

# **Appendix D: Submissions to Consultation 23/14**

# Content

| Section  | Page |
|--|------|
| 1 Consultation 23/14 .....                                       | 3    |
| 2 ALTO (Alternative Operators in the Communications Market)..... | 6    |
| 3 Competition and Consumer Protection Commission (CCPC) .....    | 11   |
| 4 Chambers Ireland.....  | 37   |
| 5 Eir.....   | 54   |
| 6 Imagine .....  | 109  |
| 7 Magnet .....   | 124  |
| 8 National Disability Authority (NDA) .....                      | 128  |
| 9 Prepay Power.....  | 137  |
| 10 Sky Ireland .....   | 152  |
| 11 Tesco Mobile .....  | 167  |
| 12 Three .....   | 194  |
| 13 Verizon Ireland .....   | 224  |
| 14 Virgin Media .....  | 229  |
| 15 Vodafone .....  | 242  |
| 16 Wiggin LLP .....  | 257  |

# 1 Consultation 23/14

- 1.1 On 16 March 2023, ComReg issued its Consultation 23/14. The background to Consultation 23/14 is set out in full in that document.<sup>1</sup> Consultation 23/14 sought stakeholder views on proposals in relation to implementing a Charter by providers.
- 1.2 In Consultation 23/14, ComReg formed several preliminary views in summary:
- **Introduction of a Charter:** Providers of IAS and or ICS should prepare, publish and keep updated a Charter.
  - **Approach for implementation of Charter requirements:** Without prejudice to the power to impose Minimum Quality of Service Standards at any time, ComReg proposed a phased approach to implementing Charter requirements. Based on the proposal, for Service Providers to articulate commitments at the individual customer level, ComReg proposed to monitor and evaluate implementation of the Charter requirements, and the levels of customer service committed to and implemented by providers for their adequacy ("adequacy review"). ComReg said that it may, following an adequacy review, should it consider appropriate, seek to move to the specification of Minimum Quality of Service Standards subject to consultation. Furthermore, ComReg said that it may also seek to update Charter requirements and may seek to require any Minimum Quality of Service Standards information is included in a Charter.
  - **Scope and Application:** Charter requirements would apply to providers of IAS and number-based ICS with a market share of 0.5% or greater ("Relevant Service Providers"). Relevant Service Providers will be required to prepare, publish, and keep updated a Charter that addresses end-users that are consumers, microenterprises, small enterprises and not-for-profit organisations ("Relevant Customers").
  - **High level nature of Charter content:** The information required to be included in the Charter should consist of two categories (i) general information on providers' customer service policies and/or procedures, and (ii) specific provider-set commitments. As regards provider-set commitments offered, they ought to would be framed as the level of customer service an individual customer can expect to receive.
  - **ComReg specified Template:** Where a Relevant Service Providers will be required to prepare, publish, and keep updated a Charter, it is proposed that would be according to a proposed ComReg-specified form – a Customer Charter template in Schedule 1 at Appendix 1 and, according to requirements proposed to be specified for completing that

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<sup>1</sup> [Proposals-for-implementing-a-customer-charter.pdf \(comreg.ie\)](https://www.comreg.ie/Proposals-for-implementing-a-customer-charter.pdf)

template within Schedules 2 and 3 at Appendix 1 of Consultation 23/14.

- **Content and form requirements:** A Charter will include certain required information and, in the form, specified by ComReg according to Schedule 2 and 3 at Appendix 1 of Consultation 23/14.
- **Publication and notifying customers:** Relevant Service Providers will be required to publish their initial Charter on their websites. Relevant Service Providers may update Charter content on the first working day of each calendar quarter after their publication of the initial Charter. It is proposed that a Relevant Service Provider would be required to ensure all Relevant Customers are made aware of the existence of its Charter and how to obtain a copy. Relevant Service Providers would also be required to make the Charter available in accessible forms, and to provide copies of the Charter to customers on request.
- **Measuring and reporting on performance against commitments offered:** Relevant Service Providers would be required to monitor their actual performance against Charter commitments if offered and also report this to ComReg on a quarterly basis, according to a ComReg-specified form – a data dictionary and reporting template.<sup>2</sup> Relevant Service Provider would be required to arrange and pay for or the performance report to be independently audited and submit an audit statement to ComReg alongside the performance report.

## 1.1 Submissions to Consultation 23/14

1.3 ComReg received fifteen submissions to Consultation 23/14 from the following respondents:

- 1) ALTO
- 2) Competition and Consumer Protection Commission
- 3) Chambers Ireland
- 4) Eircom Limited and Meteor Mobile Communications Limited (trading as 'eir' and 'open eir'), collectively referred to as 'eir Group' or 'eir'.
- 5) Imagine
- 6) Magnet
- 7) National Disability Authority

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<sup>2</sup> Customer Charter Data Dictionary and Reporting Template”, Schedule 3 of the draft decision instrument.



- 8) Prepay Power
- 9) Sky Ireland
- 10) Tesco Mobile
- 11) Three
- 12) Verizon Ireland
- 13) Virgin Media
- 14) Vodafone
- 15) Wiggin LLP

## **2 ALTO (Alternative Operators in the Communications Market)**

# alto

alternative operators in the communications market

Consultation: Proposals for Implementing a  
Customer Charter –Ref: 23/14

# Submission By ALTO

Date: May 12<sup>th</sup> 2023

ALTO is pleased to respond to the Consultation: Proposals for Implementing a Customer Charter – Ref: 23/14.

ALTO welcomes this opportunity to comment on this consultation. ALTO limits its comments to strategic issues only. The nature of Customer Charters and the issues arising in the Consultation are undertaking or operator specific such that it is not appropriate for ALTO to address the detail of those issues in response – or at all.

## Comments

ALTO is grateful for the two extensions of time permitted in order to allow members and the industry to address the issues arising in this Consultation.


While ALTO is broadly supportive of ComReg’s proposal to extend the benefits of a Charter to microenterprises, small enterprises or not-for-profit organisations that have similar bargaining power as consumers. We would welcome a definition of Not-for-profit organisation based on size (e.g., employee threshold of 10 employees in line with microenterprise definition). The rationale for this request is to clarify where larger technically not-for-profit, or perhaps State entities, take services from industry that those entities should be outside the scope of the clear provisions of a Customer Charter. This request is based on ComReg’s own rationale concerning bargaining power – obviously, larger undertakings that may still be not-for-profit have greater bargaining power than consumers and should be excepted from Charter consideration or capture. We acknowledge that this issue is perhaps not as clear or considered as it could be from the point of view of the European Electronic Communications Code or EECC. We would welcome clarity on this issue from ComReg.

ALTO notes that ComReg’s Consultation paper appears to make assumptions on the market based on business-to-business and certain behaviours as researched which are taken at a point in time. From ALTO’s point of view it is clear that each

and every operator on the market has different technological deployments, challenges, and offerings such that a one-size-fits-all or a standard approach to Customer Charters may not be consistent with the ability of wholesale operators to meet those customer standards deemed to apply, or be derived across the board –that is logically the case when wholesale operators facilitating retail operators on a bespoke or innovation led basis. While ComReg is obviously the sector regulator and is uniquely placed to analyse inputs and processes on the market. Industry will likely require a balanced approach to deal with the Customer Charters, particularly where new and innovative offerings are placed on the market, or where various technological solutions are deployed in order to meet the requirements of a customer, cohort of customers, or customers being serviced in a location requiring differing technological standards. To that end, ComReg should contemplate in far greater detail than it has, how and when precisely an adequacy review takes place and how it should take shape. Industry does not need a set of Customer Charter requirements that are either inflexible or unduly burdensome, and we note that this is not ComReg’s intention.

**ALTO 12 May 2023**

### **3 Competition and Consumer Protection Commission (CCPC)**



# Submission to the Commission for Communications Regulation Consultation on the Proposals for Implementing a Customer Charter

12 May 2023



Coimisiún um  
Iomaíocht agus  
Cosaint Tomhaltóirí

Competition and  
Consumer Protection  
Commission



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## Introduction

The Competition and Consumer Protection Commission ('CCPC') welcomes the opportunity to respond to the Commission for Communications Regulation ('ComReg') consultation on its proposals for implementing a Customer Charter ('the Charter'). The CCPC has a statutory function under Section 10(3)(a) of the Competition and Consumer Protection Act 2014 to provide advice to policymakers on matters likely to impact on consumer protection and welfare, or competition and the CCPC's submission reflects this mandate.

The CCPC maintains a consumer helpline that provides information to consumers to inform them of their rights and help them to resolve issues with traders (CCPC's Consumer Helpline). The CCPC's Consumer Helpline annually receives a significant number of contacts relating to electronic communications. Analysis of contacts to the CCPC's Consumer Helpline shows that the electronic communications sector attracted the second largest number of contacts, by sector, in 2020<sup>1</sup>, 2021<sup>2</sup> and 2022<sup>3</sup>. In 2022, three communications providers were among the top ten traders named across all contacts received and 875 contacts were referred to ComReg as they fell within its remit<sup>4</sup>.

The CCPC agrees with the proposal that ComReg should introduce requirements for providers of internet access services (IAS) and publicly available interpersonal communications services (ICS) to prepare, publish and keep updated a Charter. Customer charters are a standard practice in other sectors, such as energy and waste collection, and they can be helpful in informing customers of the standards of service that they can expect to receive when engaging with a service provider<sup>5</sup>.

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<sup>1</sup> CCPC (2021) <https://www.ccpc.ie/consumers/wp-content/uploads/sites/2/2021/07/Consumer-Contacts-Report-2021.pdf>

<sup>2</sup> CCPC (2022) <https://www.ccpc.ie/consumers/wp-content/uploads/sites/2/2022/08/172207-CCPC-Contacts-Report-August-2022.pdf>

<sup>3</sup> CCPC (2023) <https://www.ccpc.ie/consumers/wp-content/uploads/sites/2/2023/03/CCPC-Contacts-Report-Jan-Dec-2022.pdf>

<sup>4</sup> Ibid.

<sup>5</sup> Best practice - as outlined by the Department of Finance in its Report for the 'Retail Banking Review', November 2022 – states that these standards should be measurable and address a full range of customer services. [Department of Finance 'Retail Banking Review'](#). The CCPC notes the recommendation of the Retail Banking Review that the revised Consumer Protection Code require providers of retail banking services to set out customer charters.

The CCPC is of the view that it is important that providers are permitted to include any other customer service commitments they wish to make, outside of those prescribed by ComReg, in the Charter. Inclusion of these other commitments in the Charter would align with ComReg's intention for the Charter to be a 'one stop shop', with customers being able to find key information about a provider's customer service in one place. It would also ensure that providers who wish to compete on the basis of additional commitments, to the benefit of customers, are not inadvertently disincentivised from offering those commitments because they cannot include them within the principal document which a customer is encouraged to consult to understand the provider's customer service levels, i.e. the Charter.

Forthcoming research conducted by the CCPC notes that over three quarters of consumers shopping around for broadband and mobile phone offers use information on the providers' websites to inform their choice<sup>6</sup>. That research will show that across a range of product markets a large proportion of consumers will engage with the market if they experience poor service or price increases. Non-switchers in regulated markets are more loyal to their current provider, more worried about problems occurring if they switch, and less likely to use online information and more likely to use phone to engage with providers. This suggests that a downloadable Charter, prominently displayed on provider websites, which promotes competition on quality of service, could aid more consumers in deciding to switch.

The CCPC response to specific sections of the consultation paper are set out below.

## Proposed approach to Implementing Charter Requirements

### *High level approach*

The CCPC notes that ComReg intend to facilitate provider-set commitments would allow providers to determine Charter content that works with their customer service models and ways of operating, and compete with other providers on quality of service uniform,

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<sup>6</sup> The CCPC will publish research in 2023 on the consumer experience in a number of regulated sectors, including electronic communications.

while prescribing Minimum Quality of Service Standards could dampen incentives on providers to compete on quality of service<sup>7</sup>.

However, the CCPC recommends that ComReg should consider the introduction of at least one specified standard: whether customers should be provided with the possibility to request human intervention when they interact with the service provider through fully automated online interfaces<sup>8</sup>. Access to high speed broadband is close to essential for consumers and businesses, and the increase in working from home has reinforced its importance. It is therefore particularly important to ensure continued access and choice for consumers, and to protect those with low levels of digital literacy<sup>9</sup>.

The CCPC also recommends that ComReg should consider whether consumers who are vulnerable should have guaranteed access to a specific standard of customer service<sup>10</sup>. In the energy sector, there are specific consumer protection measures in place for registered vulnerable customers, which include rules regarding how suppliers must treat, and communicate with, vulnerable customers<sup>11</sup>. Regulated financial services providers, who must act in the best interests of consumers, are expected to design their business processes to ensure that vulnerable consumers are not at increased risk of detriment or harm<sup>12</sup>.

There are a number of vulnerability drivers specific to the electronic communications sector, which can have a wide-ranging impact given that many goods and services are provided online<sup>13</sup>. The CCPC is aware that ComReg has specific support measures for

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<sup>7</sup> Although, as acknowledged in the Regulatory Impact Assessment options, providers could still innovate and compete to deliver standards above the ComReg specified minimum level.

<sup>8</sup> The current Proposal for a Directive of the European Parliament and of the Council amending Directive 2011/83/EU concerning financial services contracts concluded at a distance and repealing Directive 2002/65/EC would introduce a right for consumers to request and obtain human intervention in case a trader uses online tools (Article 16d. 3) [Proposal for amending Directive 2011/83/EU](#)

<sup>9</sup> Government of Ireland (2021) '[Adult Literacy For Life – a 10–Year Adult Literacy, Numeracy And Digital Literacy Strategy](#)'

<sup>10</sup> Definitions of vulnerability vary, although there is a growing recognition that consumer vulnerability is a fluid concept that can manifest in a number of ways and be driven by a multitude of causes. '[G20/OECD 'High-Level Principles on Financial Consumer Protection 2022'](#) ([oecd.org](#)) The characteristics of vulnerability set out in the [Unfair Commercial Practices Directive \(UCPD\)](#) are 'mental or physical infirmity, age or

credulity'. However, guidance from the European Commission provides that these characteristics are 'indicative and non-exhaustive' and that the concept 'covers also context-dependent vulnerabilities

<sup>11</sup> CRU (2022) '[Electricity and Gas Suppliers Handbook](#)'

<sup>12</sup> Central Bank of Ireland (CBI) (2022) '[Consumer Protection Code Review – Discussion Paper](#)'

<sup>13</sup> European Commission (2016) '[Consumer Vulnerability across key markets in the European Union](#)'

vulnerable consumers<sup>14</sup>, and its Code of Practice for Premium Rate Services includes specific protection provisions for vulnerable consumers<sup>15</sup>. In addition, the CCPC is of the view that the needs of vulnerable consumers should be reflected in the design and delivery of electronic communication products and services, as well as service providers policies and procedures, such as their customer service policies.

Therefore, it is important that ComReg consider whether standards in customer service for vulnerable consumers in the sector are needed to potentially mitigate the risk of those consumers experiencing detriment and ensuring that they have access to services. The CCPC recommends that the Charter should include a section outlining customer service commitments and policy provisions for vulnerable consumers, including the facility for customers with disabilities to register their requirements with their service providers<sup>16</sup>.

### *Consumer Choice*

As acknowledged in the consultation paper, the proposed approach entails that the actual level of customer service a customer would receive will depend on the individual provider. The approach relies on the ability of a customer to switch and choose another provider if they are unsatisfied with the customer service provided.

Studies have shown that there can be various barriers to switching that affect consumers in the communications markets<sup>17</sup>. This includes, as is highlighted in the consultation paper, a lack of transparency or access to the right information, but also behavioural biases and digital skills. Research has shown that in the electronic communications sector, despite long-standing market liberalisation and efforts to reduce switching costs, many consumers have never switched provider<sup>18</sup>. Furthermore, while competition for fixed broadband services has improved over the past decade, some consumers in Ireland only have access to a limited number of service providers<sup>19</sup>.

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<sup>14</sup> ComReg (2021) [‘Support for Vulnerable, Elderly & Consumers with Disabilities’](#)

<sup>15</sup> ComReg (2014) [‘Code of Practice – Premium Rate Services’](#)

<sup>16</sup> ComReg [‘Service Provider Accessibility Requirements’ webpage](#)

<sup>17</sup> For example, Lunn, P. (2011). Telecommunications Consumers: A Behavioural Economic Analysis, ESRI Working Paper 417, <https://www.esri.ie/publications/telecommunications-consumers-a-behavioural-economic-analysis>; Lunn, P., Lyons.S (2018) [‘Consumer switching intentions for telecoms services: evidence from Ireland’](#) ESRI

<sup>18</sup> Lunn, P., Lyons.S (2018) [‘Consumer switching intentions for telecoms services: evidence from Ireland’](#) ESRI

<sup>19</sup> ComReg (2023) [Electronic Communications Strategy Statement - 2023 to 2025](#)



The CCPC notes that the second phase of the proposed approach is the 'adequacy review', in which ComReg will review whether the provider-set commitment approach meets the Charter objectives. This phase will be crucial to ensure that its objective of driving improvements in overall customer service levels in the sector is achieved evenly across consumers. The CCPC recommends that ComReg, as part of its adequacy review, should consider whether the provider-set commitment approach has led to competition based on the quality of customer service between service providers and be prepared to act should providers make unreasonably low-level commitments. It should also consider whether consumers residing in both urban and rural areas have benefited from an increase in quality of customer service.

#### *Scope*

The CCPC agrees that the Charter should be targeted towards the greatest evidence of poor customer outcomes, which it has determined to be namely the providers of fixed and mobile internet and phone services that serve the majority of the population. The CCPC also agrees that the Charter should address the range of electronic communication services customers that all have a similar weaker bargaining power (all consumers, microenterprises, small enterprises and not-for-profit organisations), instead of larger enterprises who benefit from a stronger bargaining power.

## Proposed charter content and form requirements

#### *Charter Form*

The CCPC agrees with the proposal that the Charter should follow a ComReg specified template in order to allow consumers to easily compare information. A key aspect which enables the consumer choice process is the ability to compare and judge alternative product and services<sup>20</sup>, and it follows that promoting the accessibility and clarity of information, and the empowerment and engagement of consumers, are key to driving

competition and fostering consumer choice<sup>21</sup>. Therefore, the CCPC supports ComReg's proposals that the Charter should be written in plain English, and that it should be made accessible to all end-users following relevant guidelines. The CCPC also agrees that the

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<sup>20</sup> Vickers, J. (2004) '[Economics for Consumer Policy](#)', in Proceedings of the British Academy (Vol. 125, pp. 287-310). Oxford: Oxford University Press/British Academy ([thebritishacademy.ac.uk](http://thebritishacademy.ac.uk))

<sup>21</sup> Lowe, J. (2017) '[Consumers and competition: Delivering more effective consumer power in retail financial markets](#) ([fs-cp.org.uk](http://fs-cp.org.uk))

Charter should be as short as possible, focusing on key information that consumers need. This might help mitigate against ‘information overload’, where consumers are overwhelmed by the volume of information, and find it difficult to identify salient differences between offers, and help consumers choose the best service provider for their needs.

#### *Charter Content*

In respect of the proposed content requirements of the Charter, the CCPC is broadly supportive of the approach set out by ComReg and makes the following high-level comments:

- The CCPC in particular welcomes the proposal to include information and specific commitments relating to billing and refunds in the Charter, as an analysis of contacts to the CCPC’s Consumer Helpline in 2022 shows that charges, payment and deposit issues are among the top categories of consumer queries received relating to IAS and ICS providers.
- As customers may consult the Charter to understand what rights they have in a situation where they are dissatisfied with the service provided, it should be clear to customers that nothing in the Charter, particularly any compensation or similar offered by a provider, affects their statutory rights and the CCPC suggests that a statement to this effect is included in the Charter.
- It is noted that ‘Schedule 3: Customer Charter Data Dictionary and Reporting Template’ requires providers to measure certain commitments in the Charter in prescribed units of time. For example, providers must measure their commitment to call answering times in seconds and postal response times in clock hours. As noted by the National Adult Literacy Agency, by reference to 2012 figures from the Central Statistics Office, 1 in 4 adults in Ireland struggle with everyday maths<sup>22</sup>. The CCPC is therefore of the view that some customers might struggle to understand the commitments given where they are expressed in large numbers

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<sup>22</sup> NALA (2022) [NALA-Factsheet-Literacy-and-numeracy-in-Ireland.pdf](#)

which require a certain level of mathematical ability to convert into a more commonly understood unit of time. For example, it may be difficult for some customers to understand a commitment to answer a phone call in 190 seconds or a postal communication in 72 clock hours, where the same commitment in minutes or days would be easier to understand. The CCPC suggests that ComReg considers the needs of these customers in prescribing the units of time to be used in the Charter.

- In the 'How you can contact us' section of the Charter, providers can choose to commit to specifying the maximum follow-up response time for queries raised which were not resolved at the time of initial customer contact. This 'follow up response time' is defined in 'Schedule 3: Customer Charter Data Dictionary and Reporting Template' as 'the time elapsed between the instant the initial phone call in which the calling customer raised a query ends, or the instant the Relevant Service Provider receives a query from the customer by another channel (including in person) – as applicable – to the instant the answer from the Relevant Service Provider has been provided to the Relevant Customer, measured in clock hours'.

Providers can choose to make a similar commitment in the 'If you think you have been billed incorrectly' section, where a customer has raised a query regarding billing. The provider can commit to respond to a customer who has raised a billing/charge issue within a specified time, defined in 'Schedule 3: Customer Charter Data Dictionary and Reporting Template' by reference to the time elapsed between the request<sup>23</sup> from the customer and 'the answer' from the provider, measured in clock hours.

The CCPC suggests that additional clarity, to the benefit of customers and providers, could be offered by further defining what constitutes 'the answer' to be given by the provider and specifying the extent to which 'the answer' must finally resolve the customer's issue, rather than act as a provisional or holding

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<sup>23</sup> The CCPC notes that Schedule 3 provides that 'The billing/charge review response time shall be defined as the time elapsed between the answer from the Relevant Customer (the time the request is made) and the answer from the Relevant Service Provider, measured in clock hours, as per ETSI ES 202 057-1 clause 5.8.1'. It is assumed that 'answer' in underline is intended to reference to 'request'.

response. The CCPC suggests that it could be instructive to consider the concepts of 'Complaint Response' and 'Complaint Resolution' in the Decision Instrument made by ComReg for the purposes of imposing minimum requirements to ensure access to and compliance with a uniform code of practice for complaints handling<sup>24</sup>.

- As proposed, the 'How you can contact us' section of the Charter will include information about the channels of communication which the provider makes available to customers. Having regard to the potential for artificial intelligence to play an ever-increasing role in customer service provision, the CCPC suggests that ComReg consider requiring providers in the Charter to disclose whether customers using a channel of communication will be interacting with an artificial intelligence (AI) system. Such a disclosure would align with an objective of the Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence, for the use of AI systems intended to interact with natural persons to be transparent to those persons<sup>25,26</sup>. In addition, the CCPC is of the view that it would further ComReg's general objective for customers to be better informed about the customer service offerings of providers and offer some future proofing of the Charter.
- For customers who do not have an existing connection, the specific commitment which providers can choose to make in the Charter relates to acknowledging the customer's service connection request, confirming whether the order can be processed at the time of request or not, and if the order can be processed, agreeing a date for an initial appointment to provision the service. The CCPC understands that, as proposed, providers who choose to make the commitment

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<sup>24</sup> ComReg (2017) [https://www.comreg.ie/media/dlm\\_uploads/2017/06/ComReg1762.pdf](https://www.comreg.ie/media/dlm_uploads/2017/06/ComReg1762.pdf)

<sup>25</sup> Article 52 of the Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence sets out that 'Providers shall ensure that AI systems intended to interact with natural persons are designed and developed in such a way that natural persons are informed that they are interacting with an AI system, unless this is obvious from the point of view of a natural person who is reasonably well-informed, observant and circumspect, taking into account

the circumstances and the context of use'. European Council (2022)  
<https://data.consilium.europa.eu/doc/document/ST-14954-2022-INIT/en/pdf>

<sup>26</sup> For commentary on the application of the Proposal for a Regulation of the European Parliament and of the Council laying down harmonised rules on artificial intelligence, in particular to chatbots and digital assistants, see Mason Hayes and Curran (2023) [Regulating Chatbots and Deepfakes | Mason Hayes Curran \(mhc.ie\)](#)



do not commit to a timeframe for a date for either the initial appointment or for service activation to occur, where there is no existing connection. As regards the initial appointment, the commitment requires only that the date for the initial appointment is agreed within the timeframe committed to. As set out in the consultation paper, this is because of the range of cases which can be covered where there is no existing connection and because the timeframes for connecting these customers could depend on many factors. The CCPC suggests that, to avoid customer confusion, it is made clearer in the prescribed wording for the commitment that providers are not committing to any specific time frames for the initial appointment or for connecting new services to the network, where there is no existing connection at the property.

- It is proposed that the 'outages and repairs' section of the Charter will include information about how a customer can report a service issue to their provider and that providers may include 'relevant information about addressing individual customer-level issues with service'. It is not proposed that providers would have the option of offering prescribed specific commitments relating to individual customer-level issues with service but only to outages which are defined as issues affecting multiple customers at the same time. Acknowledging that individual customer-level issues with service can arise for a multitude of reasons which may make it difficult to frame specific commitments, the CCPC suggests that there may be an opportunity, within the Charter, to further incentivise providers to improve customer service provision relating to individual customer-level issues with service. Customer level service issues can materially impact a customer's use and enjoyment of a service which they have paid to receive and with increasing numbers of people working remotely<sup>27</sup>, can also potentially negatively impact on their ability to work and make a livelihood.

The CCPC suggests that ComReg considers, at a minimum, mandating, rather than making optional, the provision by providers of information about addressing individual customer-level issues with

service in the Charter, including requiring

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<sup>27</sup> The CSO Labour Force Survey for Quarter 4, 2022 indicated 22% of those in employment were working 'mainly from home', with a further 13% 'sometimes' working from home. CSO (2023) [LFS Presentation Q4 2022 for web.pptx \(live.com\)](#)

them to set out the steps which they may take to investigate and fix the issues. ComReg could additionally consider prescribing a specific commitment to acknowledge the customer-level service issue within a specified timeframe from the date it is reported to them and provide an update to the customer on fixing the issue at specified intervals<sup>28</sup>.

While these suggested changes would not offer customers certainty on how long it will take for any customer-level issue with service they might have to be resolved, it would at least give customers greater insight at the pre-contractual stage into how the provider will go about addressing such an issue. Where a provider chooses to make the specific commitment suggested it would also provide the customer with reassurance that the provider will keep them updated on resolution of the issue. It would also offer customers a point of comparison between different providers on how they deal with customer-level service issues.

- As it is intended that customers would consult the Charter when choosing a new, or switching to another provider, the CCPC suggests ComReg consider including a link to its online comparison tool<sup>29</sup> in the Charter, to raise awareness amongst customers of the assistance which the website offers in helping them to choose the provider which best suits their needs. The CCPC notes that it is intended that providers will be required to outline the key rights which customers have around switching in the Charter, including from Regulation 90 of the European Union (Electronic Communications Code) Regulations 2022<sup>30</sup>.

## Evaluating and reporting performance against charter commitments

In order for the Charter to achieve its objectives, it will be necessary for customers to be able to evaluate providers' performance and to be confident that their stated performance

<sup>29</sup> For clarity, [Compare Value \(Services\) | Commission for Communications Regulation \(comreg.ie\)](https://www.comreg.ie/). It is noted that there are a number of requirements on regulated financial services providers to provide a link to the CCPC's Money Tools

Page 32 of 272

is an accurate reflection of their level of customer service. Without a form of evaluation there will also be no way to determine if providers commitments have been met or not. Therefore, the CCPC agrees that providers should monitor how they perform against the Charter and should report this to ComReg.

The CCPC is also of the view that making providers accountable is important to ensure that they meet their commitments. Consumers and providers should be clear as to what they can expect if commitments aren't met. The CCPC recommends that ComReg should clarify what actions, if any, will arise when a provider's performance is deemed to be poor. The CCPC is also aware that ComReg, following the adequacy review phase, may seek to move to the specification of Minimum Quality of Service Standards. Where that is the case, the CCPC notes the importance of appropriate enforcement measures against non- compliance<sup>31</sup>.

The CCPC agrees that if the monitoring and reporting requirements placed on providers are too excessive, their ability to report accurately and on time may be impacted. This may be particularly true for smaller providers and new entrants who have just met the threshold to comply with the Charter. We note that the principle of proportionality has been kept in mind in considerations around provider evaluation and reporting, and on balance we think that the suggestions in the consultation paper for the time periods are correct. If, as is anticipated in the consultation paper, once an automated process is set up by a provider the ongoing burden of reporting will be relatively low, then expecting a provider to report on a quarterly basis seems fair. This time period has, as the consultation notes, the added advantage of being consistent with existing universal service reporting requirements.

For customers to be fully able to trust results, then a form of independent audit will be required. The CCPC notes the view of ComReg in the consultation paper that such audits be conducted annually. A requirement that providers have their performance reports audited once a year seems a

proportionate expectation to be placed on a provider.

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<sup>31</sup> In the waste management sector, both a lack of monitoring and a lack of sanctions for non-compliance with customer charter requirements for household waste collection operators led to inadequate consumer protection in the sector. CCPC (2018) ['The Operation of the Household Waste Collection Market'](#)

While there may be merit in having a provider only submit an audited performance report, we understand why ComReg would like to be able to observe any negative trends in customer service experiences closer to real time. Since this would not be possible if ComReg only received an annual report, the two different reporting requirements time periods are the best way to have up-to-date information and to maintain confidence in the accuracy of the overall data. However, ComReg will have to ensure that this is clearly explained to customers and that there is no potential for confusion. Overall, it will be important that reported results are made available to customers in an accessible and easy to understand manner, and that it is clear to customers that they can have confidence in the results.

## Regulatory Impact Assessment

We welcome the detailed analysis conducted by ComReg in the Regulatory Impact Assessment accompanying this consultation. The assessment clearly demonstrates the need for a Customer Charter and by focusing on the potential industry, customer and competition impacts, it will be helpful in determining the correct options to choose and the necessary trade-offs that need to be made. The likely impacts are realistic and provide a useful justification for each option chosen.

The introduction of a Charter should not result in a distortion or restriction of competition in the electronic communications sector. In particular, a Charter should not add barriers that could prevent potential entrants from joining the sector. While the impact on new entrants is considered for one of the consultation sections ('Which providers the Charter will apply to'), we would encourage ComReg to fully consider the impact on potential new entrants when making a final decision on all the design and implementation measures for the Charter.

ENDS





# 4 Chambers Ireland



# Submission to the Commission for Communications Regulation on Proposals for Implementing a Customer Charter

**Submission by Chambers  
Ireland**

**May 2023**

## About Chambers Ireland

Chambers Ireland, the voice of business throughout Ireland, is an all-island organisation with a unique geographical reach. Our members are the Chambers of Commerce in the cities and towns throughout the country – active in every constituency. Each of our member Chambers is central to their local business community and all seek to promote thriving local economies that can support sustainable cities and communities.

In September 2019, our network pledged to advocate for and support the advancement of the Sustainable Development Goals. In doing so, we use the Goals as a framework to identify policy priorities and communicate our recommendations, and we have a particular focus on five of the goals encompassing decent work and economic growth (SDG 8), sustainable cities and communities (SDG 11), advancement in gender equality (SDG 5), viable industries, innovation, and infrastructure (SDG 9) and progress in climate action (SDG 13).<sup>1</sup> The most relevant Sustainable Development Goals for this consultation are Decent Work and Economic Growth (SDG 8), and Industry, Innovation, and Infrastructure (SDG 9).

<sup>1</sup> The Chambers Ireland SDGs. Available at <https://www.chambers.ie/policy/sustainable-development-goals/chambers-ireland-sdgs/>

## Chambers Ireland Perspective

We are increasingly dependent on connectivity in our personal and work lives, and it has become even more important post Covid-19 as we have now shifted to remote and hybridwork models and are distanced from friends and family.

According to the CX 2022 [Report](#), many of the 14 brands in the telecommunications sector have failed to cope with customer demands, with only Tesco Mobile making it to the top 100 companies offering the best customer service, coming in at 83. Tesco Mobile surpassed well- known brands like WhatsApp, Zoom, Instagram and Twitter, all of whom failed to make it to thetop 100. Tesco Mobile and Virgin Media were the only brands in the sector to improve their overall Customer experience score, while Three, Sky and Eir saw significant drops in their overall customer experience scores. Eir saw its score drop by more than 11%.

The Customer Experience Industry in Ireland has the potential to create thousands of jobs and help operators stay competitive by focusing on the three Customer Experience models i.e., technology adoption, people change and service transformation. Digital disruption continues totransform the role of customer contact centers, impacting skills and technology required for employees to perform. It is therefore essential for centers to actively exploit these opportunities, move up in the value chain and provide superior and transparent customer experience whilst driving business objectives.

There are several factors that influence customers choice of services. Price and quality of service are the main factors however, quality of customer service that a customer can expect isalso a contributing factor. And it is imperative that this information surrounding customer service is easily available, comprehensible, and transparent. Therefore, the introduction of a charter is important and in time as Ireland moves towards greater economic development andconsecutively, experiences a greater dependence on Internet access and Interpersonal communication services.

## **Questions**

- 1. Do you agree with the proposal that ComReg should introduce requirements for providers of IAS and ICS to prepare, publish and keep updated a Charter? If yes, please explain why and if no, please provide specific alternative suggestions.**

Irish telecommunication sector has a long history of failing to satisfy their customers with good customer services. This has been a result of lack of transparency, inability to contact providers to make complaints and once the complaints have been made, there was little action that was taken to solve the issue. And as much as it is the provider's responsibility to fix the underlying problems with its customer care operations, ComReg as a regulator also needs to play a more active role in ensuring that good customers are provided to customers.

Moreover, customers should be able to freely decide their providers which is a limitation in the Irish Market due to asymmetry in information regarding query handling, complaint handling, connections, over billing, outages and switching services. For instance, provider websites contain a lot of different information which makes it difficult to navigate specific pieces of information regarding customer service commitments that the provider has made. Many providers have very little information available on how to report faults and outages and how to get updates on these outages. Another area that lacks adequate information is about connection and disconnection processes. There is an overall lack of transparency around the level of customer service customers can expect.

So, when customers have access to charters where information is presented to them transparently, they can choose which provider to opt for according to their preference and requirements.

In any market, competition enhances the quality of service provided. A competitive market dynamic ensures that companies are working towards providing the best and the most cost-effective services to their customers. We strongly believe that in this period of the high cost-of-living crisis, businesses are most concerned about reducing

costs in all areas of operations consequently it would be most beneficial for businesses if providers are operating in a



competitive environment and competing to reduce prices while also providing good services overall.

Therefore, Chambers Ireland agrees with the proposal that ComReg should introduce requirements for providers of IAS and ICS to prepare, publish and keep updated a Charter.

2. Do you agree with the proposal that the Charter will contain provider-set commitments, with ComReg to monitor and evaluate implementation of the Charter requirements and the levels of customer service committed to and implemented by providers for their adequacy before deciding whether to seek to move to the specification of Minimum Quality of Service Standards, and/or seek to require any Minimum Quality of Service Standards information is included in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

Chambers Ireland strongly disagrees with ComReg's consideration of option 2 i.e., a Charter containing provider-set commitments. We believe this will put the entire responsibility and accountability on the provider. And as much as it gives flexibility to the provider to set commitments that are tailored to their individual business operations, this could also lead to negligence on the provider's part to honour their commitments or purposefully set low commitment standards. There are some services that need to be mandatory and cannot be compromised on while some additional services can be flexible and altered according to the provider's individual market experience.

For Example, ComReg should set Minimum Quality of Service Standards for query handling, complaint handling, connection and billing and refunds. The Charter should contain provider-set commitments on issues regarding outages (as outages can sometimes be unplanned and not entirely in the hands of the providers to fix), repairs, disconnection policy in case of non-payment of bills and switching services.

ComReg needs to exercise its role as a regulator and set commitments as well as Minimum Quality of Service Standards. Following this, we believe option 4 should be chosen wherein the

Charter would contain a combination of provider-set commitments and ComReg-set Minimum Quality of Service Standards. This mixed approach would control the regulatory burden and the cost of implementation.

- 3. Do you agree with the proposal that Charter requirements will apply to providers of IASand/or number-based interpersonal communications services with a market share of 0.5% or greater? If yes, please explain why and, if no, please provide specific alternative suggestions.**

Since the given threshold will cover a majority of providers i.e. providers serving 100% of mobile voice and mobile broadband subscribers, 98.7% of fixed line voice subscribers and 96.3% of fixed broadband subscribers in Ireland, Chambers Ireland agrees with ComReg's proposal that the Charter requirements will apply to providers with a market share of 0.5% or greater.

- 4. Do you agree with the proposal that providers will be required to prepare, publish and keep updated a Charter that addresses all consumers, microenterprises, small enterprises and not-for-profit organisations? If yes, please explain why and, if no, please provide specific alternative suggestions.**

Chambers Ireland agrees with the proposal that providers will be required to prepare, publish, and keep updated a Charter that addresses all consumers, microenterprises, small enterprises, and non-for-profit organisations. This option covers majority of end-users in Ireland, with a bargaining power, to have the benefits of a Charter. However, we do want to emphasize that ComReg should ensure that if a certain aspects of a provider's customer service differs between consumers, microenterprises, small enterprises and non-profits, a provider is making this very clear within the single document of the Charter.

- 5. Do you agree with the proposal that a Charter will contain both general information on providers' customer service policies, and specific commitments as to the level of customer service an individual customer can expect to receive in a given period? If yes, please explain why and, if no, please provide specific alternative suggestions.**

We broadly agree with the proposed selection of sub-options 2a and 2d wherein a Charter would contain a provider's specific commitment as to the level of customer service an individual customer could expect to receive in a given period. Having commitments set for a given period and updated for subsequent periods will make the process organised and systematic. This will ensure maximum compliance and make it easier for the provider's performance to be measured and actions to be taken accordingly if the performance is poor. But we suggest that there should also be an online dashboard that updates the ongoing progress on the commitments.

Additionally, sub-option 2d is the most suitable as it is best to have a charter containing service level commitments for individuals specifically as opposed to having a charter containing just the 'average' service level commitments across a provider's customer base.

- 6. Do you agree with the proposal that providers must prepare, publish and keep updated a Charter in accordance with a ComReg-specified template? If yes, please explain why and, if no, please provide specific alternative suggestions.**

We agree with the proposal to adopt option 4 where a template is set out for the Charter form. We consider that it is essential to have a template in order to ensure uniformity and comparability across different service providers as well as allow for some flexibility. However, we do propose that option 2 should also be included to explain to providers, what it is that ComReg is aiming to accomplish through this charter. Having the principals laid out in the beginning will give providers a direction and a foundation to base their Charter on. Providers should keep in mind that the Charter is comparable, easy to procure/locate, understand, clear and transparent.

**7. Do you agree with the proposed form requirements for completing a Charter template? If yes, please explain why and, if no, please provide specific alternative suggestions.**

We agree with the proposed form requirements for completing a Charter template. It is short and precise and includes an optional heading for provider to include any additional information that they deem necessary. This will make it easily comprehensible for the users.

However, as mentioned earlier the Charter should not only contain provider-set commitments but also include ComReg-set Minimum Quality of service standards. ComReg needs to clearly outline what policies in a given area are mandatory for services to be provided and what are flexible for the providers to choose. And this then should be explicitly mentioned in the Charter for the customers to see.

**8. Do you agree with the proposal that providers publish an initial Charter on their website on 2 October 2023, containing monthly Charter commitments, and are allowed to update the Charter each quarter thereafter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

Yes, we believe Option 2 is the most suitable with Monthly commitments and Quarterly updates to be published by providers. This option is achievable as well as adequately frequent.

**9. Do you agree with the proposal that providers be required to ensure all customers are made aware of the Charter, and otherwise ensure the Charter is available on request and in accessible format? If yes, please explain why and, if no, please provide specific alternative suggestions.**

We agree with ComReg's choice of option 2 where notification to customers regarding the existence of a Charter is included as part of pre-contractual information. However, in reality, customers are frequently provided with a variety of pre-contractual information and there is a possibility that customers might miss out on this charter notification. Therefore we propose

that option 3 should also be added to option 2 where a separate notification about the charter is included on bills on a monthly basis. This way customers will be regularly made aware of the charter and its accessibility.

**10. Do you agree with the proposed Charter content and the form in which commitments around core customer service, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

We agree with the proposed Charter content and the form in which commitments around core customer service are to be expressed in the Charter. However, we recommend that ComReg should make it mandatory for providers to put phone numbers as a means of customer service as it is the most effective and convenient method of providing customer service. And in cases where it is simply impossible for a provider to have a phone service, they should include the number of hours/days that it will take the provider to respond to the online query/complaint. Failing to handle the query/complaint within that time frame, the provider should be sanctioned.

**11. Do you agree with the proposed Charter content around complaint handling? If yes, please explain why and, if no, please provide specific alternative suggestions.**

No, we do not agree with the proposed Charter content around complaint handling. We think it is still important to include the code of practice. In order to avoid duplication, we recommend that the Charter should include a plain english brief summary of the code of practice and a web link or information on where the customers can access the full version.

**12. Do you agree with the proposed Charter content and the form in which commitments around connections, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

We agree with the proposed Charter content and the form in which commitments around connections are to be expressed in a Charter. The proposal clearly states the two key scenarios that can arise in connecting a new property and/or service and what providers need to do in each case. The actions listed to be taken in each scenario are adequate.

**13. Do you agree with the proposed Charter content and the form in which commitments around billing and refunds, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

We agree with the proposed Charter content and the form in which commitments around billing and refunds are to be expressed in the Charter. We recommend that ComReg should sanction providers that fail to give compensation or similar and this information should also be included in the Charter so that customers are aware.

**14. Do you agree with the proposed Charter content and the form in which commitments around outages and repairs, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

We agree with ComReg's proposal that providers commit to making information generally available on the outage issue and estimated service restoration time. Communication outages are uniquely disruptive, individuals who are using only one service are often not made aware of the reason for the outage and for how long it will occur.

Both cases of planned and unplanned outages have been given consideration by ComReg. If planned outages are to occur, it is the right of the consumer to know when and for how long will the outage take place. It is understandable for unplanned outages since providers are not directly responsible for restoring service therefore, they cannot have prior information. But providers should have contingent plans and arrangements for when they do occur. For these reasons, ComReg's proposal is suitable.

**15. Do you agree with the proposed Charter content and the form in which commitments around disconnection for non-payment of bills are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

We do not agree with the proposal in its entirety. While we think providers should have the flexibility to choose to offer their own customers specific commitments regarding customer service in the case of non-payment of bills, it should be made mandatory for all providers to commit to a specific minimum notice period before disconnections. The length of the notice period can be decided by the providers but not giving any notice or a warning to the user before disconnection would be unfair. We further emphasize that ComReg should push for providers to give daily reminders to users for a minimum of 3 to 5 days before disconnecting services. This is a common practice in various countries.

**16. Do you agree with the proposed Charter content around switching services? If yes, please explain why and, if no, please provide specific alternative suggestions.**

No, we do not agree with the proposed Charter content around switching services. Even if it makes up for only 8% of the reported issues, it is still a significant problem, and we think not enough research has been done on what the customer key rights should be around switching. ComReg should conduct market research to figure out what other issues customers are facing when it comes to switching, besides delays, issues in accessing handset unlocking codes, and customers losing their numbers when switching mobile providers.

**17. Are there any other areas and/or content you think should be included in a Charter? If yes, please explain and provide specific suggestions.**

Chambers Ireland does not have any additional suggestions to make or content to add to the Charter.



**18. Do you agree with the proposal that providers report their performance against Charter commitments to ComReg on a quarterly basis, and arrange and pay for an independent audit of performance reports on an annual basis? If yes, please explain why and, if no, please provide specific alternative suggestions.**

We agree with ComReg's choice of option 3 where an ongoing evaluation is carried out. Sub- option 3b with a Quarterly reporting is suitable, additionally we recommend that for one-year sub-option 3a should be applied and a monthly reporting should be carried out so that a consistency is formed and after 12 months providers can switch to quarterly reporting. The choice of sub option 3h where providers are required to arrange for a report to be audited once a year is suitable and adequate.

# 5 Eir

## eir's Response to ComReg Consultation on a Proposals for Implementing a Customer Charter

ComReg Document: ComReg 23/14



12 May 2023

## DOCUMENT CONTROL

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|-----------------------|---|
| <b>Document name</b>  | eir response to ComReg Consultation 23/14 |
| <b>Document Owner</b> | eir                                       |
| <b>Status</b>         | Non-Confidential                          |

The comments submitted in response to this consultation document are those of Eircom Limited and Meteor Mobile Communications Limited (trading as 'eir' and 'open eir'), collectively referred to as 'eir Group' or 'eir'.

Please note that, for the purposes of the Freedom of Information Act 2014 and the Communications Regulation Act 2002 (as amended) and in the context of the eir Group's general rights and obligations, information supplied by the eir Group to you may contain confidential, commercially sensitive or price sensitive information consisting of financial, commercial, technical or other information, whose disclosure to a third party could result in financial loss to the eir Group, could prejudice the competitive position of the eir Group in the conduct of its business, or could otherwise prejudice the conduct or outcome of contractual or other negotiations to which the eir Group is a party.

Accordingly, you are requested to contact a member of eir Group's Regulatory Strategy Team where there is a request by any party to have access to records which may contain any of the information herein and not to furnish any information before the eir Group has had an opportunity to consider the matter.

Outlined below is eir's response to the questions in ComReg's Consultation on Proposals for Implementing a Customer Charter.

## **Response to consultation**

### **Executive summary**

eir is dedicated to providing excellent customer service and maintaining a healthy customer relationship. eir informs customers in a clear and concise manner of the support available to them on our website and include dedicated options for consumers that may need dedicated assistance such as our Age Friendly Care line. eir also offers bespoke customer service to our business customers, and have recently won awards in this area.

However, while eir recognises the importance of providing information on quality of service to our consumers, eir does not agree with the proposal that providers of IAS and ICS prepare, publish and update a Charter for three key reasons:

- ComReg has not provided an evidence-basis for requiring a customer Charter, meaning it has failed to fulfil its statutory obligations to provide a reason for introducing a measure.
- The customer Charter requirement as proposed will not meet ComReg's objectives to clearly articulate customer service levels and ensure consistency.
- ComReg has pre-empted the results of the consultation and the need to require a Charter, failing to fulfil its statutory requirements regarding a transparent consultation process.

eir recognises that ComReg has opted for a provider-led approach but eir does not consider this will be fulfilled in reality due to:

- the specific nature of ComReg's requirements;
- the outdated commitments/metrics ComReg propose; and
- the short length of time provided to review provider commitments.

eir does not consider that the practical impacts of the proposals have been fully considered. This includes how to incorporate factors that may impact on quality of service that are outside the control of providers both in the information provided to consumers and in the reporting and audit requirements. ComReg has also failed to clarify some of the legal implications regarding contractual obligations and contradictions with legal definitions in places.

Outlined below is eir's response to the questions in ComReg's Consultation on Proposals industry or consumers on introducing an effective measure. Instead, ComReg has proposed a Charter that;

- will overly burden industry and hinder automation in customer service;
- does not meet European standards for information sharing; and
- is not informed by consumer insights so its effectiveness is unclear.

ComReg, consistent with its regulatory obligations, should have consulted with industry prior to designing the template to ensure real collaboration with industry and genuine provider-set commitments. eir considers that ComReg must start again and engage with industry on the template if it is to introduce a customer Charter through a series of industry workshops.

**Q. 1 Introducing Charter requirements: Do you agree with the proposal that ComReg should introduce requirements for providers of IAS and ICS to prepare, publish and keep updated a Charter?**

eir does not agree with the proposal that providers of IAS and ICS prepare, publish and update a Charter for three key reasons which are discussed in more detail below:

- ComReg has not provided an evidence-basis for requiring a customer Charter. As a result, ComReg has failed to meet statutory requirements to outline the issue and justify its proposals. Instead, ComReg's assessment focuses on sweeping, inaccurate and overly negative statements about customer service levels in the ECS sector and consumer interaction with provider websites. These do not justify or underpin the huge impact the proposed Charter requirements will have across business units of providers for no tangible benefit to end users.
- The customer Charter requirement as proposed will not meet ComReg's objectives to clearly articulate customer service levels and ensure consistency. Instead, the proposed Charter will reduce transparency for consumers and mislead consumers on customer service levels.
- ComReg has pre-empted the results of the consultation and the need to require a

**No evidence-basis**

1. eir considers that ComReg has provided insufficient evidence for requiring a customer Charter and focused on creating an overly negative picture of customer service in the ECS sector to justify introducing a ~~base, which requires the providers to publish information~~. The evidence presented by ComReg neither reflects the enormity of the proposed requirements nor justifies them.
2. eir disagrees with the sweeping statement in paragraph 2.2 that, *"in the current electronic communications service market, in general there is a lack of transparency around the quality of customer service, and lack of commitments made by service providers on the specific level of customer service they offer their customers."* This statement is however merely an assertion; it is not supported by any evidence. This is important, because Recital 271 of the European Electronic Communications Code ["the Code"] makes it clear that National Regulatory Authorities may only require publication of information where it is first demonstrated that such information is not effectively available to the public – *"[271]...Providers of such electronic communications services, operating in a competitive environment, are likely to make adequate and up to date information on their services publicly available for reasons*

of commercial advantage. National regulatory authorities...should nonetheless be able to require publication of such information where it is demonstrated that such information is not effectively available to the public.” There is no such demonstration in the consultation of the lack of availability of the information which ComReg now proposes must be included in the proposed Charter; this is the evidential step that, per Recital 271, must be completed before a new regulatory publication obligation can be imposed.

3. ComReg’s one-sided analysis is reflected again in point 2.3, where ComReg highlight the customer service issues during Covid. ComReg does not present a balanced assessment that acknowledges this was a disruptive period for many sectors that had to adapt their working conditions, and the rapid increased importance of the communications sector. It would clearly be unfair, and disproportionate to introduce onerous new regulations, based on the unique impacts of COVID on the provision of customer care; the relevant issues would at a minimum need to be shown to be present even without the impacts of a global pandemic.
4. ComReg’s analysis of the CXi 2022 report fails to recognise the improvements of the communications sector, which has moved up one place, ahead of the public sector. eir notes the communications sector has seen an increase of 6.2% in the overall satisfaction score, double that of the survey average in 2022<sup>1</sup>. In addition, ComReg focuses more on the results from the 2021 CXi survey instead of the most recent data available, to underline its overly negative analysis.
5. eir does not agree with ComReg’s statement that the consumer research it conducted supports the proposal to require a Charter. ComReg states in paragraph 3.24 that 80% of survey respondents agree it would be useful to have a single document providing information on customer service commitments which, “*supports ComReg’s overarching proposal to introduce Charter requirements.*” eir disagrees and considers this is not useful evidence as the survey question is leading, meaning the evidence is biased. Firstly, the option of a single document is presented in a vacuum to survey respondents; there is no indication that respondents were informed of the information already available, and no comparison to information already available or other information sharing methods such as dedicated sections on a website. There is also no description of the “single document”, nor is it a test of the specific Charter document that ComReg propose, which is very detailed and

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<sup>1</sup> CXi Ireland Customer Experience Report 2022 -



[https://thecxcompany.com/wp-content/uploads/2022/10/TCXC-2022-CXi-Report\\_Digital-PDF-Version-FA.pdf](https://thecxcompany.com/wp-content/uploads/2022/10/TCXC-2022-CXi-Report_Digital-PDF-Version-FA.pdf)

overloaded with information.

6. In fact, eir considers the consumer research highlights the effectiveness of industry's customer service which ComReg continues to overlook and frame negatively.
- eir notes that a significant majority of respondents are extremely satisfied or satisfied with their mobile and broadband service.<sup>2</sup> For instance, 85% of respondents selected 7 or higher out of a scale 1 – 10, where 10 indicated the consumer is extremely satisfied with their mobile service; just over a third selected 9-10 on the scale.
  - eir notes the majority (approximately two-thirds of respondents) have a positive experience when contacting their providers with a query or complaint.
  - The majority said provider websites are easy to access and find information (68% for mobile providers and 70% for broadband providers). This increases to 81% of respondents aged 16-24 regarding their mobile provider's website and 76% of respondents aged 25-34 regarding their broadband provider's website. eir notes that indication of easy website access decreases in the older age cohorts.

ComReg has not fully analysed the results or grounded the results in comparison to industry benchmarks to assess customer satisfaction levels. Consequently, ComReg has failed to meet its statutory requirements and present evidence of the need to introduce a customer Charter requirement. Instead, ComReg has focused on the small cohort of respondents that indicated they were not satisfied, but failed to find out why these consumers were not satisfied. There could be a range of reasons for this dissatisfaction that providers cannot control. Again, this demonstrates ComReg's reliance on sweeping, negative statements rather than reliable informative evidence to justify introducing a Charter.

7. eir also considers ComReg's reference to the evidence from "social media sentiment" is vague and baseless as there is no evidence provided for the claim that social media indicates justifiable dissatisfaction with customer service or indeed, that it constitutes any kind of reliable evidence of objective failures such as to warrant the introduction of highly onerous new regulatory obligations. eir considers that it is not helpful for ComReg to make baseless statements without providing evidence or fully interrogating the claims of consumers on social media.

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<sup>2</sup> Customers were asked about the extent to which they were satisfied that the service they signed up to had met their expectations and needs, the mean score was 7.9 out of 10 for mobile phone service and 7.71 out of 10 for home broadband

service.

8. In addition, eir disagrees with the use of evidence from a survey of consumers on the phone to ComReg's Consumer Line. Firstly, the sample used is small and not reliable as only 667 consumers that contacted ComReg in Q4 2022 by phone responded to the survey (queries and complaints) and only 80 consumers that contacted ComReg by email, even though ComReg's consumer care received approximately 8,000 contacts in Q4 2022. This is particularly concerning as over half of contacts to ComReg in Q4 2022 were made by email/online form (54.6%).<sup>3</sup> Secondly, this survey will obviously produce biased results and should not be used to underpin proposals in a consultation, despite the fact that they are not as negative as ComReg tries to portray (reporting an average satisfaction score of 3.3 out of 5 for phone contact). These two examples of vague, baseless evidence point to an agenda to introduce a Charter, irrespective of whether there is a real need to do so.
9. eir notes that ComReg's analysis of information available regarding quality of service on provider websites is also vague and not underpinned with examples or evidence. It is not clear that ComReg completed a full audit of provider websites as there is no evidence of this. eir therefore cannot understand what ComReg is using as evidence for lack of clarity or inaccessibility on websites. It is not therefore possible for eir to comment or assess the reliability of the evidence purportedly being relied on by ComReg, in responding to this consultation. eir notes that this is a significant failing in the consultation process.
10. eir is also concerned that ComReg has drafted a template without any consumer testing to inform the design, and eir cannot support a template that has been created without input from consumers or providers. This is in light of the extensive consideration given to the contract summary template and best practice in other industries that test information documents to be provided to consumers. For instance, the European Commission conducted consumer testing on information sheets providing generic and specific information for PRIIPs finance products. This helped to inform the design and produce evidence-based information documents for consumers.
11. eir considers that the Charter proposals go beyond any other Charter requirement eir can find including government organisation Charters and those in the energy sector, mandated by the CRU. eir is very concerned that ComReg has proposed

<sup>3</sup> In Q4 2022, consumers completed 359 phone surveys in relation to queries, 308 phone surveys in relation to complaints, and 80 e-mail surveys in relation to

complaints. <https://www.comreg.ie/media/2023/02/ComReg-2315.pdf>

requirements that go beyond the norm in terms of sentences that must be included and reporting and auditing requirements, with no evidence basis.

12. eir notes that ComReg has targeted the Charter as a new regulatory measure to “where there is greatest evidence of poor outcomes” (paragraph 5.13). As eir has outlined, there is limited evidence of existing consumer detriment and eir considers it would have been more proportionate and effective to implement the least intrusive measure as a starting point. eir considers there should have been a full assessment of perceived consumer detriment and the effectiveness of currently available information on quality of service levels.

*Fail to meet objectives*

13. eir agrees with the principle of informing consumers of the level of quality of service they can expect, which is beneficial to both consumers and competition in the sector.
14. eir is dedicated to providing excellent customer service and maintaining a healthy customer relationship. As part of this eir informs consumers in a clear and concise manner of the support available to them with opening hours clearly stated on our website. We also display average wait times on the homepage of our website Monday through to Friday as well as wait times on our IVR when a consumer calls. eir considers transparency with consumers is central to providing excellent customer service.
15. However, eir does not agree with a requirement to provide consumers with a customer Charter simply to fulfil a cumbersome tickbox exercise, when this information is mostly already provided to consumers in an accessible format on our website. Repeating this information in an outdated downloadable document such as proposed by ComReg is a self-defeating exercise. Customers will be overloaded with information, and will not read the information, leading to disengagement and inertia. This will be compounded by the impractical suggestion to require providers to include information for both business and consumers in one document. In this regard it is important to recall the already high volume of written information that eir and other providers are obliged to provide to consumers on their websites, including, for example, contract information template, the summary of contract terms, the contract terms themselves, and the current Complaints Code of Practice. The Charter will therefore only add greater volume and complexity to the set of

requirements that go beyond the norm in terms of sentences that must be included websites.

16. eir considers that ComReg's proposed Charter will actually end up reducing transparency for consumers. eir fails to understand how the proposed format of quality of service information in a Charter will assist consumers that cannot navigate websites as ComReg claims, and how it will improve the quality of service for digitally literate consumers that want a streamlined experience. eir notes that ComReg considers older consumers may face website access issues in paragraph 3.10. eir considers initiatives such as its Age Friendly Care initiative, a dedicated customer care and technical support service for older consumers, is more beneficial to these consumers than another online information sharing method. The customer Charter as proposed is more cumbersome in fact than simply going to clearly labelled website sections such as provided by eir.
17. Introducing a requirement to have a Charter will limit consumers' interaction with customer service information. ComReg states in paragraph 3.21 that there should be a focus on *"ensuring that customers of all demographics can contact and interact with providers in a way that works for them"*. However, if the focus is on standardised and complicated documents, ComReg's aim will not be achieved. Providers must be allowed to retain flexibility to provide focused solutions for different demographics, whether that's dedicated phone lines, automated services or website pages. The format issues in respect of the Charter proposals are discussed in more detail in the responses to questions below.

#### *Pre-empted results of consultation*

18. ComReg has pre-empted the results of the consultation, and assumes a Charter will be introduced as ComReg sets the dates providers must put Charters on their websites, and dates for review of Charter adequacy. It is also noteworthy that ComReg proposes a very limited number of weeks to consider the responses it receives to this consultation, given that it proposes having adopted a final Decision by June. This does not suggest that there is any openness to meaningfully re-assessing its proposals regardless of what submissions it may receive from stakeholders, which is what is required in order for a consultation to be a genuine, meaningful consultation. Under regulation 102 (2) of the EEC Regulations 2022, ComReg must take account of stakeholders views, which it has not done in this consultation by pre-empting the answer to question 1 of this consultation regarding introducing a Charter. This is compounded by ComReg providing for assessment of

requirements that go beyond the norm in terms of sentences that must be included in the introduction particularly when “It is expected they [providers] would be incentivised to compete on any specific commitment around customer service with the introduction of Charter requirements”<sup>4</sup>. It would be reasonable to expect that a number of quarters be allowed to pass before an assessment is made if providers are to be allowed to develop their Charters in a competitive response to the Charters of other providers.

19. eir considers that ComReg has also pre-empted the need to require a customer Charter. Legislation does not require a customer Charter must be implemented, as the Communications Regulation and Digital Hub Development Agency Act 2023 (“2023 Act”) states ComReg may introduce Charter requirements in section 38, “The Commission **may** require providers of internet access services or publicly available interpersonal communications services to prepare, publish and keep updated a document to be entitled, and referred to in this Act as, a “customer charter.” [emphasis added] This phrasing indicates that there should be an assessment of the need to require a Charter, which ComReg has not completed or has failed to produce clear evidence from an assessment. ComReg’s overarching obligations will always be to exercise its powers in a fair, objective and proportionate manner and this applies to any decision on whether to introduce a Charter, and its contents. In this regard it is striking that there is simply no assessment of either the fairness or proportionality of introducing a mandatory Charter, especially one as prescriptive and detailed as is proposed.
20. eir considers ComReg’s first starting point should be to fully assess if a Charter is objectively required, and to determine what additional information is objectively necessary, if any, to provide to consumers, and to fully assess the proportionality of any measure. This includes assessing whether the measure proposed is the least intrusive and burdensome means to achieve the necessary objective, and also assess whether the negative impacts outweigh any benefits. Any assessment should therefore determine whether providers already give consumers the necessary quality of service information in an accessible format. The initial assessment should consider whether existing alternative mechanisms/targeted measures, such as dedicated phone lines for older consumers, are more effective and more proportionate in ensuring consumer satisfaction. ComReg should re-consider its approach and issue a fair consultation which carries out the required proportionality assessment and without a pre-determined outcome. ComReg has

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<sup>4</sup> Para 1.10 of the consultation.



requirements that go beyond the norm in terms of sentences that must be included customer Charter.

21. eir is focused on ensuring transparency for consumers around how to contact us and what they can expect from our customer service. eir is focused on the consumer experience, since each consumer query and contact is unique. This means the levels of consistency ComReg is trying to attain through overly specific Charter proposals is not possible, and will mean consumers are not clear on what quality of service to expect. Instead, eir considers that there are more important factors that contribute to quality of service standards in consumer care such as choice of contact channel, readily available customer information via self-help 24 hour channels, first call resolution, and clear accurate communications, rather than speed of answer. These are not reflected in the proposed Charter.
22. eir notes further that Article 101 of the Code stipulates that the end user protections set out in Articles 102-115 of the Code, are meant to be a maximum harmonisation measure, stating that *“Member States shall not maintain or introduce in their national law end-user protection provisions diverging from Article 102-115, including more, or less, stringent provisions to ensure a different level of protection.”* eir notes that several of the proposed Charter provisions mandate the publication by operators of information in their customer Charter in relation to e.g. switching, and compensation, where obligations already exist pursuant to Article 102, to provide this information in their consumer contracts. It is not clear how imposing such additional, more prescriptive information requirements relating to issues already covered by Article 102, complies with the stipulation in Article 101 not to set different levels of protection for matters covered by Article 102. eir further notes that the quality of service parameters now proposed by ComReg are not those set out in Article 104 (in conjunction with Annex X) of the Code. They also differ from those set out in the BEREC Guidelines even though Article 104 states NRAs should take ‘utmost account of’ these BEREC Guidelines. Again, eir queries how this divergent approach by ComReg is in keeping with its obligations further to Article 101 and the Code overall, to maximise harmonisation of end user protections across the EU.

Notwithstanding our concerns that ComReg has failed to justify the imposition of Charter obligations, eir offers the following comments on the detailed proposals. These comments should not however be taken or presented as an endorsement of ComReg’s proposed approach.

**Q. 2 Overarching approach to introducing a Charter: Do you agree with the proposal that the Charter will contain provider-set commitments, with ComReg to monitor and evaluate implementation of the Charter requirements and the levels of customer service committed to and implemented by providers for their adequacy before deciding whether to seek to move to the specification of Minimum Quality of Service Standards, and/or seek to require any Minimum Quality of Service Standards information is included in a Charter?**

23. eir agrees with ComReg's proposal that any commitments in the Charter should be set by providers, if a Charter is to be implemented. This should ensure that any commitments are practical and attainable. eir notes ComReg's intention in paragraph 4.3 that, "[b]y allowing providers to set commitments that are tailored to their individual business operations, this option would minimise regulatory burden and cost of implementation."
24. However, it does not appear that a provider-led approach that is tailored to individual business operations will be fulfilled in reality due to:
- the specified nature of ComReg's requirements,
  - the outdated commitments ComReg specify, and
  - the short length of time provided to review provider commitments.
25. The specificity of the sentences proposed by ComReg mean that the provider-led approach is very limited. In reality, ComReg's proposal means that providers can only select the number that goes into a specified sentence, using a specified measurement unit. eir does not agree that the parameters are set at a high level when they are prescribed according to measurement units. Instead, ComReg should consider prescribing simply the area that providers have to give information on like average call times. eir notes that in the contract summary template, required under legislation, providers do not have to fulfil specified sentences.
26. ComReg should have consulted with industry prior to designing the template to ensure real collaboration with industry and genuine provider-set commitments. In particular, ComReg does not have the experience and expertise that industry has, in designing communications for consumers. eir further notes that Article 104 of the Code specifies that published quality of service measures are to be 'user-friendly' and 'reliable'. eir does not consider, in light of the multiplicity of issues identified in this response to consultation, that the proposed information would be either user-friendly or reliable. In that regard, eir notes that BEREC has stated that 'the

“reliable” element means that information should be correct and cannot be misleading for end-users. Information shall comply with standards and measurement methodology indicated by NRAs in coordination with other competent authorities, preferably using certified mechanisms if such mechanisms have been introduced in a given Member State.<sup>5</sup> eir considers that ComReg must start again and engage with industry on the template if it is to introduce a customer Charter through a series of industry workshops.

27. eir considers that ComReg has included outdated commitments that overlook the increasingly important role of automated solutions in customer care, which providers such as eir have introduced to better serve our consumers.<sup>6</sup> As technology becomes more sophisticated, simple queries will increasingly be fully addressed by automated solutions, leaving more complex queries that require more time to be addressed by agents. There are also benefits for consumers that want seamless, easy solutions to their queries. Yet, the Charter as proposed does not reflect this development or allow providers to communicate to consumers the benefits of such automated processes in the house, where complex the responses of providers of information quality. As ComReg has not proposed a way to update or amend the template in future, it appears that providers will be stuck providing information on outdated consumer solutions. It is disappointing that ComReg has decided to impose measures without first drawing on the depth of industry experience on current and evolving customer experience practices.
28. ComReg has provided for a short period of time for assessment of Charter adequacy, which eir does not consider is long enough to fully assess the adequacy of the proposals. ComReg has proposed to start the assessment of Charter adequacy in early 2024, which would mean that only one Charter and one set of reporting to ComReg would be used as part of the assessment of the adequacy of the house, where complex the responses of providers of information quality eir cannot understand how an accurate assessment can be made of the effectiveness of provider set commitments in this short time period or meet the aim to encourage providers to compete on Charter commitments.
29. ComReg has also proposed completely unrealistic requirement in paragraph 8.118 of the RIA, that performance against Charters would be audited for the first quarter that Charters are effective [Q4 2023]. The proposed timelines to create a Charter, report on a Charter and arrange an audit are not feasible and reflect ComReg’s lack of practical consideration in general about Charter requirements. The proposed

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<sup>5</sup> BEREC Guidelines detailing Quality of Service Parameters  
<https://www.berec.europa.eu/en/document-categories/berec/regulatory-best-practices/guidelines/berec-guidelines-detailing-quality-of-service-parameters-0> <sup>6</sup>

“reliable” element means that information should be correct and cannot be misleading for end-users. Information shall comply with standards and <https://www.irishtimes.com/technology/2023/04/11/eir-turns-to-robots-to-improve-poor-customer-care-record/>

“reliable” element means that information should be correct and cannot be misleading for end-users. Information shall comply with standards and ComReg has not incorporated into its cost benefit analysis.

30. In addition, ComReg does not clarify how Charters will be assessed for adequacy in phase 2. eir notes that in paragraph 4.8 ComReg states it will use provider reporting as one input into an assessment. However, ComReg does not specify the other inputs into adequacy assessment. Given the scale of the impact of the Charter on industry, and the increased impact if minimum quality of standards were to be introduced if Charters were deemed inadequate, ComReg needs to clarify fully how the provider-set Charter will be assessed for adequacy.
31. eir expects ComReg will ensure that it fully considers provider-set commitments before seeking to require minimum quality of service standards. Any assessment of adequacy should be conducted after at least a year, so that any issues or benefits of provider led proposals can be fully assessed.

**Q. 3 Providers that Charter requirements will apply to: Do you agree with the proposal that Charter requirements will apply to providers of IAS and/or number based interpersonal communications services with a market share of 0.5% or greater?**

32. eir considers that all providers should have to publish a customer Charter regardless of their market share if the aim of the Charter is to assist consumers. eir notes in paragraph 3.22 that ComReg specifies two policy objectives for a Charter, firstly *“Creating transparency around the level of customer service providers offer”*, and *“Driving improvements in overall customer service levels”*.
33. eir objects to ComReg’s statement in section 8.4.3 of the RIA that excluding providers with less than 0.5% market share would reduce the regulatory burden on industry. eir considers that instead ComReg should reduce the regulatory burden of its proposals by fully evaluating the need for a ~~have, where appropriate, to publish a Charter~~, and if a Charter is required, then recommend information specifications that are not burdensome and do not limit providers.
34. eir considers that the exemption of providers with less than 0.5% market share is baseless and the relevance of the 0.5% cut-off is not clear. ComReg has not investigated whether there is a difference in the burden for smaller providers to publish a Charter compared to providers with a larger market share. Instead, ComReg makes an assumption about the perceived difference in burden and the avoidance of this difference in section 8.4.3, *“However, to the extent that a regulatory burden with Charter requirements could result in undesirable competitive or other unintended consequences, such as barriers to entry, a threshold would possibly help to avoid such a risk, if any.”*
35. Consequently, eir considers that all providers should have to provide a Charter if required by ComReg, to ensure that the objectives of informing consumers is genuine and achieved. In addition, the information if required and any differences in requirements among providers should be grounded in evidence not assumption.
36. eir notes that similar requirements regarding Complaints Handling Code of Practice apply to all undertakings providing electronic communications networks (ECN) or services (ECS) under ComReg Decision D04/17. eir considers based on this principle, any Charter if introduced should also apply to all undertakings.

**Q. 3 Providers that Charter requirements will apply to: Do you agree with the proposal that Charter requirements will apply to providers of IAS and/or number based address all consumers, microenterprises, small enterprises and not-for-profit organisations?**

37. eir does not agree with the proposal that one Charter would address all consumers, microenterprises, small enterprises and not-for-profit organisations for the following reasons:

- For some business customers, it is not possible to publish the required information due to pre-existing contractual obligations, including confidentiality and commercial sensitivities that are usually part of a tender process. There is also a question of the impact on competition law of compelling operators to publish terms commercially negotiated with business customers, so that they are available to view by competing operators.
- eir provides different levels of service to different groups of business customers tailored to their needs; it is not possible to provide the required information across business customers or to provide separate information would make the document too long.
- Combining information related to different sets of customers in one place will confuse customers and result in a lengthy document that customers will not read.
- It is also not clear if ComReg expects one Charter for each regulated company which would mean that sub-brands, such as GoMo, would require their own chapter in the corporate business, which is required to be published by the company

38. eir does not consider feasible the proposal to include this information for microenterprises and small enterprises as there is a different approach to customer service across our business customers. eir uses a combination of service desk and account managers to deal with some business and not-for-profit customers. It is not possible to disclose any information about managed accounts as these are determined by competitive tenders and subject to contractual agreements. eir evo works to customer contractual obligations resulting in service levels and KPIs differing depending on business needs, which are commercially negotiated and subject to contractual confidentiality provisions. Specific points required by ComReg such as resolution times can depend on monitoring methods, which is too



complicated to explain to consumers in one document, especially in combination with the rest of the required information.

39. eir notes that in paragraph 6.8 ComReg recognise that “[c]ommitments can differ between groups of Relevant Customers,” and that providers shall clearly articulate the different commitments. However, eir does not think this is possible to do in a clear and coherent manner in a single document that is accessible to the reader. To explain these differences would require a lot of text leading to consumer overload and confusion, defeating the proposed purpose of the document. Individual microenterprises and small enterprises requirements regarding bespoke service levels are often agreed as part of a tender process and are covered under confidential and binding contracts. Therefore, information on average call times and quality of service standards provided to business customers is bespoke as specified by the customers, and already full transparent.
40. Although the EECC Regulations define not for profit as a separate group of end-users, eir does not consider it necessary to apply this distinction in all circumstances. The proposed approach does not consider the customer service structure of providers and is just listing groups of consumers without an explanation. For instance, eir not for-profit customers are generally account managed and have bespoke SLAs, depending on their size in the same way as any other business customers.
41. eir also considers that the EECC definitions for the customer cohorts, small enterprise, and micro enterprise do not align to the size of the Irish market.
42. eir notes that other industries that have Charter requirements apply these in a different, more logical way. For instance, the CRU does not require a single document Charter for household and non household customers, this is an option.<sup>7</sup> eir considers this is probably due to the impracticalities outlined above, and cannot understand why ComReg considers operational requirements for business customers would be different in the telecoms sector.

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<sup>7</sup> CRU Electricity and Gas Suppliers' Handbook 2023  
<https://www.cru.ie/publications/27207/>



**Q. 5 High-level Charter contents: Do you agree with the proposal that a Charter will contain both general information on providers' customer service policies, and specific commitments as to the level of customer service an individual customer can expect to receive in a given period?**

- 43. If a Charter is to be required, eir considers ComReg needs to review the level of information it has proposed to include. eir considers that the level of information, both general and specific for a range of consumers, will overload consumers and deter them from reading the document, leading to inertia and defeating the purpose of the Charter.
- 44. eir disagrees with the proposal by ComReg that any Charter introduced will act as a "one stop shop" overcoming challenges around navigating websites as stated in option 1. Including information for all consumers will lead to onerous explanations of differences for consumer groups, leading to consumer confusion and overload. In addition, this approach overlooks the dedicated sections on eir's website that cater to different consumer groups allowing them to access relevant information easily.
- 45. eir agrees with the concept of providing general information if a Charter is to be required, and the space for providers to include any other relevant information under each section. However, eir does not consider the general information requirements as in fact general, as ComReg has provided for specific points to be included as general information.
- 46. eir acknowledges that ComReg may require providers to set minimum quality of service standards under section 37 of the 2023 Act but rejects the specific statements that ComReg has proposed under the headings. It notes that any obligations imposed on operators must not contravene the provisions of the Code, and must comply with ComReg's obligations to act fairly, in an objective and proportionate manner. The commitments that ComReg proposes and the phrasing are very restrictive and cannot be applied across consumer groups as proposed or used by different ECS providers.
- 47. eir considers that averages must be the starting point for specific commitments, with explanation in any required sentences that these are commitments on average and there are some circumstances over which providers have no control over service such as during storms (and other force majeure events). ComReg is proposing to mislead consumers by specifying that such caveats should not be included. BEREC

in its quality of service guidelines recognises the importance of quality of service information but that “it is becoming increasingly more complex to manage, measure,” as, “quality can be impacted by many factors at the network level and along the value chain, including the device, hardware, infrastructure, service and applications.” ComReg has not taken account of this complexity by overlooking the merit of using averages or caveats.<sup>8</sup> (See also eir’s comments below in relation to BEREC’s Guidelines on quality of service parameters, and the use of averages). Bearing in mind ComReg’s obligations to take utmost account of BEREC Guidelines, to the extent that the quality of service parameters recommended in those guidelines are based on the use of averages and percentages, it is not clear how ComReg can then mandate that operators may not use such an approach.

48. eir is of the view that ComReg is not using standard industry practice in call centre reporting, and attempting to apply an impossible standard regarding call-answering times on providers, which is not feasible. Averages are typically used to convey call answer times in commercial call centres. In fact, call centre industry standard practice regarding KPIs and SLAs is that averages are used at all times, and that exceptional caveats are made clear. This is because it is not feasible for a call centre business to contract for metrics which do not allow for reasonable exceptions and average call times. It is widely accepted that without the use of averages in industry call centre metrics and KPIs, call centre costs would increase exponentially. In order to meet the proposed ComReg requirement, extra staff would have to be hired to account for “just in-case” scenarios, which could be avoided through the use of averages. The extra cost of hiring these staff will ultimately need to be passed on to consumers.
49. eir is puzzled that ComReg does not advocate for the use of averages and caveats so that consumers are not misled, particularly when referring to call answer times. This includes the use of words like “aims” to incorporate caveats, including when describing call answering times, such as ComReg does in its Charter, as well as other public sector bodies in their customer Charters, “Our Consumer Line aims to answer 80% of all calls within an average of 20 seconds during normal office hours (9.00am-5.30pm, Monday to Friday).”<sup>9</sup>
50. It is also not possible to provide specific commitments or information for all consumers, such as business customers that have managed accounts subject to

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<sup>8</sup> BEREC Guidelines detailing Quality of Service Parameters  
<https://www.berec.europa.eu/en/document-categories/berec/regulatory-best-practices/guidelines/berec-guidelines-detailing-quality-of-service-parameters-0>.<sup>9</sup>

in its quality of service guidelines recognises the importance of quality of service  
ComReg Customer Charter [https://www.comreg.ie/media/2016/03/Customer-Charter-ComReg\\_2017\\_Final.pdf](https://www.comreg.ie/media/2016/03/Customer-Charter-ComReg_2017_Final.pdf)

in its quality of service guidelines recognises the importance of quality of service other consumers as to what information is relevant to them.

51. In addition, eir considers that ComReg should focus on ensuring that consumer's experience of services is good, for example first call resolution, rather than whether or not providers have met timing targets to answer a call. Consumer issues or events like outages are not uniform and may require a different approach such as longer investigations of issues, meaning providers would not meet their timing targets for response. This further illustrates the difficulty of setting a realistic single target for many of the categories as is proposed by ComReg, because of the very wide variety of issues they cover, some of which may take longer than others. Yet taking a different approach to resolving issues provides the solution best for a customer at a particular time and empowers them to make that decision. Options like consumers requesting call backs can enhance consumer experience more so than someone answering their call quicker than a competitor.
52. eir notes that providers can choose not to give specific commitments but this must be stated. However, eir considers there are issues with this requirement as follows:
- Requiring providers to tell consumers they do not provide specific commitments can mislead consumers that they are missing out on a service, when alternative contact avenues may resolve their problem in a better way.
  - Also, other providers may take longer to resolve issues even if they claim to answer calls faster.
  - Every customer is different, and different elements are more important to some customers. For instance, a provider may not wish to commit to specific call times and would have to state this. A consumer may then believe they are not providing as good a service as an alternative provider offering to answer a call in 60 seconds. However, a consumer could find that the answer to their question could be more easily resolved through readily available information on provider websites or web form/chat options.

eir considers it is more important to be fully transparent with the customer and give them accurate up to date information regarding each contact at the time the customer is contacting us rather than specify a time for one particular contact channel. Therefore eir does not agree that providers should have to declare that they do not offer specific commitments and notes it is not required under section 37 of the 2023 Act as the word "may" is used.

53. In addition, if averages are not used for call answer times, commitments made by providers in a Charter would need to be longer than average to allow tail end of call answering average curve, otherwise required staffing levels would be grossly inefficient. This would mean the commitment would reflect answering times that are worse than the actual average consumer experience. In fact, eir considers that ComReg needs to reflect on the treatment of anomalies resulting from force majeure events in reporting, to ensure a consistent approach is taken across industry in conjunction with the use of average call times.
54. eir notes and agrees that the requirements are only applicable where the service is offered, meaning if a provider does not offer that service, they do not have to state a quality of service parameter related to it this.
55. eir considers that it is not possible to guarantee the specific commitments that ComReg has proposed. Instead, consistency and comparability for consumers can be achieved through guiding providers using headings and general pointers for information that should be included, as done so in the contract summary template.

**Q. 6 Overarching Charter form: Do you agree with the proposal that providers must prepare, publish and keep updated a Charter in accordance with a ComReg specified template?**

56. eir does not object in principle to the use of a template if a Charter is to be introduced. A high level template should encourage consistency between providers in a non restrictive manner.
57. However, as highlighted above, the proposed template has not been developed in a way that includes inputs from consumers or providers. There has been no consumer testing of this template so eir is reluctant to support a template that has not been proven effective in communicating to consumers. ComReg has also included provisions in the template that it has not required under the proposed decision.
58. eir is unclear on why the template refers to the “name of services” in the top left corner. ComReg does not indicate that a different Charter is required for each service so it is not clear why this information is necessary. eir disagrees with a requirement to name a service as:
- It would cause extensive consumer confusion and overload, as well as onerous regulatory burden on industry if ComReg requires a different section in the Charter for each service multiplied by the number of different customer groups / sub brands. Consumers will also be confused if legacy plans are included, and there could be a wide range of services to create a Charter for depending on what bundled or multi product bundled product plans the consumer is on. It will also increase reporting and compliance costs with no additional benefit
  - for customers. It will create statistical anomalies in reporting due to potential low numbers of
  - consumers on certain plans.
59. eir considers that a Charter template should include a sentence that makes it clear to consumers that the information applies only to the time period specified and is subject to change, if providers decide to make changes. ComReg has not included this information, the absence of which may mislead and confuse consumers. eir is also unclear on how monthly commitments would be communicated to consumers in the template.
- eir also disagrees with the inclusion of information related to compensation. The decision (if any) to award compensation, separate to what may be prescribed
60. pursuant to section 39 of the 2023 Act, will be based on various factors that may be

specific to individual consumers. eir does not think it is useful to make commitments to compensation in general documents, as this specificity may create confusion about the right to compensation. It may have the unintended consequence of forcing a 'one-size fits all' approach to compensation when the reality is that a more appropriate and fair approach for consumers is that which occurs presently, namely for any compensation provided to be assessed based on the specific circumstances of their customer service issue i.e. forcing uniformity (a single figure) will not facilitate and indeed will work against fairness in individual cases. It is also unclear whether it will prevent the issuing of credits although eir assumes that is what is referred to by the phrase 'compensation or similar.'

**Q. 7 Charter template: Do you agree with the proposed form requirements for completing a Charter template?**

61. eir disagrees with the proposed form requirements for completing the template for the reasons outlined above. In particular, the requirement for providers to make specific commitments written using the sentences prescribed by ComReg verbatim, as outlined in Schedule 2. eir disagrees that providers cannot change the words and should have flexibility in communicating with their consumers on their unique offerings in their own brand style.
62. eir also notes that some of the sentences proposed do not meet plain language requirements as they are too complex or too long. Plain English standards require that sentences are not longer than 20 words for instance.<sup>10</sup> As previously noted, Article 104 requires that quality of service information being published be ‘user friendly’ and ‘reliable’. If ComReg is to impose impractical requirements to use prescribed sentences, the sentences should at least be clear and non technical for consumers to read.
63. eir notes that ComReg has not complied with European Commission principles in its requirements to complete a Charter template. ComReg has proposed not to limit the length of the Charter to offer flexibility to providers. However, the European Commission in its implementing regulation<sup>11</sup> specified that the contract summary should not, unless duly justified, exceed one A4 page to facilitate easy reading. ComReg has failed to take utmost account of European Commission recommendations and failed to justify why additional pages are provided other than to offer flexibility to providers. ComReg has also failed to conduct a cost benefit analysis of its decision to not following standard information sharing recommendations. In light of this, eir considers that ComReg should review the level of information as well as the specifications it has proposed so that it is compliant with European Commission recommendations.

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<sup>10</sup> National Adult Literacy Agency 2023 (NALA) <https://www.nala.ie/plain-english/plain-english-tips/>

<sup>11</sup> Commission Implementing Regulation (EU) of 17.12.2019 establishing a template for the contract summary to be used by providers of publicly available electronic



Q. 7 Charter template: Do you agree with the proposed form requirements for communications services pursuant to Directive (EU) 2018/1972 of the European Parliament and of the Council [https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/11698-Contract-summary-template-for-electronic-communications-service-providers\\_en](https://ec.europa.eu/info/law/better-regulation/have-your-say/initiatives/11698-Contract-summary-template-for-electronic-communications-service-providers_en)

**Q. 7 Charter template: Do you agree with the proposed form requirements for providers publish an initial Charter on their website on 2 October 2023, containing monthly Charter commitments, and are allowed to update the Charter each quarter thereafter?**

64. eir does not agree with the proposal that an initial Charter should be published on provider websites on 2 October 2023. The fact ComReg has set a date for publication is again evidence of ComReg pre<sup>n</sup>empting the outcome of the consultation. October is very close to the proposed decision date of June, especially considering the level of change this will require in internal provider processes. In addition, this does not provide enough time for consideration of provider input into the template which is problematic considering the issues with the template.
65. ComReg has failed to clarify whether the commitments are monthly or quarterly. In paragraph 6.8 ComReg outlines that *“Relevant Service Providers can choose whether commitments are set on a monthly or quarterly basis (as discussed in section 5.6.2).”* Yet in paragraph 5.46 ComReg outlines a Charter would include monthly commitments, as stated in this question. eir notes that providers can choose to retain the same monthly commitment over the quarter or change the commitment (paragraph 5.46). ComReg needs to provide clarity on the reporting requirement so that it can be properly assessed by providers. In addition, it is not clear how monthly commitments are to be expressed to consumers in the proposed Charter template and using the instructions in Schedule 2. The proposed sentences do not clarify to consumers whether the commitments are monthly or quarterly, and only the quarter is to be included in the corner of the template.
66. Irrespective of this lack of clarity, eir considers the proposal for monthly or quarterly commitments is too detailed and of little use to consumers. Customer service levels do not change month<sup>nn</sup> to month or quarterly; any change in delivery performance can be due to events outside of providers control such as storms or power failures, or a pandemic. There is little incentive for providers to change commitments every month as this will lead to bigger workloads with little return. As outlined earlier, eir considers that averages should be used instead of specific timings without caveats. If averages are used there would be no need to make largely useless monthly commitments.
67. eir does not object in principle to providers being able to update a Charter which would be published at the start of a quarter. However, ComReg needs to clarify what impact this will have on consumer’s rights in the event of a change to a

Charter commitment. eir understands that this will not equate to a contract change and consumers will not be able to leave contracts without penalty when a change is made. This needs to be made clear by ComReg in its decision instrument. It should also be made clear to consumers and should be done so in the Charter and terms and conditions. There is currently a lack of clarity in the consultation as to the proposed contractual status of the Charter, as the decision instrument is silent on the issue, where the consultation suggests that the Charter will constitute part of the pre-contractual information provided to customers and will also constitute a 'Code of Practice' within the meaning of the Consumer Protection Act 2022.

68. In the first instance, it is not clear how the Charter can constitute a Code of Practice, given that this is defined as *"any rules or standards that are not imposed by or under an enactment which purport to govern or define the behaviour, practices or ethical standards of traders in relation to their transactions with consumers arising from the supply of a service (whether generally or in respect of a particular trade, business or profession)."* The "rules or standards" to be included in the proposed Charter will clearly be 'imposed' by ComReg's proposed legislation, given that operators will have no choice but to either include a specific standard or to explicitly state that the standard is that there is no commitment. This appears to be the imposition of a standard by an enactment. As such it is not clear that the Charter can therefore be characterised as a Code of Practice 'not imposed' by an enactment.
69. With regard to the proposal that the Charter also comprise part of the pre-contractual information, the 'knock-on' effect of this, is that it will then form part of the customer's contract, meaning that Regulation 89 of the EEC Regulations 2022 (formerly Regulation 14) may apply, meaning that ComReg's proposed 'updates' to the Charter risk constituting a 'change' to all customer contracts triggering a right of exit. If ComReg wishes for Charters to be updated, it must therefore clarify that the Charter is not being incorporated into the customer's contract (i.e. it is not pre-contractual information), as ComReg does not have the power to unilaterally 'disapply' the application of Regulation 89 (formerly Regulation 14) to a contract term.
70. eir considers any updates to commitments must be incorporated into reporting and any information ComReg may publish on provider commitments. eir considers that providers should not have to keep previous Charters on their website if they are updated as this would confuse consumers and not align with the proposed "one

Charter commitment. eir understands that this will not equate to a contract change paragraph 5.35.

**Q. 9 Notifying customers: Do you agree with the proposal that providers be required to ensure all customers are made aware of the Charter, and otherwise ensure the Charter is available on request and in accessible format?**

71. eir notes ComReg's view that under the Consumer Rights Act 2022, providers would have to notify consumers entering into off premises or distance contracts that the Charter exists and how to obtain a copy and that ComReg extends this to all consumers. This however relies on the assumption that the proposed Charters constitute Codes of Practice, which, for the reasons outlined above, does not appear to be established.
72. eir in principle does not object to notifying consumers considering entering into a contract with eir, of the existence of a Charter and that the contents of the Charter may be subject to change over time. eir considers this should only apply to new contracts, and providers should not have to retrospectively update or inform existing consumers. Instead, eir considers that ComReg, as noted in paragraph 8.105 of the RIA, should inform consumers of the existence of a Charter.
73. However, eir rejects ComReg's proposal that providers give a copy of the Charter, in a durable medium to consumers who request it within 48 hours of the request for the following reasons:
- a. Firstly, eir considers it is not possible to provide a customer Charter that must address all consumers in a durable medium. eir notes that ComReg has not defined 'durable medium' in the draft decision instrument, but it is defined in the EEC Regulations 2022, referring to the Consumer Information Regulations (subsumed into the Consumer Rights Act 2022). eir has reviewed the definition of a 'durable medium' in the Consumer Rights Act 2022 and notes that it refers to, "*information addressed personally to that person...*" eir does not understand therefore, how a general Charter can be provided in a durable medium that must be personally addressed to the consumer.
  - b. Secondly, the definition refers to a consumer storing this personally addressed information "*for future reference, for a period of time adequate for the purposes of the information.*" As providers can change the Charter commitments as proposed, eir considers that a link to the Charter on the homepage of the website would service this purpose for the time period of a quarter.

- c. Lastly, the proposal that providers can change the Charter commitments is also in direct conflict with the CRA 2022 definition, which states the durable medium format *“allows the unchanged, reproduction of information stored.”* eir considers that it does not make sense to provide consumers with a durable medium version of the document if providers can make changes as set out in 4.4 of the draft decision instrument. The Charter cannot enable providers to change commitments, which it must to reduce the regulatory burden, and at the same time allow consumers to retain an “unchanged” version of the Charter. Consumers may retain older versions and get confused about quality of service commitments.

eir has outlined its overall objections to the introduction of a customer Charter, including the impossibility and impracticality of requiring information relevant to very different consumers that are subject to different contacts to be included in the same document. In the following section, eir responds to questions on specific sections of the proposed Charter. However, eir’s overarching response to this consultation is a rejection of the proposal to require a customer Charter. By answering the below questions eir is not endorsing the introduction of a Charter but considers it useful to express its opinion on the matters below.

**Q. 10 Charter content (core customer service): Do you agree with the proposed Charter content and the form in which commitments around core customer service, are to be expressed in a Charter?**

74. eir considers the general information on contact details specified under the core customer service section is repetitive and generally found more easily under 'contact us' sections of eir's websites. eir also cannot provide this information for all relevant customers as outlined earlier, some are account managed or use unique contact avenues.
75. eir does not agree with the proposed specified sentence for core customer service as it does not allow for average use or for explanation of force majeure events which ultimately misleads consumers on customer service levels. As outlined previously, call centre contracts typically use averages for metrics such as call answering time, as ComReg is aware and uses in its own customer Charter.<sup>12</sup>
76. eir rejects this level of specification and considers that providers should be able to refer to average call waiting times and write in clear, accessible language. eir suggests instead that the commitments could centre on transparency such as informing consumers of current wait times or their place in the queue if they contact us through 'real time' channels like Interactive Voice Response (IVR) or person to person chat sessions.
77. Again, eir understands that call answering times can be important to consumers, but considers that the focus in this section should be on consumer experience. This section of the Charter should allow for space to provide information on other procedures like call backs not simply time targets. For instance, eir already provides information on when it will resolve queries entered through web forms rather than when it will provide a tailored response. This approach is clearer for consumers and offers them clarity of a resolution rather than contact timing. ComReg should take a similar approach in any Charter and focus on experience and uniqueness of each consumer interaction.
78. As there is a large variance in call answering times and other contact channels for different types of consumers, as well as variance in the role of desk agents, eir considers that if it were to fulfil this requirement the section would be very long and confusing for consumers. It may make more sense for this section, if it is to be

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<sup>12</sup> ComReg Customer Charter [https://www.comreg.ie/media/2016/03/Customer-Charter-ComReg\\_2017\\_Final.pdf](https://www.comreg.ie/media/2016/03/Customer-Charter-ComReg_2017_Final.pdf)

included, be directed at household consumers and only be based on average call answering times.

79. eir also rejects the emphasis on non-automated contact in the specific commitment sentences. This is an outdated view to consumer care that overlooks the different requirements for different types of consumers and queries, and advancements in best practice. Consumers that are digitally savvy may prefer self-serve options dealing with automated information either on the phone or online. In addition, consumers may default to ringing a call centre because this is presented as an appealing option if average call answer times are presented as short in a Charter, despite significant investment by industry in self-service solutions that may serve consumers better. ComReg should remove the requirement to include the specific sentence to account for different approaches to consumer care.
80. eir does not agree with the proposal to include specific sentences and information on resolution times for all channels of contact, including in person. This is simply not possible as customer queries are not uniform and will require different resolutions which can take different amounts of times. ComReg should allow providers to explain this to not mislead consumers, and not have to state they do not commit to specific resolution times without this explanation. eir considers that imposing a requirement to include statements that operators do not commit to X, such as for example the proposed sentence *"If we cannot resolve your query at the time you first contact us, we do not commit to any specific follow-up response time,"* will in fact be unhelpful and misleading to customers. Compelling such mandatory statements will give the pejorative and misleading impression that the operator will make no effort to follow up, when in fact eir will of course continue to make considerable efforts to follow up promptly, as it currently does.
81. It is surprising that as regulator for the industry, ComReg would want such misleading statements to be published, particularly without any research as to how such statements will in fact be perceived in practice by consumers reading them. At a minimum operators should be entitled to contextualise any such statement by clarifying what they will do in regards to follow-up and that the only reason a specific time-commitment is not being offered is because it is practically impossible, or because any such time period would not be reflective of and actively misleading in relation to, the actual average customer experience as any time period would have to be set higher than the average to try to allow for exceptional circumstances. In that regard, as noted previously, information that is published in relation to



included, be directed at household consumers and only be based on average call users” if it is to meet the Code requirement that it be ‘reliable’.

82. eir further notes that pursuant to Article 104, ComReg is required to take “utmost account of BEREC guidelines” in relation to quality of service parameters to be measured. These guidelines reference ETSI ES 202 057<sup>13</sup> which contains provisions relating to the speed of answer of customer calls, but then goes on to state “The period in this definition includes waiting times because operators are busy, and times for going through voice response systems to reach the operator. However it excludes the handling of the call by the operator, e.g. conversation with the operator. The reasons are that the variety of calls to operators is too wide and that it is too difficult/costly in practice to measure the operator's performance precisely.” eir submits that in light of ComReg’s obligation to take utmost account of BEREC, it should not be seeking to require operators to develop parameters for the speed with which it will resolve queries (which is what is in effect required by the provisions relating to providing a ‘tailored response’ to queries by email and web form within X time) when ETSI and BEREC have stated that it is too costly and difficult, owing to the wide variety of contacts from customers, to be able to measure the operators performance precisely, which is what is needed, in order for an operator to be able to set a reliable and fair parameter. It is unfair, disproportionate and goes against the findings above.
83. eir also notes that the ETSI document referenced above, indicates that the relevant measures, for the parameter of ‘response time of operator service’ is “(a) mean time to answer and (b) percentage of calls answered within 20 seconds.” In other words, it does not propose a measure of the kind proposed by ComReg for the Charter, whereby all calls are to be answered within X time (“When you phone us, we will answer your call within [A1]”). Were ComReg to ultimately set response times itself, it would have to take utmost account of this ETSI provision, referenced in the BEREC Guidelines. It is not clear therefore, why it is proposing the operators be asked to develop a measure for this call response time parameter, which it could not impose itself, taking account of the BEREC Guidelines. It also supports eir’s contention, that blanket timing obligations are not appropriate, and that what should in any event be used are average times.

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<sup>13</sup> BEREC Guidelines detailing Quality of Service Parameters  
<https://www.berec.europa.eu/en/document-categories/berec/regulatory-best->

included, be directed at household consumers and only be based on average call [practices/guidelines/berec-guidelines-detailing-quality-of-service-parameters-0](#).

84. eir also notes that the KPI for ECAS call answering time is reported as an average, again reflecting the typical and logical use of average call answering times, even in emergency situations.<sup>14</sup>

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<sup>14</sup> Emergency Call Answering Service Annual Review 2021  
<https://www.gov.ie/pdf/?file=https://assets.gov.ie/249916/d8de00b6-4eee-4a22-95fa-4085ebc31c27.pdf#page=null>

**Q. 11 Charter content (complaint handling): Do you agree with the proposed Charter content around complaint handling?**

85. eir does not object to directing consumers to its existing Complaint Handling Code of Practice but considers the repetition of this information unnecessary. Consumers can access the Complaint Handling Code of Practice from its website as is already required.

**Q. 12 Charter content (connections): Do you agree with the proposed Charter content and the form in which commitments around connections, are to be expressed in a Charter?**


86. eir does not consider that specific prescribed sentences are feasible or necessary in this section as providers will have to offer commitments according to those agreed in wholesale SLAs. eir evo and its business customers are subject to the same SLAs.
87. eir considers this information important to provide to consumers but not in the manner ComReg suggests and ComReg should reconsider the specific nature of the proposed requirements regarding connections. eir informs consumers at the point of order submission what to expect regarding installation, initial appointment supplied from the wholesalers and update customers if any changes are informed to us from the wholesalers.




**Q. 13 Charter content (billing and refunds): Do you agree with the proposed Charter content and the form in which commitments around billing and refunds, are to be expressed in a Charter?**

88. eir considers that ComReg should not include specific information regarding the response to queries from the day the query is received, as some refund requests may be more complicated. Instead, providers should be able to formulate this sentence and focus more on the time period within which consumers will be issued their refund if relevant. The suggested sentences in their current form focus more on unnecessary information regarding billing procedures rather than information consumers are interested in, such as when their query will be resolved and when their refund will be issued.
89. The proposed statement in relation to billing is *"If you raise a query around your bill or any charges, we will review your query and respond to you within [C1] from when we receive your request."* ComReg is obliged by Article 104 of the Code to take 'utmost account of BEREC Guidelines' in specifying the quality of service parameters to be measured. The BEREC Guidelines on Quality of Service parameters refer to the ETSI standard which covers a range of parameters. One of the parameters it indicates could be measured is *"response time for admin/billing queries"*. However, it states that the parameter is the time elapsed between dialling and reaching a human operator. It then goes on to state, *"However it excludes the handling of the enquiry itself, e.g. conversation with the attendant and the response of any database used by the attendant. The reasons are that the variety of enquiries is too wide and that it is too difficult/costly in practice to measure when the answer is given."* eir considers ComReg is not taking account of the BEREC Guidelines by seeking to develop parameters relating to the resolution time for billing queries. ETSI acknowledges that the variety of billing enquiries is too wide, making it too difficult and costly in practice to measure (and thereby develop a parameter) response times to billing queries.
90. From a business customer perspective, the billing and refunds process is more complex and it is not possible to provide information in a comprehensible manner applicable across all business customers.

**Q. 13 Charter content (billing and refunds): Do you agree with the proposed Charter content and the form in which commitments around billing and refunds, are to be expressed in a Charter?**

- 88. eir considers that ComReg should not include specific information regarding the response to queries from the day the query is received, as some refund requests channels and SMS messages direct to customers impacted.
- 92. However, ComReg again has overlooked variance and complications, and suggested an overly simplistic sentence. eir can only commit to the SLA already agreed with wholesale providers regarding repairs. This is the information that must be provided to consumers in the relevant form.
- 93. ComReg has also overlooked the complications of dealing with business customers as it is not possible to make the specific commitments for business customers. Some customers under eir evo use managed service products that are subject to the services levels or KPIs which can be determined by customer's bespoke needs so consistency cannot be obtained. Outages and repairs are determined by contracts and dependent on services requested by the customer. Larger customers will have full resilient networks or equipment.
- 94. eir considers that if a Charter is required ComReg should allow providers to communicate the required information in a format that meets the SLAs and business requirements as outlined.


**Q. 15 Charter content (disconnection policy): Do you agree with the proposed Charter content and the form in which commitments around disconnection for non-payment of bills are to be expressed in a ?**

95. eir already provides information to consumers in a clear and detailed manner on what happens if consumers do not pay their bills, this is available on our website. Providing information on timelines for non  payment and contact steps that may impact consumers is more useful than minimum notice periods. In addition, each consumer case may be approached differently given the sensitive nature of disconnections for non-payment. Again the ‘flattening’ effect of having to provide set periods will have unintended consequences of impacting an operator’s flexibility to deal with the individual circumstances of individual customers. ComReg should allow providers to provide their own relevant information on this commitment area.
96. For business or not  for-profit customers, procedures concerning disconnection and non  payment may be subject to contractual agreements which contain standard commercial confidentiality clauses, so this is not possible to disclose.



**Q. 16 Charter content (switching services): Do you agree with the proposed Charter content around switching services?**

97. eir has already outlined in response to question 1 that several of the proposed Charter provisions mandate the publication of information in the customer Charter in relation to g. switching, where obligations already exist pursuant to Article 102 of the Code, to provide this information in their consumer contracts. It is not clear how imposing such additional, more prescriptive information requirements relating to issues like switching already covered by Article 102, complies with the stipulation in Article 101 of the Code not to set different levels of protection for matters covered by Article 102.

Q. 16 Charter content (switching services): Do you agree with the proposed Charter should be included in a ?

98. eir does not consider that any other areas or content should be included in the Charter.

**Q. 16 Charter content (switching services): Do you agree with the proposed Charter their performance against Charter commitments to ComReg on a quarterly basis, and arrange and pay for an independent audit of performance reports on an annual basis?**

99. eir does not agree that providers report performance against Charter commitments to ComReg on a quarterly basis, or that it must report performance for each calendar month as set out in paragraph 7.15. eir acknowledges that if commitments are required, some level of reporting will be required but this should be done on an annual basis at the most. Again there is simply no assessment by ComReg of the objective justification for such frequency, or whether it is proportionate to impose such an extensive regulatory reporting burden on operators. As outlined earlier, eir fails to see the merit of reporting on commitments any more frequently, as any changes to service will likely be due to events or issues outside of provider's control. In addition, typically consumer experience surveys such as CXi that ComReg cites in the consultation are published on an annual basis and eir does not see a justification why a different approach is needed. eir also notes that Government guidelines on reporting against customer Charters, recommend annual reporting, in line with annual report process.<sup>15</sup>
100. eir does not agree that providers should have to arrange and pay for an independent audit of performance reports on an annual basis. This is a disproportionately expensive obligation in circumstances where no evidence at all is provided in the consultation to justify why the provision of the information by the operators themselves is not adequate. eir is also concerned that methodologies used by different auditors will not be consistent, for instance around how anomalies in performance are handled i.e. would they be discounted from the report.
101. ComReg has not fully considered reporting and auditing requirements for business customers which may not be possible in all cases. For business customers, there may not be a requirement for audit as some customers have these in place already. Business customers may be bound by contractual obligations and service levels to ensure certain performance standards are obtained. There could also be some duplication of reporting as eir evo provides bespoke quarterly reports for customers, on a contractual basis, which may already include some customer service level information. It does not make sense to duplicate this bespoke information on a generic level in a here, where required to support a report on a report

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<sup>15</sup> Guidelines for preparation

<https://www.gov.ie/pdf/?file=https://assets.gov.ie/7426/0b9255a998ee44f886ec54f10>

Q. 16 Charter content (switching services): Do you agree with the proposed Charter  
[0b5021d.pdf#page=1](#)

**Q. 19 Performance reporting:** If you have any specific comments on ‘Schedule 3: Customer Charter Data Dictionary and Reporting Template’ published alongside this consultation (summarised in Table 2), please provide these in response to this question.

102. eir considers that ComReg setting the measurement units such as seconds or minutes is far too prescriptive and fails to see the value it adds both in the reporting template and in the information provided to consumers in the Charter. In fact, the requirement for providers to give call answering times in ‘seconds’ will likely make it more complicated for a consumer to interpret call answering times, than measurements in minute units.

- For example, if a committed call answer time was 6 minutes, providers would be required to give this information to consumers in seconds, which would be 360 seconds.
- This is unnecessarily confusing for consumers, counterproductive and is an attempt to control the call answer times set by providers.
- It is unclear how a consumer would be able to easily understand the call answer time as being 6 minutes when it is presented as 360 seconds.

Consequently, ComReg is too prescriptive to the detriment of consumer understanding and needs to offer providers flexibility to determine which measurement units they use. The use of averages is also essential as many factors can influence a performance on any given day and force majeure events can disrupt call answer times. Because of this, if operators are forced to provide a single figure, it will in fact be a misleading figure, in terms of the experience of most customers, as a single figure will have to take account of, or try to build in, the time that may be taken when exceptional circumstances arise, where averages do not. Publication of such a single figure will therefore be positively harmful to the reputation of operators as well as being misleading to customers bearing in mind the requirements of Article 104 that such information be reliable not misleading and user friendly.

103. ComReg has accounted for different consumer level reporting by suggesting new lines are used but it has failed to consider differences across the specified groups of relevant customers e.g. microenterprises. The reporting for business customers, small enterprise, microenterprise or not for profit, will also need to be aligned to a generic set of values as service is not the same across all eir evo customers. ComReg needs to reevaluate reporting requirements in this context.

**Q. 20 Regulatory impact assessment: Do you agree with ComReg's Regulatory Impact Assessment and the preliminary conclusions as set out?**

104. eir considers ComReg's preliminary conclusions on the Regulatory Impact Assessment ('RIA') are flawed as:
- The analysis incorporates only a limited range of options.  
There is a narrow assessment of the benefits and costs for consumers and providers.
  - The conclusions are not evidence based and there is no assessment of proportionality of the proposed measures overall, including whether it is the least burdensome option, as required by EU case law.
105. eir considers the RIA assesses a limited range of options as seen in the section on 8.3.2 "*Overall approach to implementing a Charter*" in which the options focus only on implementing a Charter or not, instead of other methods of sharing quality of service information. Such methods could be less of a burden for providers, and provide information more clearly and with less duplication for consumers such as adding more information to provider websites if required.
106. eir considers the assessment of the benefits and costs identified is narrow for example as seen in section 8.3.4 "*Which classes of end-user the Charter will address.*" ComReg base the benefit or need for the Charter to address microenterprises, small enterprises and not-for-profit organisations, on the bargaining power of these end users, overlooking practicalities such as contractual obligations regarding quality of service levels and that some not-for-profit organisations are large organisations. In fact, ComReg has failed to provide evidence to justify introducing a Charter measure for the specified end users, again failing to meet statutory requirements. In paragraph 8.73 ComReg also state "*it seems appropriate to extend the Charter measure to other small end-users....they would likely benefit.*" It is not clear why extending a Charter requirement to those end users "seems appropriate" and how they would "likely benefit". This is another example of how ComReg has made sweeping statements and assumptions, and has not grounded its proposals in evidence as it is required to do.
107. ComReg has taken a narrow view when assessing the benefits for consumers of using averages, and not considering that providers need to use averages to account for circumstances where they cannot control impacts on quality of service, despite recognising in paragraph 8.94 in the RIA that providers cannot control all such

circumstances. eir considers ComReg has taken a limited view of consumers' ability to assess performance of providers against averages compared to specific commitments. This analysis fails to incorporate the benefit for consumers of using averages, so that consumers are aware in some cases, outside of the control of providers, commitments may not be met in individual circumstances. ComReg has also taken a somewhat contradictory approach in paragraph 8.83 by acknowledging that outliers will exist but not accounting for how to deal with these both when setting a single figure, communicating to consumers and when auditing/analysing data.

108. ComReg also makes a limited assessment of the costs for providers of implementing Charter requirements. In paragraph 8.110, ComReg points out that there would be two key costs for providers – generating performance reports and auditing, referring to initial set up costs for reporting processes. ComReg does not consider the cost to providers if ComReg makes changes following the proposed review of the Charter in early Q1 2024.
109. In addition, eir considers ComReg should have asked industry what costs they will face to implement the reporting proposals, rather than assuming. For instance, if averages are not used providers will have to hire more agents to ensure they can make commitments for call answering times, at all times. Additional agents would not be required, other than to ensure call answering times can be met in a force majeure event, a “just in case scenario”. This unnecessary cost will be passed on to consumers and could be avoided if averages were used. This is an example of the failure to assess the proportionality of the proposed measure, which requires an assessment of the burden that is to be imposed, and whether it is justified by a necessary objective.
110. ComReg's conclusion that more frequent reporting will result in greater expected benefits to customers and competition in paragraph 8.113 is not evidence<sup>11</sup> based. It is not clear what this expectation is based on or how more frequent reporting would allow customers to better see how a provider is performing against Charter commitments, and enhance customer trust of the Charter. There is also no guarantee that a customer would want to read the ~~more frequent reporting information~~ regardless of the frequency of publication. In addition, ComReg has not provided evidence of the influence of quality of service information on consumer decision-making when selecting a provider or whether indeed consumers are likely to refer to the information.

111.

In response to Question 1, eir has already highlighted the lack of evidence for introducing a Charter requirement, which applies to the RIA.

112.

Given the disproportionate impact the proposed Charter and reporting requirements will have on industry, and the limited benefit as outlined by eir in this document, and the absence of the required evidence based assessment of whether the proposed measure is proportionate and the least burdensome measure to achieve the stated objective, it is not sufficient for ComReg to rely on limited analysis of options and impacts as well as little evidence to assert that the proposals are justified and proportionate.



## 6 Imagine

## Questions Imagine Response 12/05/2023

Imagine welcomes the opportunity to respond to the “Proposals for Implementing a Customer Charter” Consultation.

Imagine are an industry-recognised innovator, in the use of 4G, LTE Advanced and 5G Fixed Broadband technologies providing high speed broadband access to consumers in Ireland's 'Digital Desert'. Additionally, Imagine underpin the delivery of our product set with the highest standard of customer care, a fact recognised by independent rating agencies such as “Trust Pilot”. Furthermore during 2022, Imagine were awarded 2022 Team of the Year by CXIA, a body that measure and manage ‘Customer excellence’ as well as receiving additional nominations in recognition of our customer focused service. Furthermore, Imagine implement a very stringent code of practice, incorporating focused SLAs to reinforce customer expectations.

Imagine, request therefore that the responses to this consultation, as undernoted, are weighted against this backdrop.

**Q. 1 Introducing Charter requirements: Do you agree with the proposal that ComReg should introduce requirements for providers of IAS and ICS to prepare, publish and keep updated a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions**

We do not agree that a Charter is required for providers of IAS and ICS that they are obligated to publish and keep updated. Customer satisfaction with service levels is a not an absolute. Rather, it is a combination of expectation and delivery. In many cases, expectation can be a function of the particular product or service the customer chooses and that choice itself is a combination of economics and service needs. The proposition that there is a baseline of ‘customer service’ is itself flawed and represents a poor articulation of what good customer service represents. ComReg’s approach appears to be to attempt to standardise ‘customer service’ by formulating a standardised set of metrics and then shoehorn different customer expectations and deliveries into some arbitrary comparison process that will not serve either the industry or the customer well.

Also, we do not believe that the approach outlined is technology agnostic. Rather, it appears to be formulated primarily as a means of comparing fibre services. This singular and narrow approach will significantly undermine non-fibre providers and provide a false and misleading comparison to customers in the many parts of the country that are not capable of getting such service. It is disappointing that ComReg is not mindful of this and the negative impact these 'one-size-fits-all' proposals will have.

The obligations associated with ComReg's proposals are onerous on smaller operators in particular. The cost and overhead is significant and ComReg's approach does not differentiate sufficiently between differing products, service standards, approaches and market shares. Smaller operators in particular have imposed upon them the same reporting obligations of very large operators with no account taken of their ability to carry such a burden without having to either pass the cost on to the customer – a cost they don't want – or impact already narrow margins. In imposing obligations ComReg should be very mindful of the cost and benefit associated with their proposals. These proposals are absent of any economic justification and rest solely on ComReg's perception of what both customers and the industry 'should' do. In this, in our opinion, ComReg are mistaken. The market is functioning adequately with customers making informed choices every day without the need to refer to some 'one size fits all' set of metrics to help them make a basic choice.

Q. 2 Overarching approach to introducing a Charter: Do you agree with the proposal that the Charter will contain provider-set commitments, with ComReg to monitor and evaluate implementation of the Charter requirements and the levels of customer service committed to and implemented by providers for their adequacy before deciding whether to seek to move to the specification of Minimum Quality of Service Standards, and/or seek to require any Minimum Quality of Service Standards information is included in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

Notwithstanding our opinion in Q.1, if a charter is to be introduced, we agree that Option 2 is the appropriate option to implement. However, we completely disagree with reservation of "...the power to impose Minimum Quality of Service Standards at any time, following an adequacy review, should ComReg consider that option 2 (the level of customer service committed to and/or implemented by some or all providers of IAS and ICS) does not ensure effective consumer protection or that the Charter objectives are met, ComReg may seek to move to options 3 or 4." This is overreach at this stage in the process and effectively conflating this consultation in such a manner as to give ComReg further scope to expand this beyond Option 2 without further consultation and appropriate justification is inappropriate and unnecessary.

Furthermore, in relation to 4.1 and covered below, we do not agree with a provider-led audit requirement which is further discussed below.

**Q. 3 Providers that Charter requirements will apply to: Do you agree with the proposal that Charter requirements will apply to providers of IAS and/or number-based interpersonal communications services with a market share of 0.5% or greater? If yes, please explain why and, if no, please provide specific alternative suggestions.**

See the response to Q.1 above, as these points are also relevant in this question. We agree that Options 1 and 2 are appropriate.

If such a charter is to be imposed, the limit of 0.5% market share is not the correct threshold upon which to mandate the imposition of this burden. To have any meaningful value to the market as a whole (and therefore to average customers in the market) it is our view that a 5% share of the market as a whole is the minimum level at which such an obligation should be imposed. At ComReg's proposed level of 0.5% this means that for an operator at this share, the information they must collate, publish, and maintain (at their cost) will be of no interest or relevance at all to 99.5% of the market. This is a singularly inappropriate level at which to impose the obligations and will serve only to further weaken smaller operators and provide no impetus whatsoever to achieve the purported ambition of the charter – to improve customer's service and experience.

To obligate these requirements at a market share below 5% of the entire market will only increase costs and have no overall benefit at all.

**Q. 4 End-users that a Charter will address: Do you agree with the proposal that providers will be required to prepare, publish, and keep updated a Charter that address all consumers, microenterprises, small enterprises, and not-for-profit organisations? If yes, please explain why and, if no, please provide specific alternative suggestions.**

We agree that Option 3 is appropriate.

**Q. 5 High-level Charter contents: Do you agree with the proposal that a Charter will contain both general information on providers' customer service policies, and specific commitments as to the level of customer service an individual customer can expect to receive in a given period? If yes, please explain why and, if no, please provide specific alternative suggestions.**

We do not agree that both Options 1 and 2 are appropriate. At this stage it is more appropriate to improve the information available to customers on their provider's customer service and, by acting as a "one stop shop" which will make it easier for customers to find that information. Mandating customer service improvements using Option 2 presumes (without evidence) that such improvements are required and economically justified for both the customer and the provider. Also, ComReg have provided no basis for how such 'comparisons' can meaningfully be made across varying technologies to ensure that the correct emphasis is placed when comparing completely different service delivery models and economic drivers. Implementing such an option in advance of industry acceptance of the mechanisms to be used – in particular ensuring technology neutrality – is completely unacceptable at this stage.

**Q. 6 Overarching Charter form: Do you agree with the proposal that providers must prepare, publish, and keep updated a Charter in accordance with a ComReg-specified template? If yes, please explain why and, if no, please provide specific alternative suggestions.**

We do not agree that Option 4 is appropriate. Implementation of a customer charter that is fit for purpose is the more desirable outcome from this process. Mandating a common 'charter' again presumes (without evidence) that such charters can meaningfully be 'compared' across varying technologies. Implementing such an option in advance of industry acceptance of the mechanisms to be used – in particular ensuring technology neutrality – is completely unacceptable at this stage.

**Q. 7 Charter template: Do you agree with the proposed form requirements for completing a Charter template? If yes, please explain why and, if no, please provide specific alternative suggestions.**

At Imagine we strive to remain consistent in our tone of voice and language. Therefore, we would not agree to a charter template which could, in our view, serve to confuse customers. Our preference is option 1: Do Not Specify Form Requirements.

Furthermore, in relation to 5.33, we do not believe it is appropriate to set out a compensation schedule on in a generic format like a customer charter, particularly when certain technologies are reliant on the service of third-party providers e.g., ESB Networks. At Imagine, we believe we have industry leading customer service levels and pride ourselves on treating our customers fairly and compensate customers where appropriate, which will continue.

**Q. 8 Publishing and updating a Charter: Do you agree with the proposal that providers publish an initial Charter on their website on 2 October 2023, containing monthly Charter commitments, and are allowed to update the Charter each quarter thereafter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

We do not agree that Option 2 is appropriate. The overhead associated with monthly (effectively ongoing) updates is unnecessary and place an overhead/ burden on operators – particularly smaller operators- that is unnecessary and affords the customer no additional benefit whatsoever. It is our view that Option 5 is more appropriate at this early stage and over time, should the evidence support it and following further consultation, the potential to further refine it is available.

Furthermore, the requirement for all providers to publish on the same date is unrealistic as it does not factor in smaller resourced providers who may not be able to web release after a weekend. Our recommendation is that providers will be required to update the charter within the first working week.

**Q. 9 Notifying customers: Do you agree with the proposal that providers be required to ensure all customers are made aware of the Charter, and otherwise ensure the Charter is available on request and in accessible format? If yes, please explain why and, if no, please provide specific alternative suggestions.**

We agree that Option 2 is appropriate. The charter will be available on the website and new customers will be informed where to find their charter during the sign-up process.

However, in relation to 5.55, it's unrealistic to expect providers with smaller service teams to provide durable medium charters within 48 hours. A more realistic option would be within 5 working days in an electronic medium and within 15 working days in a physical format subject to fair administration charges.

**Q. 10 Charter content (core customer service): Do you agree with the proposed Charter content and the form in which commitments around core customer service, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

While our primary stance remains that a charter is unnecessary, we agree that it is reasonable to include information on contact channels, their availability, relevant conditions, and escalation procedures in the charter's contents. Customers should have easy access to this information, and transparency is in the service provider's best interest to manage their expectations effectively.

Imagine offers multiple contact channels, all of which are equally available to our customers. These channels are provided at the point of sale, on our website's landing page and dedicated contact page, and through our customer service representatives. We are committed to providing excellent customer service, as reflected in the awards we have received and the positive customer service ratings we consistently achieve.

We hold a different view regarding the practice of providing maximum initial response times, as well as the implementation of self-imposed penalty systems. In reality, the lead times for resolving various queries received by customer service teams, may vary greatly. For instance, a technical support query would require a different resolution time



compared to a billing query. Implementing such a system would present significant challenges and may be unreasonable, with potential operational consequences. Therefore, providing an average initial response time may be a more practical approach to providing customers with some transparency. However, as this is based on an average of all queries, there may be instances where queries exceed the average response time.

We are a wireless operator with infrastructure that is reliant upon input from third party vendors. While we have robust SLA's in place to manage these relationships, nonetheless the possibility exists for unforeseen events to present and circumvent these agreements.

**Q. 11 Charter content (complaint handling): Do you agree with the proposed Charter content around complaint handling? If yes, please explain why and, if no, please provide specific alternative suggestions.**

Although our overarching view is that a charter is not necessary, we acknowledge that it may be beneficial to include a portion of the provider's existing complaint handling code of practice in the charter's contents. This inclusion will inform customers of the existence of the complaint handling code of practice and where they can access the relevant information in the event, they need to make a complaint.

**Q. 12 Charter content (connections): Do you agree with the proposed Charter content and the form in which commitments around connections, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

We pride ourselves on the service levels provided to customers throughout their provisioning experience from point of sale to completion. We feel that the proposed charter is too restrictive in scope as it does not consider geographic considerations for service providers, nor does it factor in all types of broadband connections currently available in the market. It appears to be primarily focused on fibre connections and whether they are “in-Situ” or a new connection. Additionally, it is unrealistic to measure service levels for customers who reside in the CSO areas and those who reside in rural or semi-rural areas using the same metrics.

**Q. 13 Charter content (billing and refunds): Do you agree with the proposed Charter content and the form in which commitments around billing and refunds, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

Notwithstanding our opinion in Q.1, we acknowledge that it may be beneficial to include a portion of the provider's existing billing and refunds code of practice in the charter's contents. This inclusion will inform customers of the contact channels, their availability, relevant conditions, how customers will receive refunds and escalation procedures in the charter's contents. Customers should have easy access to this information, and transparency is in the service provider's best interest to manage their expectations effectively.

However, we hold a different view regarding the practice of providing maximum initial response times, as well as the implementation of self-imposed penalty systems. Given the nature of billing, any credits applied to a customer account will not appear until their next bill cycle which can range from monthly, bi-monthly, quarterly or annually. Refunds are also subject to bill cycles as the consumer's invoice needs to show a credit balance in order for a refund to be processed. Therefore, the customer's bill cycle should be taken into account. Providing an average initial response time may be a more practical approach to providing customers with some transparency. However, as this is based

on the customers billing cycle, there may be instances where queries exceed the average response time.

**Q. 14 Charter content (outages and repairs): Do you agree with the proposed Charter content and the form in which commitments around outages and repairs, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

We agree with the need to provide our customers with timely and relevant information about issues, outages, and repairs.

Imagine agrees with the proposed threshold of more than 1% of the national user base of that service for specific Charter commitments around providing information on outages.

In terms of minimum notice period before any **planned outages** affecting service for more than 1% of the national user base occur, Imagine believe that this could be provided for works related to upgrades and future enhancement of the network that are generally planned well in advance but must also factor in situations where approval by third parties to carry out such work can often occur at short notice.

With respect to **unplanned outages**, Imagine agree that this should be included in terms of a maximum timeframe for making information available on an issue affecting service for more than 1% of the national user base, from the time a provider becomes aware of the issue, subject to appropriate working hours. In terms of restoring service in the event of an outage Imagine have multiple equipment vendors, site providers, reactive maintenance providers and third-party network service providers who in turn may also have a dependency on other network service providers. Each of these offer a wide variety of SLA for restoration and provision of updates along with associated conditions all of which need to be considered in determining an overall and simple to understand commitment.

**Q. 15 Charter content (disconnection policy): Do you agree with the proposed Charter content and the form in which commitments around disconnection for non-payment of bills are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

Notwithstanding our opinion in Q.1, we acknowledge that it may be beneficial to include a portion of the provider's existing disconnection and reconnection policies. This inclusion will inform customers of the support available when having difficulty paying their bill, how we restrict server and/or disconnect, how to reconnect and any fees which they may incur. Customers should have easy access to this information, and transparency is in the service provider's best interest to manage their expectations effectively.

**Q. 16 Charter content (switching services): Do you agree with the proposed Charter content around switching services? If yes, please explain why and, if no, please provide specific alternative suggestions.**

Imagine strongly believe that establishing robust mechanisms to facilitate 'switching' is a crucial element when it comes to building consumer confidence in the switching process and indeed the market as a whole. Therefore, we have invested significant time and resources to ensure the successful implementation of this approach, actively participating as members of the industry forum that shaped the IPM/Vendor solution for FNP. Additionally, we are currently members of an industry subgroup working towards a comparable process to facilitate IASS. Therefore, by extension we broadly support the switching objectives outlined in articles 90 and 91.

**Q. 17 Charter content (other): Are there any other areas and/or content you think should be included in a Charter? If yes, please explain and provide specific suggestions.**

No comment.

Q. 18 Evaluating performance: Do you agree with the proposal that providers report their performance against Charter commitments to ComReg on a quarterly basis, and arrange and pay for an independent audit of performance reports on an annual basis? If yes, please explain why and, if no, please provide specific alternative suggestions.

We do not agree that Option 3 is appropriate. The overhead associated with this option is overkill at this stage in the process and again places a burden on operators that cannot easily be absorbed. The rationale assumes, without evidence, that the process will be fully automated with 'marginal cost' but in reality, significant manual work will be required in many instances. It is often the case that the systems stack required to 'fully automate' such a requirement is not easily (or at all) implementable – particularly for smaller operators and ComReg appear to have completely dismissed such a situation.

With regard to auditing, we completely disagree that such a requirement is necessary at this stage. Again, this requirement adds little or nothing to the concept of a charter and appears to be for regulatory benefit alone without any material consideration given to the costs and benefits associated with such an obligation. The imposition of 'nice to have' obligations on operators each incrementally adds to the regulatory and compliance burden on operators and will inevitably lead to cost increases that cannot be sustained without passing them through to customers. The imposition of further cost burdens on operators with the necessary regulatory evidence is not acceptable.

With regard to the reporting obligations, in general ComReg have been escalating these burdens materially on operators recently and further adding to this burden is unwelcome and where necessary should be avoided. It is our clear view that, in the absence of clear evidence, annual reporting is sufficient and allows material progress on the issue to be obtained without unnecessarily complicating the issue or adding to the regulatory burden already being carried.

**Q. 19 Performance reporting:** If you have any specific comments on ‘Schedule 3: Customer Charter Data Dictionary and Reporting Template’ published alongside this consultation (summarised in Table 2), please provide these in response to this question.

We acknowledge the goal of having a degree of similarity in the way that providers’ Charter commitments are defined and measured and that performance against those commitments is calculated and expressed in a similar way, to ensure a degree of comparability between different providers’ it should also be ensured that these definitions take account of the different nature of the providers and services they provide in order not to distort the relative performance of for example, different types of technology, in such a way as to unfairly promote or create an advantage to certain providers.

In terms of the specific measurements defined in the data dictionary Imagine has no additional comments other than that the definitions should reflect the feedback provided in the responses to previous questions and use the most appropriate calculation of time e.g. working hours/days instead of clock hours which would be an inappropriate measurement.

**Q. 20 Regulatory impact assessment:** Do you agree with ComReg’s Regulatory Impact Assessment and the preliminary conclusions as set out? If yes, please explain why and, if no, please provide specific alternative suggestions particularly with respect to the benefits and costs identified, including any evidence to support quantifying such benefits and costs.

We agree that Option 2 is the appropriate option to implement. However, we completely disagree with reservation of “..the power to impose Minimum Quality of Service Standards at any time, following an adequacy review, should ComReg consider that option 2 (the level of customer service committed to and/or implemented by some or all providers of IAS and ICS) does not ensure effective consumer protection or that the Charter objectives are met, ComReg may seek to move to options 3 or 4.” This is overreach at this stage in the process and effectively conflating this consultation in such a manner as to give ComReg further scope to expand this beyond Option 2 without further consultation and appropriate justification is inappropriate and unnecessary.

## 7 Magnet



# Response to Consultation on “Proposals for Implementing a Customer Charter” – ComReg 23/14

Magnet welcome the opportunity to respond to the current consultation and the focus of our response is on the proposal 0.5% threshold proposed by ComReg for defining the Relevant Service Provider. While Magnet has calculated its market share in the voice and broadband markets to be under 0.3%, and thus outside the threshold, we nevertheless consider the proposed threshold to be too low.

The European Electronic Communications Code (EECC) Directive is heavily underpinned by the principle of proportionality across wide range of issues<sup>1</sup>. Under the General Objectives of the Code, as covered by Art. 3, regulators must ensure that it acts “*impartially, objectively, transparently and in a non-discriminatory and proportionate manner*”. The requirement to observe this principle of proportionality extends even to imposition of obligations on operators with Significant Market Power (SMP) by “*having regard, where possible, to the costs and benefits*” of the obligations imposed by ComReg.

It is unclear to Magnet how ComReg has “objectively” settled on a proposed threshold of 0.5% market share for defining a **Relevant Service Provider** (RSP) which will be subject to the Customer Charter requirements. In setting the threshold at this level it is not clear what criteria was adopted by ComReg and no consideration appears to have been given to the “*cost and benefits*” of such a policy. Larger retailers such as Eircom, Vodafone, VMI and Sky enjoy a significant economy of scale advantages over smaller operators. Increasing the regulatory “burden” on these operators, while likely to be unwelcome and seen as overly intrusive from their perspective, is not comparable to the impact on operators a fraction of their size. It is obvious the internal demand on resources at these larger entities to develop, maintain and report on the Customer Charter is very small in terms of unit costs compared to operators of Magnet’s size.

By way of illustration if we assume that the increased regulatory burden resulted in annual operating cost increase of €50k to all operators. This would result in a **€6.25** per sub per annum increase to a broadband provider just at the 0.5% threshold. Meanwhile, based on ComReg’s QKDR data, this same cost could be absorbed at Ireland’s largest retailer for **less c€0.11 per customer**. These are material and potentially distortionary differences.

To give further context to the disproportionate nature of the burden imposed on

smaller operators, based on ComReg's own data presented in Chapter 3 of the consultation in Q4 2022, ComReg received 237 "ECS Fixed" complaints. Assuming these complaints were evenly distributed across operators then an operator with c0.5% market share would account for an average of just 1 complaint per quarter. If the Customer Charter managed to reduce this by 20/30/50% what ComReg must consider is whether such a reduction to an already very low average would justify an annual per subscriber cost increase by up to the aforementioned €6.25 per subscriber for all subscribers (this actual figure could

be higher or lower than this depending on the operator). By any objective measure this would **appear to be disproportionate** even if ComReg statistics only relate complaints they receive directly.

Increased infrastructure competition in recent years, while obviously welcomed, has also resulted increased costs to SPs that have had to develop APIs into new providers such as SIRO and NBI. This has also increased management and agent training costs. Adding an additional layer of costs to smaller operators on basis of an arbitrary and very low threshold of <1% could have a distortionary effect on the market particularly as is clear from the consultation this may only be the **start of the regulatory burden** imposed on operators under the Customer Charter requirements. A more considered approach in determining the appropriate threshold should take account of the investment challenges and circumstances of smaller operators.

Magnet are of the view that ComReg has already established appropriate thresholds to differentiate between larger and smaller operators in its **Quarterly Reports**. In this regard we note that ComReg's policy is only to break out the market share of operators with greater than **2% market share**. The remaining allocations is bundled under a single heading i.e. "OAOs". This threshold covers **93% of the Fixed Broadband Subscriber Line** and **95.2% of the Fixed Voice Telephony** markets. In the interest of consistency, regulatory certainty and proportionality there is seems no obvious reason to depart from the 2% differentiator in setting a threshold for the Customer Charter. In both cases ComReg can have comfort that only a very small percentage of customers are excluded and so a significant "halo" effect is sure to persist in terms of customer care to the small number of customers not covered.

Article 5 (4) of the Treaty of the European Union lays down the principle of proportionality as not imposing a burden on "*the individual that is excessive in relation to the objective sought to be achieved*"<sup>2</sup>. It is difficult to see how a scenario where the objectives of the EECC Customer Charter provisions would be comprised **where well over 90% of retail customers** would be covered by the "2% threshold" being proposed by Magnet. Smaller operators will have an incentive to ensure its customers receives a high-quality service or they will be at risk of losing those customers to those operators with greater than 2% market share. By contrast where such smaller operators are required to devote disproportionate resources to address the regulatory burden of the Customer Charter being proposed by ComReg, this could have the opposite effect intended by the Charter i.e. customers could end up with a lower level of service due to the internal demand on resources.

## **8 National Disability Authority (NDA)**

# NDA submission to ComReg regarding Proposals for Implementing a Customer Charter

## May 2023

### Introduction

The National Disability Authority (NDA), as the independent statutory body, provides information and advice to the Government on policy and practice relevant to the lives of persons with disabilities. We have a role to assist the Minister for Children, Equality, Disability, Integration and Youth in the co-ordination of disability policy. We work through our Centre for Excellence in Universal Design to promote universal design in the creation of digital and physical environments including services and systems so that they can be easily accessed, understood and used by everyone, including persons with disabilities.

The NDA wishes to make a submission in respect of ComReg's Proposals for Implementing a Customer Charter which is currently open for public consultation. We note that much of the content in this proposal is directed at operators, however as it has a direct relationship to, and impact upon, end-users and consumers it is important that the needs of persons with disabilities and older adults are considered at all stages in this process.

In this submission, we will refer to specific sections, subsections, and clauses, as well as to the twenty questions which underpin the proposed charter. For referential purposes they will be indicated by their designated number in parentheses. We note that not all questions are relevant to end-users. We will therefore confine our input to those which we deem most relevant. However, if ComReg notes that comments provided here appear to be relevant to other sections, subsections, clauses or questions, they should feel free to apply a holistic approach and consider our remarks in the broader context of the entire proposal for the customer charter.

## Importance of Communications for persons with disabilities

The importance of a universally designed customer charter, which takes the needs of persons with disabilities into account cannot be overstated (Q1). Communications play a crucial role in empowering people with disabilities to participate in everyday life and the activities of their communities. Ensuring that the design and implementation of a communications infrastructure takes the needs of everyone into account is considered crucial to the ongoing inclusion of persons with disabilities in education, employment, and leisure activities, and to enable all individuals to engage in active citizenship. The capacity to participate in conversations with friends and family, to engage in retail activities, to watch a show on a streaming-service or to conduct medical transactions, using universally designed devices and communications infrastructure facilitates greater independence for persons with disabilities and older people.

The importance of integrated universally designed communication services is underpinned by **Article 9 of the UN Convention on the Rights of Persons with Disabilities**. Ireland ratified the UN Convention in 2018. Article 9 states that in order for persons with disabilities to live independently and fully participate in all aspects of life, they need to have access to the infrastructure, the built environment, information and communication processes and technologies and to other public facilities and services; all of which are key components of modern communications. The NDA notes that many facets of communications devolve onto individual service providers, however given its oversight and regulatory functions we consider it important to highlight the importance of following a Universal Design approach and thus facilitating the inclusion of all stakeholders, including persons with disabilities and older people.

In this context therefore, the NDA advises that ComReg should adopt and implement a Universal Design approach when defining recommendations for the creation, implementation, and monitoring of customer charters across the sector, and indeed on all matters pertaining to consumer involvement. Incorporation of Universal Design, and inclusion of all stakeholders including persons with disabilities and older people at the earliest opportunities will enable a participatory approach to be taken, and will facilitate the involvement of everyone in the design and implementation of the proposed customer charter , as well as providing feedback on their operation. Therefore, we advise that part of each operator's process of creating its charter should include wide-ranging and extensive consultation with its stakeholders, and in particular persons with disabilities.

To assist ComReg in formulating its strategy, the NDA recommends communication and consultation with persons with disabilities, disabled persons organisations (DPOs) and older people to determine their needs with regards to all aspects of the customer journey outlined in the Draft Strategy Document. Ensuring an inclusive approach to engagement, based on universal design, will result in communications structures and

mechanisms which are easy to access, easy to understand and easy to use for everyone, including persons with disabilities and older people. In order to facilitate the inclusion of persons with disabilities and older people, the NDA has produced guidance to ensure that everyone can be included at all stages. This guidance document is entitled [Participation Matters: Guidelines on implementing the obligation to meaningfully engage with disabled people in public decision making](#). These guidelines are a practical resource to support public officials at national and local level to meaningfully consult with and actively involve disabled people and their representative organisations in policy development and other decision making processes to meet obligations set out under the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD). We would, therefore, strongly encourage further consultation with disabled persons organisations (DPOs)<sup>3</sup> and persons with disabilities in respect of this proposed customer charter.

## Specific Information Relevant to Persons with Disabilities

The NDA notes with regret the paucity of information and/or references to persons with disabilities throughout this consultation document. Chapter 3, describes the state of customer service in the Irish market. It outlines that it “sets out the available evidence around customer service levels in the Irish electronic communications services market, including availability and transparency of information about levels of customer service.

Section (3.4) within the document presents various facts and figures, and in some cases the material includes specific references to older adults. Nowhere in any of the information provided is there any references to the viewpoint or lived-experience of persons with disabilities. It would be helpful to know if this information has been captured, and if so, we advise the importance of including same in the relevant documentation. If the information has not previously been gathered, the NDA would advise the importance of gathering and using data relevant to disability in order to inform future development of services and supports as relevant and appropriate.

Question 4 in the consultation document reads in part: “Do you agree with the proposal that providers will be required to prepare, publish and keep updated a Charter that address all consumers...”). In order to adequately address this question, the NDA advises that any customer charter be developed in a manner which specifically and carefully considers the needs of persons with disabilities, and that survey, monitoring, and other instruments are designed in a manner which captures the viewpoint and lived experience of this demographic. This will necessitate the gathering of relevant

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<sup>3</sup> Disabled Persons’ Organisations (DPOs) are organisations that are led by people with disabilities. These organisations are rooted in the principles and rights of the United Nations Convention on the Rights of Persons with Disabilities (UNCRPD).

data in relation to this cohort of users. Furthermore, gathering of such data will enhance ComReg's capacity to monitor performance of the customer Charter, referencing in particular questions 17, 18 and 19 in the document (Q17, Q18, Q19). In order to assess its impact on persons with disabilities, the following non-exhaustive list of criteria should be considered:

- Is relevant customer service information available via multiple channels? (Q9, Q17, Q18)
- Is relevant customer service information available in an accessible format on any websites, mobile applications, or other digital medium? (Q9, Q18, Q19)
- Is relevant customer service information readily available in alternative formats? (Q9, Q18, Q19)
- Are complaints mechanisms available via multiple channels? (Q11, Q18)
- Is information pertaining to complaints procedures available in an accessible format on any websites, mobile applications, or other digital medium? (Q11, Q18)
- Is information pertaining to complaints procedures readily available in alternative formats? (Q11, Q18)
- How many persons with disabilities have registered complaints with a provider, or with ComReg directly? (Q11, Q18, Q19)
- What complaints, specifically relating to the accessibility of products and services provided by operators were registered with either ComReg directly, or with other relevant sectoral agencies? (Q17, Q18, Q19)
- What was the outcome of the accessibility-related complaints? (Q11, Q17, Q18, Q19)
- What was the level of satisfaction with the manner in which the accessibility-related complaints were handled by the operators or ComReg? (Q11, Q17, Q18, Q19)

In order to further refine the criteria captured by ComReg in respect of persons with disabilities, the NDA would be pleased to engage in further discussion with a view to offering advice and guidance on devising relevant KPIs for the sector.

We are also pleased to advise that we have recently launched a revised and updated [Customer Communications Toolkit for Services to the Public - A Universal Design Approach](#) which contains guidance in designing customer-service experiences in written, spoken, and signed communication scenarios. We strongly encourage ComReg to re-examine the proposals for the Customer Charter to take account of the information provided in this document.

## European and National Legislation

The NDA advises that ComReg will need to take account of the European Accessibility Act (EU) 2019/882, on the Accessibility Requirements for Products and Services (European Accessibility Act) in its proposals for developing customer



charters across the sector. Member states were obliged to transpose the European Accessibility Act (EAA) into national legislation by 28th June 2022 with implementation commencing from June 2025. Accessibility requirements are binding on public administration organisations **and** the private sector, that is, anyone who produces or provides products or services falling within the scope of the EAA. From 28 June 2025 the legislation will apply to a wide range of products and services. Some examples of the types of products and services which may fall under ComReg's remit include, but are by no means limited to:

- Smartphones and other equipment for accessing telecommunication services
- Devices for accessing audiovisual media services, such as digital TV receivers and digital televisions e-readers
- IT and communications services such as telephony services (For example, mobile or landline telephones, tablets with telephony capability or other devices)
- Services to access audio-visual media services

It is important that this proposal, and any proposed actions deriving from it, are aligned with the requirements set out by the European Accessibility Act to ensure the greatest possible accessibility for all users including persons with disabilities.

ComReg must also be aware of requirements with regards to the procurement and provision of services. Below is a non-exhaustive list of Statutory Instruments which have been created to cater for accessibility in public procurement activities. We provide them here in order to assist in understanding the provisions in the European Accessibility Act in respect of procurement of products and services.

- S.I. No. 284/2016 - European Union (Award of Public Authority Contracts) Regulations 2016
- S.I. No. 286/2016 - European Union (Award of Contracts by Utility Undertakings) Regulations 2016
- It is also worth noting that the EAA contains a legal obligation for procurement of accessible ICTs including payment and self-service terminals as well as websites and mobile applications. The [Public Procurement Directives](#) were updated in 2014 to require public services to procure ICT products under the specifications outlined in EN 301 549. The new Directives contain a significantly stronger focus on the use of public procurement to achieve social gains. Accessibility is arguably one of the strongest social considerations within the text of the new Directives, however the NDA wishes to emphasise that accessibility features in ICT benefit everyone, not just persons with disabilities. Therefore, public procurers on top of it being a requirement under statute that they can also justify inclusion of accessibility requirements on the grounds that it improves the quality of the product or service overall.

It must be noted that Article 42 on Technical Specifications under the updated Public Procurement Directives significantly strengthens the obligations of

public bodies except in ‘duly justified cases’ to take into account accessibility criteria for persons with disabilities or design for all users. This is perhaps the most significant development in the updated directives as it requires all public bodies to include accessibility as a mandatory requirement in the public procurement of all goods and services for use by people, be they members of the public or employees of the government.

Further to this, the NDA would like to remind ComReg that Section 27 of the Disability Act, 2005 requires the head of a public body to ensure that services provided and goods supplied to the public body are accessible to people with disabilities, unless that would not be practicable, would be too expensive, or would cause an unreasonable delay.<sup>4</sup> As such the statutory [Code of Practice on Accessible Public Services and Information provided by Public Bodies](#) highlights that procurers in public bodies should highlight accessibility "as a criterion to be considered throughout the entire tendering process (from drawing up and running tender competitions through tender evaluation and placing the contract to final debriefing)". This has significant implications for the development of a customer charter for operators in this sector, as they will need to be aware of their obligations under the various procurement instruments outlined above.

## Inclusive Communications

Article nine of the UN Convention on the Rights of Persons with Disabilities highlights the obligation to ensure that persons with disabilities can live independently and participate in all aspects of life through provision of equal access to communications, including information and communications technologies (ICT). As noted previously in this document, an important aspect of this, is to ensure that persons with disabilities can participate, on an equal basis, in all phases of a project such as the consultation currently under discussion.

The NDA notes, and acknowledges, the provision of the consultation document in an alternative format. **However, we wish to point out that the manner in which the document available on the consultation platform was created did not follow best-practice approaches in respect of accessibility. Whilst the relevant page did indicate that an alternative version was available on request, the failure to adequately ensure the accessibility of the material presented could certainly have acted as a barrier to the participation of persons with disabilities in this consultation process.** It is also noteworthy that the version provided in an alternative format likewise contained accessibility issues. Thus, obtaining it did not alleviate the issues encountered with the PDF available on the main consultation website. We do wish to acknowledge that

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<sup>4</sup> <https://www.irishstatutebook.ie/eli/2005/act/14/enacted/en/html>

efforts were made to ensure the accessibility of the PDF document available on the website, however some issues were encountered. For example:

- Some of the images lacked alternative text thus making them inaccessible to persons using screen readers and/or other Assistive Technologies
- The reading order was problematic in some instances.

It is also noteworthy that the version supplied in Word contained more accessibility issues than that published on the web. For example, none of the headings were apparent when this document was accessed using Assistive Technologies. ComReg is reminded that every effort should be made to ensure that, when a document is requested in alternative format, it meets the same standards for accessibility as the one circulated to those who do not require it.

The NDA advises that a suitable workflow be put in place to ensure the maximal accessibility of all documents. ComReg is reminded that compliance with the Web Accessibility Directive requires that (with some exceptions) documents published on the websites of public bodies must be accessible. In the case of the document under discussion here, we advise that any updated versions should undergo both a re-design, and that relevant tools (for example the in-built accessibility-checker in Microsoft Word or Adobe Professional) are used to verify that accessibility-related issues have been remediated. It should be noted, however, that automated tools such as those just mentioned will only catch some errors, and that human intervention will be required to check the accessibility of the document. For example, the automated Word accessibility-checker will not detect the absence of suitable headings. This will need to be carried out using manual approaches. The NDA advises that clear and universally designed communication on this matter is key. All information (written, spoken, signed and digital) delivered by a public body (which includes consultation information), should be universally designed. The NDA suggests that ComReg should use the [Customer Communications Toolkit for Services to the Public - A Universal Design Approach](#) which will help to produce universally designed written, verbal and digital communications that can be easily accessed, understood and used by everyone.

We also advise that aspects of the structure of the proposed charter template to be utilised by operators should be re-considered in the light of accessibility concerns. Section 5.5.1 of the Consultation Document sets out the structure and describes the type of content which one might expect to find in this document. However, much of the information is conveyed using alterations in the attributes of the font-face used. For example, it states that “Seven sections or headings (in bold type font), to be worded in exactly the way as specified in the template at Schedule 1, for each area of customer service the Charter will cover...” and “• An optional eighth heading (in italic type font) for any other key information a provider wishes to include at the end of their Charter.”(5.30). It is important to note that, for those with certain disabilities, italicised font can be difficult to read. Furthermore, for persons using certain forms of Assistive Technologies, ascertaining whether the relevant material is in bold, or italicised, font

can be challenging. The Web Content Accessibility Guidelines 2.1 is clear that information should be perceivable by all users, so given the difficulties just described, we advise re-considering this approach with reference to relevant material in the recently revised toolkit previously mentioned. We do wish to acknowledge the reference to accessibility at (5.55) in the document, however we feel that this point should be strengthened throughout the entirety of the proposals.

## Concluding Remarks

The NDA notes with appreciation the extensive work carried out by ComReg across its various channels and initiatives to promote the inclusion of persons with disabilities. However we feel that in this instance, there is an opportunity to ensure that this work is explicitly reflected throughout the consultation document, and in consideration of the commitments providers are being asked to make under a Charter. We are happy to meet with ComReg to discuss this submission. The NDA is looking forward to continuing to work with ComReg, through its Consumer Advisory Panel (and other forums) to develop and implement its proposals for customer charters, and other important initiatives going forward.

## 9 Prepay Power

12 May 2023

Commission for Communications  
Regulation Retail Policy

One Dockland  
Central, 1 Guild  
Street,

North  
Dock,  
Dublin 1,  
D01  
E4X0

Ireland

By e-mail to [RetailConsult@comreg.ie](mailto:RetailConsult@comreg.ie)

## In Re: Consultation on Proposals for Implementing a Customer Charter

Dear Sirs,

PrepayPower welcomes the opportunity to provide input into this consultation on the implementation of a proposed Customer Charter ComReg 23/14. We set out our responses in this letter and address the questions asked in the Appendix.

PrepayPower supplies electricity and gas to 172,000 homes. We launched our broadband service in 2019 and have a small but growing customer base of 16,000 customers. Our pay-as-you-go (PAYG) services, allow customers to pay for their

utilities in small manageable amounts and avoid large monthly bills. Our PAYG broadband service, the first in the Irish market, has offered customers an alternative to existing broadband services based on monthly billing and direct debits.

We strive to provide excellent service to our customers, which is reflected in our five-star Trustpilot review, the highest rating of any energy or broadband provider<sup>1</sup>

As a Gas and Electricity Supplier our customers are afforded protections through our Customer Charter and Codes of Practice which are published on our website<sup>2</sup>. We welcome the introduction of a customer charter for broadband customers and have to date ensured that where applicable our existing best practises are offered to our broadband customers as well.

We support ComReg's proposal to grant providers flexibility to set their own commitments as to the level of customer service and believe that this will promote both competition and innovation within the market.

We remain at your disposal should you like us to expand further on this submission or explain any of our analysis.

Yours sincerely,

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<sup>1</sup> [Best companies in Internet Provider on Trustpilot](#)

<sup>2</sup> <https://www.prepaypower.ie/about-prepaypower/code-practice>



## Ann ex

### Question 1.

Do you agree with the proposal that ComReg should introduce requirements for providers of IAS and ICS to prepare, publish and keep updated a Charter?

### Answer 1.

Yes, we agree with ComReg's proposal to require providers to prepare and publish a customer charter as this will keep customers informed of their providers customer service commitments and improve overall customer service levels across the market.

### Question 2

Do you agree with the proposal that the Charter will contain provider-set commitments, with ComReg to monitor and evaluate implementation of the Charter requirements and the levels of customer service committed to and implemented by providers for their adequacy before deciding whether to seek to move to the specification of Minimum Quality of Service Standards, and/or seek to require any Minimum Quality of Service Standards information is included in a Charter?

### Answer 2.

Yes, we agree with ComReg's proposal to allow for providers to set their own customer service commitments as this approach encourages innovation within the market.

We also agree with ComReg's proposal to conduct a review and evaluate providers compliance and implementation of their customer service commitments and if

necessary to set more prescriptive requirements.

As the implementation of new customer service commitments will involve a step change across industry, we would submit that the first audit and review should take place 1 year after implementation i.e., Q1 2025. This will allow for both a full year's analysis and will also afford providers with sufficient opportunity to train staff and implement their newly adopted best practises.

## Question 3

Do you agree with the proposal that Charter requirements will apply to providers of IAS and/or number-based interpersonal communications services with a market share of 0.5% or greater?

### Answer 3.

We agree that the Charter requirements should apply to both IAS and number-based communication providers.

We propose that the requirement should only apply to providers with a market share of greater than 2%. This aligns with the fact that ComReg does not publish the market shares of providers with a market share smaller than 2%.

In addition to promoting regulatory certainty this approach will also encourage competition within the market as it will impose less obligations on new providers seeking to enter the market.

### Question 4

Do you agree with the proposal that providers will be required to prepare, publish and keep updated a Charter that address all consumers?

### Answer 4.

We would support the charter applying to all consumers who use our broadband.

### Question 5

Do you agree with the proposal that a Charter will contain both general information on providers' customer service policies, and specific commitments as to the level of customer service an individual customer can expect to receive in a given period?

## Answer 5.

We agree that the customer charter should contain information on both providers policies and or procedures relating to key aspects of customer service and specific commitments on the level of customer service it offers.

Providers should be afforded flexibility to amend their customer charter as and when they deem appropriate. This will encourage providers to respond to evolving customer needs and provide high levels of customer service within the market.

Providers should also be afforded with flexibility to determine if they wish to adopt 'individual service levels' or 'average service levels' across a providers customer base.

Providers should be afforded with latitude as to how they set their respective customer service levels. Providers may be inclined to adopt additional customer service guarantees if they are allowed to adopt 'average service levels' rather than 'Individual service levels' for each customer.

## Question 6

Do you agree with the proposal that providers must prepare, publish and keep updated a Charter in accordance with a ComReg-specified template?

## Answer 6.

In principle we have no objection to ComReg specifying a high-level template that providers must utilise, however this template needs to take all products in the market into account.

As a prepayment provider we do not furnish our customers with bills and as such would request that the word "charges" be included on the following 2 requirements:

- "If you think you have been billed and/or charged incorrectly".
- "We may disconnect your service if you don't pay your bills and/or charges."

## Question 7

Do you agree with the proposed form requirements for completing a Charter template?

Answer 7.

We would largely agree with the proposed form requirements however we would reiterate our answer to question 6 above.

As a broadband provider we would always attempt to resolve any query or complaint at the point of first contact. Accordingly, we would suggest that providers contact details appear at the top of the template with customers only being directed to ComReg if their query/complaint has not been dealt with.

## Question 8

Do you agree with the proposal that providers publish an initial Charter on their website on 2 October 2023, containing monthly Charter commitments, and are allowed to update the Charter each quarter thereafter?

### Answer 8.

Whilst we agree that providers should publish their customer charter in a prominent location on their website. We would request that the first customer charter be published on or before the last day of 2023 with the first audit covering the full year of 2024.

This will afford providers with enough time to draft and publish a customer Charter, notify customer thereof. In addition to training staff and implementing appropriate auditing and reporting procedures.

## Question 9

Do you agree with the proposal that providers be required to ensure all customers are made aware of the Charter, and otherwise ensure the Charter is available on request and in accessible format?

### Answer 9.

We agree with ComReg's proposals regarding notification and making customers

aware of our customer charter.

## Questions 10 - 16

Do you agree with the proposed Charter content and the form in which commitments are to be expressed in the Charter?



## Answer 10 - 16

We agree with Comregs proposed charter content and the form in which commitments are to be expressed as it will provide for better customer service for broadband customers across the industry.

## Questions 17

Are there any other areas and/or content you think should be included in a Charter?

## Answer 17

There are no additional aspects we think should be included in the Charter, but we will review our Charter in response to our customer needs.

## Questions 18

Do you agree with the proposal that providers report their performance against Charter commitments to ComReg on a quarterly basis, and arrange and pay for an independent audit of performance reports on an annual basis?

## Answer 18

Whilst we note the importance of validating providers submissions, we submit that the obligation to obtain an annual independent audit is unduly onerous and acts as a barrier to entry of smaller organisations.

We propose that all eligible parties should submit themselves to a one-off independent audit in Q1 2025 in order for ComReg to assess the effectiveness of the new customer charter commitments. Following which providers should only be subjected to independent audits on ComReg's express request and if warranted by a high volume

of ComReg complaints.

In support of the above we draw ComReg's attention to the CRU Customer Care team Annual Report 2022<sup>3</sup> where it was noted that despite Prepay Power having a 7% market share, we had 0 complex complaints upheld.

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<sup>3</sup> [https://cruie-live-96ca64acab2247eca8a850a7e54b-5b34f62.divio-media.com/documents/CRU202328 -  
\\_CRU Customer Care Team Annual Report - 2022.pdf](https://cruie-live-96ca64acab2247eca8a850a7e54b-5b34f62.divio-media.com/documents/CRU202328_-_CRU_Customer_Care_Team_Annual_Report_-_2022.pdf)

## Questions 19

If you have any specific comments on 'Schedule 3: Customer Charter Data Dictionary and Reporting Template' published alongside this consultation (summarised in Table 2), please provide these in response to this question.

## Answer 19

We have no objection to the reporting proposed.

## 10 Sky Ireland



## Proposals for Implementing a Customer Charter

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ComReg Consultation 23/14

12 May 2023

Q.1 Introducing Charter requirements: Do you agree with the proposal that ComReg should introduce requirements for IAS and ICS to prepare, publish and keep updated a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions

**Response:** Sky (Ireland) Limited (“**Sky**”) supports the proposal for ComReg to impose obligations on providers of IAS and ICS in Ireland to create, publish, and regularly update a Customer Charter (the “**Charter**”). Sky believes that the implementation of this Charter will benefit consumers by providing them with transparent information on the customer service standards available in the Irish market. However, as outlined in further detail in Question 2 below, Sky recommends that providers have the flexibility to determine their own commitments within the Charter which will lead to greater benefits for consumers. Sky also recommends that there is an appropriate amount of lead in time for some elements of the Charter, particularly those that will require significant technical development within our operating systems which we have further detailed in Questions 13, 15 and 17.

Q.2 Overarching approach to introducing a Charter: Do you agree with the proposal that the Charter will contain provider-set commitments, with ComReg to monitor and evaluate implementation of the Charter requirements and the levels of customer service committed to and implemented by providers for their adequacy before deciding whether to seek to move to the specification of Minimum Quality of Service Standards, and/or seek to require any Minimum Quality of Service Standards information is included in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

**Response:** Sky believes that it is crucial for operators to have the autonomy to determine their own commitments. This approach would allow for healthy competition in the market, as providers would have the flexibility to tailor their customer service standards according to their unique strengths and capabilities.

It is important to note that if the provisions of the Charter were identical across the board, there would be no room for differentiation among providers, which would ultimately harm competition in the Irish market. This could potentially lead to a decrease in innovation and customer service quality, as providers would have no incentive to improve upon their services or stand out from their competitors.

As such, it is therefore essential that providers have the flexibility to determine their own standards, as this approach will lead to greater benefits for consumers in terms of choice and quality of service.

Q.3 Providers that Charter requirements will apply to: Do you agree with the proposal that Charter requirements will apply to providers of IAS and/or number-based interpersonal communications services with a market share of 0.5% or greater? If yes, please explain why and, if no, please provide specific alternative suggestions.

**Response:** Sky recognises that implementing the Charter proposed by ComReg is a significant undertaking that will require a substantial allocation of resources from providers, particularly those with larger market shares. We agree to some extent that smaller operators should not be expected to invest to the same degree as larger ones, as it may disproportionately affect their operations.

However, it is worth noting that small operators, when viewed together as a whole, do take a not inconsiderable portion of the market share. Therefore, there should be consistency in the standards provided to consumers, regardless of the size of the operator. As such, we would suggest an additional option for consideration, which is the implementation of a reduced Charter for smaller

competitors. This approach would allow smaller operators to meet their obligations under the Charter without compromising their operations. At the same time, it would ensure that consumers are receiving consistent and reliable information on the customer service standards provided across the board.

This option would strike a balance between the need for consistency and fairness for consumers and the need to avoid imposing undue burden on smaller operators. It is crucial to ensure that the proposed Charter is implemented in a way that promotes healthy competition and benefits consumers while allowing for flexibility among providers to operate effectively.

**Q.4** End-users that a Charter will address: Do you agree with the proposal that providers will be required to prepare, publish and keep updated a Charter that addresses all consumers, microenterprises, small enterprises and not-for-profit organisations? If yes, please explain why and, if no, please provide specific alternative suggestions.

**Response:** Sky agrees with this proposal that providers will be required to prepare, publish, and keep updated a Charter that addresses all consumers, microenterprises, small enterprises and not-for-profit organisations and has no further comments on this section.

**Q.5** High-Level Charter contents: Do you agree with the proposal that a Charter will contain both general information on providers' customer service policies, and specific commitments as to the level of customer service an individual customer can expect to receive in a given period? If yes, please explain why and, if no, please provide specific alternative suggestions.

**Response:** Sky agrees with the proposal that the Charter will contain both general information on customer service policies, and specific commitments as to the level of customer service an individual customer can expect to receive in a given period. As stated above, it is important that providers to have the flexibility to tailor their customer service standards according to their unique strengths and capabilities.

**Q.6** Overarching Charter form: Do you agree with the proposal that providers must prepare, publish and keep updated a Charter in accordance with a ComReg specified template? If yes, please explain why and, if no, please provide specific alternative solutions.

**Response:** Sky fully supports a ComReg-specified template. We believe that this



approach will provide legal certainty, promote consistency and comparability across the industry, and make it easier for customers to locate and understand the Charter. It will also help ensure that customers can make informed decisions about the services they choose to use and promote healthy competition across the industry in relation to customer service.

**Q.7 Charter template: Do you agree with the proposed form requirements for completing a Charter template? If yes, please explain why and, if no, please provide specific alternative suggestions.**

**Response:** Sky fully agrees with the proposed form requirements for completing the Charter template. As stated above, this approach will provide legal certainty and promote consistency and comparability across the industry.

**Q.8 Publishing and updating a Charter: Do you agree with the proposal that providers publish an initial Charter on their website on 2 October 2023, containing monthly**

**Charter commitments, and are allowed to update the Charter each quarter thereafter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

**Response:** Sky agrees with the proposal that all service providers will publish the initial Charter at the same time and have an opportunity to update it at regular intervals.

However, we have concerns about the proposed publication date of 2 October 2023. While we support the need for consistency and certainty for consumers, we are concerned that this timeline may not be feasible depending on the level of technical development required, which will not come to light until ComReg publishes its final decision at the end of June 2023. Technical issues or other unforeseen challenges may arise, and we would suggest that the publication date be reconsidered based on the results of the consultation and ComReg's final decision. Ultimately, Sky seeks to ensure that the implementation of the Charter is done correctly and in a way that benefits the consumer.

**Q.9 Notifying customers: Do you agree with the proposal that providers be required to ensure all customers are made aware of the Charter, and otherwise ensure the Charter is available on request and in accessible format? If yes, please explain why and, if no, please provide specific alternative suggestions.**

**Response:** Sky fully agrees with ComReg's proposal that the Charter should be made available as part of the information provided to customers at the point of sale. We believe that providing customers with information about our customer service commitments at the point of sale will be an important step in ensuring transparency. Sky also agrees with the proposal that the Charter should be published on our website. This will make it easy for customers to access our commitments and compare them with those of other providers.

Furthermore, Sky is committed to making our Charter easily accessible for all customers, including those with disabilities. Overall, we support ComReg's proposal and are committed to ensuring that our customers are informed about our service commitments and have access to the information they need to make informed decisions about their service provider.

**Q.10 Charter content (core customer service): Do you agree with the proposed Charter content and the form in which commitments around core customer service, are to be addressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

**Response:** Sky appreciates ComReg's proposal regarding the details on core customer service and the flexibility given to providers to offer specific commitments to their customers. While we understand the importance of metrics such as initial response time and follow-up response time, we want to highlight some practical considerations that

may arise during the implementation process.

To accurately verify and report the information related to these metrics, significant technical development may be required. While we prioritise call handling time and have already implemented monitoring systems in some areas, there are areas where we are still in the process of developing the necessary technology. Considering the timeline outlined in the proposal, it is essential to note that depending on the outcome of the consultation, it may not be feasible for us to build and integrate the required technology within the required window, particularly before 2 October 2023. We want to ensure that the metrics we report are reliable, accurate, and reflective of the customer service experience we provide.

We appreciate the opportunity to provide feedback during the consultation process, and we would welcome further discussions with ComReg and other stakeholders to explore the practical implementation of these proposals. Our priority is to deliver the best customer service experience,

and we are committed to finding viable solutions that align with industry standards and technological capabilities.

**Q.11 Charter content (complaint handling):** Do you agree with the proposed Charter content around complaint handling? If yes, please explain why and, if no, please provide specific alternatives.

**Response:** Sky fully supports ComReg's proposal regarding the complaint handling code of practice. As a responsible provider, we have always been committed to complying with the existing code of practice for complaint handling, and we will continue to do so. We believe that all players in the market are familiar with this code of practice, and implementing this proposal will not pose any issues. Sky's published Charter will include a short section directing customers to the existing complaint handling code of practice, which will provide customers with additional information about our commitment to addressing their concerns and ensuring that they receive the best possible service.

**Q.12 Charter content (connections):** Do you agree with the proposed Charter content and the form in which commitments around connections, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

**Response:** Sky understands ComReg's proposal in relation to commitments around connections. Sky currently acknowledges a customer's service connection request at the point of sale, and we send a communication to the customer to confirm their order has been placed and to confirm the date of appointment booked for that service provision.

Several exceptions would have to be considered and acknowledged by ComReg regarding our commitments to connect customers. We can only go as far as the appointment booking in terms of guaranteeing the customer that we have processed their order and sometimes appointment booking systems do not function efficiently (e.g., they timeout because they are on a go slow even if there is no full outage).

Through detailed analysis, we have identified up to 65 reasons why a Broadband order may fail. Therefore, it is impossible, especially where an engineer visit is required, for us to let the customer know how long the Broadband journey is likely to take.

We do not know what the Broadband journey will entail until the engineer visits a customer's property and makes an assessment as to what is required to enable connection. These order failure reasons include, but are not limited to, the following:

- Multiple engineer visits to carry out necessary civils works on private or public land including licence applications.
- No infrastructure in place.
- No light at the Distribution Point.
- No free ports available.
- Wholesale provider database mismatches between data items such as Eircode and ARD keys.
- Wholesale provider appointment calendar system issues.

As such, we are dependent on our Broadband wholesale providers and the quality/accuracy of their passed premises file as well as their sub-contracted engineer resource availability, efficiency, communications, quality of assessment and workmanship. Of all order cancellations analysed, we identified 75% as being out of our control and sitting with third parties. ComReg should consider wholesale commitments to allow retail operators to make corresponding commitments to our customers.

**Q.13 Charter content (billing and refunds):** Do you agree with the proposed Charter content and the form in which commitments around billing and refunds, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

**Response:** Sky does not currently have the capability to report on billing queries at an individual account level. It will require investment to be able to record and verify queries and response times, regardless of the channel, where this is outside of our formal complaint handling process. We are reviewing developing this capability with our technical teams across the business. It will require time to implement from a technical perspective, and we do not believe that this is a quick or simple requirement to implement.

In relation to the processing of refunds, it is not currently possible to record when the decision that a refund is due is made. It could be made on a call, on the shop floor while talking to a line manager, or in a meeting about escalated complaints. There is no mechanism to record the decision or verify the date and time it was made versus when the refund was processed. This could require significant technical development and the introduction of new processes. It also appears to us to be a system that is open to "gaming" as service providers could decide to record the decision at the same time they are processing the refund, regardless of when the decision was actually made.

**Q.14 Charter content (outages and repairs):** Do you agree with the proposed Charter content and the form in which commitments around outages and repairs, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

**Response:** Sky is reliant on our wholesale providers to inform us of planned and unplanned outages that could impact Sky customers. Our wholesale providers own, control and monitor their networks which host our customers. Currently, we are informed of planned and unplanned outages via email and wholesale provider portal updates.

We are reliant on our wholesale providers to make information available regarding the volume of customers impacted, the location(s), the issue occurring, the steps taken to resolve the issue once they identify the root cause and the estimated service restoration time.

We may get 3-4 weeks' notice of a planned outage occurring or we may get 1-2 days if emergency works need to take place. ComReg should consider wholesale obligations on notifications and timing in circumstances where retail providers need to make commitments to their customers.

**Q.15** Charter content (disconnection policy): Do you agree with the proposed Charter content and the form in which commitments around disconnection for non-payment of bills are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

**Response:** Sky is happy to provide information to our customers on our disconnection policy. However, the ability to report on how many customers were disconnected and how much notice each individual customer was given does not currently exist. This is also something that will require significant process changes and technical development to produce reporting and verification. It is likely to take much longer than the 3 months suggested by ComReg.

**Q.16** Charter content (switching services): Do you agree with the proposed Charter content around switching services? If yes, please explain why and, if no, please provide specific alternative suggestions.

**Response:** Sky fully supports ComReg's proposal that the Charter should include information on key customer rights, returning terminal equipment, unlocking handsets (including any residual fees and timelines), and any other relevant information about switching.

**Q.17 Charter content (other):** Are there any other areas and/or content you think should be included in a Charter? If yes, please explain and provide specific suggestions.

**Response:** Sky does not have any comments on this section.

**Q.18 Evaluating performance:** Do you agree with the proposal that providers report their performance against Charter commitments to ComReg on a quarterly basis, and arrange and pay for an independent audit of performance reports on an annual basis? If yes, please explain why and, if no, please provide specific alternative suggestions.

**Response:** Overall, Sky agrees with the importance of evaluating and reporting on our performance against the standards set out in our Charter.

However, we believe that the proposed ongoing quarterly reporting may be overly burdensome and time-consuming for providers. We suggest that bi-annual reporting is sufficient if an annual audit is conducted. If an audit is not required, we would consider quarterly reporting, but we urge ComReg to reconsider the proposal and consider the impact on the industry. We believe that the time spent on reporting could be better utilised on other key areas of the business. Overall, we are committed to complying with the reporting requirements and will work with ComReg to find the best solution for all parties involved.

**Q.19 Performance reporting:** If you have any specific comments on 'Schedule 3: Customer Charter Data Dictionary and Reporting Template' published alongside this consultation (summarised in Table 2), please provide these in response to this question.

**Response:** ComReg should thoroughly assess and address the complexities and burdens of the proposed reporting requirements to ensure that the proposed reporting requirements are practical and feasible for operators to undertake.

Considering the difficulties faced by operators in a similar process carried out by Ofcom in recent industry wide 'Quality of Service' information requests, Sky considers that it is important to consider the challenges that may arise when implementing this proposed reporting template. Specifically, challenges include technical difficulties (e.g., difficulties in separating and comparing data), resource implications (e.g., reporting requirements



which are demanding and costly to implement), and operational complexities (e.g., difficulties in finding a standardised / 'one-size-fits-all' approach to reporting).

As such, Sky would request that ComReg consider the practicality, technical aspects, and resource implications of the proposed reporting requirements to ensure effective reporting across the industry.

We also request further engagement with ComReg and industry on this before any binding rules are put in place.

**Q.20** Regulatory impact assessment: Do you agree with ComReg's Regulatory Impact Assessment and the preliminary conclusions as set out? If yes, please explain why and, if no, please provide specific alternative suggestions particularly with respect to the

**benefits and costs identified, including any evidence to support quantifying such benefits and costs.**

**Response:** Sky fully supports the proposal for ComReg to impose obligations on providers of IAS and ICS in Ireland to create, publish, and regularly update a Charter. We recognise the importance of transparent and customer-focused practices in the telecommunications industry. While we generally endorse the content and format outlined for the Charter, we would like to bring attention to three specific points that Sky believes requires further consideration from ComReg:

- **Implementation Timeline:** The proposed deadline for implementing all the requirements of the Charter appears to be too demanding for providers to achieve the desired level of completeness ComReg requires. Sky suggests extending the timeline beyond 2 October 2023 to allow sufficient time for thorough implementation of the proposed Charter requirements.
- **Practicality and Burdens on Providers:** It is crucial for ComReg to carefully consider the practical implications and potential burdens that providers would face in adhering to these proposals. The feasibility of implementation and the associated costs for providers need to be considered to ensure a fair and achievable outcome.
- **Review of Reporting Requirements:** Sky is concerned with the onerous nature and complexity of the reporting requirements. We believe that a comprehensive review of these proposed requirements is necessary to ensure they are practical, feasible, and capable of generating meaningful data for evaluation and analysis.

By addressing these points, ComReg can strengthen the proposal and ensure that it strikes the right balance between promoting transparency, protecting consumer rights, and considering the operational realities faced by providers.

# 11    Tesco Mobile



**Tesco Mobile Ireland Limited (“Tesco Mobile”)  
response to ComReg consultation**

**‘Proposals for Implementing a Customer  
Charter’ ComReg 23/14**

Tesco Mobile welcomes the opportunity to feed into ComReg's consultation regarding the proposed introduction of a Customer Charter ('a charter').

As per ComReg's opening statement in its Consultation Document ComReg 23/14<sup>1</sup>, *'Customer service is a vital aspect of a customer's experience in any service industry'* and is of paramount importance to Tesco Mobile. We are committed to providing our customers with the highest quality of customer service - providing a positive customer experience is part of Tesco's DNA. Tesco Mobile prides itself in its approach to customer service - one of our key values is *'No one tries harder for customers'* and it's this focus on our customers that is at the heart of everything we do.

With regard to customer service levels and transparency, Tesco Mobile agrees with ComReg there is room for improvement. However, we disagree with the statement that the market is characterised by dissatisfaction. Such a statement is potentially to tarnish all

providers with the same brush. We would submit that ComReg's own survey results<sup>2</sup> do not

indicate a clear dissatisfaction when the majority of customers say they are satisfied with

the service and ComReg's own Consumer Care Statistics Report<sup>3</sup> shows a notable decline in the level of contacts to ComReg. Tesco Mobile prides itself that it has not been included

in the ComReg Consumer Care Statistics Report Q4 2022 and believes it should not be penalised for the issues affecting other telecommunication providers. In our view, ComReg should be focusing its efforts on the providers or markets where there are issues, and these are clearly identifiable in ComReg's Consumer Report.

The mobile telecommunications market is a competitive one, particularly when it comes to customer service. It is key for operators to ensure they keep their customers happy and attract new customers, hence operators are already incentivised to provide the best

possible service for customers. It is in operators' interest to ensure consumers can make

an informed choice and use their services with confidence. For consumers to get the best

service from their provider, customer service levels should remain market driven – greater

transparency across the industry will in effect drive improvements. Operators should

be left to invest in competing, instead of adding additional regulatory burden (in the form of reporting and audit requirements) that result in significant implementation costs.

Tesco Mobile believes that improving the level of transparency and providing a single place where customers can go in order to understand what they can expect from their provider, and then compare the different service providers offered (if any), will ultimately benefit

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<sup>1</sup> <https://www.comreg.ie/media/2023/03/Proposals-for-implementing-a-customer-charter.pdf>

<sup>2</sup> <https://www.comreg.ie/media/2023/03/ComReg-2314b.pdf>

<sup>3</sup> <https://www.comreg.ie/media/2023/02/ComReg-2315.pdf>

consumers. However, we believe mandating reporting and audit requirements is a step too far – the effect will be to place unnecessary and disproportionate costs on operators when the industry is already investing heavily in providing reliable, secure, high-quality networks and customer service levels. As noted in ComReg’s Strategy 2021 – 2023<sup>4</sup> *‘The electronic communications sector has played a central role in fostering this resilience,*

*supporting our essential services, and enabling us to stay connected in new ways. Throughout the pandemic, telecommunications operators have generally been able to cope with the surge in network traffic with little disruption. This will only continue to be possible through further investment in reliable, high-quality networks and improved customer care,’*

Given the ongoing economic challenges, Tesco Mobile respectfully suggests ComReg refrain from imposing unnecessary burdens on operators. We believe ComReg’s focus should be on where there is consumer harm. Regulatory intervention should be targeted

and proportionate. ComReg’s responsibility of promoting competition and protecting

consumers can be achieved by allowing industry to compete on service levels and provide customers with the information they need i.e., a one stop-shop so that they can make informed choices and use services with confidence.

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<sup>4</sup> <https://www.comreg.ie/media/2021/12/ComReg-ECS-Strategy-Statement-English-Dec-7-Final-Web-1.pdf>



Q. 1 Introducing Charter requirements: Do you agree with the proposal that ComReg should introduce requirements for providers of IAS and ICS to prepare, publish and keep updated a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

Tesco Mobile agrees with ComReg's proposal to introduce requirements to prepare, publish and keep updated a Charter, however we disagree that the Charter must adhere to parameters set by ComReg.

As per ComReg's Strategy on Consumer Protection (see section 1.17 of its strategy statement),

*Consumer Protection involves setting rules to ensure that consumers can access basic services and that they are armed with the information they need to engage in the market with confidence. At each stage of the Consumer Journey, ComReg's actions help ensure consumers are protected from harms, informed of their rights, aware of service offerings and have access to a range of market information tools.'*

Tesco Mobile believes by improving the level of information about consumers' rights and the level of customer service and supports available via a 'one-stop shop', that ComReg will achieve this strategy objective.

The mobile telecommunications market is a competitive one, particularly when it comes to customer service. It is key for operators to ensure they keep customers happy and attract new customers, hence operators are already incentivised to provide the best

possible service for customers. It is in operators' interest to ensure consumers can make

an informed choice and use their services with confidence. For consumers to get the

best

service from their provider, customer service levels should remain market driven – greater transparency across the industry will in effect drive improvements. Operators should be

left to invest in competing, instead of adding additional regulatory burden (in the form of reporting and audit requirements) that result in significant implementation costs.

We believe ComReg's focus should be on where there is consumer harm. Regulatory intervention should be targeted and proportionate. ComReg's responsibility of promoting competition and protecting consumers can be achieved by allowing industry to compete

on service levels and provide customers with the information they need i.e., a one stop-shop so that they can make informed choices and use services with confidence.

As per the results of ComReg's 'Consumer Confidence & Awareness' survey, when

customers were asked about the extent to which they were satisfied that the service they signed up to had met their expectations and needs, the mean score was 7.9 out of 10 for mobile phone service. These scores reflect all aspects of service, including customer

service – and while there is clearly room for improvement are certainly not suggestive of a

an industry characterised by dissatisfaction. Adding additional reporting and auditing requirements is simply not necessary at this time, particularly when operators are already investing heavily in critical infrastructure, network integrity and security (via the Nuisance Communications Industry Taskforce (NCIT)) and greater transparency by implementing consumer measures introduced under the EECC.

ComReg should give the industry time to complete this work and utilise the ComReg

Consumer Care Statistics Report to observe trends and then reassess the situation after a period of time – possibly 12 to 18 months. Tesco Mobile believe that ComReg's strategy can be achieved without mandating service levels and reporting requirements that will

require significant investment including resources, whereas ComReg could focus its time in a more targeted way, where consumer harm is actually occurring.

**Q. 2 Overarching approach to introducing a Charter: Do you agree with the proposal that the Charter will contain provider-set commitments, with ComReg to monitor and evaluate implementation of the Charter requirements and the levels of customer service committed to and implemented by providers for their adequacy before deciding whether to seek to move to the specification of Minimum Quality of Service Standards, and/or seek to require any Minimum Quality of Service Standards information is included in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions**

Overall, Tesco Mobile agrees with the introduction of a Charter but does not believe there is a need for the additional phases such as an adequacy review as proposed.

Tesco Mobile

agrees that a 'one-stop-shop' would be beneficial for consumers but does not agree that

the provider set commitments (if any), should have to adhere to ComReg's defined parameters nor does Tesco Mobile believe there is any need for reporting or audit requirements. ComReg already publishes the 'ComReg Consumer Care Statistics Report'

on a quarterly basis that details the issues and complaints raised by service providers'

customers to ComReg. We would submit that this existing process should provide ComReg with the information it needs to understand whether service levels as outlined in the Charter are being met but more importantly where there is consumer dissatisfaction or harm.

Tesco Mobile prides itself in that it has not met the complaint threshold to be included in the ComReg Consumer Care Statistics Report Q4 2022<sup>5</sup> and believes that we should not be penalised for the issues attributable to other telecommunication providers. In our view, ComReg should be focusing its efforts on the areas or markets where there are issues as

is clearly identified in ComReg's Consumer Report.

In addition, it is worth noting that there are over 8 million mobile subscribers in the Irish market<sup>6</sup>, just 8,000 approximately made contact with ComReg for issues relating to mobile

services in Q4 2022. Out of that 8,000 '90% of all issues recorded were queries and 10% of all issues were complaints.', which equates to just 0.01% of subscribers and which aligns

to ComReg's research that the majority of customers are satisfied with the service'.

Furthermore, as noted by ComReg,

*'There was a 22% decrease in the total number of issues recorded compared to Q4 2021', we would contend that the numbers in 2020 and 2021 are incomparable as the world faced an unprecedented global pandemic, yet telecommunication providers played a vital role to ensure connectivity for businesses, schools and families and society as a whole.'*

It is also prudent to state that during this extremely difficult and challenging time, telecommunication providers had also to enable its customer care agents to work from home, hence customer service levels during the past few years are not reflective of

standard customer service levels. We believe that ComReg's strategy can be achieved

without mandating service levels and reporting requirements that will require significant investment and resources, leaving ComReg to focus its time and efforts in a targeted way on where consumer harm is occurring.

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<sup>5</sup> <https://www.comreg.ie/media/2023/02/ComReg-2315.pdf>

<sup>6</sup> As per the ComReg's Quarterly Key Data Report Q4 2022<sup>6</sup>, there were 8,863,983 mobile subscriptions in Ireland, including mobile broadband ('MBB') and Machine to Machine ('M2M'). If mobile broadband subscriptions (355,089) and M2M subscriptions (2,818,877) are excluded, the total number of mobile subscriptions was 5,690,017.

**Q. 3 Providers that Charter requirements will apply to: Do you agree with the proposal that Charter requirements will apply to providers of IAS and/or number based interpersonal communications services with a market share of 0.5% or greater? If yes, please explain why and, if no, please provide specific alternative suggestions.**

Tesco Mobile disagrees with this proposal. Tesco Mobile believes all service providers regardless of size should have to provide a Charter to its consumers that effectively is a one stop shop of information for consumers.

**Q. 4 End-users that a Charter will address: Do you agree with the proposal that providers will be required to prepare, publish and keep updated a Charter that address all consumers, microenterprises, small enterprises and not-for-profit organisations? If yes, please explain why and, if no, please provide specific alternative suggestions.**

Tesco Mobile agrees with the proposal. If a service provider provides different levels of customer service to the different consumer cohorts listed, then this information should be made available to enable all consumers to make informed decisions when availing of services.

**Q. 5 High-level Charter contents: Do you agree with the proposal that a Charter will contain both general information on providers' customer service policies, and specific commitments as to the level of customer service an individual customer can expect to receive in a given period? If yes, please explain why and, if no, please provide specific alternative suggestions.**

Tesco Mobile agrees with the proposal that a Charter will contain both general information on providers' customer service policies and specific commitments (if any) for the explicit categories under section 37 of the Act, effectively a 'one stop shop'.

However, with regard to the commitments and to the level an individual customer can expect in a given period,

Tesco Mobile believes sub-option 2c whereby the Charter contains the 'average' service level commitments across a provider's customer base is the only option operators can commit to.

Customer Care Service Levels are already a key performance indicator for operators and customer satisfaction is key to retaining customers, hence operators are already highly motivated to provide a positive customer experience.



**Q. 6 Overarching Charter form: Do you agree with the proposal that providers must prepare, publish and keep updated a Charter in accordance with a ComReg specified template? If yes, please explain why and, if no, please provide specific alternative suggestions.**

Tesco Mobile agrees with the proposal that providers must prepare, publish and keep updated a Charter in accordance with schedule 1 but does not agree that there is need for a data dictionary or reporting requirements which we deem unnecessary and will disproportionately add significant costs to providers. The costs of implementing such reporting requirements would negate the benefits of reporting whereas the focus should be on providing greater transparency and improving services where required. This can be achieved without mandating unnecessary reporting requirements on operators who are already focusing their attention on providing initiatives that will benefit consumers. Consumers would rather see the benefit in terms of improved service and value in a time

of economic uncertainty as opposed to having another report that doesn't provide any benefit.

**Q. 7 Charter template: Do you agree with the proposed form requirements for completing a Charter template? If yes, please explain why and, if no, please provide specific alternative suggestions.**

Note response to Q6 above.

With regard to section 5.33 of the consultation, where ComReg states that it '*considers it is important to also set out what a customer can get, if anything, if that level of service is not met*', Tesco Mobile believes that consumers are already aware that it is in the provider's interest to compensate its customers where a dissatisfaction has been presented. Today,

consumers receive compensation appropriate to the issue on a case-by-case basis and more often than not, the compensation is more than adequate. Tesco Mobile

believes that providing a statement detailing the level of compensation a customer may be entitled to may be open to abuse. There must be a balance between giving the customer the information they need to make informed decisions and advising of their rights should they not accept the resolution and or compensation proposed. If a consumer was not satisfied with the proposed resolution, they are informed of their right to escalate the issue to

ComReg – this is already in place via the ComReg Code of Practice for Complaint Handling.

In addition, consumers can also raise a dispute with ComReg or to the small claims court so our view is that there is no need for this requirement which we would argue possibly goes beyond ComReg's remit in relation to protecting consumers.

**Q. 8 Publishing and updating a Charter: Do you agree with the proposal that providers publish an initial Charter on their website on 2 October 2023, containing monthly Charter commitments, and are allowed to update the Charter each quarter thereafter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

Tesco Mobile agrees that providers should publish an initial Charter on their website on the 2<sup>nd</sup> of October 2023 providing a one stop shop of information for consumers. Tesco Mobile disagrees with the proposed requirement to provide monthly Charter commitments or to update the Charter each quarter. However, Tesco Mobile agrees with

ComReg's proposal in section 5.48 of its consultation document i.e., '*A provider could therefore choose to set commitments in their initial Charter that do not change for the following quarter(s), meaning that they would not need to update the Charter every quarter.*'. The Charter should only be updated as required.

**Q. 9 Notifying customers: Do you agree with the proposal that providers be required to ensure all customers are made aware of the Charter, and otherwise ensure the Charter is available on request and in accessible format? If yes, please explain why and, if no, please provide specific alternative suggestions.**

Tesco Mobile agrees with ComReg's proposal to ensure customers are made aware of the

Charter as part of the furnishing of the pre-contractual information. Tesco Mobile also agrees that it should be accessible via a one-click from the homepage. However, should a customer request a copy of the Charter as they may have difficulty accessing it from the website, we would question if providing an accessible copy via email and or SMS would meet the requirement, specifically if required to meet the proposed 48 hour turnaround timeframe.

With regard to ComReg's proposal that the Charter meets 'any Web Content Accessibility Guidelines standard as developed by the World Wide Web', Tesco Mobile believes that should a provider have registered disabled end-users requiring special assistance or

support, that the support is provided in way that meets the requirements of the end-user

as opposed to meeting 'any' Web Content Accessibility Guidelines. Users with special needs often have tailored devices and/or applications that provide the ability to convert

text to speech screen readers and text to braille which negates the need for ComReg to mandate unnecessary requirements on providers, especially when there are providers with no registered disabled end-users hence any proposal to mandate that providers

meets 'any' accessibility guidelines would be disproportionate and unnecessary.

**Q. 10 Charter content (core customer service): Do you agree with the proposed Charter content and the form in which commitments around core customer service, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

Tesco Mobile agrees that there is a need for a one stop shop of information for end-users and agrees that there should be no duplication to information already required to be published. With regard to the proposal around the seven core customer service areas, Tesco Mobile agrees that there should be transparency around how customers can raise a query and around the expected response times for each of the channels provided. Tesco Mobile believes that it is inappropriate at this time to introduce reporting metrics. Tesco Mobile believes that ComReg already receives information regarding customer satisfaction with the service levels provided via the Consumer Line. ComReg already publishes such information i.e., the 'ComReg Consumer Care Statistics Report' on a quarterly basis that details the issues and complaints raised by service providers' customers to ComReg and this, should provide ComReg with the information it needs to know whether service levels are as outlined in the Charter but more importantly where there is consumer dissatisfaction or harm.

Tesco Mobile believes that placing onerous reporting requirements on all providers is unreasonable, unjustified, and disproportionate. ComReg's remit is to protect consumers and therefore ComReg should focus on where there is consumer harm as opposed to penalising all providers in the same way.

**Q. 11 Charter content (complaint handling): Do you agree with the proposed Charter content around complaint handling? If yes, please explain why and, if no, please provide specific alternative suggestions**

Tesco Mobile agrees with ComReg in that the Charter should not duplicate documents already required to be published and that it would be more appropriate for the Charter to make customers aware that the complaint handling code of practice exists, and where to find it.

**Q. 12 Charter content (connections): Do you agree with the proposed Charter content and the form in which commitments around connections, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

It is our understanding that this section relates to fixed line services (including internet access services provided by fixed line providers) and therefore not applicable to Tesco Mobile. However, we would agree that information around connections should be made available to end-users.

**Q. 13 Charter content (billing and refunds): Do you agree with the proposed Charter content and the form in which commitments around billing and refunds, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

Tesco Mobile agrees that there is a need for a one stop shop of information for end-users and agrees that there should be no duplication of information already required to be published. In addition, Tesco Mobile believes that where a service provider already provides helpful information to its customers about how they can raise a query regarding their bill and/or charges and how they can manage their spend and receive refunds if due, that this information should also not be duplicated, and customers should just be directed to same.

**Q. 14 Charter content (outages and repairs): Do you agree with the proposed Charter content and the form in which commitments around outages and repairs, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

Tesco Mobile agrees with the proposed Charter content, including the thresholds as referenced regarding outages and repairs. With regard to planned works, Tesco Mobile publishes a Service Notification on our website in advance of any planned works so to ensure our customers are made aware of works that may impact their service and we update this throughout the period. Furthermore, once we become

aware of an unplanned outage, we also publish a notification on our website and on our social media channels to advise our customers that we are aware of the issue, are working with our suppliers to resolve the same and that we will keep them informed throughout. Overall, we agree that further transparency should be provided on any outage to ensure customers are aware and kept informed throughout.



**Q. 15 Charter content (disconnection policy): Do you agree with the proposed Charter content and the form in which commitments around disconnection for non-payment of bills are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

Tesco Mobile agrees with the overall concept of publishing a Charter that makes available information around every aspect of the customer service and customer supports that are available. However, where information is already available and or required to be available to customers, we would again ask that we avoid duplication where possible and just refer customers to where this information can be found by providing direct links to the

applicable information. As you will be aware, end-users' contracts are required to include

comprehensive information around disconnection and notice periods.

In addition, it is worth noting that the telecommunications industry can hold its head up high as to how we worked together and provided voluntary commitments during the Covid- 19 pandemic. <sup>7</sup>Tesco Mobile would contend that operators already work closely with their customers who may have difficulty paying their bills so to ensure they remain connected if

facing financial difficulty. However, operators' goodwill can also be open and subject to

abuse, hence the need to allow operators to protect themselves from abuse and work with their customers without having to be too prescriptive on a charter.

**Q. 16 Charter content (switching services): Do you agree with the proposed Charter content around switching services? If yes, please explain why and, if no, please provide specific alternative suggestions**

Tesco Mobile agrees with the overall concept of publishing a Charter that makes available information around every aspect of the customer service, including switching and customer supports that are available. However, where information is already available and or required to be available to customers, we would again ask that we avoid duplication where possible and just refer customers to where this information can be found by providing direct links to the applicable information.

With regard to providing an SLA on issuing unlocking codes, this would pose a significant challenge for MVNO's such as Tesco Mobile and smaller operators that may not have direct access to the handset manufacturers. There is an unlevel playing field in this area and therefore we agree that there should be transparency around average expected

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<sup>7</sup> <https://www.ibec.ie/connect-and-learn/media/2020/04/15/telecoms-industry-announces-covid-consumer-response-initiative>

timeframes to receive an unlock code but imposing any minimum SLA would pose a significant challenge and unnecessary burden on smaller players.

**Q. 17 Charter content (other): Are there any other areas and/or content you think should be included in a Charter? If yes, please explain and provide specific suggestions.**

Tesco Mobile believes that the Charter should also include information relating to PremiumRate Services to effectively advise that these are third party services and provide direct links to the information already available. In addition, the Charter should include directlinks to important and useful information, for example relating to Child Protection andNuisance Communications.

**Q. 18 Evaluating performance: Do you agree with the proposal that providers report their performance against Charter commitments to ComReg on a quarterly basis, and arrangeand pay for an independent audit of performance reports on an annual basis? If yes, please explain why and, if no, please provide specific alternative suggestions.**

Tesco Mobile disagrees with the proposal that providers report their performance against Charter commitments to ComReg on a quarterly basis and arrange and pay for an independent audit of performance reports on an annual basis. Tesco Mobile believes that ComReg already has a method available to it via its ComReg Consumer Care Statistics Report to monitor performance of any service level commitments. As part of the Charter, it could be advised to consumers that should performance levels not meet those offered,  
if offered, that it should be reported to ComReg's consumer team.

Tesco Mobile believes that placing onerous evaluation and reporting requirements on all providers is unreasonable, unjustified, and disproportionate. ComReg's remit is to protect consumers and therefore ComReg should focus on where there is consumer harm as opposed to penalising all providers in the same way.

**Q. 19 Performance reporting: If you have any specific comments on ‘Schedule 3: Customer Charter Data Dictionary and Reporting Template’ published alongside this consultation (summarised in Table 2), please provide these in response to this question.**

Tesco Mobile disagrees with ComReg’s proposal to require performance reports and believes that ComReg already has a method available to it via its ComReg Consumer Care

Statistics Report to monitor performance of any service level commitments. As part of the

Charter, it could be advised to consumers that should the performance levels not meet those offered, if offered, that it should be reported to ComReg's consumer team.

Tesco Mobile believes that placing onerous reporting requirements on all providers is unreasonable, unjustified, and disproportionate. ComReg's remit is to protect consumers and therefore ComReg should focus on where there is consumer harm as opposed to penalising all providers in the same way.

**Q. 20 Regulatory impact assessment: Do you agree with ComReg's Regulatory Impact Assessment and the preliminary conclusions as set out? If yes, please explain why and, if no, please provide specific alternative suggestions particularly with respect to the benefits and costs identified, including any evidence to support quantifying such benefits and costs.**

Tesco Mobile agrees with section 8.4.2 of the draft RIA and that option 2 would be the most appropriate as an intervention at this stage. Tesco Mobile believes that a Charter will drive further improvements and enhancements to customer service levels but does not agree at this stage to introduce reporting, evaluation and auditing requirements. Tesco Mobile believes that operators are already incentivised to keep their customers happy and ComReg already has the ability to monitor customer satisfaction levels via its Consumer Team Line and subsequent quarterly publication i.e., ComReg Consumer Care Statistics Report. This report should be utilised by ComReg to target operators and not burden all operators for the issues of those highlighted in the report.

Tesco Mobile believes that placing onerous reporting requirements on all providers is unreasonable, unjustified, and disproportionate. ComReg's remit is to protect consumers and therefore ComReg should focus on where there is consumer harm as opposed to penalising all providers in the same way.

# 12 Three

# **Proposals for Implementing a Customer Charter**

## **Response to Document 23/14 from Three**

**12<sup>th</sup> May 2023**

## Contents

|   |   |    |
|---|---|----|
| 1 | Summary .....                             | 4  |
| 2 | Responses to Consultation Questions ..... | 5  |
|   | Consultation Question 1 .....             | 5  |
|   | Three Response: .....                     | 5  |
|   | Consultation Question 2 .....             | 6  |
|   | Three Response: .....                     | 6  |
|   | Consultation Question 3 .....             | 7  |
|   | Three Response: .....                     | 7  |
|   | Consultation Question 4 .....             | 9  |
|   | Three Response: .....                     | 9  |
|   | Consultation Question 5 .....             | 11 |
|   | Consultation Question 6 .....             | 12 |
|   | Consultation Question 7 .....             | 13 |
|   | Three Response: .....                     | 13 |
|   | Consultation Question 8 .....             | 14 |
|   | Three Response: .....                     | 14 |
|   | Consultation Question 9 .....             | 15 |
|   | Three Response: .....                     | 15 |
|   | Consultation Question 10 .....            | 16 |
|   | Three Response: .....                     | 16 |
|   | Consultation Question 11 .....            | 17 |
|   | Three Response: .....                     | 17 |
|   | Consultation Question 12 .....            | 18 |
|   | Three Response: .....                     | 18 |
|   | Consultation Question 13 .....            | 19 |
|   | Three Response: .....                     | 19 |
|   | Consultation Question 14 .....            | 20 |
|   | Three Response: .....                     | 20 |
|   | Consultation Question 15 .....            | 21 |
|   | Three Response: .....                     | 21 |
|   | Consultation Question 16 .....            | 22 |



|                                |    |
|--------------------------------|----|
| Three Response: .....          | 22 |
| Consultation Question 17 ..... | 23 |
| Three Response: .....          | 23 |
| Consultation Question 18 ..... | 24 |
| Three Response: .....          | 24 |
| Consultation Question 19 ..... | 26 |
| Three Response: .....          | 26 |
| Consultation Question 20 ..... | 27 |
| Three Response: .....          | 27 |
| 3 Other Relevant Issues .....  | 28 |

## 1 Summary

Three welcomes the opportunity to respond to this consultation on Proposals for Implementing a Customer Charter.

Three is strongly committed to providing the best customer experience. Among other things, this is reflected in the fact that Three Ireland won the 2022 award for Best Customer Experience at the European Contact Centre & Customer Service Awards. ComReg's most recent Consumer Care Statistics Report shows that in terms of complaints per 100,000 subscribers Three had the lowest volume of complaints of the major operators and is well below the industry average.

It is this context that we believe that the current ComReg proposals for the introduction of a Customer Charter will not achieve ComReg's stated objectives.

Three believes that the information transparency issues identified in ComReg's market research can be better and more directly addressed by other means than by the current proposals. The scope of the proposed Charter has been expanded beyond the issues identified in the market research and as a result there is a significant and real risk that the Charter becomes an unwieldy compendium of information that in practice cannot be used by customers for its intended purpose.

In terms of service performance commitments ComReg itself recognises that Service Providers already provide information on expected performance. ComReg's main issue appears to be that this information is not expressed in terms of 100% achievement targets. The proposed Charter template on the one hand elicits voluntary commitments on 100% targets while on the other forecloses the opportunity for Service Providers to offer other performance commitments within the context of the Charter. If the Charter operates as ComReg's intended one-stop-shop then the effect would be that unless the 100% commitments are volunteered customers will have less information about the current service performance levels. It is Three's experience that the service provided to the vast majority of customers is of most importance, and that there will always be a small number of outlier cases which do not represent the overall customer experience. While the outliers cannot be ignored, dealing with them should not be done in a way which adversely affects the majority of customers.

To summarise, Three remains committed to customer service however we believe that the issues identified by ComReg can be better addressed in other ways than by the current Charter proposals.

## 2 Responses to Consultation Questions

### Consultation Question 1

Introducing Charter requirements: Do you agree with the proposal that ComReg should introduce requirements for providers of IAS and ICS to prepare, publish and keep updated a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

#### Three Response:

Three notes that ComReg's intent in proposing to mandate the publication of a Customer Charter is to create transparency around the levels of customer service providers offer and to drive improvements in overall customer service levels.

As currently formulated Three believes that the ComReg proposals will not deliver on the stated objectives.

The proposed requirement to consolidate all of the required transparency information under seven distinct headings into a single document covering all of the customer segments, service offerings and support channels served by the Service Provider. For larger multiplay service providers this will include fixed and mobile, voice and broadband, prepay and postpay, on-line only, sub-brands, etc.

As ComReg sets out in its RIA expanding the scope beyond Consumer is likely to result in Service Providers needing "... *to develop different sub-sections of the Charter to cover non-residential organisations*" as these additional customer segments potentially have further additional differentiated offerings.

ComReg has made no estimate of the likely size of the proposed Charter. Three estimates that it could extend to 10 pages or more based on the current proposals.

It is notable that while ComReg quotes issues in relation to ease of navigation of websites and issues with locating information its market research did not canvas whether improvements to website design would address these issues. Instead it asked if compiling customer service commitments information into a single document would be useful. It didn't ask whether consolidating a range of information across 7 distinct areas into a 5-10 page document is desirable.

Three is of the view that the current proposals will impose a regulatory burden on Industry without directly addressing the issues identified in ComReg's own market research. It may also unnecessarily restrict a Service Provider's freedom to develop their own approach to meeting their customer needs. Three believes that a more focussed approach to transparency around a reduced set of topics would yield better outcomes for end-users.

## Consultation Question 2

Overarching approach to introducing a Charter: Do you agree with the proposal that the Charter will contain provider-set commitments, with ComReg to monitor and evaluate implementation of the Charter requirements and the levels of customer service committed to and implemented by providers for their adequacy before deciding whether to seek to move to the specification of Minimum Quality of Service Standards, and/or seek to require any Minimum Quality of Service Standards information is included in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

### Three Response:

Three observes that there are two distinct strands to the issues that ComReg is seeking to address. The first is informational transparency regarding processes and procedures and the second is certainty regarding service performance.

While Three does not believe that the Charter as currently proposed is the best way of dealing with these, if there is to be a Charter, then it is appropriate that it allows for the possibility of Service Providers offering voluntary commitments on Service Performance within the Charter. Three does not agree with the way in which the opportunity to offer such commitments has been specified in the Charter and addresses this in our response to Question 5.

Three is of the view that it is premature for ComReg to immediately move to Minimum Quality of Service Standards if no other reason than ComReg has set out no proposals in this regard.

Three believes that it may take some time for voluntary commitments to become widespread. This is because of the lead-time to put in place the operational support mechanisms (including reporting capability) that will underpin them. It is appropriate that ComReg monitors the evolution of this area before deciding whether or not further regulatory intervention is required.

### Consultation Question 3

Providers that Charter requirements will apply to: Do you agree with the proposal that Charter requirements will apply to providers of IAS and/or number based interpersonal communications services with a market share of 0.5% or greater? If yes, please explain why and, if no, please provide specific alternative suggestions.

#### Three Response:

Three believes that ComReg's thresholding proposal is unnecessarily complicated.

Unless a Service Provider has a specific business plan to limit its size in the market then it must plan for breaching the threshold at some point and publishing a Charter. As long as it remains below the proposed threshold it faces a recurring quarterly overhead of assessing its market share against the threshold until such time as it is above the threshold. The recurring operational impact of the threshold assessment should be balanced against the bringing forward the timing of publishing a Charter.

The proposed mandated minimum Charter content consists of the documentation of contacts and processes with committed service levels being voluntary.

Some of the mandated process information is already subject of separate publication obligations (for example the Code Conduct for Complaint Handling and IAS switching information). The other information represents the centralised documentation of business processes which should exist in an operator of any size.

It is not clear that the incremental effort of publishing this in Charter form is so burdensome on a per Service Provider basis as justify to depriving 100% of the customers of those Service Providers below the threshold of the benefit of a Charter.

Based on this Three is of the view that the obligation to publish a Charter should apply to all Service Providers from the date of market entry.

If ComReg is minded to retain the proposal for a threshold, Three is of the view that the current ComReg proposal can be significantly simplified. Rather than use a variable figure calculated on a quarterly basis, ComReg should set an absolute number of subscribers as the threshold for requiring a Charter and once this is reached based on the Quarterly Report returns the obligation would apply. The absolute number could approximate to the current level of the proposed 0.5% market share. Based on current trends the relevant ICS and IAS markets the likely change in percentage market share corresponding to a defined volume of customers is unlikely to deviate significantly from 0.5% in the short to medium term. Given that ComReg is proposing a review of the operation the currently proposed Charter requirements there is also scope for also reviewing the threshold level at that point. This alternative approach means that there is no requirement on operators to continually self-assess their market share.

If ComReg wishes to keep the percentage market share approach Three notes that

ComReg already calculates percentage market share as part of the Quarterly Report

process. Any self-assessment of market share by operators in respect of the Charter would likely be validated by ComReg in any event. As ComReg would be using its own assessment of market share for such validation in any event, ComReg should use its own calculation of market share from the quarterly report and simply notify Service Providers once they are above the threshold level.

## Consultation Question 4

End-users that a Charter will address: Do you agree with the proposal that providers will be required to prepare, publish and keep updated a Charter that address all consumers, microenterprises, small enterprises and not-for-profit organisations? If yes, please explain why and, if no, please provide specific alternative suggestions.

### Three Response:

Three notes that that ComReg's market research is focussed primarily on the retail consumer market segment. In fact, the questions on fixed broadband explicitly refer to home broadband. It is not possible to simply read across an issue in the consumer segment as applying to the business segment. Absent some evidence of a problem in the business segment ComReg has no basis for intervention. This is a straightforward procedural deficit.

ComReg calls out low scores in the market research for the over 65 age cohort. Three notes that many companies and organisations have mandatory retirement at 65 and the state pension becomes payable at 66. It is not clear that the responses from the over 65 cohort from the market research are relevant to the business segment.

Three notes that in general only the experience of the decision maker or account contact is relevant in assessing the canvassed topics as they relate to the business segment. The survey data in respect of mobile covers all respondents. Unless the sample is comprised only of business account decision makers these results cannot be simply read across into the business segment.

Many Service Providers have separate sections on their websites for business and residential customers. In addition, Service Providers may use separated dedicated support teams for Business, have separate sales channels and offer different products. The differences in information access between Business and Consumer segments are greater where there is account management. Account Management contacts afford relevant businesses with additional mechanism to interact with their provider and to obtain information.

In formulating its proposals as they relate to extending the scope to the business ComReg has failed to take adequate account of these factors.

ComReg's analysis regarding the justification for extending the requirements to the business segment appears to be based on an assessment of some form of Countervailing Buyer Power. Three agrees that where large customers carry out comparative procurement processes, they have the ability to directly obtain the informational elements of the Charter and also to potentially obtain bespoke service performance commitments. Even if there were general issues in the business segment of the type inferred by ComReg these types of customers would be unaffected and should be outside of the scope of the Charter. However even if Business customers are not at the largest scale, they may also have mechanisms to readily obtain the



information especially if they are account managed. These also should be outside of the scope of the Charter.

There are also issues with ComReg's proposed blanket inclusion of not-for-profit organisations. For example, the Mater Hospital Dublin is a not-for-profit with nearly 4,000 staff and income of over €350m in 2021. There is no indication that organisations of this scale or scope require to be included in the scope of Charter as proposed.

Three notes that it is not possible for Service Providers to know which segment a B2B customer falls into as this is based on the cut-offs of customer turnover/employee numbers, of which Service Provider has no visibility. This means that there is no legal certainty for Service Providers as regards the boundaries of the obligation.

An alternative approach would be that the Charter would only apply to business customers with limited volumes of lines or connections that approximate to the Consumer segment.

## Consultation Question 5

High-level Charter contents: Do you agree with the proposal that a Charter will contain both general information on providers' customer service policies, and specific commitments as to the level of customer service an individual customer can expect to receive in a given period? If yes, please explain why and, if no, please provide specific alternative suggestions.

### **Three Response:**

Three observes that there are two distinct strands to the issues that ComReg is seeking to address. The first is informational transparency regarding processes and procedures and the second is certainty regarding service performance. While Three does not believe that the Charter as currently proposed is the best way of dealing with these, if there is to be a Charter then it is appropriate that it allows for the possibility of Service Providers offering commitments on Service Performance.

However Three believes that the current proposals are too restrictive, particularly in the context of any such commitments being voluntary. Service Providers should have the scope to offer such commitments they feel that they can actually deliver on, whether that be a 100% target or a lower percentage performance threshold. Provided such commitments are measurable ComReg should not restrict Service Providers from volunteering these types for commitments to customers.

ComReg's proposals seek to immediately move the market from indicative performance levels being offered to 100% performance targets with no intervening way points. Three believes that this is counterproductive and actually reduces incentives for Service Providers to move from the current indicative performance information to some form of commitment. The performance delivered to the vast majority of customers is of most relevance to realistic expectations of customer service. If the target must be based on 100% then this will force Service Providers to reduce the overall target in order to cater for outliers. In a competitive market, this is a matter that should be left to individual Service Providers to decide.

Expanding the range of commitments that can be offered in the initial stages of the Charter evolution does not preclude the offering of the specific performance commitments envisaged by ComReg and therefore is unlikely to be to the detriment of end-users and is more likely to be to their benefit.

## Consultation Question 6

Overarching Charter form: Do you agree with the proposal that providers must prepare, publish and keep updated a Charter in accordance with a ComReg specified template? If yes, please explain why and, if no, please provide specific alternative suggestions.

### **Three Response:**

Three's response to this question is without prejudice to Three's position that the current proposals for the substantive content of a Charter will not yield ComReg's stated objectives.

Three notes that in general terms having the same structure in different documents facilitates comparison between the documents. To this extent the use by different operators of the same document structure would facilitate comparison between them. However, if the documents themselves are too long in the first instance making the comparison easier is not the same as making it easy.

## Consultation Question 7

Charter template: Do you agree with the proposed form requirements for completing a Charter template? If yes, please explain why and, if no, please provide specific alternative suggestions.

### Three Response:

Three believes that there are a number of issues with the proposed guidelines.

The first of these relates to the internal disparity between the highly prescriptive wording for voluntary commitments as against the ambiguity that exists regarding the level of detail that must be provided to meet the publication obligations in respect of mandatory elements.

The lack of specific guidance on level of detail required or its layout or structure undermines the effectiveness of the template in facilitating comparison between documents.

More worryingly, the ambiguity that exists regarding the level of detail that must be provided to meet the publication obligations in respect of mandatory elements creates legal uncertainty for Service Providers. Schedule 2: Requirements for Completing the Customer Charter Template appears to contemplate that the Charter will contain a summary of this information. The requirements contain wording which repeatedly sets out that “*In this section, a Relevant Service Provider shall include information around ...*” followed by a high level description. Some of these descriptions relate to processes or policies and it is not clear what level of detail will be sufficient to meet the publication obligation.

In respect of the voluntary commitments the wording forecloses the possibility that Service Providers offer Service Performance commitments other than individualised commitments based on a target of 100% achievement. For example the wording “*We do not commit to any specific post response times*” does not appear to allow a Service Provider to offer other commitments such as “80% of queries will be answered with X days”. Indeed, even where Service Provider offers a 100% performance target there is no scope for them to offer information on the likely improved performance that would be available for example in 70%, 80% or 90% of cases. The template should be modified to allow these alternative commitments to be expressed, albeit that where the individualised commitment is not offered this should be stated.

## Consultation Question 8

Publishing and updating a Charter: Do you agree with the proposal that providers publish an initial Charter on their website on 2 October 2023, containing monthly Charter commitments, and are allowed to update the Charter each quarter thereafter? If yes, please explain why and, if no, please provide specific alternative suggestions.

### Three Response:

Notwithstanding ComReg's position that "*...the proposed requirements have been largely designed to work with provider's current business models and operations*"

Three does not believe that ComReg has fully taken account of the challenges associated with the proposal that providers publish an initial Charter on their website on 2 October 2023. The three-month period between the target date for the Decision and the proposed initial publication date will overlap with activities already in train including activity related to IAS switching and EECC implementation. The proposed timeframe also straddles the summer holiday period.

In practical terms the requirement to align initial publication with the start of the quarter appears to be driven mainly by the reporting associated with voluntary commitments. Because the systems and processes required for the data capture for such reporting must be in place before voluntary commitments are given Three does not believe that there will be widespread commitments offered by 2<sup>nd</sup> October in any event. If the initial publication is decoupled from the reporting associated with voluntary commitments, then the imperative to have the initial publication by the start of the quarter no longer applies. This gives scope to set an initial publication date that affords Service Providers more time to develop the Charter content, go through any required governance sign offs and make any necessary website changes. Given the market dynamics of sales around the Christmas period Three believes that provided the Charter is in place before the end of November there would be limited detriment to consumers from the small delay.

## Consultation Question 9

Notifying customers: Do you agree with the proposal that providers be required to ensure all customers are made aware of the Charter, and otherwise ensure the Charter is available on request and in accessible format? If yes, please explain why and, if no, please provide specific alternative suggestions.

### Three Response:

Without prejudice to Three's position as regards ComReg's interpretation of section 81(7) of the Consumer Rights Act Three notes that the ComReg proposal is that it adopts Option 2 as set out in the RIA. This Option is that notification be included as part of pre-contractual information. To the extent that there is a notification obligation Three believes that this is proportionate. However, the wording of the draft Decision at Section 5.1 does not make it clear that the notification obligation refers to it being included in the pre-contractual information. Three suggests that the wording is updated accordingly.

In relation to the obligation to provide a copy in durable medium Three believes that the requirement to provide this with 48 hours from the request is unreasonable. Under the current formulation a request received at 5 minutes to 5 on a Friday afternoon would have to be met by 5 minutes to 5 on the Sunday. This should be reformulated to be specified in working days.

## Consultation Question 10

Charter content (core customer service): Do you agree with the proposed Charter content and the form in which commitments around core customer service, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

### Three Response:

In line with our response to other questions Three believes that taken as a whole the breadth and depth of items that ComReg proposes to be included in the Charter run the risk that the Charter document becomes effectively unreadable due to its size and complexity. This is especially true for multi-play Service Providers who have a variety of different offerings in fixed, mobile, consumer and business and who may have different operational practices for each of these customer segments and for different support channels such as on-line only.

As outlined in our response to Question 5 Three believes that the proposed limitation of only offering voluntary commitments based on 100% targets is counter-productive and limits the ability for Service Providers to offer commitments in line with the maximum levels they feel they can achieve.

Three notes that the data dictionary excludes automated replies from being a valid response. In the context of developments in Artificial Intelligence an automated response may be more than satisfactory in dealing with customer queries. Three believes that the exclusion for automated replies should be limited to those which do not directly address the customer query.

## Consultation Question 11

Charter content (complaint handling): Do you agree with the proposed Charter content around complaint handling? If yes, please explain why and, if no, please provide specific alternative suggestions.

### Three Response:

Three has published its Code of Practice for Complaint Handling and this is accessible via a single click from its homepage.



## Consultation Question 12

Charter content (connections): Do you agree with the proposed Charter content and the form in which commitments around connections, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

### Three Response:

Three notes that the wording in Schedule 2: Requirements for Completing the Customer Charter Template relating to this topic is specific to fixed services. However, this heading is included in Schedule 1: Customer Charter Template as being mandatory even in circumstances where the Service Provider does not offer fixed services or is below the proposed ComReg threshold.

In line with our response to other questions Three believes that taken as a whole the breadth and depth of items that ComReg proposes to be included in the Charter run the risk that the Charter document becomes effectively unreadable due to its size and complexity. This is especially true for multi-play Service Providers who have a variety of different offerings in fixed, mobile, consumer and business and who may have different operational practices for each of these customer segments and for different support channels such as on-line only.

As outlined in our response to Question 5 Three believes that the proposed limitation of only offering voluntary commitments based on 100% targets is counter-productive and limits the ability for Service Providers to offer commitments in line with the maximum levels they feel they can achieve.

## Consultation Question 13

Charter content (billing and refunds): Do you agree with the proposed Charter content and the form in which commitments around billing and refunds, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

### Three Response:

In line with our response to other questions Three believes that taken, as a whole, the breadth and depth of items that ComReg proposes to be included in the Charter runs the risk that the Charter document becomes effectively unreadable due to its size and complexity. This is especially true for multi-play Service Providers who have a variety of different offerings in fixed, mobile, consumer and business and who may have different operational practices for each of these customer segments and for different support channels such as on-line only.

As outlined in our response to Question 5 Three believes that the proposed limitation of only offering voluntary commitments based on 100% targets is counter-productive and limits the ability for Service Providers to offer commitments in line with the maximum levels they feel they can achieve.

## Consultation Question 14

Charter content (outages and repairs): Do you agree with the proposed Charter content and the form in which commitments around outages and repairs, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

### Three Response:

In line with our response to other questions Three believes that taken as a whole the breadth and depth of items that ComReg proposes to be included in the Charter run the risk that the Charter document becomes effectively unreadable due to its size and complexity. This is especially true for multi-play Service Providers who have a variety of different offerings in fixed, mobile, consumer and business and who may have different operational practices for each of these customer segments and for different support channels such as on-line only.

As outlined in our response to Question 5, Three believes that the proposed limitation of only offering voluntary commitments based on 100% targets is counter-productive and limits the ability for Service Providers to offer commitments in line with the maximum levels they feel they can achieve.

Specifically in relation to the 1% threshold Three believes that there should also be a de minimis absolute figure. This is to deal with the situation where a small volume of uncorrelated “normal” faults would take an operator with a small base above the 1% threshold.

## Consultation Question 15

Charter content (disconnection policy): Do you agree with the proposed Charter content and the form in which commitments around disconnection for non-payment of bills are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

### Three Response:

Three notes that the disconnection process is in effect a suspension or termination of service under the contract with the end-user. Because of this Three does not believe that it is appropriate to offer additional voluntary commitments as regards notice periods in the Customer Charter. To the extent that the contract provides for minimum notice periods then these apply as a matter of contract law.

In line with our response to other questions Three believes that taken as a whole, the breadth and depth of items that ComReg proposes to be included in the Charter run the risk that the Charter document becomes effectively unreadable due to its size and complexity. This is especially true for multi-play Service Providers who have a variety of different offerings in fixed, mobile, consumer and business and who may have different operational practices for each of these customer segments and for different support channels such as on-line only.

## Consultation Question 16

Charter content (switching services): Do you agree with the proposed Charter content around switching services? If yes, please explain why and, if no, please provide specific alternative suggestions.

### Three Response:

In line with our response to other questions Three believes that taken as a whole the breadth and depth of items that ComReg proposes to be included in the Charter run the risk that the Charter document becomes effectively unreadable due to its size and complexity. This is especially true for multi-play Service Providers who have a variety of different offerings in fixed, mobile, consumer and business and who may have different operational practices for each of these customer segments and for different support channels such as on-line only.

## Consultation Question 17

Charter content (other): Are there any other areas and/or content you think should be included in a Charter? If yes, please explain and provide specific suggestions.

### Three Response:

In line with our response to other questions Three believes that taken as a whole the breadth and depth of items that ComReg proposes to be included in the Charter run the risk that the Charter document becomes effectively unreadable due to its size and complexity. In this context we believe that including additional areas in the Charter would further exacerbate this issue.

## Consultation Question 18

Evaluating performance: Do you agree with the proposal that providers report their performance against Charter commitments to ComReg on a quarterly basis, and arrange and pay for an independent audit of performance reports on an annual basis? If yes, please explain why and, if no, please provide specific alternative suggestions.

### Three Response:

For the reasons outlined in our response to Question 5 Three believes that the “individualised” commitments, which are the only type allowable under ComReg’s proposals, are not currently commonplace in the market. Service Providers who decide to move to offer such individualised commitments will face issues of seasonality, variable demand, variable resourcing (e.g. during holiday periods) and may make commitments in good faith that will require the underlying support processes and operations to be refined over time in order to consistently meet them. Because of this Three believes that any reporting requirement should be deferred for a number of quarters following the initial introduction of commitments.

Three believes that the absence of such a deferral would act as a disincentive to the introduction of meaningful commitments as Service Providers would be faced with either setting loose targets until they had sufficient information to tighten them. Alternatively, they would delay introducing them until they had sufficient information to be confident that they could meet them.

Three believes that the requirement to have systematic and periodic independent audits of the performance report carried out by every Service Provider in scope of the obligation is not justified or proportionate. In seeking to mitigate a hypothetical, unquantified risk ComReg is proposing to impose real and actual costs on each individual operator without considering alternatives.

As set out in the RIA ComReg’s reason for rejecting that no audit be carried out is that absent such an audit the accuracy of any reporting cannot be guaranteed. ComReg has failed to assess the likelihood of this risk crystallising, the likely scope or scale of any misreporting, of any impact of misreporting and to balance that against the costs of independent third party audits.

ComReg has entirely failed to consider other mechanisms that would ensure the accuracy of reported information.

ComReg explicitly envisages that the performance commitments and the associated reporting will become an input to the purchase decision. Indeed in the RIA ComReg sets out that inaccurate reporting “*could skew competition*”. ComReg has failed to consider whether publication of performance would amount to an unfair sales practice under consumer protection law and if so whether this is a sufficient constraint to ensure accurate reporting.

These might include using ComReg's formal information gathering powers to obtain the reporting information in a manner that ensures its accuracy. Three notes that ComReg already uses these powers extensively to obtain information on a periodic basis.



## Consultation Question 19

Performance reporting: If you have any specific comments on 'Schedule 3: Customer Charter Data Dictionary and Reporting Template' published alongside this consultation (summarised in Table 2), please provide these in response to this question.

### Three Response:

Three notes that the data dictionary aligns with the proposals for the Charter content.

Three believes that precision in the definition of the metrics is welcome (for example the start and stop conditions for timers) and allows for consistency of reporting and comparability across operators.

However as outlined previously Three believes that the current proposed restrictive approach to the form of voluntary commitments being on an individualised basis is not the optimal approach. Service Providers should also have the scope to offer commitments in terms of overall percentage performance which use the same metric definitions.

As outlined in our response to Question 10 Three notes that data dictionary excludes automated replies from being a valid response. In the context of developments in the Artificial Intelligence automated response may be more than satisfactorily dealing with customer queries. Three believes that the exclusion for automated replies should be limited to those which do not directly address the customer query.

## Consultation Question 20

Regulatory impact assessment: Do you agree with ComReg's Regulatory Impact Assessment and the preliminary conclusions as set out? If yes, please explain why and, if no, please provide specific alternative suggestions particularly with respect to the benefits and costs identified, including any evidence to support quantifying such benefits and costs.

### Three Response:

Three believes that there a number of deficiencies in the RIA.

Perhaps the most obvious one is that ComReg is proposing to mandate the inclusion in the Charter of mandatory content against each of the categories outlined in Section 37 of the Act. ComReg has discretion to include or not to include this content and has failed to assess on a category-by-category basis whether it is appropriate or necessary to mandate the inclusion of the specified information. It has simply said it is exercising its discretion in respect of all categories.

ComReg has also failed to assess whether when all of this mandatory information is aggregated it results overall in a document too unwieldy to deliver the transparency objectives.

Related to this is ComReg's failure to assess whether there are other mechanisms to address the transparency issues highlighted by the market research.

The approach taken by ComReg of simply reading across identified issues in the consumer space into the business space means that ComReg cannot properly assess whether its proposed interventions in respect of the business segment are warranted or will be effective. This is perhaps illustrated by failing to consider that businesses have forms of access to information not available to consumers (for example via account management channels etc).

ComReg has used a broad-brush approach in assessing which business segments to include with the scope of the obligation without considering whether this segmentation is appropriate to address the identified issues (for example the inclusion of very large scale of not-for-profit organisations who clearly will not be dealing with Service Providers in the context of the Charter).

While ComReg did consider the topic of commitments which were not based on 100% targets it did so only partially. It failed to assess whether also allowing the inclusion of performance targets based on less than 100% would still allow for competitive differentiation to the benefit of end users.

In proposing to impose the cost of 3<sup>rd</sup> party audits on operators ComReg failed to consider alternatives including those it already uses to ensure the accuracy of data supplied to it.

### 3 Other Relevant Issues

#### Non ICS/IAS services

As the communication sector evolves there is a continuing trend for communications service providers to offer non-communications services and products and for providers of non-communications services and products to offer communications services. In addition, there is scope for service providers of both types to leverage their relationships with customers to provide “agency billing” or similar for goods and services which are supplied by third parties.

There are a wide variety of business models evolving with differing contractual relationships for different elements of the supplied goods and service. There are also a wide, and increasing, range of non-telecoms products and services that are likely to be offered by providers of ICS and IAS. The increased range of goods and services will potentially have different contractual, supply, support, and billing characteristics compared to IAS and ICS.

In light of this Three believes that it is neither appropriate nor practical that the proposed required Customer Charters should cover those elements of supply which are not IAS or ICS.

Apart from these practical considerations Three believes that interventions in areas other than the supply of ICS or IAS are outside of the scope of ComReg’s legislative remit.

While ComReg has not specifically asked for feedback on the text of the proposed Decision Instrument Three is of the view that Decision Instrument should contain wording clearly setting out the range of services which the requirements in any Charter would apply to.

#### **Sub-brands**

Sub-brands are now a feature of the Irish market. These tend not to be separate legal entities to their “parent” and are not separate service providers. However, they do have separate websites. ComReg should consider whether sub-brands are sufficiently distinct so that a separate Charter document for the sub-brand is the most effective way of dealing with this issue.

## 13 Verizon Ireland

May 16, 2023

ComReg  
One  
Dockla  
nd  
Central  
Guild  
Street  
Dublin, D01 E4X0

Dear Sir/Madam

## Response to consultation ref: 23/14 - Proposals for Implementing a Customer Charter

Verizon Ireland Limited (“Verizon”) would like to respond to ComReg’s consultation entitled “Proposals for implementing a customer charter” (Ref 23/14).<sup>1</sup>

We are pleased to see that ComReg is proposing to extend the benefits of a Customer Charter to microenterprises, small enterprises or not-for-profit organisations that have similar bargaining power as consumers.

We agree with ComReg that larger enterprises do not require such regulatory protections given they have strong bargaining powers and often have very robust contractual protections in place (such as Service Level Agreements).

However, we are strongly concerned that the definition of “not-for-profit organisation” brings a

lot of large enterprise customers into scope unnecessarily such as government bodies or large multinational charities. We believe this goes against ComReg's intention.

We consider that larger not-for-profit organisations have very strong bargaining power and to all intents and purposes act like large business customers. Large organisations such as multinational charities or government agencies carry out robust RFP and/or procurement processes and are well equipped to handle negotiations with communications providers. They are not in need of the protections envisioned by the customer charter.

Other countries have taken a pragmatic approach to limiting the scope to those organisations who require protection and have similar bargaining power to consumers. For example, the UK used a staff headcount threshold in the definition of not-for-profit organisation, while in France and the Netherlands, large governmental bodies and government

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<sup>1</sup> <https://www.comreg.ie/media/2023/03/Proposals-for-implementing-a-customer-charter.pdf>

agencies are explicitly excluded from the scope of the definition respectively.

We therefore urge ComReg to consider limiting the scope of the not-for-profit definition to avoid unnecessary regulatory burden so that it focuses its compliance efforts on those sub-categories of end users that require additional regulatory protection. We propose the following options:

- **Option 1 [preferred option]** - Amend the definition of “not-for-profit organisations” to explicitly exclude large not-for-profit organisations and government bodies. For example, through use of a threshold of 10 employees/volunteers.
- **Option 2** - If the definition cannot be amended, ComReg should add a clarification in its decision statement that the intention is for only those Not-for-Profit organisations which have similar bargaining power as consumers should be in scope. For example, this could refer to a threshold of 10 employees/volunteers, or could exclude a not-for-profit organisation where such a customer already has a bespoke SLA agreed with its communications provider.

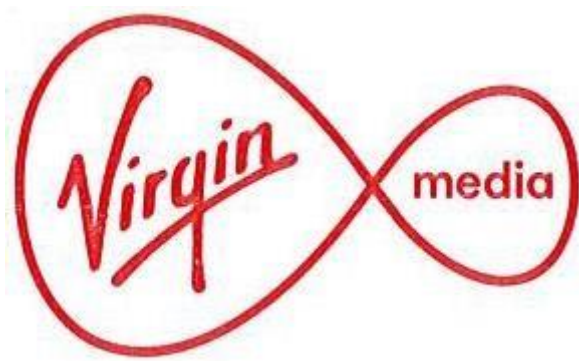
We consider that the above changes would better align the regulatory drafting with ComReg’s intention by ensuring those customers in need of protection are covered, while not extending protections unnecessarily to organisations that do not require it.

Yours sincerely,





## 14 Virgin Media



## Virgin Media response to:

Non-Confidential Consultation on ComReg's "Proposals for Implementing a Customer Charter".

12 May 2023

## Introduction

- Virgin Media Ireland Limited ('Virgin Media') welcomes the opportunity to respond to ComReg's Consultation Document 23/14 "*Proposals for Implementing a Customer Charter*".
- Virgin Media agrees that customer service is a vital aspect of a customer's experience in any service industry and broadly supports this initiative.
- At the outset it is important to state that Virgin Media always welcome programmes and initiatives that improve customer experience and this is very much reflected in awards we have won and we continue to lead on customer service in this sector. We have the lowest number of complaints in the fixed market, as evidenced yet again in ComReg's Consumer Care Statistics Reports for quarter 1, 2023.
- Virgin Media welcomes a further opportunity to provide more detail on how it ensures its customers' receive a great service and therefore has no difficulty in telling our customers more about our customer service in a "*Virgin Media Customer Charter*".
- We make a number of suggestions in our response which we believe will add value for customers, including allowing Providers the freedom and scope to tailor their Charter in a way that works for their customers and their brand.
- Any reporting put in place should aim at driving and increasing customer satisfaction. Ultimately, we believe that a focus on improving customer experience/satisfaction measurements rather implementing reporting metrics would be more beneficial and drive better outcomes for customers. On reporting we also believe that to add real value for customers, good reporting on key KPIs once a year is better than quarterly reporting across a range of KPIs throughout the year.
- It is unclear why ComReg feels each Provider should have an independent auditor reviewing their reports, at least at the outset. We would suggest that should ComReg feel this is a requirement at a later stage, this is something that could be introduced, once a regulatory impact assessment suggests a clear need.
- In conclusion we welcome this initiative, and we are available to discuss any aspect of our response with ComReg should this be required.
- Please find set out below Virgin Media's response to the specific questions asked ComReg's consultation paper.

## Virgin Media Response to The Consultation Questions on the Proposals for Implementing a Customer Charter.

*Q1. Introducing Charter requirements: Do you agree with the proposal that ComReg should introduce requirements for providers of IAS and ICS to prepare, publish and keep updated a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions*

- Yes, Virgin Media agrees with ComReg's approach to make this a requirement of IAS and ICS provider ("Provider"). We would at the outset state that for it to be of real benefit for customers, it is imperative that each Provider has the flexibility to draft the Charter in a way that makes the most sense for their customers. Please see our response to question 2 below where we provide more detail on why flexibility is important.

*Q2. Overarching approach to introducing a Charter: Do you agree with the proposal that the Charter will contain provider-set commitments, with ComReg to monitor and evaluate implementation of the Charter requirements and the levels of customer service committed to and implemented by providers for their adequacy before deciding whether to seek to move to the specification of Minimum Quality of Service Standards, and/or seek to require any Minimum Quality of Service Standards information is included in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.*

- Virgin Media agrees with ComReg's proposal to introduce a Charter with provider-set commitments which ComReg can then monitor and evaluate rather than specific ComReg led QOS minimum service standards.
- Publication of Customer Charters by Virgin Media with key service commitments, together with a level of reporting to ComReg, will in Virgin Media's view provide ComReg with what it needs so that there will not be a need for ComReg to set Minimum Quality of Service Standards in the future for Virgin Media.
- We would mention that for a Charter to be of real benefit it needs to align with key KPI's that individual providers use for their customer service and it therefore is appropriate that the Charter facilitates Providers with this flexibility. We would ask ComReg to allow Providers to be agile so they can update the Charter as they update key customer service levels/commitments, noting that Virgin Media's objective when making changes to service levels is with the intention of continuing to provide our customers with a first class service.

*Q3. Providers that Charter requirements will apply to: Do you agree with the proposal that Charter requirements will apply to providers of IAS and/or numberbased interpersonal communications services with a market share of 0.5% or greater? If yes, please explain why and, if no, please provide specific alternative suggestions.*

- Virgin Media is unclear why there is a need for such a distinction. All customers deserve good customer service. If ComReg is introducing a regulatory requirement for customer service, this should be applied across the board.

*Q4. End-users that a Charter will address: Do you agree with the proposal that providers will be required to prepare, publish and keep updated a Charter that address all consumers, microenterprises, small enterprises and not-for-profit organisations? If yes, please explain why and, if no, please provide specific alternative suggestions.*

- Providers may have processes for small enterprises, microenterprises and not for profit organisations that are distinct from processes for residential customers. Instead of a requirement that these types of customers be included in one Customer Charter, it would be more helpful to have flexibility around this. It may be that a separate Charter for these smaller business companies will work better for these customers.

*Q5. High-level Charter contents: Do you agree with the proposal that a Charter will contain both general information on providers' customer service policies, and specific commitments as to the level of customer service an individual customer can expect to receive in a given period? If yes, please explain why and, if no, please provide specific alternative suggestions.*

- Virgin Media generally agrees with the proposal that the Charter contains both general information on customer service-related policies and specific commitments as to the expected customer service levels where the Provider determines that supplying a specific commitment is appropriate and measurable.

*Q.6 Overarching Charter form: Do you agree with the proposal that providers must prepare, publish and keep updated a Charter in accordance with a ComReg specified template? If yes, please explain why and, if no, please provide specific alternative suggestions.*

- Virgin Media agrees with a lot of what is in the template, however, we believe Providers should be able to innovate and use their own design where they choose to do so.
- For instance, we consider that in addition to the proposed specified introductory content, an option to include an initial brief free style short segment would enhance the introductory section of the Charter. This is important as it gives Providers the opportunity to convey relevant information about the business, its commitment to its customers and underpins the work purpose objective as an overview.

- We note that the Communications Regulation and Digital Hub Development Agency Amendment Act 2023 provides that *“The Commission may, where no minimum levels of quality of service are offered by a provider, require the provider to publish a statement to this effect in the customer charter or in such other form or manner as the Commission considers appropriate”*. Virgin Media believes ComReg could allow Providers greater flexibility to explain why a commitment is not given. Providers for example could explain why they do not give a commitment in a more meaningful and customer friendly manner. For example using language such as , *“In this instance/due to/we are currently working on .... we are unable to provide a specific/exact...response time”*.

*Q.7 Charter template: Do you agree with the proposed form requirements for completing a Charter template? If yes, please explain why and, if no, please provide specific alternative suggestions.*

- Virgin Media agrees in principle with the Charter format specifications suggestions. However, the format specification template should act more as a reference guide. As long as the Charter contains the relevant information, Providers should be able to adapt the design of the Charter in such a way that delivers content most appropriately for its customers.
- It is sensible to provide one-click access to the Charter from the website homepage and that the content text is as concise as possible and is easy for customers to read and understand.

*Q.8. Publishing and updating a Charter: Do you agree with the proposal that providers publish an initial Charter on their website on 2 October 2023, containing monthly Charter commitments, and are allowed to update the Charter each quarter thereafter? If yes, please explain why and, if no, please provide specific alternative suggestions.*

- Virgin Media believes that an implementation timeframe of three months for publication of the Charter from publication of ComReg’s final decision is adequate.
- ComReg is right to consider that the Charter could be updated following initial publication, however we don’t agree that there should be a limit set on when this can be done eg each quarter. Providers should be able to update the Charter when they wish, so long as changes made are in line with the established regulatory requirements of a Charter.
- Virgin Media believes the timeframes set for delivering reporting are too short. A longer lead in time is needed. Schedule 3 contains a Customer Charter Data Dictionary and Reporting Template which when finalised will most likely require some IT development before it will be possible to produce reports. We believe that at least a

nine month timeframe from ComReg's decision would be more appropriate to facilitate the build and planning of this reporting piece.

*Q.9 Notifying customers: Do you agree with the proposal that providers be required to ensure all customers are made aware of the Charter, and otherwise ensure the Charter is available on request and in accessible format? If yes, please explain why and, if no, please provide specific alternative suggestions.*

- Virgin Media agrees that in addition to the website publication of the Charter, information on the Charter and where to find it could be included in a customer's contract.
- We are fully supportive of providing a copy of the Charter in accessible or durable means upon request to facilitate customers without internet access/knowledge and customers with accessibility needs.
- However, we do not agree with the proposed time scale of 48 hours as it may not always be possible to meet this. That said it is in Virgin Media's interest to respond as quickly as possible to ensure we have a "happy" customer and we will always respond to any request within our contact channel KPI's.
- ComReg will be aware, customer contact channel touch points vary in service level response times. For instance, if a customer makes a request for a copy of the Charter by letter, it is not feasible to respond in writing to a customer within 48 hours. Virgin Media has a range of metrics across its call centre for responses to items depending on the channel itself. It is not appropriate that this level of granularity would be implemented. It is also worth noting that it may not be possible to provide customer requests for an accessible format of the Charter (such as Braille) within business-as-usual contact channel service response times.

*Q.10 Charter content (core customer service): Do you agree with the proposed Charter content and the form in which commitments around core customer service, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.*

- Virgin Media agrees in principle with the proposed content and providing commitments around core customer service query handling. We believe that providing information on the contact channels available and response timeframes is of benefit to customers, however please refer to our response to Questions 6 and Questions 7 where we outline the requirement for greater flexibility.

*Q.11 Charter content (complaint handling): Do you agree with the proposed Charter content around complaint handling? If yes, please explain why and, if no, please provide specific alternative suggestions.*



- Virgin Media agrees with the proposed short content segment on complaint handling. We suggest that the Code of Practice for Complaint handling should be part of the Charter itself so that all content is readily available in one place.

**Q.12 Charter content (connections): Do you agree with the proposed Charter content and the form in which commitments around connections, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific**

- Yes, Virgin Media agrees with the content on providing information about connecting new services and service/installation appointments. We believe this information is beneficial to customers.
- Virgin Media however does not agree with the proposed commitment reporting metrics format '*Schedule 3: Customer Charter Data Dictionary and Reporting Template*'.
- ComReg's proposed reporting Metric is as follows:

|   |  |
|---|--|
| Connections/Service Activation (B1)     | Maximum new service activation time & the Percentage of new services activated within the maximum service activation time. |
| Service Activation Acknowledgement (B2) | Maximum acknowledgement time for request for new service & the % of requests acknowledged to within the maximum timeframe. |

- We alternatively suggest the approach, (which we believe is more meaningful to the end customer), that metrics are structured as a set of commitments around the performance against SLA expressed as follows:
- x% of installs completed withing y number of days.

**Q.13 Charter content (billing and refunds): Do you agree with the proposed Charter content and the form in which commitments around billing and refunds, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.**

- Virgin Media agrees with the proposed Charter content for billing and refunds, in terms of how customers can raise a query about their bill and/or charges and providing information to customers on how Providers address queries around billing/charges and the provision of information for refunds where this is required.
- We agree with ComReg's the proposed billing commitment reporting metric '*Schedule 3: Customer Charter Data Dictionary and Reporting Template*' as follows:

|              |  |
|--------------|--|
| Billing (C1) | Maximum <b>billing/charge review response time</b> across contact channels & % of billing/charge |
|--------------|--|

|  |   |
|--|---|
|  | review queries responded to within the maximum timeframe. |
|--|---|

- We do not agree however with ComReg's proposed refund commitment reporting metrics format as follows:

|              |  |
|--------------|--|
| Refunds (C2) | Maximum <b>time for processing a refund</b> to an individual Relevant Customer where one is due & the % of refunds processed within the maximum timeframe. |
|--------------|--|

**Q.14 Charter content (outages and repairs): Do you agree with the proposed Charter content and the form in which commitments around outages and repairs, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions**

- Virgin Media is supportive of publishing information on planned and unplanned outages on our website, except for minor gauge outages affecting small customer numbers.
- We have the following comments to make re ComReg's proposed reporting metric in *'Schedule 3: Customer Charter Data Dictionary and Reporting Template'* which are:

|                        |  |
|------------------------|--|
| Outages Planned (D1)   | Minimum notice period (to publish) provided to customer base of a planned service outage & of planned service outages that took place where information on the outage was published with at least the minimum notice committed to.                   |
| Outages Unplanned (D2) | Maximum time to publish information to its customer base on an unplanned service outage & % of unplanned service outages that took place where information on the outage first was published within the maximum outage information publication time. |

- Virgin Media does not agree with the above proposed commitment reporting metrics format. We alternatively suggest that metrics are structured as a set of commitments around the performance against SLA expressed as follows:
- X% of service faults repaired within Z hrs etc.

*Q.15 Charter content (disconnection policy): Do you agree with the proposed Charter content and the form in which commitments around disconnection for non-payment of bills are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.*

- Virgin Media agrees with the proposed Charter content/commitment around disconnection for non-payment. This is a very standard process, and all our customers receive the same minimum amount of notice.

*Q.16 Charter content (switching services): Do you agree with the proposed Charter content around switching services? If yes, please explain why and, if no, please provide specific alternative suggestions.*

- Virgin Media agrees with the proposed Charter content round switching services.

*Q.17 Charter content (other): Are there any other areas and/or content you think should be included in a Charter? If yes, please explain and provide specific*

- Please refer to our response to question 6. Providers should have option to enhance the Charter introductory segment and other aspects of the Charter where they see a benefit for their customers.

*Q.18 Evaluating performance: Do you agree with the proposal that providers report their performance against Charter commitments to ComReg on a quarterly basis, and arrange and pay for an independent audit of performance reports on an annual basis? If yes, please explain why and, if no, please provide specific alternative*

Virgin Media has some suggestions around reporting. Any reporting put in place should aim at driving and increasing customer satisfaction. Ultimately, we believe that a focus improving customer experience/satisfaction measurements rather implementing reporting metrics would be more beneficial and drive better outcomes for customers. Please find these set out below.

- (i) Virgin Media firstly does not agree that commitments should be reported on a quarterly basis. It seems more beneficial to report less often on key KPIs which deliver a clear message for consumers. Virgin Media believes an annual report with key KPIs could add real value here.
- (ii) Industry already provides a wide range of reports to ComReg on a quarterly basis at a considerable cost. To the extent that more reports are required these should be developed in a way that is a real add value for customer, ComReg and the industry generally. Virgin Media has regular meetings with ComReg's customer care team and finds these meetings extremely beneficial. Virgin Media suggests that how a Provider is tracking against its Customer Charter might be an agenda item for these meetings going forward.
- (iii) Virgin Media does not agree with arranging and paying for an independent audit of performance reports on an annual basis. The costs of employing an independent auditor and the resource liaison effort involved on an on-going perpetual basis is

an unnecessary burden for Providers, unless there is a clear market failure that ComReg identifies that needs to be addressed.

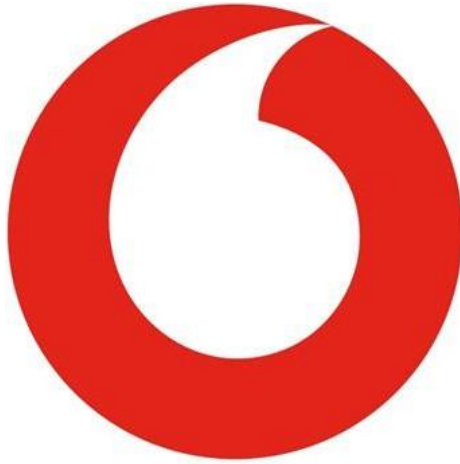
*Q.19 Performance reporting: If you have any specific comments on 'Schedule 3: Customer Charter Data Dictionary and Reporting Template' published alongside this consultation (summarised in Table 2), please provide these in response to this question*

- Please refer to our response to questions 12,13 and 14 where we have provided some specific comments on 'Schedule 3: Customer Charter Data Dictionary and Reporting Template'.

*Q.20 Regulatory impact assessment: Do you agree with ComReg's Regulatory Impact Assessment and the preliminary conclusions as set out? If yes, please explain why and, if no, please provide specific alternative suggestions particularly with respect to the benefits and costs identified, including any evidence to support*

- Please see our responses above.

## 15 Vodafone



Vodafone Response to Consultation

# Proposals for Implementing a Customer Charter

Public Consultation

Reference: ComReg Doc 23/14

Version: Non-

Confidential Date:

12/05/23

## Introduction

Vodafone welcomes the opportunity to respond to the Commission for Communications Regulation (ComReg)'s consultation on proposals for implementation of a Customer Charter. In principle Vodafone agree that there should be concise and accessible information available to our customers. An operator should set clear expectations on the service the customer will receive and how an operator can support the customer if anything goes wrong. For Vodafone that information is already provided at all customer touchpoints, whether customers call us on the phone, go into any of our many retail stores, use our App or live chat, our website or whether they contact us via post. Vodafone also agree that customer service is a competitive lever and one which Vodafone invest in significantly both in supporting technology and people. Vodafone consistently measure our customer experience both at an operational level in terms of the calls, resolutions, wait times etc. and through a continuous loop of customer feedback.

In providing a background ComReg did set a context that customer service levels in the sector have improved which we all agree is welcome. It is important to also add further context. The level of complexity in the fixed sector in Ireland has increased. Customer expectations and demands around broadband services are escalating with many homes and business looking to upgrade to best in class broadband services over a relatively short period. Broadband has become central to the home and business and is as critical as power and water. During this national upgrade of broadband services we are removing legacy infrastructure, doing physical installs in homes which require appointments as well as sending out new modems and TV boxes and, therefore, issues can arise. This reality drives the complexity in the sector and any issue is magnified given the customers high degree of dependence on the service. This is a challenge that operators must constantly address. Vodafone, the largest fibre retailer in Ireland, is fully focussed on continuous improvement of service for all our fixed and mobile customers.

Our detailed response is set out below. The key comments that Vodafone must highlight up front

1. Wholesale Service Levels must be addressed to support this Charter project  
The processes for delivery & repair and the supporting SLAs for fixed services have developed slowly and incrementally over the last 20 years. A fundamental and fast overhaul is required if we are to enhance the customer experience and enable retail providers to provide meaningful commitments to customers. Vodafone request confirmation on ComReg plans to improve process and regulated service levels in the sector as part of this project.
2. ComReg need to consolidate customer requirements  
The difference between a Charter and other obligations, specifically the Code of Practice can be somewhat opaque for people working in this sector not to mention customers. Vodafone would urge ComReg to consolidate existing requirements into one clear decision enabling efficient rollout of requirements, clarity for operational teams and transparency for customers.
3. Phase 1 should avoid being overly prescriptive  
Vodafone agree in principle with the provision of clear and concise information for the customer and with the categories that an operator should include. We would strongly advise against prescriptive text in the document that is dictated by ComReg. Vodafone work very hard to deliver consistent communications to customers and the Charter should reflect the same look, feel and tone of all other Vodafone customer communications.



## Consultation Questions

### ComReg Consultation Section 3:

#### Customer Service in the Irish Electronic Communications Services Market

Question 1: Introducing Charter requirements: Do you agree with the proposal that ComReg should introduce requirements for providers of IAS and ICS to prepare, publish and keep updated a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

Vodafone agree with the principle that simple and clear service-related information should be provided to customers. We would advise against setting separate requirements for separate documents as this has the potential to confuse customers. ComReg needs to examine how it might rationalise and amend existing requirements rather than set a supplementary obligation to provide customers with information. Much of this information is already provided via the operator Code of Practice or within the information provided to customers in their contract. There is an opportunity as part of the introduction of the EU Code for ComReg, as part of its role to ensure transparency for industry, by consolidating existing requirements on operators.

In section 3.16 of the consultation ComReg state that “there is comparatively less transparency around the level of customer service a customer can expect from their provider both in terms of general information available and articulated standards about specific levels of service a provider commits to deliver or offer.” This is not accurate given the longstanding requirement on service providers in the sector to implement a Code of Practice for complaint handling. The Code is always accessible to all customers. The Vodafone Code is available on the main page of the website and is very clear that customers can contact on via live chat, social media by call or in writing. It details the escalations process and commitments to call back times with customers if required. It also sets out clear timeframes for complaint resolution and timeframes for refunds.

ComReg Consultation Section 4:  
Proposed Approach to Implementing Charter Requirements

Question 2: Overarching approach to introducing a Charter: Do you agree with the proposal that the Charter will contain provider-set commitments, with ComReg to monitor and evaluate implementation of the Charter requirements and the levels of customer service committed to and implemented by providers for their adequacy before deciding whether to seek to move to the specification of Minimum Quality of Service Standards, and/or seek to require any Minimum Quality of Service Standards information is included in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions

Vodafone agree that provider set commitments are appropriate and a phased approach is pragmatic. It is our view that elements of the ComReg proposal are unnecessarily interventionist and, in particular, Vodafone do not agree with the level and format of reporting requirements. This is discussed in more detail below.

In addition Vodafone would urge ComReg to refine the proposal on the definition of high-level Charter parameters by only setting headline categories. Paragraph 4.5 states that “.....*providers would have the flexibility to set their own level of customer service and include information on these in a Charter within parameters defined by ComReg...*”. The template however is very prescriptive, and the format prevents inclusion of important information specific to the interests of Vodafone customers such as our App and associated support features. Furthermore, by setting very specific text requirements, it also restricts the operator’s ability to engage with the customer in a format and tone consistent with its brand values and tone.

ComReg Consultation Section 5:  
Proposed Charter Requirements

Question 3: Providers that Charter requirements will apply to: Do you agree with the proposal that Charter requirements will apply to providers of IAS and/or number based interpersonal communications services with a market share of 0.5% or greater? If yes, please explain why and, if no, please provide specific alternative suggestions.

In principle, an obligation should apply all providers of services. ComReg propose the Charter obligation should limited to number based ICS and state section 8.4.3 of the RIA sets out the assessment of the options. In section 8.4.3 ComReg confirm that the inclusion of providers of number independent ICS would capture OTT players, such as instant messaging apps, confirming end-users would benefit from access to a Charter and that it would still have positive effects on competition. However, without further explanation, the regulatory requirement is again being limited to the connectivity provider – which demonstrates the consistent imbalance in the regulation of the overall sector.

ComReg suggest the limitation to operators with .5% market share and above limits the overall industry regulatory burden. As stated above the principle should be applied to all however, Vodafone have no strong views regarding the exclusion of smaller operators. However in the RIA ComReg suggest the imposition of a threshold involves a smaller level of regulatory burden on industry and would be a more proportionate way of targeting regulatory intervention. Vodafone do not agree with this statement. It is very clear that the regulatory burden imposed through ComReg's proposed intervention will apply at an individual operator level. The proportionality is specific to each operator and the Charter is proposing a costly and resource intensive level of regulatory intervention especially given a proposed requirement for detailed quarterly reporting.

Section 5.16 suggests a self-declaration of over .5% market share however only ComReg would know this through the collection of aggregate quarterly statistics across business and residential markets and the Charter. For example there are a number of organisations with over .5% market share that operate only in the corporate space in Ireland. Is the proposal that these organisations provide a Charter if they engage any customers within the definition of small, micro, not for profit etc.? This is not clear.

In considering the scope of a Charter ComReg also needs to examine how it proposes to ensure the level of service at a wholesale level is adequate to facilitate operator Charter commitments at the retail level. It is not proportionate to press for a standard commitment at the retail level when the standard of SLA, backing off that retail commitment, is so divergent at the wholesale level and when the retail operator has limited ability to force service and process improvement with certain providers.

Question 4: End-users that a Charter will address: Do you agree with the proposal that providers will be required to prepare, publish and keep updated a Charter that address all consumers, microenterprises, small enterprises and not-for-profit organisations? If yes, please explain why and, if no, please provide specific alternative suggestions.

Vodafone agree the Charter is not necessary for larger organisations. The guidance document (20/111R) that ComReg has developed does not give any insight as to how operators might ensure company size as each operator will have different criteria by which it segments and manages its customer base. Vodafone recommend for clarity that the guidance document is updated and provides clarity on how ComReg will assess compliance taking account of the definitions in SI444 of 2023. It is less complex for micro and small enterprises however, it should be noted, that an operator will not generally know the employee size or annual turnover or indeed when that fluctuates. It is not clear how ComReg or an operator will assess that a not-for-profit organisation has been properly constituted in accordance with the laws of the State. In addition, there could well be not-for-profit organisations that fall within turnover and staff thresholds well in excess of those of a small enterprise and clarification is needed whether operators with over .5% market share in corporate markets or with not-for-profit organisations exceeding small enterprise thresholds are required to provide a Charter.

Question 5: High-level Charter contents: Do you agree with the proposal that a Charter will contain both general information on providers' customer service policies, and specific commitments as to the level of customer service an individual customer can expect to receive in a given period? If yes, please explain why and, if no, please provide specific alternative suggestions.

Vodafone agree that a Charter should act as a "one stop shop". With regard to the general information as currently set out in the Code of Practice ComReg itself should use the opportunity to rationalise and revoke existing related decision instruments in order to provide a clear consolidated requirements list for industry. This will facilitate greater transparency for customers. The Charter is now being introduced alongside the Code of Practice creating further disaggregated regulatory requirements and decisions, and another separate document for customers which arguably reduces transparency. The difference between a Charter, a Code of Practice and other documents/information that ComReg could require is arguably lost on customers.

On commitments the requirements for timing are not fully clear. For clarification Vodafone understand the proposal from ComReg to mean that the operator develops a Charter and can update at set intervals (i.e. 3 months or another period the operator decides) and the operator can commit to a level of service it will provide monthly for that 3-month period and can amend as required each quarter.

ComReg also need to confirm that the Charter update does not constitute a change to the customer contract as the variability in operational demand needs to be reflected in the Charter at regular intervals.

It is clear the commitment an operator can make is influenced by a very broad range of variables including service type, seasonality, internal activity and external factors outside the operator's control.

- Operational demand is seasonal for different services – for example installation/repair hours may be more restrictive in winter for fixed services while queries on roaming options will be higher in summer as more people travel.
- Operational demand is also driven by operator activity through new product launches, offers and promotions.

- External factors can present challenges for operators such as issues with nuisance communications or premium rate services which can lead to customers contacting their operator on matters outside the operators' control.

ComReg consider the commitment should apply to all customers in scope at the point in time the Charter is updated for the 3-month period. Vodafone would propose an alternate approach to reflect the service level provided at the wholesale level. In terms of repair for example Eircom commit to clear 84% of FTTC faults in 2 days and 73% of FTTH faults in 2 days. It is not clear why the performance target is lower on the newer FTTH network, nonetheless these are the wholesale commitments on which an operator must rely. It is also the case, with certain targets such as the FTTC standalone 2-day repair target at 81.76% in the October 2022 SLA performance report<sup>1</sup> that performance is often well below the SLA target. It is clear therefore that the retail operator must rely tentatively on its wholesale service commitment in setting any commitments for its customers. The retail operator can of course build in a level of risk however an absolute commitment, given the current standard of SLA at the wholesale level, would not be possible. We strongly urge ComReg during the initial phase to permit individual (2d) and average service level commitments (2c) to facilitate a more meaningful Charter for retail customers across the different services that an operator provides.

Question 6: Overarching Charter form: Do you agree with the proposal that providers must prepare, publish and keep updated a Charter in accordance with a ComReg specified template? If yes, please explain why and, if no, please provide specific alternative suggestions.

Vodafone believe the template is too prescriptive. An operator must be able to communicate with its customer in a manner that is consistent with its other customer communication and brand values. While accepting there should be some degree of consistency, by setting categories the Charter should not be overly restrictive which is currently the case. Significant resource is invested in ensuring a consistency of customer communications and it is intrusive for the regulator to set specific text to this degree.

This of course does not prevent ComReg from setting high level categories that must be included to facilitate a level of consistency across the industry – similar to that which is required in the Code of Practice. Vodafone refer ComReg to other sectors including the energy sector where the format is less controlled and indeed ComReg's own Customer Charter which includes ComReg information of interest for consumers about ComReg including its role, mission as well as its commitments on answering calls as soon as possible, as well as correspondence, consultation response and other commitments.

Question 7: Charter template: Do you agree with the proposed form requirements for completing a Charter template? If yes, please explain why and, if no, please provide specific alternative suggestions

In relation to the specific form requirements it is necessary to deal with individual proposals.

<sup>1</sup> [Draft Aggregated SLA Report Q4 October - December 2022.xlsx \(openeir.ie\)](#)

- On the heading it is agreed a common name for the document is required but it should be noted a document, detailed webpage as opposed to a one-page common Charter will be required. We note the comment that the Charter should be as short as possible, and it is our view that elements of the text that ComReg propose may be removed. Our comments in this regard are included in response to questions in ComReg consultation Section 6 below.
- On the overall document format ComReg seem to have adopted the highly prescriptive approach taken for the Contract Summary requirement in the EU code setting the heading, the introduction text, the categories, permitting a logo, requiring service name at the top of the page etc. This is not appropriate in this case and the operator should be able to talk to its customer through a Charter in a manner consistent with all other communications. It is not appropriate for the Regulator to intervene at a level where it is writing an operator's customer communications. We note the acknowledgement that more than one page will be required however the overall format remains too prescriptive in terms of the detail that must go into each section.
- On the sections – With the exception of comments in answer to questions in Section 6 of the ComReg consultation Vodafone has no issues that ComReg set categories to be included in the Charter. The further text below the section heading is far too prescriptive. We also note certain sections in the template seem service specific, for example the connection section is very much focussed on fixed services however many operators will provide both mobile and fixed services. This may require adaptation and further supports the need for a document as opposed to a document setting out services in the top left-hand corner.
- On One-Click Access: Vodafone agree however we should merge the Charter with the Code of Practice to ensure customers have all the information they require in one location.
- On formatting requirements - portrait format, font size, font type, contrast no concerns arise

In paragraph 5.30 (bullet 2) ComReg state these measures “ensure the Charter does not become a marketing tool used by providers”. This statement is very surprising as it contradicts the ComReg objective to drive competition through the Charter project. Why would an operator not market its customer service to its customers? This is surely an assumption underpinning ComReg's case for the Charter. Vodafone understand the objective may be to ensure the Charter does not turn into a sales booklet for specific products and services. However, this should not prevent the operator from marketing its customer service proposition in its own way as part of its Charter.

Question 8: Publishing and updating a Charter: Do you agree with the proposal that providers publish an initial Charter on their website on 2 October 2023, containing monthly Charter commitments, and are allowed to update the Charter each quarter thereafter? If yes, please explain why and, if no, please provide specific alternative suggestions.

Vodafone consider the October date to be extremely challenging and is very close to the November, December freeze period. We would request ComReg to set a deadline of the next full quarter following 6 months from the date of the Decision. Therefore if ComReg published after June 2022 then the first quarter

for compliance would be the quarter commencing April 2024. Vodafone agree with the quarterly update option. The 3-month proposal will be far too short.

In relation to monthly commitments and quarterly update it is not clear what ComReg means by a monthly commitment and examples would be useful in this regard.

ComReg state operator charters need to publish on the same day to avoid any provider gaining competitive advantage. This is an unnecessary level of market intervention. An operator could decide at any stage to publish its own voluntary Customer Charter in advance of a ComReg decision effective date.

Question 9: Do you agree with the proposal that providers be required to ensure all customers are made aware of the Charter, and otherwise ensure the Charter is available on request and in accessible format? If yes, please explain why and, if no, please provide specific alternative suggestions.

Vodafone agree customers should be advised. It would be pragmatic that an operator could meet the requirement to send an advisory alongside other comms required under regulation such as alongside annual best tariff notifications and for new customers on contract summary. For existing customers it is not advisable to have a go live date for the Charter where all operators send all customers notifications of a Charter at the same time with a link to the document especially given current concerns around nuisance communications.

Regarding durable format Vodafone request ComReg to confirm that pdf is acceptable.

ComReg Consultation Section 6:  
Proposed Charter Content and Form Requirements

Question 10: Charter content (core customer service): Do you agree with the proposed Charter content and the form in which commitments around core customer service, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

Vodafone include a lot of this detail in the Code of Practice and also in terms and conditions so there is crossover in this regard. We would request a one stop shop of ComReg obligations as opposed to multiple different (yet similar) regulatory instruments. In relation to the 'How you can contact us section' we wholly disagree with the requirement for metrics to include timeframes for answering of calls by a human operator. Most organisations are investing in highly sophisticated AI solutions to provide efficient and effective customer care. This cannot be excluded from any commitment or metric.

The text is far too prescriptive. The operator should be able to state what it commits on for answering for whatever channels it chooses to include. Forcing an operator to state where it does not provide a commitment is completely excessive and this requirement should be removed. This comment should be noted in relation to all sections below including complaints, connections, billing, outages and disconnection.

As an alternative suggestion Vodafone urge ComReg, at least as part of its initial phase, to focus on a category heading requirement with guidance (as opposed to prescriptive text) outlining information operators should include. This would have a maximum character count, acknowledging the need for ComReg to ensure brevity. This will ensure an operator can talk to its customers in a tone consistent with other customer communications.

Question 11: Charter content (complaint handling): Do you agree with the proposed Charter content around complaint handling? If yes, please explain why and, if no, please provide specific alternative suggestions

Vodafone suggest this is the section where the current detail in the Code of Practice could be included rather than requiring operators to have separate documents. This will only serve to confuse our customers and our frontline staff who want to resolve customer queries and complaints.

Question 12: Charter content (connections): Do you agree with the proposed Charter content and the form in which commitments around connections, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

This section is very much focused on fixed services all of which are supported by wholesale operators in Ireland. The standards of service provided and the wholesale and supporting SLA's dictate the commitments that can be provided by industry and ComReg has not proposed any further action to improve standards in this area.



Noting the responsibilities for addressing wholesale and markets sit within separate functions within ComReg however we would urge some joined up thinking from ComReg to drive a better customer experience across the sector at both the wholesale and retail level.

- At present for a new fibre line from Eircom Vodafone gets a commitment 80% of orders that have been given an appointment will be delivered no more than 11 working days (+parked time) from the date is recorded on the Unified Gateway. It does not guarantee delivery on the appointment date.
- In respect of repair the SLA is that 73% of fibre lines will be repaired in 2 working days.

This level of service is not acceptable in modern day Ireland. This is the infrastructure that underpins the national target for full fibre connectivity. It is not acceptable that regulatory intervention, with a stated aim to drive standards for customers, could focus solely on the retailer who is dependent on the wholesale supply. ComReg must adopt a comprehensive action plan to address wholesale service levels as part of this Charter project, and we await publication of same alongside this Charter.

Question 13: Charter content (billing and refunds): Do you agree with the proposed Charter content and the form in which commitments around billing and refunds, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

Vodafone agree with the section and the general content for inclusion however the text should not be prescriptive. The section deals with commitments around refunds, and this may also include credits where customers have been advised that a credit will be provided as an alternative to a refund.

Question 14: Charter content (outages and repairs): Do you agree with the proposed Charter content and the form in which commitments around outages and repairs, are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

We note ComReg comments in relation to the economic cost of outages and in addition to timely information the customer who experiences a service outage should have a prompt repair. The ComReg Charter project must not decouple wholesale service level commitments from the requirement to inform customers. The information the retail provider can publish is only as good as that which it receives. It should also be considered that the service level can reduce further at time of significant service outages if the SLA is suspended for Storm Mode and that can be for an extended period after the storm has passed. This needs to be taken into account and Vodafone request ComReg clarifications on action in this regard.

Question 15: Charter content (disconnection policy): Do you agree with the proposed Charter content and the form in which commitments around disconnection for non-payment of bills are to be expressed in a Charter? If yes, please explain why and, if no, please provide specific alternative suggestions.

Vodafone agree with the section however prescriptive text is not required.

Question 16: Charter content (switching services): Do you agree with the proposed Charter content around switching services? If yes, please explain why and, if no, please provide specific alternative suggestions

Vodafone agree with the section however prescriptive text is not required

Question 17: Charter content (other): Are there any other areas and/or content you think should be included in a Charter? If yes, please explain and provide specific suggestions. in a Charter?

The other content section has been limited to one heading. An operator should be free to include numerous headings if they are valid service commitments to customers that do not fall within the categories above.

ComReg Consultation Section 7:  
Evaluating and Reporting Performance against Charter Commitments

Question 18: Evaluating performance: Do you agree with the proposal that providers report their performance against Charter commitments to ComReg on a quarterly basis, and arrange and pay for an independent audit of performance reports on an annual basis? If yes, please explain why and, if no, please provide specific alternative suggestions.

It is completely unnecessary to require quarterly reporting on operator commitments. This proposed intervention introduces an unnecessary layer of administration and bureaucracy into customer care functions who have a primary objective to deal with customers and resolve any issues arising.

At most Vodafone propose to report yearly to ComReg with a possible initial report to check all metrics are in place and working appropriately. This does not require independent audit. At present operators are required to provide weekly network data, quarterly revenue and subscriber data, biannual reports on roaming and we engage on customer complaints data much of which ComReg publish and none of which requires audit. If ComReg has concerns that an operator is reporting inaccurately then it has the power to intervene.

Question 19: Performance reporting: If you have any specific comments on 'Schedule 3: Customer Charter Data Dictionary and Reporting Template' published alongside this consultation (summarised in Table 2), please provide these in response to this question.

The data dictionary approach is highly technical and introduces unnecessary complexity into the project. This will be extremely difficult to train out and maintain over time. If it is an objective that ComReg would present comparable and publishable information this is not made clear. Vodafone would urge that this should not be the objective – at least in Phase 1.

Phase 1 of this project should focus firstly on operators making their own Charters live and operators presenting a simple report into ComReg as a once off and then on an annual basis. In the meantime ComReg has its own customer data as a source to highlight any issues of concern or material issues with maintenance of commitments.

Question 20: Regulatory impact assessment: Do you agree with ComReg's Regulatory Impact Assessment and the preliminary conclusions as set out? If yes, please explain why and, if no, please provide specific alternative suggestions particularly with respect to the benefits and costs identified, including any evidence to support quantifying such benefits and costs.

Vodafone has provided all comments above taking into account the RIA.

ENDS

## 16 Wiggin LLP

WIGGIN LLP

Non-Confidential Version

# Consultation: Proposals for Implementing a Customer Charter

Wiggin LLP Response to ComReg's 23/14 Consultation of 16 March 2023

12 May 2023

## 1. Wiggin LLP (“Wiggin”)

[Wiggin](#) is a full-service law firm that specialises in the digital space with leading practices in the media, technology, telecoms, and IP sectors. Our expert [communications regulation team](#) acts for many of the largest global telecoms service providers, unified communications providers, infrastructure owners as well as communications regulators, governments, and other industry participants. We also [formally monitor and review global developments](#) in the communications sector to help clients with compliance and to provide insights on best practice to our clients. Wiggin also has a global network of similar experts in the communications sector to support clients around the world.

## 2. Executive Summary

Wiggin welcomes the invitation to provide comments on ComReg’s Consultation: Proposals for Implementing a Customer Charter (ComReg 23/14, 16 March 2023) (the “Consultation”). We act for several clients who are active in the Irish communications sector and recommend ComReg reconsider the regulatory burden it is proposing in the Consultation for communications providers providing services to consumers and end-users that are microenterprises, small enterprises, and not-for-profit organisations. In our view, Charter requirements should only apply in relation to consumers and providers should be out of scope where they supply services solely to microenterprises, small enterprises, and not-for-profit organisations. A higher market share threshold than 0.5% of the market should also apply for triggering Charter requirements, as it is disproportionate to impose burdensome requirements on small providers. Alternatively, for providers not active in consumer segments, it would be more appropriate to apply a market share trigger based solely on their business volumes in microenterprises, small business, and non-for-profit activities and compare it against business volumes for providers active in both consumer and in these non-consumer market segments. As it stands given that these two markets have been assimilated we would recommend a new market share trigger be applied to properly and reasonably dilute the impact which the proposed requirements would otherwise have on small B2B providers that are not present in consumer markets.

The combined cost of implementing the proposals, together with ongoing reporting and auditing obligations risks causing significant disruption and cost to businesses serving small enterprise customers, with no clear harm identified – so we would ask ComReg to revisit its proposals in this regard and restrict the proposals to contracts designed for consumer (rather than business) customers. A revised approach is recommended, else there is a real risk both consumers and businesses could lose out if several providers focusing purely on business services exit the market to the benefit of larger competitors active in both consumer and business markets and who are better able to bear the regulatory burden and cost of the new Charter’s requirements.

Evidence of poor customer outcomes for enterprise customers should be established before specific proposals are put in place. Enterprise customers have engagements

in place with their customers providing them with protections and their customers will also generally benefit from a break clause for any issues on service delivery, as well as their own SLAs and similar protections. A staged approach, with longer lead times for implementation is also recommended, to trial the necessity for the measures proposed, starting with consumers as the focus.

### 3. Wiggin's Specific Comments

Wiggin note that the Charter is being proposed as a document that providers of IAS and ICS should prepare, publish, and keep updated, with the aim of giving end-users one easily accessible and comparable place to get information as to the level of customer service offered (a "one stop shop"). This is proposed to protect end-users under new minimum quality of service standard powers granted to ComReg under the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023 (the "Act"). ComReg's objective is to facilitate effective competition and choice. Wiggin have the following specific comments on the Consultation proposals:



- **Discretionary power:** We note that under s37 of the Act ComReg has a discretion as to whether it may set specific minimum quality of service standards. We would ask such standards therefore only be imposed where strictly necessary.
- **Approach based on a Charter with Provider-set commitments:** We welcome ComReg's approach to allow providers to set their commitments, with the aim of minimising the regulatory burden and cost of implementation.<sup>1</sup> On this, we note para 1.10 clarifies that IAS and ICS providers would "*have the flexibility to choose whether to offer or not their own customers specific levels of customer service*" (so called "provider-set commitments") in the first instance. We welcome this flexibility for businesses.
- **Phased approach to implementing the Charter:** We agree that a phased approach to implementing a Charter (see para 1.11) (based on provider-set commitments within ComReg set parameters) is preferable to imposing specified uniform minimum Quality of Service Standards from the outset. We also recommend only providers to consumer customers be required to implement the Charter in the first instance and that further evidence be gathered as to the harm to be addressed before Charter provisions are applied in relation to any business customers.
- **Scope and Application:** We have the following two key areas of concern, which we would ask ComReg to consider further:
  - **Application of requirements to Microenterprises, small enterprises and not-for-profit organisations risks having a negative impact on small enterprise customer providers:** Concerns have been raised on the proposed wide scope of the Charter. On this, we note that at para 5.19 of the Consultation ComReg mentions that they are extending the benefits of the Charter beyond consumers "*to microenterprises, small enterprises and not-for-profit organisations that have similar bargaining power as consumers.*" ComReg cross-refers to how these categories are defined in Regulations (e.g., by referencing number of employee and annual balance sheet/turnover requirements). However, they do not fully clarify what is meant by "*similar bargaining power as consumers.*" All that we understand from Section 8.4.4 of the Consultation is that "*Providers may need to develop different sub-sections of the Charter to cover non-residential organisations, but given those organisations are smaller and may have similar bargaining power to individual consumers, it is unlikely that customer service commitments offered would differ significantly between individual organisations, or in all areas of the Charter.*" We understand that for certain small providers focused only on business customers this is not the case and commitments offered do differ significantly as they have a business use in mind – so would recommend ComReg provide a caveat to reflect this. Moreover, even beyond the contract, the way providers work with enterprise customers is very different. By way of example, enterprise customers may have an account manager they can contact if there are any problems – meaning they do not need to use standard channels of communication.

In light of ComReg's objective to protect customers with "*similar bargaining power to individual consumers*" we would propose that communications providers providing services to consumers and end-users that are microenterprises, small enterprises and not-for-profit organisations be excluded from the proposals. A specific harm should be identified to warrant Charter requirements for enterprise customer providers. This point is key particularly for small B2B providers as:

- The objectives of the proposals are clearly focused on consumers – and we note ComReg's proposals beyond this appear to be based on a theoretical risk** – see for example, para 8.72, where ComReg mentions, when discussing which classes of end-users the Charter will address "*Option 2 would cover only*

<sup>1</sup> Para 4.3 of the Consultation.

consumers, i.e., residential/individual users, whereas option 3 would also cover other end-users that are microenterprises, small enterprises and not-for-profit organisations. Such end-user types are likely to have a similar level of bargaining power in their dealings with their supplier, compared to consumers. Arguably these other organisations might benefit from equivalent protections to consumers, as they are also likely to be at risk of unequal power caused by information asymmetry." As this theoretical risk approach could result in major disruption and costs to the day-to-day operations of small enterprise customer providers, we would argue that a more established basis should be found before extending protections beyond consumers is warranted. In the meantime, Option 2 (with Charter requirements only applying to consumers) is recommended. This emphasis on consumers would also be in line with the Government of Ireland's Regulatory Impact Assessment for the Communications Regulation Bill 2022 (July 2022), which we also note only appears to envisage a customer charter focused on consumers. See section 2.4 on "Consumer Protection Measures" on this, which only mentions "a new power for ComReg to set minimum quality of service standards that operators must guarantee to their consumers" and "a new "Customer Charter" that will clearly set out the standards consumers can expect their services to provide."

- ii) **While ComReg notes at para 8.73 of its Draft Regulatory Impact Assessment that the Charter provisions do not stem from key-end user protection provisions in the ECC Regulations (relating to contract information, maximum contract duration and bundles etc) the same approach should not automatically be followed for "other small end-users" (i.e., microenterprises, small enterprises, and not-for-profit organisations) because "it seems appropriate."** A specific harm that needs addressing should be identified. Providers across the EU are used to dealing with EECC driven provisions such as contract information, bundles etc as these are a "must do" implementation area for ComReg. In this instance, if ComReg has the discretion to avoid adding further regulatory burden to providers where it is unwarranted, we would ask that it be exercised – in this instance to exclude purely business customers from the scope of Charter requirements unless evidence necessitates this be considered.
- iii) **The position of business customers differs from that of consumers, with differing protections in place.** In a business customer context, end-users will typically have access to an account manager, be able to switch easily and (particularly with larger enterprises) can negotiate terms, with a sufficient degree of bargaining power. It would be helpful if ComReg could therefore further clarify (with practical examples) the limited types of business customer they are looking to protect with these proposals and the harms they are looking to address in a business context. In our view, the measures are more suited to consumers. Extending customer charter requirements to non-consumer segments risks impacting highly specialised small enterprise customer providers by affecting their right to contract with customers on enterprise terms – particularly if there is no option for these enterprise customers to waive consumer rights provision and protections which are irrelevant to their purchase of business grade services and solutions. We would ask that the option of a waiver be added to ComReg's work on these proposals, as an assessment of this will help mitigate the impact on such providers (in line with the approach taken under for example, EECC measures).
- iv) **ComReg has also acknowledged in its Draft Regulatory Impact Assessment at section 8.4.4 of the Consultation that to introduce Charter requirements for all end-users would be disproportionate.** On this, we note ComReg's observation on Option 1 (application to all end-users) that "If providers were required to prepare, publish and keep updated a Charter addressing all end-users,

*including business end-users of all sizes, this option would have the highest impact on industry and likely incur the highest implementation costs.” They go on to note “If a provider had individual SLAs/customer service commitments for individual larger end-users, these would need to be articulated clearly in a Charter (single document, or one-stop-shop), which may likely be more complex, time consuming and therefore costly for providers.” This challenge is very apparent for providers of business customers. On this, we note ComReg does not appear, when assessing “impact on industry” to have specifically considered in sufficient detail the position of providers of enterprise customers. ComReg note “Providers may need to develop different sub-sections of the Charter to cover non-residential organisations, but given those organisations are smaller and may have similar bargaining power to individual consumers, it is unlikely that customer service commitments offered would differ significantly between individual organisations, or in all areas of the Charter.” In our view, this does not provide sufficient clarity and certainty for business that the proposed measures are warranted. We would ask that ComReg’s Impact Assessment be broadened to specifically consider the exclusion of all sizes of business customers from Charter requirements – since, as noted above and by ComReg, protective measures such as SLAs/customer service commitments are already in place.*

- v) **The proposals are not suitable given the recent implementation of EECC protections** – a range of protections for customers (both consumers and enterprise) have only recently been put in place to enable EECC implementation in Ireland. We note the EECC (Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023) was signed into law by the President recently on March 2, 2023 – and that implementation of this Act is ongoing. EECC protections are therefore clearly still being put into practice as part of daily customer experiences, with things changing for both customers and providers alike. From a provider perspective, significant cost and disruption is already being incurred with existing EECC measures to protect both consumers and enterprise end-users. To further add to their regulatory burden without a specific harm being identified is unwarranted. It is also not clear why these proposals are urgently needed when the impact on customers of other EECC protections have not yet been in place long enough to be properly assessed. Providers of small enterprise customers risk being particularly impacted if they are required to offer a consumer-focused rights charter that is irrelevant for their customers – further increasing their costs, disruption to day-to-day business operations and adding unnecessary operational complexities.

We also have concerns that the proposals appear to go beyond EECC code requirements, which we would argue is unwarranted and so open to challenge. While we note that the proposals are based on primary legislation not just implementing the EECC but also new customer protections (based on recent customer dissatisfaction issues in Ireland), we are concerned by the scope of what is being proposed. In a Joint Committee on Transport and Communications debate held on 23 Feb 2022<sup>2</sup> to discuss the General Scheme of the Communications Regulation (Enforcement) Bill, we note Ms Barbara Delaney focused on consumers (rather than enterprise) customers when discussing the Bill, commenting “

*“On what consumers can expect, at our previous appearance before the committee we were keen to ensure there would be additional powers or obligations on service providers regarding customer service standards. In*

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<sup>2</sup> See

[https://www.oireachtas.ie/en/debates/debate/joint\\_committee\\_on\\_transport\\_and\\_communications/2022-02-23/2/](https://www.oireachtas.ie/en/debates/debate/joint_committee_on_transport_and_communications/2022-02-23/2/)

*tandem with the enforcement regime, there are new obligations and new rights **for consumers** that will be very positive, the first of them being a customer charter. That is the single place that customers of electronic communications providers should be able to go in order to understand what they can expect, and then compare the different service providers.*

*Similarly, the other complementary provisions are really important, such as the quality-of-service standards. A service provider can commit to a particular level of service, whether in regard to answering the phone or emails or whatever. The Bill will provide that if ComReg does not believe the provider is sufficient in making those commitments, it will be able to come onto the pitch and set minimum standards....*

*As for what would happen if providers fall below the standard, that is where the compensation scheme would come in. The proposal is to have a compensation scheme where compensation is given automatically where the provider falls below the minimum standard that was either set or committed to in the first instance. That would be something an individual customer could benefit from. We hope the regime will not only give benefits for **consumers** but drive the overall standards upwards, with competition in regard to the standards, which heretofore we have felt was lacking. Finally, the enforcement powers that will come in will allow us to take action not just from the **consumer** perspective of getting compensation but also by allowing us to take action if the provider has not implemented the charter or the standards.”*

This commentary makes it clear that consumers were clearly the focus of early proposals on this. We would therefore ask that ComReg re-consider extending these measures. In our view, this is not appropriate without evidence of a specific harm. A more detailed impact assessment is required to justify measures of this broad scope.

- vi) **The Consultation does not appear to specifically identify a harm in relation to microenterprises, small enterprises and not-for-profit organisations** using business customer contracts, which we consider it important be evidenced before imposing burdensome new requirements which could adversely impact small providers of business customers. Instead, several references and sources are made to consumer-driven concerns (e.g., Fig 1 at para 3.12 relies on ECS complaints data received by ComReg’s Consumer Care Team) – so we would recommend customer-focused measures should be implemented in the first instance.

**As an alternative suggestion**, if ComReg are minded to apply the proposed Charter requirements to business customers, we would recommend mitigating the impact by allowing business end-users the option of waiving the Charter requirements to ensure an undue and unnecessary burden is not imposed. We note this approach has been taken under EECC requirements and would recommend it also apply here, to allow providers more flexibility in their discussions with business customers (where applying the Charter in all cases seems inappropriate). Enforcement against providers of business customers should also be a lower priority for ComReg. If Charter requirements are imposed on

business customers, we would also recommend that business customers requirements are simplified further to allow providers more flexibility on the presentation of content and not have to comment on whether they offerspecific commitments.

- **Potential for wide application of market share threshold to have a negative impact on competition and market-entry:** Paragraph 1.14 of the Consultation mentions that *“Charter requirements would apply to providers of IAS and number-based ICS with a*

*market share of 0.5% or greater (“Relevant Service Providers”).* This would be calculated on a subscription basis, based on data submitted to ComReg and published in ComReg’s Quarterly key data reports (para 5.14) and the draft decision instrument sets out formulae to enable providers to calculate their market shares in a uniform way as ComReg does not publish individual market shares for providers with a market share smaller than 2%. Applying this very low threshold has the potential to extend the Charter requirements to very small providers that may have an immaterial market share in the Irish communications market. A higher threshold is recommended as we note that the calculation of this threshold is at odds with ComReg’s current reporting approach, whereby individual market shares for providers with a market share smaller than 2% are not considered relevant enough for reporting (seemingly regarding them as being less “relevant” when reporting). Only relevant volumes of services provided relating to consumers, microenterprises, small enterprises and not for profit organisations should be included in the calculation of the market share of relevant providers as these latter markets have been de facto assimilated to the consumer market. We would also ask that ComReg consider setting the market share threshold at a higher and more material level which is not less than 5% to help preserve the ability of potentially smaller communications provider competitors to easily enter and thrive. A related competition concern also needs to be addressed as consumers and businesses could also lose out if several B2B providers exit the market to the benefit of larger competitors (who are better able to bear the regulatory burden and cost as they are also active in consumer markets). This will have unintended negative consequences on the competition and market landscape but ultimately also end users such as microenterprises and non-profit organisations who require access to highly specialised enterprise customer services and are happy to contract on business, non-consumer focused terms.

- **Regulatory burden:** There are several regulatory burdens concerns we have for small providers of business customers, namely:
  - **Year on year, we monitor the burden of regulatory obligations for global telecommunications providers and are mindful of the ever-increasing burden providers face.** National divergences on the implementation of measures such as the EU Electronic Communications Code requirements have had a major, costly (both financial and time wise) and disruptive impact on day-to-day business operations and industry is still adjusting to their impact. At a time where providers also face difficult financial and resource challenges, additional regulatory burdens should therefore only be put in place where strictly necessary, with clear evidence of harm that needs to be addressed and a proportionate approach should be taken to the measures put in place.
  - **ComReg’s proposed Evaluation and Quarterly Reporting Performance Requirements against Charter Commitments are unduly onerous.** We note that the audit and reporting requirements proposed are potentially extremely cumbersome and will add to business costs - and impact businesses should they decide to commit to a given level of quality of service in any of the given areas of the Charter. We note that para 4.7 mentions that “*ComReg will review the commitments made, if any*” and “*review whether providers have delivered on those commitments, via provider-led audit and reporting (Chapter 7).*” The proposals also ask that providers arrange and pay for annual



independent auditing of their performance report (para 1.14) – which is a burdensome and costly task for business. As an alternative, we would recommend a more proportionate approach be taken, requiring, for example, enabling ComReg to request (in relation to complaints raised) that providers submit statistical data on their performance to ComReg, and ComReg to require that such data be signed off by senior management and then assessed by ComReg to evaluate whether quality of service has improved, and the expected benefits of the Charter realised. Asking providers to arrange and pay for independent auditing also seems excessive (when compared with the approach of other regulators internationally) and we would recommend it should only be required as a last resort if there is good reason to doubt the data provided by the business concerned.

- **Existing provider terms and conditions may overlap with some of the parameters ComReg is proposing to detail in the Charter** – so introducing this content risks unnecessarily adding complexity, time, and costs to presenting service offerings to customers. This will impact day to day operations and staff will also need training on how the Charter will fit into customer journeys and face the additional burden of new monitoring, audit, notification, and reporting requirements.
- **International considerations** – we conduct global regulatory monitoring for various types of communications providers and are concerned that the proposals are exceptionally out of line with global best practice. We are not aware of this level of intervention (in terms of costs and disruption to communication providers) elsewhere and it is unclear what is necessitating the proposed timing given that industry are still busy implementing other elements of EECC. In the absence of actual harm being identified for enterprise customers we are concerned that the Charter requirements will be counterproductive for Ireland, risking the potential market exit of global players who currently assist with intensifying competition for business customers. We would therefore ask that ComReg reconsider the application of this type of measure for business customers, which is not warranted.
- **Content of the Charter:** At para 2.6 of the Consultation ComReg proposes two categories of information should be provided: i) general information on providers' customer service policies and/or procedures, and ii) specific provider-set commitments. A form proposed by ComReg needs to be used (with a set template) so as to create transparency for customer service levels for electronic communications customers in Ireland. We also welcome the flexibility for providers at para 5.32, where ComReg notes *"If providers do not have policies in a given area (in respect of the explicit categories under the Act), or do not choose to offer specific customer service commitments within the parameters ComReg sets out, they would not be required to include such information in the Charter. However, they would be required to explicitly state in the Charter that they don't have relevant policies and/or that they do not offer specific commitments, so that customers can clearly see this is the case"* (to comply with section 38(3) of the Act).
- **Format requirements for the Charter:** Given the current low threshold of a 0.5% market share, we are concerned by the prescriptive nature of publishing and formatting requirements for small providers. As an alternative, provided the document is prominent and easy for customers to identify, we would recommend more general requirements for the presentation of this content rather than being overly prescriptive.
- **ComReg's expectations for business customers:** Given that some of the proposed content could be applied in a different way to business customers, it would be helpful if ComReg could set out more tailored provisions for business customers, so B2B providers are clear on what is expected in a B2B context.
- **Notifying customers about the Charter:** We do not consider it necessary for providers of business customers to have to ensure business customers are made aware of the Charter. While we understand this may be necessary for consumers, business customers will typically have account managers and often self-serve. In the case of business customers, a simpler alternative, such as just requiring providers to publish the Charter on their website and update it regularly (when applicable) should be sufficient.
- **Timetable for implementation:** We note the proposed deadline for implementing the charter requirements is 3 October 2023, which provides very little time for businesses to implement this. A 3-month implementation period from ComReg's final decision (targeted by the end of June 2023) provides very little time for businesses to comply and is disproportionate to the burden on business involved. Given the nature of the task involved and the regulatory burden of other pending ComReg regulatory requirements and upcoming regulatory proposals, we would recommend a more realistic deadline be imposed, such as 9-12 months from the date of the final statement

(given the likely

work involved in implementing this, such as engineering work to enable monitoring of commitments).

12 May 2023.

Wiggin LLP