cost effective means to make an enquiry. This is an important consideration for social inclusion. While those aged 55+ are most likely to use the printed phonebook directory, it is notable that they also access directory information via the internet. Also, this approach would help ensure disabled users equivalence in access and choice in respect of directory and information services.

³⁹ As set out in section 4.5 above.

⁴⁰ eir, as the USP, initially introduced a facility whereby end-users could opt-out of receiving the directory where they no longer wished to receive it. More recently, end-users have the ability to opt-in to receiving the printed phone directory.

⁴¹ The Regulations allow for either paper or electronic solutions for directories.

199 However, this Option may involve imposing an unnecessary regulatory condition. Currently a number of operators voluntarily provide free online access. Therefore, online versions of the subscriber directory are likely a relatively low cost solution and would not cost the industry financially. ComReg furthermore notes the presence of other regulated measures, such as, the accessible DQ service for disabled end-user.

200 However, households without access to internet or smartphones would be excluded which may reduce welfare for these end-users. Government and other agencies often provide access to online directories in respect of their services. Customers can and do use such directories to get information on Government offices, hospitals, Garda stations, Emergency services and to find postal addresses.

b. A printed phonebook directory 'on request' free of charge

201 ComReg's Survey 2018 indicates the likely current demand for a printed phonebook directory, which is changing in light of the internet. Thus, an 'on request' approach would mean that those end-users who require a printed phonebook directory continue to have affordable access while those who do not want to receive one would no longer do so. It would offer a more flexible approach, as compared to the approach to USO hitherto, the USP would have the ability over a designation period to significantly reduce the number of phonebook directories printed and distributed. Because the USP could more effectively match print runs to demand, this solution may be considered a more workable and cost effective solution.

202 On the other hand, as compared to the counterfactual scenario and, to the extent that the provision of the printed phonebook directory is not a commercial proposition, a USP may incur some costs. Notwithstanding this, a more flexible approach can reduce potential costs (printing, delivery and administrative) to the USP. In May 2018, eir advertised the opportunity for end-users to request eir's printed phonebook directory by 31 June 2018. eir submit that approximately [REDACTED] end-users have since requested eir's printed phonebook directory. Having regard to the current status of the 2017/2018 printed phonebook directory production and distribution and, the number of end-user requests for eir's printed phonebook, ComReg would estimate possible costs associated with an outsourced printing (excluding delivery or postage) of future phone directories, if requested, would likely be less than €100,000.

203 Moreover, an 'on request' model would help reduce any potential negative environmental impact that may be associated with distributing large numbers of bulky printed phonebook directories which not all end-users want or use.

c. A printed phonebook directory 'on request' and end-user pays for printing or distribution or both

- 204 Any cost to end-users would only be incurred by those who request and wish to pay for a printed phonebook directory. ComReg Survey 2018 shows that existing printed phone book directory users are more willing to pay for the printed phone book directory (15%) and; amongst those that would or might pay for a printed phonebook directory, the average amount willing to be paid is €11.67.
- 205 However, ComReg's Survey 2018 highlights that little willingness to pay for a printed phonebook directory exists, with the majority (83%) stating that they would be unwilling to pay. ComReg is concerned that a distribution charge associated with the actual cost to the USP of the transit of a Directory of Subscribers to the primary place of residence or business of an End-User upon request, could result in end-user detriment, the reasonable needs of end-users may not be met. This is because primarily elderly users value and use the printed phonebook directory and affordability concerns may arise depending on the level of distribution charge to the end-user, if any (a USP acting as a socially responsible commercial operator may choose to voluntarily absorb any such costs). ComReg would estimate possible costs for end-users associated with the purchase and delivery of the printed phonebook directory to their address, in a range of €5 to €15.
- 206 Allowing a USP(s) to charge a remunerative price to end-users would generate a revenue benefit to the USP and would offset any costs to the USP. Therefore, the potential for a USO net cost of directories being a burden on the USP is removed. On the other hand, implementation of an end-user pays model may result in additional administrative, set-up or billing costs.
- 207 In summary, imposing a USO for provision of a directory of subscribers service in one of the above formats (Option 3a, 3b, 3c) would likely result in an overall net welfare benefit, benefiting both end-users and competition.
- 208 Changing the form of a subscriber directory USO away from arrangements in place hitherto would likely bring a range of benefits to end-users and industry. Broadly, it can help ensure that:
- End-user welfare is maintained where it helps mitigate the identified end-user protection concerns, as set out above;
 - End users are protected from a blanket removal of USO, yet the USO evolves with demands and technology changes and meets end-users' needs in a more optimum way;

- In light of market developments set out in section 4, any effect of Option 3 is likely to be largely neutral with respect to competition.

209 A USP would incur some costs for the provision of a directory of subscribers USO, where a printed phonebook directory is not a commercial proposition. However, for the reasons set out above, changing the specification a subscriber directory USO is likely to result in solution that is not more burdensome on a USP(s) than is necessary and, any regulatory burden is lightened.

Option 4: Impose a USO to make a specified DQ service available to end-users

210 ComReg considers there is merit in exploring this option. Should the printed phonebook directory no longer be available, and where the market did not provide an alternative affordable way to access phone numbers, it is envisaged the welfare of end-users would be maintained by introducing a minimum accessible DQ service particularly if public websites including online DQ services are not accessible.

211 ComReg has identified two possible variants surrounding any practical implementation of a DQ USO as follows:

i. To provide a capped number of DQ calls/minutes free of charge

- Introducing a cap or restriction with any DQ USO would accrue benefits to a USP(s) as it would provide a safety net against any potential misuse of the service;
- Moreover, a targeted approach to a DQ measure may be most effective as it would help make sure the benefits of this measure (if so decided) reach those who need them. Thus, for example, a target customer may consist of those that do not have internet access or smartphones, those 55+ and possibly standalone fixed voice access subscribers etc.
- If a targeted and/or a capped DQ service USO is implemented, ComReg would envisage a relatively low cost to a USP(s) of the scheme. However, imposing a DQ USO which does not target specific end-users may result in a net cost for the USP(s) depending on the uptake of the service.

ii. To introduce a special tariff for a minimum specified DQ service

- An affordability safeguard (for example, a free service or a special tariff) may help ensure that vulnerable users of ECS would continue to have access to a comprehensive directory service at an affordable price, during this period of transition. ComReg's Survey 2018 demonstrates that elderly users, after the internet and the local printed phonebook directory, use DQ to find phone numbers. Any minimum specified DQ measure without an additional affordability safety net may detriment particular end users.
- DQ calls can be expensive (see ComReg's www.compare.ie for current prices). Although end-users have access to a choice of DQ providers, competition for DQ services is insufficient to ensure affordability in the near term. Also, there are market failures associated with this sector (e.g. asymmetry of information between operators and end users). This solution should protect vulnerable end-users from a rapid increase in their overall bills or 'bill shock'.
- Should a DQ USO be imposed without an affordability safeguard, DQ calls made by the general population cannot be said to impose any USO burden on a USP(s).

212 In summary, a DQ USO minimum specified would likely result in an overall net welfare benefit, benefiting both competition and end-users. Such a USO with some form of a cap or restriction would accrue benefits to a target consumer and a USP(s).

213 It can help ensure that end-user welfare is maintained, as compared to the counterfactual, as it should mitigate the identified end-user protection concerns, as set out above.

214 Should a DQ USO be imposed without an affordability safeguard, in light of the current pricing models, affordability concerns may arise, in particular, for those that do not have internet access or smartphones and those 55+. With a view to social inclusion, costs of a directory of subscribers' service should not exclude the most vulnerable in the community from making a minimum use of basic services. In light of the counterfactual scenario, it is likely that protections for more vulnerable users should remain in place during this period of transition.

215 Where a DQ USO is imposed on every undertaking any effect is likely to be largely competition neutral, otherwise there would be a potential risk of market distortion in light of liberalisation of DQ services in general.

- 216 ComReg is of the view that, on balance, imposing a USO consisting of a minimum specified DQ service may not achieve the best balance between the needs of vulnerable end-users and changing commercial conditions during this period of transition. Although end-users are protected from a blanket removal of USO, in light of demands and technology changes, under this approach end-users' needs may not be met in the most optimum way.
- 217 This option may introduce an additional administrative burden and possible set-up costs (depending on a specific specification for this type of USO) which, in light of the proposal to have a short designation period, circa 2 years, may not be most appropriate or proportionate at this time.

5.7 Step 5 – Assess the impacts and choose the best option

- 218 ComReg's objective is to find the right balance between the directory of subscribers' universal service required to help ensure the end-user demands for universal service are protected and providing sufficient flexibility to the USP to adapt to technological and social changes.
- 219 Having specific regard to the counterfactual no USO scenario (Option 1) and, reasoning to designate a USP for provision of a directory of subscribers service USO, and taking in to account the submissions, ComReg considers that for the reasons set out in section 5, the continued application of the USO for 2019 is objectively justified and proportionate as this safety net would help ensure the end-user demands for universal service are protected. ComReg considers that easily accessible and affordable directory information continues to provide a valuable service to end-users.
- 220 In these circumstances, and where the cost to a USP is not unduly burdensome, to keep in place a USO to ensure end-user welfare in 2019 is appropriate and justified.
- 221 On balance, having regard to evolving technological and social developments and, because of the impact on end-users absent a USO, not imposing a USO (Option 1) at this time would seem premature and is not appropriate.
- 222 As set out above and in the Consultation 18/90, there are a number of possible implementations (Options 2, 3 and 4). In order to help identify the optimal regulatory approach, ComReg considered the advantages and disadvantages (cost and benefits) of different options in relation to the potential nature of any USO measure, as compared to the counterfactual scenario, as set out above. Each of the different options implementing a USO (2, 3 and 4), as compared to the counterfactual, would likely result in an overall net welfare benefit in the immediate term. Each would continue to provide affordable access to directory information. Accordingly, each of the options, would to a different extent, address end-user protection concerns for the at risk end-user.

- 223 Obligations in place hitherto under D07/14 have accrued benefits to those who valued and used the printed phone directory, primarily those 55+ and those who have not yet availed of internet access or who cannot avail of internet access. However, the disadvantage of maintaining the status quo (Option 2) is that, it may be considered a less cost effective solution compared to potential alternatives and may also negatively impact the environment. As set out above, ComReg's objective for this review, amongst other things, is to ensure that any USO measure is implemented in an effective manner, minimising the potential costs and disruption the USP(s) and to end-users. ComReg is cognisant that any USO solution is not more burdensome than necessary.
- 224 The advantage of Option 3 is that, a changed USO specification may help ensure that any USO evolves with end-user preferences and, meet demands for a directory of subscribers' service in a more optimum way. It would likely, as compared to the status quo approach, lighten any regulatory burden on a USP.
- 225 In general, for those with internet access, imposing a USO consisting of a requirement to provide free accessible online phone directories (Option 3a), would guarantee in the future a clear, easily accessible form of access to directory information. This is an important consideration for social inclusion concerning primarily those aged 55+ and disabled subscribers. Online versions of a directory of subscribers are a relatively low cost solution and, would not cost the industry financially.
- 226 The risk with Option 3a, however, is that, households without access to internet or smartphones would be excluded which may reduce end-user welfare. Moreover, this Option may involve imposing an unnecessary regulatory condition because this service is provided commercially. Having regard to the market developments set out in section 4 that undertakings already supply free online directories, ComReg is of the preliminary view that it would not seem appropriate to require a USP(s) to provide free online access at this time. However, ComReg will continue to monitor market developments and may revisit this as relevant.
- 227 As regards possible other variants surrounding Option 3, an 'on request' model regarding provision of a printed phonebook directory (Option 3b) will likely assist those end-users who require a printed phonebook directory to have continued access while those who do not want to receive a printed phonebook directory no longer do so. In addition, it would result in possible (printing, delivery and administrative) cost savings and, would lighten any regulatory burden. Because the USP could more effectively match print runs and distribution to demand, this solution may be considered a more workable and cost effective solution as compared to the status quo approach.

- 228 The advantage of allowing a USP(s) to charge end-users who order a printed phonebook directory (Option 3c) over Option 3b is that this approach would remove any potential for a net cost being a burden on the USP. On the other hand, the potential disadvantage of Option 3c is that, depending on the level of costs passed through by a USP(s) to end-users and, their willingness to pay, some end-users could incur additional costs to access the numbers they require and affordability concerns may therefore arise. An approach where end-users pay may result in additional administrative, set-up or billing costs for a USP(s) or undertakings.
- 229 The advantage of making available a minimum DQ service for a target end-user other than disabled users (Option 4) over the counterfactual and the status quo option is that, it could provide an optimal solution if public websites including online DQ services are not accessible. The risk with this Option is that, it is likely to give rise to affordability concerns for end users (primarily elderly users who switch to DQ to find the required phone number) in the absence of an affordability safeguard given pricing and other developments in the DQ market. It may be necessary to have a minimum specified DQ measure with an additional affordability safeguard, should the general market circumstances justify it. The risk for industry is that, introducing a DQ USO without a cap or restriction may result in possible costs to a USP(s) if there was misuse of the service and risks a market distortion.
- 230 In this light and, because of the proposal to have a short designation period, circa 2 years (now decided to be 1 year), should a USO be required, imposing a DQ USO may not be the most appropriate or proportionate solution at this time. eir did not provide any alternative costing information or cost benefit analysis in its response to consultation. Accordingly ComReg has nothing further to add to the RIA.

The optimal regulatory approach to the directory of subscribers USO

- 231 As set out above, ComReg's objective for this final review, amongst others, is to ensure that any USO measure is implemented in an effective manner, minimising the potential costs and disruption to end-users and to the USP(s).
- 232 Having regard to the analysis conducted, ComReg considers that, on balance, Option 3b is likely to provide the most optimum safety net for end-users at this time. A USO requiring provision of a printed phonebook directory 'on request' is a more flexible approach which should align closely with future end-user demands. It is envisaged that it should result in a lightening of regulatory burden on the USP, yet ensure that end-users demands for the universal service are protected. However, ComReg would monitor possible costs under Option 3b in line with future demands and technology changes.

- 233 ComReg is aiming to promote and protect the interests of end-users by adopting the measures in this Decision, as they are intended to ensure that end-users will have access to the universal service at prices that are uniform throughout the State. ComReg considers that maintaining the GAP obligation will protect end-user welfare. The USO accrued benefits to those who have valued and used the universal service.
- 234 Accordingly, ComReg has decided that Option 3b is the optimal approach to this matter at this time. It achieves ComReg's objectives that end-users are protected and ensures that the requirements of the Regulations are met. Under Option 2 eir, as the USP, provide a printed phonebook directory 'on request' with the option to pass through the distribution cost to the end users where the end users chooses not to collect centrally. In this light, the obligation is not more burdensome than necessary. Option 3b is proportionate and achieves the stated objectives.

NON-CONFIDENTIAL

6 Decision Instrument

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, as amended;
 - 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 4 of the Regulations;
 - iv. Having taken account of the representations of interested parties submitted in response to ComReg documents No. 18/90; and
 - v. Having regard to the analysis and reasoning set out in ComReg document No. 18/115.

2. DEFINITIONS AND INTERPRETATION

- 2.1. In this Decision Instrument, unless the context otherwise admits or requires, the following terms shall have the following meanings:

“**USP**” means eir, designated by ComReg pursuant to Regulation 7 of the Universal Service Regulations and this Decision Instrument as the Universal Service Provider of Directory Services in the State;

“**Eir**” means Eircom Limited and its subsidiaries and any related companies, and any Undertaking which it owns or controls, and any Undertaking which owns or controls Eircom Limited and its successors and assigns. For the purposes of this Decision Instrument the terms “subsidiary” and “related company” shall have the meanings ascribed to them by the Companies Act 2014;

“End-User” has the same meaning as it has in Regulation 2 of the European Communities (Electronic Communications Networks and Services) (Framework) Regulations, 2011 (“the Framework Regulations”);

“Directory of Subscribers”, means a printed list or lists of all Subscriber Details relating to Subscribers of publically available telephone services either in the State as a whole or by relevant Subscriber area within the State (including those with fixed, mobile and personal numbers), who have not refused to have their personal particulars included in such a directory. A Directory of Subscribers must be provided on request in accordance with the requirements of Regulation 4 of the Regulations and this Decision Instrument;

“Subscriber” has the same meaning as it has in Regulation 2 of the Framework Regulations;

“Subscribers’ Details” means those personal particulars of Subscribers who have not refused to be included in the Directory of Subscribers;

“Distribution Charge” means a discretionary distribution charge which the USP may impose on End-Users that equates to and must not exceed, the actual cost to the USP of the transit of a Directory of Subscribers to the primary place of residence or business of an End-User upon request. No other costs associated with the distribution of the Directory of Subscribers other than the cost of transit, shall be reflected in the Distribution Charge. Any distribution charge imposed by the USP on End-Users shall meet the requirements of section 3.9 of this Decision Instrument. Any distribution agreement (pertaining to the USP’s distribution of the Directory of Subscribers to End-Users) and any Distribution Charge shall be based upon an Open Tender Process. Any such distribution charge imposed by the USP on End-Users must be affordable, particularly for vulnerable End-Users.

“Open Tender Process” means a tender process that is not private, is opened for all qualified bidders and involves at a minimum, an assessment of price and quality.

“On Request” means a request communicated by the End-User to the USP designated to provide the Directory of Subscribers as set out in this Decision Instrument

3. DESIGNATION OF UNIVERSAL SERVICE PROVIDER

Directory of Subscribers

- 3.1. In accordance with Regulation 7 of the Regulations, eir is hereby designated as the USP for the purpose of complying with the obligations, as provided for by Regulation

4 of the Regulations and this Decision Instrument, from 17 December 2018 until 31 December 2019.

- 3.2. The USP shall ensure that a Directory of Subscribers, based on the data provided to it in accordance with Regulation 19(4) of the Regulations, which shall be updated and collated in 2019, is made available on request and free of charge to all End-Users for the one year period, subject to sections 3 and 4 inclusive of this Decision Instrument. The provision of and distribution of the Directory of Subscribers must be completed by the end of August 2019.

Communications Campaign

- 3.3. In order to give effect to the provision of a Directory of Subscribers, the USP shall undertake a communications campaign with End-Users between 1 April 2019 and 30 June 2019.
- I. The USP shall publish an information notice as prescribed at Annex 1 attached to this Decision Instrument.
 - II. The USP shall communicate the date by which a Directory of Subscribers will be available in the manner prescribed at Annex 1.
 - III. The USP shall communicate the distribution options available to those End-Users who communicate a request to the USP for the provision of a Directory of Subscribers, in accordance with this Decision Instrument. The communicated distribution options shall be as prescribed at Annex 1 to this Decision Instrument.
 - IV. The USP shall place the information notice in three national newspapers in each month of the communications campaign.
 - V. The USP shall publish the information notice on a prominent section or at the most visited section of its public website for the duration of the communications campaign.

End-User Request Process

- I. The media by which End-Users can request a Directory of Subscribers shall include all of the following:
 - a. A dedicated free phone number; and
 - b. Email address; and
 - c. Postal address

Records – End-User Requests

- 3.4. The USP shall maintain records of the number of End-User requests received in addition to the following records:
- i. Medium used for the request –Telephone, email and/or post;
 - ii. Number of End-User requests received by Directory of Subscriber area;
 - iii. Number of End-Users who request that a Directory of Subscribers is distributed to their primary place of residence or business. The End-User must be made aware of any Distribution Charge that is fixed by the USP in advance of the End-User being under any obligation to pay the Distribution Charge;
 - iv. Number of End-Users who request that a Directory of Subscribers be made available from a collection point in the locality convenient to their primary place of residence or business;
 - v. The commencement and conclusion dates for the receipt of End-Users' requests for a Directory of Subscribers.

Directory of Subscribers

- 3.5. The USP shall ensure that the distribution of a Directory of Subscribers to those End-Users who have requested one is completed by the date specified in the information notice at Annex 1 to this Decision Instrument.
- 3.6. All costs associated with the printing of a Directory of Subscribers shall be borne by the USP. Such costs may form part of the USP's funding application in respect of the direct net cost of the provision to End-Users of a Directory of Subscribers.

Directory of Subscribers Distribution Options to End-Users

- 3.7. The USP shall provide the option of the delivery of a Directory of Subscribers referred to in this Decision Instrument to the End-User's primary place of residence or business whereby a Distribution Charge may be required by the USP to be paid by the End-User. The End-User must be made aware by the USP of any Distribution Charge (which Distribution Charge shall be set in accordance with section 4 of this Decision Instrument) in advance of the End-User being under any obligation to pay for it.
- 3.8. Where a Distribution Charge is imposed for the distribution option identified in section 3.7 the USP shall also provide the option of a collection point from a distribution location convenient to the requesting End-Users' primary place of residence or business, whereby the distribution of a Directory of Subscribers is free-of- charge to the End-User.

4. GEOGRAPHICALLY AVERAGED PRICING

- 4.1. In accordance with Regulation 8(3) of the Regulations, the USP, shall apply a geographically averaged Distribution Charge throughout the State where it may decide to require payment by End-Users, for distribution of the Directory of Subscribers referred to in this Decision.

End-User Distribution Payment Methods

- 4.2. The USP shall, when satisfying an End-User's request for the Directory of Subscribers referred to in this Decision under Section 3 accept any of the following payment mechanisms for a Distribution Charge , where payment is applicable:
- i. Bank Order/Draft;
 - ii. Debit Card;
 - iii. Credit Card; and
 - iv. Postal Money Order.

5. CONTINUATION OF COMREG DECISIONS

- 5.1. 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.

6. EFFECTIVE DATE AND DURATION

- 5.1. This Decision and Decision Instrument is effective from 17 December 2018 until 31 December 2019 unless or until reviewed by ComReg.

THE COMMISSION FOR COMMUNICATIONS REGULATION

THE 17th DAY OF December 2018

Annex 1 - Information Notice

INFORMATION NOTICE – USP PRINTED PHONEBOOK DIRECTORY AVAILABLE ON REQUEST [USP logo]

You have the right to request a 2019/2020 printed phonebook directory from eir using any of the following:

- eir low call Freephone number ; and/or
- eir email address; and/or
- eir Postal address.

All requests for an eir 2019/2020 printed phonebook directory must be received by eir between - 1/4/19 - 30/6/19 inclusive

[USP] printed phone book directory availability dates

- eir's 2019/2020 printed phonebook directory will be available between 1 July 2019 -30 September 2019.

Distribution options available

If you have pre-requested a printed phone book directory:

- You may collect a free copy of the eir printed phone book directory from the following distribution points [xxx,xxx,xxx,xxx etc.]; alternatively
- You may opt to have a [free] copy of the eir printed phonebook directory delivered to your home address or place of work [for a charge to cover distribution and you may pay the distribution charge, via any of the following mechanisms
 - Bank Order/Draft and
 - Debit Card; and
 - Credit Card; and
 - Postal Money Order

eir will advise you of the distribution charge before you are bound by your request for the printed phonebook directory]