



Commission for
Communications Regulation

Consumer Bills and Billing Mediums

Consumer protection amendments to the General
Authorisation

Response to Consultation and Decision

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1 Executive Summary

1. The Commission for Communications Regulation (“ComReg”) previously issued two consultation documents (Consultation 11/78¹ (“Consultation 11/78”) and preliminary Consultation 10/96²) which sought the views of interested stakeholders on a number of proposed measures relating to consumer bills, namely billing mediums and itemised bill formats.
2. This Response to Consultation sets out ComReg’s views and decisions on those issues, which define the ways in which all undertakings authorised to provide electronic communications networks and services (“ECS providers” or “service providers”³) must issue bills to consumers. These measures are implemented by means of changes to the General Authorisation (“GA”)⁴ and amendments to universal service obligation(s) (“USO”) and to ECS providers’ current licences, thereby standardising the rules relating to billing applicable to ECS providers.
3. While ComReg maintains its view that a basic protection to be afforded to consumers is to be able to access a bill, ComReg is mindful that the information contained on the bill and the way in which consumers access their bills may change over time. ComReg is also mindful that it is in Service Providers’ interests to ensure that their customers can access bills.
4. The conditions set out in the Decision Instrument in Annex 1 of this document, have been drafted so as to minimise the amount of changes required to existing billing systems and processes that already entitle customers to bills, which provide sufficient information and are accessible. ComReg is satisfied that these conditions are transparent, proportionate and non-discriminatory; they will apply to all ECS providers and will therefore be consistent and transparent across the industry.
5. Therefore, in accordance with these principles and following Consultation 11/78, ComReg has decided to amend the GA to include the following:

¹ Consultation “Proposed consumer protection measures in respect of consumer bills and billing mediums and proposed amendments to General Authorisation”, Document No. 11/78, dated 28 October 2011

² Preliminary Consultation “Electronic, and other, itemised bill formats, Minimum requirements for itemised bills for electronic communications services”, Document No. 10/96, dated 1 December 2010.

^{3 3} ECS Providers and Service Providers shall have the meaning as defined in the General Authorisation(GA) that refers to the person who is deemed to be authorised to provide Authorised Services under Regulation 4 of the Authorisation Regulations. .

⁴ As defined in Regulation 2 of the European Communities (Electronic Communications Networks and Services)(Authorisation) Regulations 2011 (“the Authorisation Regulations”) which provides that “*general authorisation*’ means an authorisation for an undertaking to provide an electronic communications network or service under and in accordance with Regulation 4”

- Every service provider, which provides services to post paid customers, must issue a bill, which the customer can access, to each customer free of charge.
 - Following this Decision there is no requirement for ECS providers to make any changes to the level of itemisation provided on bills that their customers currently receive, unless requested to do so by the customer. It follows that a Service Provider is not entitled to change the level of itemisation of a bill (fully itemised, standard itemised or non itemised bill) a customer receives unless the customer's explicit consent has been obtained.
 - ComReg is introducing conditions in relation to billing mediums for post-paid customers. These requirements, allow and facilitate the use of alternative billing mediums (such as e-billing), while ensuring that customers who are unable to access a bill by way of an alternative billing medium will, (once they inform their service provider), be allowed to receive a paper bill free of charge.
 - With regard to pre-paid customers, they are reasonably entitled to request details of their transaction details in a medium that is accessible to them, free of charge. Therefore, these transaction details can be provided either electronically, in a paper medium, or by way of a call to their service providers' customer service, depending on how the customer can access the details.
 - Other decisions set out, include a requirement not to identify calls which are free of charge, the provision of a minimum set of information regarding alternative billing mediums, the provision of alerts to inform the customer that the bill is available online and conditions which service providers must fulfil in order to ensure customers can access and use alternative billing mediums.
6. Consultation 11/78 also set out several proposals in relation to obligations on service providers in relation to bills issued to consumers with disabilities. ComReg is issuing a separate consultation in respect of Regulation 17 of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011 ("Universal Service Regulations") which deals with billing for consumers with disabilities.

7. In making this Decision, ComReg has taken full account of its statutory obligations in respect of all sectors within its regulatory remit. This has been done following a review and consideration of the responses received in relation to Consultation 11/78 and information collected on foot of a number of information requests together with other relevant material. It is noted that not all of the respondents addressed each question and proposed condition contained in Consultation 11/78, however, ComReg has endeavoured to summarise the key aspects of respondents' views and respond appropriately. It should be noted that all views were considered and account taken of the merits of the views expressed. However, it is not practical for ComReg to respond to every comment made and therefore this response to consultation summarises the key elements of comments provided and ComReg's views in relation to these.

2 Introduction

8. Over the past number of years, due to the evolution in information and communication technologies, new trends and behaviours have emerged in relation to consumer billing. A number of service providers have moved their customers to alternative billing mediums such as electronic bills (e-bills or online bills⁵). In some cases, this has been done without consent or without verifying that the consumer can actually access and view the bill. ComReg is concerned that the needs of some consumers, particularly vulnerable consumers, are not being properly met and that they will not be met in the future.
9. Currently, there are regulatory requirements in relation to billing in place for some service providers. For example, some ECS providers have specific licence conditions that require them to issue paper bills as the standard billing medium and to seek the agreement of their consumers if they wish to “migrate” them to electronic bills. However, other ECS providers are not subject to any obligations in relation to medium of billing. This is also the case in respect of bill itemisation. Further information is set out in Section 5.1 below.
10. ComReg’s statutory objectives are set out in the Communications Regulation Acts 2002 to 2011 (“the 2002 Act”) and the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011⁶. These objectives include, in relation to the provision of electronic communications networks, electronic communications services and associated facilities, the promotion of competition, the development of the internal market and the promotion of the interests of users within the Community. ComReg is required to take all reasonable measures which are aimed at achieving these objectives⁷. Insofar as promotion of the interests of users within the European Union is concerned ComReg is obliged to “*promote the ability of end users to access and distribute information...*”⁸.
11. Accordingly, ComReg consulted on a number of proposed measures in relation to the provision of itemised bills to consumers and billing mediums for electronic communications services in Consultation 11/78. The measures proposed in Consultation 11/78 proposed to ensure a basic number of rights with respect to bills and to standardise service provider requirements and in doing so, to protect all consumers.

⁵ These terms are defined in the Decision Instrument attached at Annex 1

⁶ Hereafter “the Framework Regulations”

⁷ Section 12 (1)(a) of the 2002 Act.

⁸ Regulation 16 of the Framework Regulations

12. ComReg continues to encourage ECS providers to adopt ComReg's Quality Standard for Bill Presentation which was developed in 2008 by Excellence Ireland Quality Association (EIQA), in co-operation with ComReg.
13. ComReg also notes that the e-Privacy Regulations⁹ also confer rights and impose requirements in relation to itemised billing. In particular, the e-Privacy Regulations allow consumers to request a service provider to provide them with bills that are **not itemised**. ECS providers must offer their customers the option of non-itemised bills in line with the e-Privacy Regulations.
14. ComReg received 13 responses to Consultation 11/78. The respondents to Consultation 11/78 ("the Respondents") were as follows:

The Respondents
Alternative operators in the communications market ("ALTO")
An Post
Eircom Group ("Eircom")
Fianna Fáil
Hutchison 3G Ireland Limited ("H3GI")
Irish Printing Federation
Magnet Networks Limited ("Magnet")
Telefonica Ireland ("O2")
The Consumers' Association of Ireland ("CAI")
The Money Advice and Budgeting Service ("MABS")
The National Disability Authority ("NDA")
UPC Communications Ireland Limited ("UPC")
Vodafone

⁹ European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011, S.I. No. 336/2011.

15. On foot of the responses received, ComReg also issued a number of information requests¹⁰. ComReg fully considered the information provided in the responses to these information requests together with the responses to the consultation in reaching its final views and decisions set out below¹¹.
16. ComReg has also revised the draft Regulatory Impact Assessment (“RIA”) based on responses received and the final RIA is set out in Annex 3 of this document.
17. The conditions that are being attached to the GA are “consumer protection rules” and will apply to consumers. A consumer is defined under the Framework Regulations as *“any natural person who uses or requests a publicly available electronic communications service for purposes which are outside his or her trade, business or profession”*. Accordingly, these conditions will not apply to business customers and in this Response to Consultation, references to “consumer” or “customer” should be understood accordingly.
18. ComReg recognises that some ECS providers may require a period of time to make technical adjustments to bring their systems into alignment with the new requirements and for that reason whilst the amendments to the GA will come into effect two (2) months from the date of publication of this Decision, a maximum of six (6) months will be allowed to fully comply with all the amended conditions as set out in the amended GA subject to notification to ComReg , within 30 days from the date of publication, of the time required by individual service providers to come into full compliance.

¹⁰ Pursuant to Section 13D (1) of the 2002 Act.

¹¹ However due to the confidential information contained in the responses to the information requests, the responses are not being published as part of this process.

3 Proposed Measures

19. Consultation 11/78 proposed a number of measures which related to certain aspects of consumer bills, such as bill itemisation and bill medium. ComReg's proposals, the views of respondents and ComReg's position in respect of each of these matters are summarised below.

3.1 Itemised Bills (Post-Paid)

20. In Consultation 11/78 ComReg proposed that consumers of post-paid ECS (i.e. services where payment is made after the service is used) should continue to receive an itemised bill which is free of charge prior to each payment due date, to be received sufficiently in advance of each payment due date.

21. ComReg proposed the following definition of the term "itemised bill" for inclusion in the GA:

"itemised bill" means a bill for Authorised Services, which allows consumers to verify and control their charges for using Authorised Services and which allows consumers to adequately monitor their usage and expenditure and thereby exercise a reasonable degree of control over their bills. Without prejudice to the generality of the foregoing, an itemised bill shall contain the following items which include, but are not limited to:

- *Details of recurring charges (such as monthly subscription, line rental, package price).*
- *Details in respect of each communications transaction (such as voice call, SMS, MMS, data session, PRS etc) including the following:*
 - *Date of transaction.*
 - *Start time of transaction.*
 - *Number called, if relevant.*
 - *Duration of the transaction, if relevant.*
 - *The price of the transaction, including "0" if no charge applies.*
 - *Details of any further charge arising.*
- *Consumer References."*

22. ComReg noted that the proposed measures in the consultation were seeking to address the current situation where some ECS providers have obligations in respect of itemised billing, while others do not. In the absence of uniform and specified obligations applicable to all ECS providers, various approaches are currently being adopted by ECS providers
23. ComReg stated that it was envisaged that the proposed measures would ensure that such consumers could continue to verify and control the charges incurred and adequately monitor their usage and expenditure, and thereby exercise a reasonable degree of control over their bills.
24. ComReg asked the following question in respect of itemised bills:

Q1. Do you agree or disagree that all providers of post-paid electronic communications services should provide consumers with an itemised bill free-of-charge, unless the consumer has requested not to receive an itemised bill? Please provide reasons to support your view.

Views of Respondents

25. Six respondents to the consultation were in agreement with ComReg's proposal that itemised bills should be provided free of charge, including An Post which was of the view that itemised bills are important in allowing customers understand the fees they are being charged. The CAI stated that it was of the view that *"a communications provider should provide the maximum level of billing information to consumers (i.e. itemised paper bills) as a matter of course, and that consumers can then 'opt out' of this as they wish- whether this is to receive non-itemised bills, electronic billing or both"*.
26. However, some respondents disagreed with the proposal.
27. ALTO and UPC disagreed with the proposal on the basis that it *"may prohibit electronic communications providers from charging for this service in the future"*. Eircom was of the view that consideration could be given to requiring the provision of fully itemised electronic bills free of charge, while it believed whether to charge or not for a fully itemised paper bill should be the operator's choice. Eircom further contended that the provision of full itemisation free of charge should be *'left to be a means to compete with operators.'*

28. Eircom objected to the proposal on the basis of consumer demand i.e. that the current practice of providing fixed line customers with a *“minimum level of itemisation is working extremely well”* and that customers do not wish to receive a fully itemised bill. Eircom also suggested that the value of bill itemisation is diminishing as *“price plans are evolving towards virtually unlimited usage of core services such as national calls and texts.”*
29. Several operators (Eircom, Magnet, UPC, Vodafone) disagreed on the basis of their understanding that ComReg’s proposal was that a fully itemised paper bill should be the default bill and provided free of charge. These operators therefore disagreed on various bases, including increased cost, that this was not the case in other industries, that full itemisation would equate to the use of significant quantities of additional paper which would increase costs and have a negative environmental impact. Eircom, Magnet and Vodafone all appear to have agreed that an itemised e-bill/online bill should be provided free of charge.
30. ALTO, Eircom and Magnet stated the view that ComReg could not lawfully require itemised bills by amendments to the GA.
31. O2 stated that *“there are a number of aspects to ComReg’s proposal that require clarification”* and that *“While current bills may provide information required for switching between providers, this is not covered under the billing requirements in the Regulations and it would be incorrect to require billing information to be provided in a particular format for this purpose alone”*.

ComReg’s View

32. ComReg notes that several respondents disagreed with this proposition on the basis of their interpretation of ComReg’s proposal. ComReg’s proposal was not that all bills would automatically revert to fully itemised paper bills but that an alternative billing medium such as e-billing was fully acceptable as long as the ECS provider had *“verified that the consumer can access and use an alternative billing medium”* using the mechanism set out in proposed condition 18.7.8. In practice this means that for the vast majority of consumers and ECS providers the status quo will remain. In any event this question related to itemisation and ComReg is of the view that a consumer has the right to receive an itemised bill free of charge if they request it, irrespective of the medium of bill that they receive.

33. ComReg is not of the view that ECS providers should be free to decide whether or not a consumer can receive a bill free of charge. ComReg is of the view that ECS providers themselves are in a position to view and use this billing information to advise their customers on their usage and appropriate packages and ComReg sees no reason why consumers themselves should not have access to this information (their own billing information) free of charge.
34. ComReg does not agree with the view that the move towards inclusive and unlimited packages negates the need for an itemised bill. ComReg notes that a consumer's activity either runs down their inclusive minutes or data allowance or adds additional (out of package) charges to their bill. Consumers need to know how they are spending their money and need to be able to have a way to assure themselves that their charges are correct, including calculation of inclusive minutes/data/SMS used, charges for activity not inclusive in a package (e.g. international calls, DQ, roaming, excess data usage). ComReg remains of the view that the ability to receive an itemised bill is a basic need for consumers in order to allow them to verify their bills and control their usage.
35. ComReg is satisfied that it has the *vires* to put in place the suggested consumer protection rules in the GA. ComReg considers that the proposed conditions to be attached to the GA are consumer protection rules that are specific to the electronic communications sector and which ComReg is entitled to attach pursuant to Regulation 8 of the Authorisation Regulations¹². In addition, ComReg considers that the conditions will have the direct consequence of protecting consumer welfare, and in any case the conditions are in conformity with the Universal Service Regulations¹³.
36. Regulation 8 of the Authorisation Regulations states that ComReg is not able to attach as a condition to the GA, any specific obligations¹⁴ that it may impose on an undertaking, nor any conditions which are applicable to an undertaking by virtue of other law. In short, the Authorisation Regulations do not allow ComReg to impose, by way of the GA, a specific obligation on an undertaking that it can impose elsewhere or one that already exists in law. ComReg is satisfied that there are no *specific obligations* contained in the Access Regulations or in the relevant provisions of the Universal Service

¹² The European Communities (Electronic Communications Network and Services)(Authorisation) Regulations 2011

¹³ The European Communities (Electronic Communications Network and Services)(Universal Service) Regulations 2011

¹⁴ A specific obligation is defined in Regulation 2 of the "the Framework Regulations" as being an obligation that ComReg can impose on an undertaking under Regulations 6(1) & (2), 7 and 8 of The European Communities (Electronic Communications Network and Services)(Access) Regulations 2011 ("the Access Regulations") and Regulation 13 of the Universal Service Regulations and on those undertakings designated under Regulation 7 of the Universal Service Regulations.

Regulations that it may impose on undertakings that relate to the matters addressed in this paper. In addition, ComReg considers there are no other relevant laws that exist that prevent ComReg from imposing these conditions in the GA¹⁵.

37. In addition and with respect to its statutory objectives, ComReg is obliged to promote the ability of end users to access and distribute information or use applications and services of their choice¹⁶. In carrying out its objectives under the Act of 2002 and the Framework Regulations, ComReg has to apply objective, transparent, non-discriminatory and proportionate regulatory principles. As such, ComReg is of the view that a proportionate and objective approach to consumer protection requires the existence of basic rights for consumers so as to enhance their experience within the electronic communications sector. The ability to have billing information provided in a variety of ways by a variety of mediums, while stipulating rules for this will enable protection for consumers. Therefore, it is ComReg's view that the GA provides the appropriate mechanism by which ComReg can achieve these objectives.
38. The relevant legal basis for the Decision is fully set out in Annex 2.
39. ComReg recognises that in many cases the level of itemisation currently provided by ECS providers to their customers *may* meet those customer's current needs. ComReg is therefore not requiring that all service providers have to automatically revert or change all their customers to itemised billing. ComReg has decided that where customers are already getting a bill with a sufficient level of itemisation, there is no requirement for ECS providers to change this to a "fully itemised bill" unless requested to do so by the customer.
40. To further protect consumers from service providers unilaterally changing a consumer from one level of itemisation to another, ComReg has decided that a service provider may only change the level of itemisation provided to a consumer with the consumer's consent or at their request.
41. ComReg does not consider it appropriate at this time to stipulate how consent should be obtained. It will be up to service providers to ensure appropriate consent is obtained and to prove such consent has been obtained.

¹⁵ With regard to existing licence conditions and obligations relevant to the Universal Service Provider, these are dealt with in section 5 of this document.

¹⁶ Regulation 16 of the Framework Regulations

42. However, where a service provider wishes to change the level of detail given within a particular level of itemisation, the provider can do this without consent, providing the level of itemisation is still in keeping with the definitions as set out in Condition 18.7.3.
43. ComReg remains of the view that charging customers to access a bill would not be in the interests of consumers. ComReg wishes to ensure that customers can access their bill (whether itemised or not) free of charge.
44. Because customers have a choice in respect of the level of itemisation they receive, new customers should be made aware of this choice and be able to exercise this choice on sign-up.
45. Having estimated the potential cost to ECS providers of introducing this condition based on the information received through the section 13D(1) of the Act of 2002 information requests and because the status quo is substantially being maintained, ComReg is of the view that this measure is unlikely to result in significant additional costs and is therefore justified and proportionate and, is in addition a necessary consumer protection measure.

ComReg's position is summarised below

For post paid consumers:

- (1) Service providers shall provide a bill to its post paid customers free of charge.**
- (2) Service Providers may not change the level of bill itemisation (as set out in 3 (a-b) below) a post paid customer is receiving unless the explicit consent of the customer is obtained.**
- (3) A post paid customer may request from its service provider a bill to be provided that is more or less detailed than what is currently being received and Service Providers must provide the requested bill free of charge. The bill may be either a:
 - a. fully itemised bill or**
 - b. a non-itemised bill.****

(all above terms are defined in the Decision Instrument attached at Annex 1)

The itemised bill can be requested for either a particular period or for an ongoing basis for each billing cycle.

Service providers shall inform new post paid customers of their options in relation to the type of bill itemisation, being a standard (if available), fully itemised or non itemised bill (as listed above) and shall immediately provide free of charge and on an ongoing basis the bill selected by the customer.

The specific conditions to be attached to the GA are set out in Annex 1

3.2 Charge verification facility (Pre-Paid)

46. "Pre-paid consumers" refers to consumers of pre-paid ECS who purchase credit (to pay for use of the service) in advance; this is also referred to as 'top up' or 'pay as you go'. Because of the nature of this payment process, consumers can generally monitor and more easily control their expenditure. For this reason, pre-paid consumers do not currently receive a periodic bill.
47. However, in Consultation 11/78 ComReg recognised that a pre-paid consumer may, from time to time, require a log of their transactions. Therefore, ComReg proposed that pre-paid consumers should be provided with information on their transactions, either electronically or in a paper medium (depending on how the consumer can access the information) free of charge. ComReg asked the following question in respect of a charge verification facility for prepaid customers:

Q3. Do you agree or disagree that for pre-paid electronic communications services, a consumer should be able to access details of their charges from the current period and call history (within a reasonable timeframe) free-of-charge, on request? Please provide reasons to support your view.

Views of Respondents

48. While six respondents agreed with ComReg's proposals, seven respondents disagreed with the proposals for varying reasons.

49. An Post agreed with ComReg's proposals on the basis of its belief that, *"in the context of increasingly complex pricing all customers (including prepaid) should have access to paper bills. This will dramatically increase the awareness of consumers spend patterns and allow them to access better value offerings"*. The CAI stated that, *"We concur with the reasons outlined in the consultation that this is important as consumers may wish to query amounts pre-paid, and also due to the high volume of pre-paid mobile subscriptions in Ireland"*.
50. Eircom noted that pre-paid customers can currently verify charges using various means offered by mobile operators and believes that the market can deliver such services absent regulatory intervention. Eircom also set out its view that the requirement to provide call details in paper form free of charge cannot be objectively justified as a key element of the pre-paid services model is the absence of billing costs and that *"mandating the provision of call details in paper format free of charge in particular could seriously distort the prepaid market by undermining the very model on which it depends"*.
51. Magnet stated its view that *"placing an obligation on a provider to provide a paper format of itemised call history when they do not have a contract with the customer is onerous"* and *"cannot be justified."*
52. While H3GI agreed *"that pre-paid customers should be able to access details of their charges from the current period"*, H3GI did not agree that pre-paid customers should receive free of charge on request a call history in paper format or electronically. H3GI argued that if operators are required to provide pre-paid bills they should be permitted to levy a charge for the additional service. Similarly, ALTO *"would not support the introduction of any measure that may prohibit electronic communications providers from charging for this service in the future"*.
53. O2 considered that ComReg had not provided any evidence of an issue in the pre-pay market that needs to be resolved. O2 also stated *"If ComReg was to specify any new regulatory requirements regarding provision of billing information for prepay customers they could have significant costs, system and process implications for mobile service providers"*. O2 asked that ComReg carry out a cost-benefit analysis to show that the new measures are desirable and objectively justified. O2 stated that it already has processes in place for pre-paid customers to obtain billing information, and is satisfied that this is more than adequate to meet customer requirements.

54. UPC stated that an operator should not be restricted from choosing a preferred bill medium. UPC is of the view *“UPC currently provides customers with bills free of charge but would have serious objections to the introduction of any proposals that might prevent an operator in the future from recovering costs it incurred in instances where it was legally required to provide bills in a particular manner and one that was not the choice or preferred billing medium of the relevant operator”*. UPC sought clarification in relation to what was meant by *“reasonable timeframe”* and *“relevant period”*.
55. Vodafone noted its concern that ComReg’s proposals will lead to an obligation to provide free of charge prepay bills which will result in *“significant costs on the industry (and ultimately customers)”* for a service for which Vodafone contends there is very little demand at present. Vodafone stated *“If only a very small proportion of prepay customers seek to have paper bills (or a similar report) on a regular basis, which is clearly possible under these proposals, the potential for increased paper consumption and adverse environmental impact is significant”*.
56. Vodafone further contended that *“allowing a charge to be levied would avoid providers having to spread the cost of this facility across all customers, including those who do not require it.”* Finally, Vodafone asked that providers be granted *“sufficient time (12 months) to implement the proposed changes”*.

ComReg’s View

57. ComReg notes that several respondents disagreed with this proposition on the basis of their interpretation of ComReg’s proposal. ComReg’s proposal was not necessarily that the transaction details should be provided in paper medium, but that the details would be provided in a medium accessible to the consumer.
58. ComReg disagrees with Magnet’s claim that pre-paid customers do not have a contract. ComReg notes the point made by some of the respondents that many ECS providers already provide detailed transaction history for pre-paid consumers and therefore that consumer requirements are being met and there is no need for regulatory intervention. However, ComReg considers it important that there is consistent industry practice in relation to this important consumer right and that the outcome should not be left to the discretion of individual service providers. Furthermore, ComReg is aware that some operators currently charge pre-paid consumers for access to this information.

59. ComReg notes the concern that the proposals will increase service provider's costs. However, there is evidence that this service is available from some ECS providers already. Given that at least some providers have systems in place to provide this service electronically or otherwise, the upfront costs appear to have been incurred already by a number of providers and hence the cost of providing this service only impacts those providers that do not offer the service free of charge.
60. In introducing this measure, ComReg is not insisting that pre-paid consumers to be entitled to regular (e.g. monthly) bills. ComReg is ensuring that where pre-paid consumers have reason to request details of the charges they have incurred, that the consumer can access their transaction details, free of charge. ComReg does not agree with the opinion that this will lead to a large increase in costs, in particular because the transaction details can be provided either electronically, verbally or in writing, just as long as the medium is accessible to the customer.
61. ComReg does not agree that service providers should be free to decide whether or not a pre-paid customer can receive details of their transaction details at all or free of charge. ComReg is of the view that service providers themselves are in a position to view and use this billing information to advise their customers on their usage and appropriate packages and ComReg sees no reason why consumers themselves should not have access to this information (their own billing information) free of charge.
62. ComReg does not agree with the respondents' various proposals that operators should be permitted to charge for the provision of information on pre-paid consumer's transactions. ComReg is of the view that such a charge could prevent customers, who may have chosen the pre-paid service because they particularly want to control their expenditure, from requesting the information.
63. ComReg remains of the view that a pre-paid consumer may, from time to time, require details of their transactions. For example, a consumer may wish to query or dispute a particular charge or transaction. In such cases, ComReg remains of the view that pre-paid customers should be provided with their transaction details (including usage and charges) for the normal period for which the service provider retains such data, free of charge either electronically, or by paper medium free of charge, depending on how the consumer can access it.

64. ComReg recognises that some ECS providers may require a period of time to make technical adjustments to bring their systems into alignment with the new requirements and for that reason whilst the amendments to the GA will come into effect two (2) months from the date of publication of this Decision, a maximum of six (6) months will be allowed to fully comply with all the conditions as set out in the amended GA, subject to notification to ComReg of the time required by individual service providers to come into full compliance.

ComReg's position is summarised as follows

For pre-paid consumers

If a pre-paid customer requests details of his/her transactions (including usage and charges), for a recent specified period, from its Service Provider, the Service Provider shall provide within a reasonable time frame, to the consumer, in a medium that is accessible to the consumer, the transaction details as requested, free of charge.

The specific conditions to be attached to the GA are set out in Annex 1

3.3 Free-phone Numbers

65. In Consultation 11/78 ComReg proposed that due to the potentially sensitive nature of some free-phone numbers, all service providers should ensure that calls to free-phone numbers are not identified on itemised or non-itemised bills. ComReg noted that this would include numbers which are free to consumers, including 1800 numbers, 999/112 (emergency access numbers) and 116 (harmonised services of social value).
66. ComReg asked the following question:

Q2. Do you agree or disagree that calls which are normally free-of-charge, in accordance with the National Numbering Conventions*, which include calls to help lines, should not be identified in the calling customer's itemised bill? Please provide reasons to support your view.

*http://www.comreg.ie/_fileupload/publications/ComReg1117.pdf

Views of Respondents

67. The vast majority of respondents were in agreement with ComReg's proposal that calls which are normally free of charge in accordance with the National Numbering Conventions should not be identified in the calling customer's itemised bill, due to the potentially sensitive nature of some free-phone numbers. The two respondents who disagreed (ALTO and UPC) had concerns relating to the timing of the implementation of the proposal.

ComReg's View

68. The majority of service providers do not currently itemise free-phone numbers on their customer's bills. ComReg remains of the view, that calls which are normally free of charge, in accordance with the National Numbering Conventions, should not be identified on consumer's bills. The nature of these numbers mean calls to them may be of a sensitive nature and the calling party may not want the number identified on the account holder's bill. ComReg is of the view that there needs to be certainty for calling parties in respect of the non-presentation of these numbers and that the best way to achieve this is by mandating service providers not to itemise these types of calls, irrespective of the level of itemisation or the medium of the bill provided.

ComReg's position is summarised below

Calls which are normally free-of-charge to all calling Consumers, including calls to help- lines, free-phone numbers, calls to emergency services, and calls to harmonised numbers for harmonised services of social value, are not to be identified by the Authorised Person in the calling Consumer's transaction details or bill.¹⁷

The specific conditions to be attached to the GA are set out in Annex 1

¹⁷ "National Numbering Conventions v7.0" Document No. 11/17, dated 9 March 2011

3.4 Billing Medium (Post-Paid Customers)

69. In order to ensure that consumers are adequately protected, Consultation 11/78 proposed a number of measures with respect to billing mediums, which in ComReg's view, would adequately protect consumers, while at the same time allow service providers to use alternative billing mediums (i.e. non-paper mediums) for those consumers that can access them. The consultation document sought respondents' views on a number of issues such as consent and verification of access to alternative billing mediums and the issuing of bill availability alerts. (Further details are set out below).
70. The billing medium is the method used by service providers to provide their customers with bills which can be paper or electronic.

3.4.1 Relevant Billing Medium Features (for alternative billing mediums)

71. In Consultation 11/78 ComReg proposed that service providers should provide detailed information to assist consumers in making informed decisions regarding their billing medium. Full details of the proposals were set out in section 3.2.1 of Consultation 11/78.
72. ComReg asked the following question in respect of minimum information regarding any alternative billing medium offered:

Q4. Do you agree or disagree that it is appropriate that service providers provide a minimum set of information (listed in 3.2.1 above*) regarding any alternative billing medium offered, in advance of providing that billing medium to a consumer? Please provide reasons to support your view.

*** Of Consultation 11/78. (This minimum set of information proposed was listed in ComReg 11/78)**

Views of Respondents

73. In general most respondents to this question agreed that the consumer should be provided with the minimum set of information proposed.

74. MABS stated *“We agree that service providers should have the responsibility to provide detailed information to assist consumers in making informed decisions regarding their chosen billing medium outlining the different methods available for the consumer to make a free choice”*.
75. Two respondents, Magnet and Eircom, indicated that they considered it sufficient that the information be provided on the service provider’s website (and not in the consumer contract or at the Third Party Verification (“TPV”) stage). Vodafone agreed that this minimum information should be given, but suggested that it was not practical to give this information at the point of sale in addition to the contract.
76. Vodafone disputed ComReg’s power to attach these conditions to the GA.
77. O2 disagreed with ComReg’s proposals and expressed the view that ComReg’s overall approach to this question indicates a view that is out of touch with consumers. O2 claimed that ComReg had been overly restrictive in relation to the assumption that paper should be used as the default billing medium and stated that ComReg should issue a guideline, rather than specifying regulatory obligations in this regard.

ComReg’s View

78. ComReg has considered the responses of Eircom, Magnet and O2’s comments in relation to the practicalities of the provision of a minimum set of information. ComReg considers that it is very important that a service provider who is offering an alternative¹⁸ billing medium to a consumer provides detailed information to assist its consumers in making informed decisions regarding their chosen billing medium and to enable consumers to use the alternative billing medium. ComReg considers that it is not necessary to state this information in the customer contract itself but is of the view that this minimum set of information must be provided to new customers at the point of sale.
79. In addition, these relevant billing medium features must be provided to existing customers where providers, (having verified that the customer can access the alternative bill, or having gotten the customers consent), intend switching the customer to an alternative billing medium.
80. This information should be sufficient to reasonably ensure that consumers are able to access their bills. Further details of the information required are set out in Annex 4.

¹⁸ For the purpose of this consultation, alternative billing mediums are any billing mediums other than paper and includes an e-bill and an online bill.

81. ComReg does not agree with Vodafone that it is not entitled to introduce the measures it proposed and it is satisfied that it has the legal *vires* to put in place the suggested consumer protection rules in the GA as set out in paragraph 5 above. ComReg considers that the proposed conditions to be attached to the GA are consumer protection rules which it is entitled to attach pursuant to Regulation 8 of the Authorisation Regulations. The legal basis for the decision is more fully set out in Annex 2.

ComReg's position is summarised below

It is appropriate that service providers make available the relevant billing medium features regarding any alternative billing medium offered, in advance of providing that billing medium to a consumer.

This minimum set of information must be provided by service providers to new consumers before they enter into the contract with the service provider.

This information must be provided by service providers to existing customers where the service provider (having verified that the customer can access the alternative bill, or having obtained the customer's consent), intends changing the customer to an alternative billing medium.

The specific conditions to be attached to the GA are set out in Annex 1

3.4.2 Alternative Billing Mediums

82. In Consultation 11/78 ComReg proposed that it is appropriate and permissible for service providers to offer alternative billing mediums to their customers, if the service provider can ensure and verify that the customer can access and use the alternative medium. ComReg proposed that otherwise, service providers must continue to issue paper bills.

83. ComReg asked the following question:

Q5. Do you agree or disagree that it is appropriate that service providers issue alternative billing mediums to their customers if they can ensure and be assured that the customer can access and use the alternative medium and that otherwise, they should continue to issue a paper bill? Please provide reasons to support your view.

Views of Respondents

84. Whilst some respondents to the consultation agreed with ComReg's proposal, responses from service providers were generally in disagreement with the proposal.
85. The NDA agreed with ComReg's proposals and noted *"it is important not to assume that a customer with a disability can automatically access the alternative billing medium that is being used."*
86. Eircom agreed with the proposal as it considers that it *"protect[s] consumers while at the same time permit[s] operators to be more proactive in moving away from paper based bills"*. Eircom considered that ComReg's proposals represent *"significant progress"*. Eircom agreed with ComReg's proposal that: *"If a consumer cannot access the alternative billing medium proposed by the Operator, Eircom agrees that they should continue to receive a paper bill."*
87. Several service providers objected to ComReg's proposal on the basis that ComReg is mandating paper billing as the "default" billing medium. Vodafone *"agrees that it is appropriate that service providers issue alternative billing mediums to their customers but does not agree that the onus should be on service providers to ascertain whether their customers are capable of accessing an e-bill. Customers should be given the option of reverting to a paper bill but it should not be the default position."*
88. An Post, on the other hand, disagreed with ComReg's proposal as they *"fundamentally disagree that Service Providers [can] migrate consumers to E Billing on the basis that they can ensure and be assured that the consumer can access and use the alternative mediums as this compromises consumer choice"*. An Post stated its view that *"explicit confirmation from the consumer that an alternative medium can be accessed is required to ensure that consumers' rights are not compromised. Any Service Providers' drive to move customers to E Billing without consumer consent is contrary to contractual terms and conditions"*.

89. Two ECS providers, UPC and H3GI, were of the view that the billing medium should remain at the discretion of the operator. Magnet stated their view that the consent of the customer is *“sufficient assurance to the provider that the customer has the adequate means to access the billing method contracted to, It is not within a provider’s remit to constantly check that the customer has broadband or the ability to access broadband.”*. Similarly, Vodafone did *“not agree “that the onus should be on service providers to ascertain whether their customers are capable of accessing an e-bill”*.
90. Another respondent, Fianna Fáil, was of the view that there is a need to draw a distinction between new and existing customers. Fianna Fáil stated that existing customers should only be migrated to a new method of billing when they have confirmed that they are able to access the bill in the new medium which it is to be sent, whereas for new customers the default could either be paper-less billing or paper billing depending on the consumer’s individual circumstances.
91. MABS stated that *“it is up to the consumer to make the decision as to the billing medium most suitable for them whether or not they can or not access the providers preferred billing mechanism”*.

ComReg’s Views

92. ComReg notes that several respondents disagreed with this proposition on the basis of their interpretation of ComReg’s proposal. ComReg’s view to allow the use of alternative billing mechanisms (such as e-billing), provided that customers are protected. Once a service provider can establish that a consumer can access and use the billing mechanism (using the criteria set out (see section 3.4.3 below)) it is free to use an alternative billing medium. ComReg envisages that in practice this will mean that the “status quo” will remain for the most part i.e. customers will continue to get their bill in the billing medium currently provided by their ECS provider. The circumstances whereby paper billing will be required are set out below.
93. ComReg wishes to ensure that customers can access their bill, as this is in the service provider’s interest. Paper bills are, traditionally, the most readily accessible billing medium and service providers throughout the industry continue to issue paper bills to their customers. ComReg is concerned that while some service providers have a preference for e-billing, some consumers may not be able to actually access their bills because they do not have internet access or because an online system is too difficult for them to use.

94. In response to An Post's concern, ComReg notes that where a contract requires consumer consent in order to change the billing medium, this consent must be obtained, as per the terms of the contract, and the operator's licence conditions (applicable until now, as relevant). From the effective date of this Decision it will also be required in accordance with the related conditions set out in the GA.
95. ComReg disagrees with Vodafone's position that the onus should not be on service providers to ascertain whether their customers are capable of accessing an e-bill. In accordance with general terms and conditions and with the conditions set out now in the amended GA, it is the ECS provider's responsibility to ensure that their customers receive their bill. Further it is in the ECS provider's interests to ensure this is in an accessible medium, as without a bill, customers may be unable to verify the charges due and, as a result, may be unable to pay the amount due. The conditions set out above allow providers, under certain conditions, to move their customers to alternative billing mediums, once those customers are provided with the relevant billing medium features which allow them to access their bill.
96. In response to Fianna Fáil, ComReg is of the view that in this instance any requirement to distinguish between new and existing customers is addressed within the conditions set out. Furthermore the minimum information requirement previously addressed will ensure both new and existing customers will have information provided to them about how to use alternative billing mediums.
97. ComReg remains of the view that a service provider should be able to move its customers to alternative billing mediums so as to enable a service provider to meet the varying needs of its customers and the needs of its business. However, so as to ensure that all consumers are protected and can access their bill, where service providers cannot verify whether the customer has access to the alternative billing medium or where it is unable to get the consumers consent to bill them in an alternative medium, or where broadband is not a component of the service being provided, ComReg continues to consider that it is appropriate that paper bills should continue to be provided.

ComReg's position is summarised as follows:

ECS providers are entitled to issue alternative billing mediums to their customers if they can ensure and verify that the customer can access and use the alternative billing medium. If such verification cannot be obtained, service providers shall continue to issue a paper bill.

The specific conditions to be attached to the GA are set out in Annex 1

3.4.3 Consent & Verification of Access to Alternative Billing Medium

98. In consultation 11/78 ComReg proposed several ways that service providers could ensure and be assured that the customer can access and use the alternative billing mediums including e-bills, namely:

- That the service provider obtains the consent of a new or existing customer to receive the alternative billing medium; or
- Internet access is a component of the service currently being provided by the service provider to the customer; or
- The customer has used the online service provided by the service provider; or
- The consumer has given the service provider their personal email address for the purpose of providing a bill by email.

(Which together are defined as “the Criteria”)

99. ComReg asked the following question:

Q6. Do you agree or disagree with the ways proposed of ensuring and being assured that consumers can access and use an alternative billing medium including e-bills? Please provide reasons to support your view.

Views of Respondents

100. Of those respondents that answered this question directly, the majority agreed with ComReg’s proposal.

101. ALTO agreed with ComReg’s proposal and stated that *“Yes ALTO generally agrees with the proposed ways of ensuring and being assured that consumers can access and use an alternative billing medium”*. Eircom agreed with the Criteria on the basis that they *“represent adequate default rules to use for the purpose of establishing on a reasonable basis that customers can access and use the alternative billing mechanism”*.

102. Some respondents agreed and indeed suggested that ComReg's proposal should go further. For example, MABS stated its view that a paper bill should accompany any alternative billing medium for at least one year after which the customer should be given the choice as to their preferred method (by which we understand MABS to mean medium). Fianna Fáil proposed that *"where a bill is not accessed for several consecutive months the service provider must seek a confirmation from the consumer that they can access their bill; if no confirmation is received the bill should revert to being sent by post. A consumer may opt out of this provision the first time an effort it made to contact them."*
103. Magnet disagreed on the basis that *"Once a customer's consents to particular billing mechanism the provider should not have an onerous obligation placed on them to consistently check that their customers are receiving their bills."*
104. O2 disagreed on the basis that: *"ComReg mistakenly takes the view that consumers must have access to a PC in order to be able to view electronic bills, however this ignores the growth in use of Smartphones and phone applications that can access the required information."*
105. An Post disagreed with ComReg's proposal as it is of the view that *"the only way a service provider can be sure that their customer can access and want the alternative billing medium is where the service provider obtains the **explicit** consent of the consumer"* (An Post's emphasis). An Post stated that *"The issue should not be based on the consumer ability to access the alternative medium but more fundamentally their wishes to migrate to the alternative medium"*.
106. Vodafone disagreed with ComReg's proposal essentially on the basis that it considers that e-billing should be the "default".

ComReg's View

107. ComReg does not consider it necessary or proportionate, at this time, to incorporate the further safeguards suggested by MABS and Fianna Fáil.
108. ComReg would like to clarify that the Criteria (proposed in respect of verifying that a consumer can access an alternative bill medium) are alternative and not cumulative. Therefore, once one of the Criteria is met, there is no need to meet any of the other criteria. For instance once a consumer explicitly consents to a particular billing medium the service provider does not have any obligation *"to consistently check that their customers are receiving their bills"*, (as suggested by Magnet).

109. Furthermore, ComReg's proposal does not require that consumers must have a PC in order to be moved to an alternative billing medium (contrary to O2's suggestion).
110. ComReg considers that An Post's focus on explicit consent as opposed to confirmation by the service provider that the consumer is able to access the proposed method is too restrictive. In practice, this would require service providers to confirm with their existing consumers who avail of alternative billing mediums that this medium is an acceptable alternative billing medium. This approach may result in unnecessary expense and may not result in any gain for the consumer (as noted by many respondents, many existing consumers avail of e-billing/online billing).
111. ComReg's proposal was that a fully itemised paper bill would be given, where no alternative was pre-selected, not that all bills would automatically revert to fully itemised paper bills. Therefore, moving a customer to an alternative billing medium such as e-billing is fully acceptable as long as the provider has "*verified that consumer can access and use an alternative billing medium*" using the criteria set out in proposed condition 18.7.8¹⁹ and as discussed in this section. In practice this means that for the vast majority of consumers and ECS providers the status quo will remain.
112. However, ComReg has removed the 3rd condition (usage of the online service) as proposed in the Criteria, in the consultation. Therefore, service providers can move their customers to alternative billing mediums, providing they can reasonably ensure and be reasonably assured that their customers can access and use alternative billing mediums. These conditions would be met if:
- The service provider obtains the consent of a new or existing customer to receive the alternative billing medium; or
 - Broadband²⁰ access is a component of the service currently being provided by the service provider to the customer; or
 - The consumer has given the service provider their personal email address for the purpose of providing a bill by email.

¹⁹ New condition 18.7.8- See Annex 1

²⁰ Includes platforms used to access the internet including DSL, cable modem, fibre, satellite, fixed wireless access and/or mobile broadband as defined ComReg's Quarterly report, which may change from time to time.

ComReg's position is summarised below

Service providers can ensure and be reasonably assured that their consumers can access and use alternative billing mediums if:

- (a) The service provider obtains the consent of a new or existing customer to receive the alternative billing medium; or**
- (b) In the case of an online bill, broadband access is a component of the service currently being provided by the service provider to the customer; or**
- (c) In the case of an e-bill, the consumer has given the service provider a valid email address for the purpose of providing a bill by email.**

The specific conditions to be attached to the GA are set out in Annex 1

3.4.4 Ability to revert to paper bill free of charge

113. Consultation 11/78 also asked for respondent's views on the ability of consumers to revert to paper billing free of charge under certain circumstances. ComReg asked the following questions:

Q7. Do you agree or disagree that if a consumer no longer has internet or e-mail access that the customer should be able to inform their service provider of their changed circumstances and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

Q8. Do you agree or disagree that if a consumer cannot use the online bill provided by the service provider that the customer should be able to inform their service provider and revert to receiving a paper bill free-of-charge? Please provide reasons to support your view.

Views of Respondents

114. The majority of respondents were in agreement with the proposals set out by ComReg.
115. The CAI stated that it *“agrees that as a matter of course paper billing should always be available to consumers, free-of-charge. The CAI believes that this should remain a basic consumer right in respect to billing by communications providers, and indeed, all utility providers”*. MABS went even further than ComReg’s proposals and contended that service providers should be electronically able to decipher if an e-bill has been received / opened and take appropriate action by issuing a paper bill.
116. Of those who disagreed, ALTO and Magnet did not agree the paper bill should be free of charge. Magnet stated *“it is not up to Magnet Networks or any service provider to ensure their customers at all times has access to the internet. If there is a valid email address then it is up to the customer to manage their bills.”* Magnet did not believe the online billing access is onerous or difficult and thus a consumer simply saying they cannot use it does not merit them switching back to a paper bill and *“once the criteria are met by the operator and the consumer has consented to online billing, they should not be entitled to revert under the excuse they can’t use it.”*
117. O2 disagreed with question 7 and agreed with question 8. In response to question 8, O2 stated that *“In general, O2 agrees with this, however there may be some nuances that need to be considered. ComReg will be aware that O2 permits post-pay customers to readily switch between paper and electronic billing without charge. There may be cases where products are developed specifically on the basis that they do not include a paper bill, and are sold to customers on that basis, for example some products are sold on-line only, and use on-line interaction as the primary means of communication with customers. It would not be possible to provide this type of product on the basis proposed by ComReg – that a customer could avail of reduced pricing enabled by the product features, but also opt to obtain the features associated with more costly products. ComReg’s proposal would stifle innovation in the more price sensitive segment of the market.”*
118. Vodafone agreed with both these questions on the basis that this is a *“consumer friendly policy”*. However Vodafone was of the view that *“the onus should be on the customer to inform the service provider when such a contingency occurs. As currently drafted, the General Authorisation would require the service provider to make these assumptions in certain circumstances which in our view is over-prescriptive, impractical and unreasonable”*.

ComReg's View

119. ComReg is of the view that service providers must ensure that all consumers, including those most vulnerable in society, are able to access their bill, and are not disadvantaged in any way following the introduction of alternative billing mediums.
120. Fundamental to this Decision is a consumer's right to be able to access their bill in order to verify charges and other information contained in the bill which is of relevance to the consumer. It is in the service providers' interests to ensure that the customer can access their bill in order for the customer to be in a position to pay the bill in a timely fashion.
121. ComReg is of the view that where the consumer informs the provider that they cannot access the bill by way of the alternative billing medium (for example because the consumer no longer has broadband access or because they cannot use the online service) then the provider must allow the consumer to revert to paper billing free of charge, should the consumer request this.
122. Therefore, ComReg has decided that the obligations to *revert* to a paper bill only apply following a request from the consumer. As suggested by Vodafone, the onus is on the consumer to inform the service provider of such a requirement by way of request. ComReg considers that placing an obligation on service providers to monitor whether an e-bill has been opened (and a consequent obligation to issue a paper bill if it has not) as suggested by MABS is not necessary at this time.
123. ComReg notes O2's position that there may be cases where products are developed specifically on the basis that they do not include a paper bill. ComReg has decided that the requirement as set out in 18.7.1 in the Decision Instrument in Annex 1 deals adequately with this matter and that all 'products' offered by Service Providers must include, as part of the package price, a bill in a medium that the consumer can access (which may be a paper bill).

ComReg's position is summarised below

Where the consumer cannot access the alternative billing medium, (for example because the consumer does not have broadband access or cannot use an online service) the ECS provider must allow the consumer to have paper billing free of charge.

The specific conditions to be attached to the GA are set out in Annex 1

3.4.5 Alerts to signal availability of an online bill

124. In Consultation 11/78 ComReg proposed that where a bill is not sent directly to the customer i.e. online – (not an e-bill or a paper bill) - the customer may not be aware that their bill is available. In this situation, Consultation 11/78 proposed that the service provider should be obliged to alert the customer to the fact that their bill is available online, the amount due on the bill, and the due date for payment. ComReg asked the following question:

Q9. Do you agree or disagree that for bills which are not sent directly to the customer, the customer may not be aware that the bill is available and for this reason, an alert should be sent to the customer? Please provide reasons to support your view.

Views of Respondents

125. In general respondents were in agreement that alerts to signal availability of an online bill should be provided.
126. The NDA agreed and noted that alerts are particularly helpful for some people who have difficulties remembering. CAI agreed with ComReg's proposal and stated *"Furthermore, the CAI believes that where possible, electronic bills should be send directly to consumers, rather than consumers logging onto their account on the communications providers website"*. Fianna Fáil agreed and also suggested a notification service consisting of *"Automatic text alert when a consumer's bill total has reached their monthly price plan level or when the bill has run over an amount agreed with the customer in advance"*. MABS are of the view that *"when an online bill has not been responded to within a specific time –frame a paper bill should be issued free-of-charge."*

127. Vodafone agreed with the proposal and stated the view that the suggested alert will provide *“useful information to the consumer”*. Eircom agreed with the question and described the suggested alert as *“an important requirement of an alternative billing medium.”* Eircom stated that *“Customers may not be aware that their bill is available and then fall into arrears unintentionally”*. However, Eircom further stated that for Data Protection and privacy reasons neither the amount of the bill nor the due date should be included in the alert. H3GI also disagreed that the amount owed should be presented in the notification method.
128. Another respondent, ALTO, did not agree that this should be a mandatory obligation imposed on a service provider *“where the customer for specific reasons may have chosen not to have the bill sent directly to them”*, and Magnet was of the view that sending alerts may be a nuisance to some customers.

ComReg’s View

129. ComReg considers that customers who avail of online bills should be alerted by their service providers when the bill is available. ComReg understands that currently some customers receive alerts by text and email from some service providers.
130. Where a bill is not sent directly to the customer the customer may not be aware that their bill is available. In this instance, ComReg is of the view that it is appropriate for the service provider to alert the customer, using contact details provided for this purpose, to the fact that their bill is available online. ComReg notes Eircom’s concern in relation to the detail concerned in the alert, and sought the views of the Office of the Data Protection Commissioner (ODPC) in this regard.
131. The ODPC is in agreement with ComReg’s view that it is appropriate for the service provider to alert the customer, in accordance with Data Protection legislation, that an online bill is available. The ODPC recommends that personal information being sent in a text alert be kept to a minimum as the risk of disclosure of personal information to a third party may leave the provider open to a complaint under Section 2(1)(d) of the Data Protection Acts²¹.

²¹ Data Protection Acts 1988 and 2003

132. It is in both the consumers and providers interests that consumers are aware that their bill is due for payment. ComReg therefore continues to be of the view that alerts which highlight the fact that bills are available are necessary. Whilst ComReg notes certain respondent's views that the obligations in relation to alerts should go further than it proposed, ComReg is of the view that such additional obligations are not necessary at this time.
133. It is recommended that the alerts (especially if being sent by SMS) should be sent during appropriate (sociable) hours to avoid causing disruption and nuisance. The ODPC has also recommended that it would be considered good practice to allow consumers, who do not want to receive such alerts or who no longer want to receive such alerts to opt-out of receiving them, in an easy manner. In this regard, a service provider should be mindful of the consent it has from the customer regarding its contact details and should ensure that such messages are sent in compliance with Data Protection legislation.

ComReg's position is summarised below

For an online bill, the ECS provider must alert their customer, in accordance with Data Privacy legislation that their bill is available.

The specific conditions to be attached to the GA are set out in Annex 1

3.5 Consumers with Disabilities

134. In Consultation 11/78 ComReg made several proposals in relation to obligations on service providers in relation to bills issued to consumers with disabilities. ComReg asked two questions in this regard (questions 10 and 11). ComReg thanks respondents for their responses to these questions.
135. ComReg is issuing a separate consultation in respect of Regulation 17 of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011 ("Universal Service Regulations") which deals with equivalence of access and billing for consumers with disabilities. Responses received in response to questions 10 and 11 of Consultation 11/78 will be taken into account in the context of that consultation. Proposed condition 18.7.7 of the GA, as set out in Consultation 11/78 which related to consumers with disabilities is therefore not being attached to the GA, as originally proposed.

4 Conditions to be attached to the GA

136. Consultation 11/78 proposed that ComReg attach a number of conditions to the GA. ComReg also proposed that if it was decided that these conditions were to be attached that any duplicate conditions would be removed, where applicable, from Authorised Providers' licences which they hold separate to the GA.
137. The current (and only) universal service provider (USP) in the State is Eircom Limited. To the extent that it already has obligations, as a designated undertaking, covered by these proposed conditions, they will not be duplicated in the GA. However, obligations that it does not already have in relation to these matters and which are set out in the amended conditions to the GA, will apply to it as an authorised undertaking.
138. ComReg asked the following questions

Q12. Do you agree or disagree with the text of the conditions proposed to be attached to the GA? Please provide reasons to support your view.

Q13. Do you agree or disagree that the proposed amendments to the GA should (if implemented) be effective two months from the date a decision is issued? Please provide reasons to support your view.

Views of Respondents

139. The majority of the issues raised in the response to questions 12 and 13 concerned issues which had been raised by the respondents previously and have already been considered in section 3 of this consultation. Such issues will not be re-considered in this section.
140. Other drafting suggestions were made by respondents to the Consultation. It is not practical for ComReg to set out and provide commentary in relation to every suggestion. However ComReg has fully considered all comments received.

141. In relation to the timeframe for implementation most service providers who responded were of the view that 2 months was insufficient time for service providers to implement the proposed conditions. The majority were of the view that a period of at least 6 months would be required. Vodafone however was of the view that a period of 12 months to implement a solution under proposed condition 18.7.10²² was required.

ComReg's Views

142. In light of some of the responses received to Consultation 11/78, it would appear that some respondents misunderstood some of the GA conditions. So to ensure clarity and to minimise any confusion, ComReg has made a number of textual amendments to the GA conditions. ComReg considers that the amendments make the conditions clearer and more user friendly. The full text of the conditions which ComReg is attaching to the GA is set out in the Decision Instrument at Annex 1.

143. Following the responses to Consultation 11/78, ComReg has decided that whilst the amendments to the GA will come into effective two (2) months from the date of publication of this Decision, a maximum of six (6) months will be allowed to fully comply with all the amended conditions as set out in the amended GA. The six (6) months is subject to notification to ComReg by individual service providers of the time that it required to come into full compliance with the amended conditions of the GA. This is based on ComReg's view that the measures are largely aligned with current practice and obligations that are already applicable to certain service providers. ComReg considers this to be realistic and proportionate to address varying lead in times that may be required by Service Providers.

144. Where ECS providers cannot comply with these amendments in two months, notification of the time required to come into full compliance should be sent to retailcompliance@comreg.ie no later than 30 days from the date of publication of this document.

²² New condition 18.7.4.

5 Proposed amendments to current obligations

5.1 Proposed amendments to current licences for mobile services

145. In order to ensure compliance with Regulation 8(4) and Regulation 10 (3) of the Authorisation Regulations, ComReg at section 5.1 of Consultation 11/78 proposed to remove certain current licence conditions prior to attaching the proposed conditions to the GA.
146. The consultation document detailed the proposed amendments to each individual licence and asked the following question:

Q14. Do you agree or disagree with the proposed amendments to the current licence conditions for mobile services? Please provide reasons to support your view.

Views of Respondents

147. Of those respondents that responded directly to this question, the majority were in agreement with the proposed amendments to the licence conditions.
148. The NDA agreed and stated *“the proposed amendments will eliminate duplication and strengthen the consumer protection measures listed in the consultation paper”*.
149. Vodafone also agreed with the proposal and was of the view it *“removes a set of conditions that was outdated and discriminatory against mobile service providers”*.
150. Eircom disagreed and noted *“ComReg is proposing the removal of itemised billing from Schedule 7 (3) however this is a historical requirement therefore we question the relevance of its removal.”*
151. O2 agreed with the proposal and is of the view the *“conditions are discriminatory as they only apply to some service providers”*.
152. H3GI noted in their response that *“H3GI bid and acquired their licence conditions on certain terms and conditions. An attempt to change these terms and conditions,....., without compensating operators would be disproportionate and contrary to its statutory functions and obligations“*.

ComReg's View

153. ComReg considers the removal of certain requirements from the schedules to various licences is legally required prior to attaching the conditions to the GA. This will avoid duplication of obligations in both the GA and the licences, which would be contrary to ComReg's obligations pursuant to Regulation 8 (4) and Regulation 10 (3) of the Authorisation Regulations.
154. ComReg considers that its decision to amend the licence conditions is proportionate and in accordance with its statutory obligations (in particular its obligations pursuant to Regulation 8 (4) and Regulation 10 (3) of the Authorisation Regulations). ComReg disagrees with H3GI that it would be appropriate to compensate operators for a removal of licence conditions and such compensation has not before been provided.
155. ComReg notes that Consultation 11/78 proposed to amend nine licences. Since Consultation 11/78 was published, Vodafone's GSM 1800 licence has expired and Vodafone's Interim GSM 900 3G licence and O2/Telefonica's Interim GSM 900 licence both expired on 30 April 2013. Therefore, it is not necessary to amend these licences.
156. The following licences will be amended in the manner proposed in Consultation 11/78, as below:
 1. Hutchison 3G – removal of conditions relating to itemisation of emergency calls, bill structure/format, frequency and presentation and those relating to billing medium and timing as per 11/78
 2. Meteor 3G - removal of conditions relating to itemisation of emergency calls, bill frequency, itemisation and medium and customer service conditions relating to e-billing as per 11/78
 3. Meteor GSM 900, 1800 -removal of conditions relating to itemisation of emergency calls, bill frequency, itemisation and medium as per 11/78
 4. O2/Telefonica 3G - removal of conditions relating to itemisation of emergency calls, bill frequency, itemisation and medium as per 11/78
 5. O2/Telefonica GSM 1800 - removal of conditions relating to itemisation of emergency calls, bill frequency, itemisation and medium as per 11/78

6. Vodafone 3G - removal of conditions relating to itemisation of emergency calls, bill frequency, itemisation and medium as per 11/78

157. Following the publication of this response to consultation and the making of the within decision, ComReg will write to each of the aforementioned licence holders to inform them of the amendments (deletions) and issue amended licences. The amendments will take effect in line with the time frame set out in paragraph 143 (section 4). For the avoidance of doubt, in the event that any of the aforementioned licences expire prior to the effective date of this decision, no amendment will be required.²³

5.2 Proposed amendments to universal service provider's obligations

158. The current universal service provider is Eircom. As the universal service provider and designated undertaking, Eircom is already subject to certain obligations. To the extent that the universal service provider is subject to obligations (as the universal service provider) which are equivalent to those which are being attached to the GA, the universal service provider will not be subject to those obligations, or aspects of obligations, in the GA. However, obligations that the universal service provider does not already have in relation to these matters and which are set out in the conditions to the GA, will apply to universal service provider (s) including the current universal service provider.

159. In Consultation 11/78 ComReg proposed to revoke Decision No. D09/01²⁴ published by its predecessor, the Office of the Director of Telecommunications Regulation, which relates to itemised billing. ComReg also proposed to make specific amendments to Decision No. 06/10²⁵ (which were set out in Section 5.2 of Consultation 11/78). It is noted that Decision No. 06/10 has since been replaced by D07/12²⁶.

²⁴ "Itemised Billing by Telecommunications Operators, Response to Consultation and Decision Notice D9//01", Document No. 1/53 hereafter "Decision No. D09/01".

²⁵ Decision Notice and Decision Instrument, Response to Consultation "The Provision of Telephony Services under Universal Service Obligations", Decision No. 06/10, Document No. 10/46, hereafter "Decision No. 06/10"

²⁶ Decision Notice and Decision Instrument, Response to Consultation "The Provision of telephony services under Universal Service Obligations" Decision No. 07/12, Document No. 12/71

160. ComReg notes that issues relating to Braille billing will be dealt with in a separate consultation and therefore any issues raised in relation to this matter will not be dealt with here. The proposed amendment to Decision No. 06/10 (as above replaced by Decision No. 07/12) relating to Braille billing will not therefore be made in the context of this response to consultation.
161. ComReg asked the following question

Q15. Do you agree or disagree with the proposed amendments as applicable to the universal service provider? Please provide reasons to support your view.

Views of Respondents

162. The majority of the respondents that directly answered this question agreed with ComReg's proposals (the CAI, NDA and Vodafone). The NDA stated that *"the proposed amendments will eliminate duplication and strengthen the consumer protection measures listed in the consultation paper."*
163. A number of respondents disagreed with the proposal for varying reasons. Many stated that they do not agree with the general proposal to amend the GA. ComReg's responses to these comments have already been comprehensively dealt with in section 3 of this response to consultation.
164. Eircom disagreed on the basis that the change proposed was not in accordance with Regulation 9 of the Universal Service Regulations. In Eircom's view *"ComReg proposes to change section 2.11 of the Universal Service obligations in accordance with Regulation 9 of the Universal Service Regulations but this is not what is stated in Regulation 9(2) of SI No 337 2011 (Schedule 1, Part A)".* Eircom suggested that *"ComReg mandate a basic level of itemised billing free of charge by all undertakings as what is currently set out in ODTR Decision No D09/01 and this should be inserted into the General Authorisation."*

ComReg's View

165. ComReg has considered the views received. Eircom has quoted from the aspects of Schedule 1, Part A of the Universal Service Regulations which, in conjunction with Regulation 24 of the Universal Service Regulations, gives ComReg discretion to impose obligations on undertakings (not just the universal service provider) in relation to itemised bills. ComReg does not consider that this is relevant as in Consultation 11/78 it was not proposing to utilise its powers pursuant to Regulation 24 of the Universal Service Regulations²⁷. ComReg agrees with Eircom that a basic level of itemised billing free of charge from all undertakings should be mandated and that this should be inserted into the GA. ComReg has made the necessary amendments to the conditions which it is attaching to the GA.
166. Having considered the representations made, ComReg remains of the view that it is appropriate that section 2.11 (i) of Decision D07/12²⁸ in so far as it relates to itemised billing be revoked.

²⁷ Regulation 8 (4) of the Authorisation Regulations states that ComReg is not entitled to attach as a condition to the GA any specific obligations that it may impose on an undertaking by virtue of other law. Regulation 24 of Universal Service Regulations is not included as a specific obligation as defined by the Framework Regulations

²⁸ Decision Notice and Decision Instrument, Response to Consultation "The Provision of telephony services under Universal Service Obligations" Decision No. 07/12, Document No. 12/71

6 Regulatory Impact Assessment (“RIA”) – responses to draft RIA

167. In section 6 of Consultation 11/78 ComReg set out its preliminary Regulatory Impact Assessment (“RIA”). In so doing, ComReg noted that a RIA is an analysis of the likely effect of a proposed new regulation or regulatory change. The RIA should help identify regulatory options, and should establish whether proposed regulation is likely to have the desired impact. The RIA should also in certain cases suggest whether regulation is or is not appropriate. The RIA is a structured approach to the development of policy, and analyses the impact of regulatory options on different stakeholders.

168. ComReg’s approach to the RIA is set out in the “Guidelines on ComReg’s Approach to Regulatory Impact Assessment” published in August 2007²⁹ and have regard to the RIA Guidelines³⁰ issued by the Department of An Taoiseach in June 2009 (“the Department’s RIA Guidelines”), adopted under the Government’s Better Regulation programme.

169. The preliminary RIA in Consultation 11/78 outlined that ComReg was of the initial view that there were two options, namely:

- Option 1 would be not to intervene and thereby allowing certain providers of electronic communications services not to issue an itemised bill, or to issue their customers with an alternative billing medium *without* verifying that their customers can access and use the alternative billing medium. Consumers who do not have access to the internet would be charged (by some service providers) to receive a paper bill, in order to verify and control their charges. Some electronic communications providers would continue to have obligations in this respect for certain services, while others would not. Some customers who have a pre-paid service would be unable to verify their charges.
- Option 2 would be to attach conditions to the GA in relation to bill itemisation, charges for paper bills and billing mediums in the manner detailed in this consultation. The conditions would apply to all electronic communications service providers and would therefore be consistent and transparent. ComReg would seek to remove any existing identical conditions, as appropriate, in licences (which are held separate to the GA) to ensure that the new conditions do not duplicate any existing laws. Eircom as the current universal service provider has some obligations that

²⁹ ComReg Document 07/56 & 07/56a

³⁰ See: “Revised RIA Guidelines: How to conduct a Regulatory Impact Analysis”, www.taoiseach.gov.ie

are covered by these proposed measures. However, any obligations that are not imposed by virtue of Eircom's status as the universal service provider, would be imposed and applicable to it (and any other universal service provider (s)) through the conditions proposed to be attached to the GA – and not in its capacity as the universal service provider.

170. ComReg went on to identify, describe and conduct a preliminary assessment of the regulatory options.

171. ComReg indicated that it was of the preliminary opinion that the amendments to the GA, as proposed by Consultation 11/78 were appropriate, proportionate and justified. ComReg asked respondents the following question:

Q16. Respondents are asked to provide views on whether the proposed conditions are proportionate and justified and offer views on other factors (if any) that ComReg should consider in completing its RIA

Views of respondents

172. Some respondents were in agreement that ComReg's proposals were proportionate and justified, including the NDA who stated it was of the view that *"the proposed conditions are reasonable in that they will have cost advantages for the service providers while, at the same time, providing minimum standards and level of certainty to the billing process for all customers"*.

173. However, many respondents to the consultation were of the view that the potential cost of the proposed obligations had not been fully considered.

174. An Post voiced its concern that the impact on An Post has not been considered.

175. Eircom did *"not believe that ComReg's view of full itemisation in the paper format as proposed is proportionate or justified"*. Eircom further contends that *"the full itemised bill as a default setting will increase the paper usage significantly which incurs costs on printing, paper and postage for all operators"*. Magnet did not believe that the conditions are proportionate or justified. H3GI believed ComReg needs to carry out a more detailed assessment of the costs that may be involved.

176. O2 stated *"ComReg has not provided evidence that justifies the proposed intervention, nor does the RIA assess the costs and benefits of the options"*. O2 also considered *"that ComReg has failed to consider whether a guideline document would achieve the required outcome without amendment to the General Authorisation"*.

177. While agreeing with parts of the RIA, UPC and ALTO did not agree that there is no foreseeable cost involved with alerting customers that their bill is available.
178. In relation to alerts, Vodafone stated that *“support this proposal and believe providers should provide alerts regardless of the customers billing medium”*. In relation to providing pre-paid consumers with access to their current bill and call history Vodafone was of the opinion that *“ComReg has seriously underestimated the potential costs to providers of meeting this obligation”*.

ComReg’s View

179. As set out earlier, the proposals which relate to consumers with disabilities will now be dealt with in a separate consultation, and therefore will not be addressed further. Responses to Consultation 11/78 in this regard will also be taken into consideration in that consultation.
180. ComReg notes An Post’s concern that the impact on An Post has not been considered. ComReg has considered its regulatory functions and objectives in respect of the postal sector and is of the view that no specific amendments to the proposed measures are necessary in this regard. It should be noted that by imposing these measures, ComReg is not promoting any particular medium of bill. ComReg is simply ensuring that there are consumer protection measures in place.
181. In response to the issues raised by Eircom in relation to full itemisation, ComReg has amended its proposal to allow for “standard itemisation”. ComReg considers that this will address Eircom’s concern.
182. In relation to O2’s contention that ComReg should consider a guideline document as an alternative to amendment to the General Authorisation. ComReg considers that its consideration of Option 1 is sufficient as unenforceable guidelines are similar to taking no regulatory action.
183. A significant number of respondents believed the potential costs of the proposed obligations had not been fully considered. Several respondents claimed that there was a lack of a proper analysis of costs. However, respondents did not provide any details to substantiate their claims in respect of costs.
184. ComReg, therefore, issued a number of information requests to operators who had provided responses to the consultation. These requests gathered information which was used to assess the potential costs for the purpose of the RIA.

185. ComReg has considered Respondents' views to the consultation and the information gathered through information requests and has updated its RIA, where appropriate in light of these views and its final assessment is set out in Annex 3. This assessment found that the costs and (quantifiable) benefits are of similar magnitude.
186. In addition to the quantified benefits, there are other benefits which were assessed qualitatively due to the lack of data for a quantitative assessment, for example protection of access to information by vulnerable consumers, transparency/ reassurance and parental monitoring. (See Annex 3 for further information.) These additional un-quantified benefits could lead to benefits exceeding costs.
187. Having considered the impacts on stakeholders and competition, including the impact on the development of competition, it is ComReg's position that regulatory forbearance is not appropriate and that Option 2 represents the most justified, reasonable and proportionate approach of those available. Thus ComReg's final position is to impose the conditions set out by means of an amendment to the GA. ComReg's final RIA in respect of the measures is contained in Annex 3 of this document.

Annex 1 Decision Instrument

STATUTORY FUNCTIONS AND POWERS GIVING RISE TO DECISION

This Decision, made by the Commission for Communications Regulation (“ComReg”), is made:

I. Having regard to its functions and objectives as set out in sections 10 and 12 of the Communications Regulations Acts 2002 to 2011 and Regulation 16 of the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011;

II. Having taken account of the representations of interested parties submitted in response to Preliminary Consultation “Electronic, and other, itemised bill formats, Minimum requirements for itemised bills for electronic communications services”, Document No. 10/96, dated 1 December 2010, Consultation “Proposed consumer protection measures in respect of consumer bills and billing mediums and proposed amendments to General Authorisation”, Document No. 11/78, dated 28 October 2011 and information received by ComReg in response to information requests; and

III. Pursuant to the functions and powers conferred upon ComReg under and by virtue of Regulation 8 and Regulation 15 of the European Communities (Electronic Communications Networks and Services) (Authorisation) Regulations 2011 (“The Authorisation Regulations”).

DECISION

1. General Authorisation

ComReg specifies that the following conditions be attached to the General Authorisation³¹:

18.7 Itemised Billing and Billing Mediums

In Conditions 18.7.1 – 18.7.12, the following definitions shall apply:

“**alternative billing medium**” means a bill in any medium other than paper and includes an e-bill and an online bill;

³¹ As defined in Regulation 2 of the the Authorisation Regulations which provides that “*general authorisation*’ means an authorisation for an undertaking to provide an electronic communications network or service under and in accordance with Regulation 4”. The current version of which is “Conditions for the provision of Electronic Communications Networks and Services”, Document No, 03/81R3.

“**e-bill**” means a bill which is sent to a consumer’s email address.

“**fully itemised bill**” means a bill which includes transaction details that allows consumers to verify and control their charges for using Authorised Services and which allows consumers to adequately monitor their usage and expenditure and thereby exercise a reasonable degree of control over their bills.

“**level of bill itemisation**” means fully itemised bill, non-itemised bill or standard itemised bill.

“**online bill**” means where the Bill is made accessible to a consumer by the consumer signing into their Authorised Provider’s online system.

“**non-itemised bill**” means a bill for Authorised Services issued in accordance with Regulation 7 of the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011.

“**relevant billing medium features**” means the minimum details the Consumer requires to be able to access and operate the alternative billing medium.

“**standard itemised bill**” means a bill for Authorised Services, provided by Authorised Persons to consumers that does not have all the details of a fully itemised bill.

“**transaction details**” means details in respect of each communications transaction (such as voice call, SMS, MMS, data session (which may involve multiple records covering a period of up to one day), PRS etc,) including the following:

- date of transaction;
- start time of transaction;
- number called, if relevant;
- duration of the transaction, if relevant;
- the price of the transaction, including “0” if no charge applies; and
- details of any further charge arising.

Condition 18.7.1

- I. Every Authorised Person who provides Authorised Services to Consumers on a post-paid basis, shall issue to each Consumer, free of

charge and within a reasonable period in advance of each payment due date either

- a. a non-itemised bill
 - b. a standard itemised, or
 - c. a fully itemised bill.
- II. Insofar as a universal service provider is obliged to fulfil aspects of this obligation by virtue of its obligation pursuant to Regulation 9 (2) of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011 this condition is not applicable to it as it is already obliged to do the same thing by virtue of other applicable law.
- III. Insofar as undertakings are obliged to fulfil aspects of this obligation, with regards to non-itemised bills, by virtue of obligations pursuant to Regulation 7 of the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011), this condition is not applicable to them as they are already obliged to do the same thing by virtue of other applicable law. For the avoidance of doubt, and in accordance with 18.7.1(I) the non-itemised bills shall be provided free of charge.

Condition 18.7.2

An Authorised Person providing Authorised Services to a Consumer on a post-paid basis, must, provide each Consumer with fully itemised bill or non-itemised bill, as requested by the Consumer, if such a request is made.

Condition 18.7.3

An Authorised Person who provides Authorised Services to Consumers on a post-paid basis, shall not change the level of bill itemisation provided from one level to another to an existing Consumer unless that Consumer explicitly consents to the change of level of bill itemisation or requests a change to the level of bill itemisation.

Condition 18.7.4

An Authorised Person, who provides Authorised Services to Consumers on a pre-paid basis shall, following a request, from a Consumer, provide the Consumer with their transaction details from within a reasonable period of time, free of charge, and in a medium that is accessible by that Consumer.

Condition 18.7.5

- I. Calls which are normally free of charge to all calling Consumers, including calls to help-lines, free-phone numbers, calls to emergency services, and calls to harmonised numbers for harmonised services of social value, are not to be identified by the Authorised Person in the calling Consumer's transaction details or bill.

- II. Insofar as the universal service provider is obliged to fulfil this obligation or aspects thereof by virtue of its obligation pursuant to Regulation 9 of the European Communities (Electronic Communications Networks and Services) Universal Service and Users' Rights) Regulations 2011, this condition is not applicable to it, as it is already obliged to do the same thing by virtue of other applicable law.

Condition 18.7.6

An Authorised Person shall provide the Relevant Billing Medium features to a Consumer in advance of providing their bill in an alternative billing medium, in the following circumstances:

- I. to new Consumers before they enter into a contract with the Authorised Person; or
- II. To existing Consumers where the Authorised Person has verified that the Consumer can access and use the alternative billing medium and intends to change the Consumer to an alternative billing medium.

Condition 18.7.7

An Authorised Person may provide a bill to individual Consumers in an alternative billing medium provided the Authorised Person has verified, in advance, that the individual Consumer can access and use the alternative billing medium, otherwise the Authorised Person should issue bills to that Consumer in paper format.

Condition 18.7.8

For the purpose of Condition 18.7.7, the Authorised Person has verified that a Consumer can access and use an alternative billing medium

- I. if the Consumer has consented to receive their bill via an alternative billing medium and the Authorised Person has recorded that consent, either by audio, written or, electronic means; or
- II. in the case of an online bill, where the Authorised Person is providing broadband to a Consumer, and the Authorised Person has provided adequate information to allow the Consumer to access the online bill:
or
- III. in the case of an e-bill, where the Consumer has provided an email address to the Authorised Person and where the Consumer has specified that the email address is to be used for this purpose.

Condition 18.7.9

Where a Consumer has, since the receipt of their last bill, informed their Authorised Provider that they cannot reasonably access their bill or use the alternative billing medium, the Authorised Person shall provide that Consumer's bills in paper, free of charge.

Condition 18.7.10

An Authorised Person providing an online bill shall adequately notify the Consumer, using a means separate to the online service, in accordance with Data Protection legislation, that the bill is available online. Such notification shall be separate to any direct marketing messages that may be sent in accordance with Data Protection legislation.

Condition 18.7.11

Every Authorised Person who provides Authorised Services to Consumers on a post-paid basis, shall provide each Consumer with details in respect of their billing options (including the level of bill itemisation, if relevant) and billing mediums, before the consumer enters into a contract with the Authorised Person.

2. REVOCATION

Section 2.11 (i) of Decision D07/12³², in so far as it relates to itemised billing, is hereby revoked.

3. EFFECTIVE DATE AND DURATION

The amended conditions of the General Authorisation shall be effective 60 days from the date of publication, subject to the provisions of section 4 and shall remain in full force unless otherwise amended by ComReg.

4. TRANSITIONAL ARRANGEMENTS

Notwithstanding the provisions of section 3, ComReg will allow a maximum of six months from the date of publication for an Authorised Person to fully comply with all the conditions as set out in the amended General Authorisation, if it provides ComReg with notification of the time that it requires to come into full compliance with the amended conditions of the General Authorisation. Such notification must be provided to ComReg no later than 30 days from the date of publication.

Signed

Kevin O'Brien

Commissioner, Commission for Communications Regulation.

³² Decision Notice and Decision Instrument, Response to Consultation "The Provision of telephony services under Universal Service Obligations" Decision No. 07/12, Document No. 12/71

Annex 2 Legal Basis

ComReg's functions and objectives

188. ComReg's functions and objectives are set out in sections 10 and 12 of the Communications Regulations Acts 2002 to 2011 ("the Act") and Regulation 16 of the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011 ("the Framework Regulations").

189. In particular, Section 12(1)(a) of the Act provides that ComReg is required "...in relation to the provision of electronic communications networks, electronic communications services and associated facilities... (i) to promote competition....and(iii) to promote the interests of users within the Community.. ”

190. In relation to these objectives, the Commission is required to take all reasonable measures which are aimed at achieving them, including measures aimed at:

- *“in so far as the promotion of competition is concerned...ensuring that users, including disabled users, derive maximum benefit in terms of choice, price and quality,”* (section 12 (2)(a)(i) of the Act) and
- *“in so far as promotion of the interests of users within the Community is concerned...ensuring a high level of protection for consumers in their dealings with suppliers...and promoting the provision of clear information, in particular requiring transparency of tariffs and conditions for using publicly available electronic communications services ”* (section 12 (2) (c)(ii) and (iv) of the Act)

191. Section 12(3) of the Act provides that “In carrying out its functions, the Commission shall seek to ensure that measures taken by it are proportionate having regard to the objectives set out in this section”.

192. Regulation 16 of the Framework Regulations provides that ComReg is, amongst other things, required:

- *“in so far as the promotion of competition is concerned... [to] ensure that elderly users and users with special social needs derive maximum benefit in terms of choice, price and quality”* (Regulation 16(1)(b)(i)) and

- *“in so far as the promotion of the interests of users within the European Union is concerned... address the needs of specific social groups, in particular, elderly users and users with special social needs, and...to promote the ability of end-users to access and distribute information or use applications and services of their choice”*
Regulation 16(1)(d)((i) and (ii)

193. Regulation 16(2) of the Framework Regulations provides:

“.In pursuit of its objectives under paragraph (1) and under section 12 of the Act of 2002, the Regulator shall apply objective, transparent, non-discriminatory and proportionate regulatory principles by, among other things.....(b) ensuring that, in similar circumstances, there is no discrimination in the treatment of undertakings providing electronic communications networks and services”

Legal basis for attachment of consumer protection rules to the General Authorisation (“GA”)³³.

194. Regulation 8 of the European Communities (Electronic Communications Network and Services (Authorisation) Regulations 2011 (“the Authorisation Regulations”)³⁴ provides a legal basis for ComReg to attach consumer protection rules to the GA
195. Regulation 8(1) of the Authorisation Regulations provides inter alia that ComReg shall: “as soon as practicable after the commencement of these Regulations, specify conditions to be attached to a general authorisation only as are listed in Part A of the Schedule.”
196. Part A, No. 8 of the Schedule to the Authorisation Regulations lists as one of the conditions that may be attached to the GA: “Consumer protection rules specific to the electronic communications sector including conditions in conformity with the Universal Service Regulations and conditions on accessibility for users with disabilities in accordance with Regulation 6 of those Regulations.”
197. Regulation 8(2) provides that “Any attachment of conditions to the general authorisation.....shall be non-discriminatory, proportionate and transparent”

³³ As defined in Regulation 2 of the Authorisation Regulations which provides that “‘general authorisation’ means an authorisation for an undertaking to provide an electronic communications network or service under and in accordance with Regulation 4”.

³⁴ The European Communities (Electronic Communications Network and Services (Authorisation) Regulations 2011.

198. Regulation 10 (3) of the Authorisation Regulations requires ComReg to ensure that “where a requirement is specified as a condition of a right of use for radio frequencies such a requirement shall not be specified as a condition of the general authorisation in respect of the right of use concerned.”
199. Regulation 15 of the Authorisation Regulations allows ComReg to amend the conditions of the GA or licences in specific circumstances.
200. Regulation 7 of the European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 provides as follows in relation to the entitlement to receive bills that are not itemised:

“Itemised billing

7. (1) An undertaking shall comply with a request of a subscriber to that undertaking to give him or her bills that are not itemised in respect of the electronic communications service supplied by the undertaking to the subscriber.

(2) The Regulator and the Commissioner shall, in the performance of their functions, have regard to the need to reconcile the rights of subscribers to receive itemised bills with the right to privacy of calling users and called subscribers”

Annex 3 Final RIA

6.1 Role of the RIA

201. A RIA is a structured approach to the development of policy, and analyses the impact of regulatory options on different stakeholders. ComReg's approach to RIA is set out in the Guidelines published in August 2007.³⁵ In conducting the RIA, ComReg takes account of the RIA Guidelines³⁶ issued by the Department of An Taoiseach in June 2009 and adopted under the Government's Better Regulation programme.

202. Section 13(1) of the Act, as amended, requires ComReg to comply with certain Ministerial Policy Directions. Policy Direction 6 of February 2003 requires that before deciding to impose regulatory obligations on undertakings ComReg must conduct a RIA in accordance with European and International best practice, and otherwise in accordance with measures that may be adopted under the Government's *Better Regulation* programme. In conducting the RIA, ComReg has regard to the RIA Guidelines (while recognising that regulation by way of issuing decisions e.g. imposing obligations or specifying requirements may be different to regulation that arises by the enactment of *primary or secondary legislation*).

203. In conducting RIAs, ComReg takes into account the six principles of *Better Regulation*. These are:

1. Necessity.
2. Effectiveness.
3. Proportionality.
4. Transparency.
5. Accountability.
6. Consistency.

³⁵ ComReg Document 07/56 and 07/56a

³⁶ [RIA Guidelines - Department of Taoiseach](#)

204. To ensure that a RIA is proportionate and does not become overly burdensome, a common sense approach will be taken towards a RIA. As decisions are likely to vary in terms of their impact, if after initial investigation a decision appears to have relatively low impact, then ComReg would expect to carry out a less exhaustive RIA in respect of those decisions. In determining the impacts of the various regulatory options, current best practice appears to recognise that full cost benefit analysis would only arise where it would be proportionate, or, in exceptional cases, where robust, detailed and independently verifiable data is available. This approach will be adopted when necessary. ComReg is of the preliminary opinion that the amendments to the GA proposed by this consultation are appropriate, proportionate and justified, given the need for consumer protection in this area. Throughout this consultation, ComReg has set out the reasons why it considers that there is a need for the proposed amendments to the GA.

6.2 Step 1: Describe the policy issue and identify the objectives

205. ComReg is of the view that consumers must have the ability to access information relating to their ECS bill. The means by which this access is provided currently varies depending on the provider chosen by the consumer. It also varies due to differing regulatory obligations on providers.

206. It is ComReg's view that in the absence of specific regulatory measures, the needs of all consumers in respect of itemised bills and billing mediums may not be properly met in the future if the decision is left to the discretion of the operator.

207. ComReg's statutory objectives include the promotion of competition, the development of the internal market and the promotion of the interests of users within the community. Another of ComReg's objectives is to promote the provision of clear information, in particular in relation to tariff transparency.

208. ComReg is required to take all reasonable measures which are aimed at achieving these objectives. The measures in this document should contribute to achieving ComReg's objectives.

6.3 Step 2: Identify and describe the regulatory options

209. ComReg has identified the following two regulatory options which may be adopted in order to meet the objectives set out above.

Option 1: Do nothing and the status quo remains.

- Some electronic communications providers would continue to have obligations in this respect for certain services, while others would not, as a result of licence conditions or USO obligations.
- Certain service providers have the freedom to not issue an itemised bill, or to issue their customers with an alternative billing medium without verifying that their customers can access and use the alternative billing medium.
- Some service providers may charge for bills.
- Some customers who have a pre-paid service may not be able to access billing details.
- Some providers may identify free-phone numbers on consumer bills.

Option 2: Attach conditions to the GA in relation to bill itemisation, charges for paper bills and billing mediums.

- Conditions would apply to all ECS providers and would therefore be consistent and transparent across the industry.
- ComReg would remove from licences any existing identical conditions, as appropriate, to ensure that the new conditions do not duplicate any existing laws.
- Any US obligations that are also covered by the new measures will be standardised and no longer be imposed by virtue of the universal service provider.
- Ensures all consumers can access their bills
- Consumers can access bills free of charge
- Consumers have the choice between itemised and non-itemised bills.
- Consumers are alerted to the availability of their bill where the bill is issued in medium other than paper.
- Pre-paid customers can access their bill to verify their charges.
- Free-phone numbers are not identified on consumer's bills.

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

210. Evidence from the responses to ComReg's consultation and its information requests has been used to quantify some elements of this evaluation. ComReg has not conducted an independent evaluation of the accuracy of this data supplied by ECS providers. While this information can be used to provide an indicative assessment of the costs of the measures, assessing the benefits is more challenging.
211. The estimated costs and benefits of the proposed measures to consumers, providers and competition in general are set out below. The measures are assessed by comparing their impact against what would happen if they were not introduced (the counterfactual).
212. Therefore only the incremental effect of the measures, for example, the benefit of having an itemised bill compared to a summary bill, is assessed- not the entire benefit of having an itemised bill.
213. In this context, the counterfactual would be the situation of continuing with the current GA, and hence with trends such as default transferral to e-billing.
214. The following table presents what in ComReg's view would be the regulatory impact of its measures.

Measure proposed	Impact on Service provider	Costs	Impact on Consumer
<p>Provision of an itemised or non-itemised bill free-of-charge to post-paid consumers</p>	<p>Some operators already have certain licence conditions and universal service obligations relating to billing itemisation. (O2, Vodafone, Meteor and eircom must issue itemised bills if consumers want them.)</p> <p>Consequently, the measures on itemised bills should not create any additional burden on these providers.</p> <p>For operators not subject to such licence conditions, itemised bills are not currently an obligation and therefore in the absence of the amended GA, these operators could switch all their customers who are currently receiving itemised bills to a non-itemised bill.</p> <p>All service providers will have the same obligations in respect of itemisation which will promote consistency and competition.</p>	<p>The calculation of the relevant net cost includes:</p> <ul style="list-style-type: none"> • the additional cost per year if customers on summary paper bills opt for itemised bills; • and the additional cost per year if customers on itemised bills would have been switched to summary bills; <p>In terms of itemised bills, having analysed the responses to ComReg’s information request, the additional cost per year if consumers on summary bills receive itemised bills, against a counterfactual that all summary paper bills remain as summary paper bills is estimated to lead to an additional cost of between €0.2m and €0.3m across the entire industry.</p>	<p>Consumer awareness—itemised bills help to promote consumer awareness of their spending patterns, and, if they are on a bundled product, the benefits of that bundle. Greater consumer awareness may help and allows consumers to more effectively shop around and compare tariff plans.</p> <p>Transparency/reassurance—the ability to access an itemised bill may help to promote consumers’ trust in a service provider and increase their propensity to use telecoms services.</p> <p>Parental monitoring—where accounts are held by parents but used by children, the provision of itemised billing (or possibly even the provision of a paper bill) may allow parents to monitor their children’s usage in a more effective manner, which may help to protect their children from any illegal or unsuitable material.</p>
<p>Alternative Mediums and Ability to revert to paper free of</p>	<p>Some of the operators already have certain licence conditions relating to billing medium.</p> <p>O2, Vodafone, Meteor and H3GI are</p>	<p>Service providers will need to maintain a paper bill for certain customers.</p> <p>The savings associated with the alternative bill medium will exceed any</p>	<p>Access: Consumers that can access and use an alternative bill medium can avail of it from their service provider.</p>

Measure proposed	Impact on Service provider	Costs	Impact on Consumer
<p>charge if customers need to</p>	<p>already obliged to provide consumers with paper bills unless the customer consents to an e-bill,</p> <p>Consequently, the measures relating to billing medium should not create any additional burden on these providers.</p> <p>For operators not subject to such licence conditions and in the absence of regulatory changes, they could move all their consumers on paper to an alternative billing medium.</p> <p>Additionally, all providers may switch consumers to an alternative billing medium (and thus avoid the additional cost of paper bills) if the criteria (consent, broadband access, email) set out in Section 3.4.3 is fulfilled.</p>	<p>costs associated with maintaining a paper bill for vulnerable consumers.</p> <p>The calculation of the relevant net cost is the additional cost per year if customers currently on paper bills would have been switched to e-bills, taking into account the savings that providers can make by switching consumers with a broadband connection to e-bills i.e. forgone reduction in expenditure by the operators.</p> <p>This provides an estimate of the maximum cost that could be incurred. In reality, this is likely to be much smaller as in reality the number of customers to whom the measures would apply is likely to be much smaller.</p> <p>The total cost of e-billing against paper billing is calculated based on the following cost components :</p> <ul style="list-style-type: none"> - the cost of the e-bill includes the SMS alerts, the platform for using an e-bill, and the difference in staff costs for operating the e-billing service. the cost of providing a paper bill includes the paper, printing and postage - the e-bill cost is likely to be 	<p>Minimum Standards: Assured of minimum standards in relation to billing, consumers can choose between service providers knowing that they will receive a bill in a medium they can access, free of charge.</p> <p>Printing—from a consumer perspective, the provision of a paper bill saves the cost of printing the bill, should they need to. The cost was estimated by using the cost of home printing per bill multiplied by the number of customers in Ireland without bank accounts. It is assumed that those without bank accounts would have to print bills in order to take them to a relevant payment point. In this case the provision of a printed bill is a consumer benefit since it is a cost not incurred. This benefit is estimated to be in the region of €0.01m-€0.1m.</p> <p>Querying bills—not only can it be an annoyance and hassle for consumer to query their bills, but it also takes up time, the cost of which can be monetised. This benefit is quantified by evaluating the number of consumers who query e-bills on a monthly basis and using an assumed value of time, based on average wages. This benefit is estimated to be in the region of €0.01m-€0.02m.</p> <p>Accessing bills—this benefit is quantified by evaluating the number of</p>

Measure proposed	Impact on Service provider	Costs	Impact on Consumer
		<p>less than 38% of the cost of a paper bill. The additional cost per year if all consumers on paper billing, without broadband connection, stay on paper versus a counterfactual of being switched to e-billing is estimated. This leads to an estimated total cost of between €1.2m and €2.6m, cumulatively across all operators.</p> <p>The measures lessen certain obligations on some mobile providers in relation to billing medium. The potential cost saving is calculated by dividing the mobile customer numbers of O2, Vodafone and Meteor by the estimated proportion of mobile broadband subscriptions, and applying the cost savings associated with an e-bill relative to a paper bill.</p> <p>The estimates of certain mobile operators' cost savings are sensitive to the proportion of mobile users with broadband. The estimate derived using the current market data ranges between €0.02m and €0.04m.</p>	<p>consumers who access e-bills on a monthly basis and assuming a value of the time saved for those on paper bills from not having to use a computer to access the e-bill. This benefit is estimated to be in the region of €0.9m-€2.1m.</p> <p>Protection of access to information by vulnerable consumers— some consumers will have high valuations for the receipt of paper bills owing to their difficulty in accessing alternative formats.</p> <p>Consumers who cannot access the internet or do not have a Personal Computer to access an alternative bill medium will not be charged for the receipt of a paper bill.</p>
Notification of bill availability	Current practice of most service providers who provide alternative bill	No foreseeable additional cost.	Notification: Consumers who do not receive their bill directly will be alerted

Measure proposed	Impact on Service provider	Costs	Impact on Consumer
	<p>mediums not sent directly to their customers.</p> <p>Benefits service providers as it will assist in ensuring their customers have the opportunity to verify their charges and pay their bills on-time.</p>		<p>that their bill is available in line with Data Protection legislation. This assists consumers in verifying their charges in a timely manner and paying their bill on-time.</p>
<p>Calls which are normally free of charge should not be itemised on the consumer's bill.</p>	<p>Service providers who currently itemise free phone numbers on consumer bills will be required to amend their billing systems.</p>	<p>Most service providers already provide this feature. There may be minor costs for a small number of service providers who currently itemise these numbers on consumers' bills.</p>	<p>Data Privacy: All consumers' data privacy will be assured irrespective of the service provider.</p>
<p>Access to their recent transaction details for pre-paid customers free of charge.</p>	<p>Service providers currently provide bill charge details to consumers that wish to query or verify their usage and associated charges. But this isn't always provided free of charge.</p>	<p>This service is available free of charge from some providers already. Given that at least some providers appear to have the systems available to provide this service, many of the costs involved appear to have been incurred already and hence the cost of providing this service would only impact those providers who currently do not offer the service free of charge.</p>	<p>Monitoring: Pre-paid consumers will continue to be able to monitor and control their charges especially if they are in dispute with their service provider in relation to their bill.</p>

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

215. ComReg is of the view that the measures in respect of consumer bills and billing mediums are generally in accordance with current practice and that the measures are reasonable, proportionate, and consistent. ComReg considers that the measures are also in accordance with its statutory objectives to protect consumers and to promote competition pursuant to the Act.
216. ComReg is of the view that the absence of specific obligations, combined with changing practices within industry, that this would have a significant impact on vulnerable consumers in particular.
217. ComReg is of the view that in a changing technological environment it must protect consumers who do not have access to the new technologies that are being used to provide their bills. ComReg also understands that operators need flexibility to define and implement billing mediums based on customer needs. In addition, consumers must be assured of the minimum standards in relation to billing provided by all service providers.
218. The amendments will promote consumer protection by ensuring that consumers do not face unreasonable difficulties or costs when seeking to obtain a paper bill (if needed) from current or new providers.
219. From the analysis of costs and benefits set out above, it can be seen that while there is comprehensive information in relation to the costs of the measures, it is not possible to quantify all the benefits.
220. The costs and benefits which have been quantified are of similar magnitude, with costs estimated to be in the region of €1.4-€2.8m per annum, and quantified benefits between €0.9-€2.2m per year. It is therefore possible that the additional benefits which have not been able to be quantified could lead to benefits exceeding costs. These un-quantified benefits include the impact on vulnerable consumers and those without broadband access for whom the revised GA could have substantial benefits.
221. In relation to free-phone numbers, ComReg is aware that the majority of service providers do not itemise these numbers on the consumer's bill. For those operators who currently itemise these numbers ComReg does not envisage the changes required to billing systems in order to comply with this measure will be substantial.

222. ComReg is of the view that the benefits are likely to be long-lasting. Furthermore, some of the measures are in accordance with measures already required under certain ECS providers licences and do not result in additional costs to these providers.
223. For regulation to be effective, ComReg must ensure that compliance with its obligations can be monitored and, where necessary, enforced. ComReg's compliance functions include monitoring ongoing compliance with obligations, enforcing existing obligations, and handling formal disputes. ComReg will monitor and enforce compliance with these obligations in line with these functions.
224. ComReg therefore remains of the view that the measures are unlikely to result in a disproportionate cost burden and for the reasons set out above the benefits of Option 2 are likely to be long lasting and significant. In contrast if Option 1 were followed no such benefits would follow. Therefore ComReg considers that Option 2 is the best option.

Annex 4 Relevant Billing Medium Features

For billing mediums that are not paper, information provided to consumers by service providers must include at a minimum details as below:

- The precise electronic means (online, via e-mail, etc) offered by the service provider;
- The systems/software/facilities that are required to access the e-bill or online bill as relevant;
- In the case of an online bill, the process for accessing the online bill (procedures for registering, signing-in to the system, passwords, contact for assistance/customer support regarding the online system etc);
- The length of time any online system stores the online bill for
- Whether an electronic bill is available while in receipt of a paper bill;
- Whether electronic bills already issued are available on request in paper
- The security features available to ensure that there is no unauthorised access to electronic bills;
- Whether or not the electronic bill (e-bill or online) is accessible for consumers with disabilities (for example using screen-reader software);
- How to “download” or store the online bill on the individual’s personal computer;
- How to print an online bill.