



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

Missed and Delayed Service and Installation Appointments – End-User Compensation

Submissions to Consultation 24/89

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Content

1. Virgin Media
2. Three
3. ALTO
4. Blacknight
5. BT Communications Ireland Limited
6. Eir
7. National Broadband Ireland
8. IFA Telecom
9. Vodafone
10. Prepay Power
11. Siro
12. Sky Ireland
13. Pure Telecom
14. Imagine Ireland
15. Westnet

1 Virgin Media



Virgin Media response to:

ComReg Consultation on “Missed and Delayed Service and Installation Appointments – End User Compensation” - (ComReg Ref 24/89, published on 6 Nov 2024)

20 December 2024

Introduction

We are pleased to submit Virgin Media's response to the public consultation titled "Missed and Delayed Service and Installation Appointments – End User Compensation" ("the Consultation") which was published by the Commission for Communications Regulation ("ComReg") on 6 November 2024 (ComReg Ref 24/89).

None of this response is confidential.

The terms used in this response are the same as in the Consultation. These include the terms defined in the Draft Decision Instrument, in Annex 1 of the Consultation, and the following terms:

- "Code" means the European Electronic Communications Code 2017;
- "Code Regulations" means the European Union (Electronic Communications Code) Regulations 2022;
- "2023 Act" means the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023; and
- "MDSIA" means "missed and delayed Service and Installation Appointments".

Summarising the Consultation, the overall proposal is to set the following minimum QoS standards for MDSIA:

- (i) A Provider must offer a Customer a range of 4-hour Times Slots and Working Days (Mon – Sat incl., excl. public holidays) to choose from, before the Customer agrees to an Appointment for a Service or Installation.
- (ii) A Provider must confirm an Appointment with a Customer as soon as practicable after it is made, by email or SMS.
- (iii) A Provider must fulfil an Appointment and an Appointment shall be deemed not fulfilled if it is missed.
- (iv) An Appointment is missed if the Technician does not attend at the Customer's Premises during the agreed 4-hour Time Slot on the agreed Working Day, unless the Provider can establish that:
 - a. at least 24 hours' notice of the reschedule or cancellation was given, or
 - b. a Technician arrived during the agreed Time Slot but could not gain access, due to no fault of the Provider.
- (v) An Appointment is delayed if it is rearranged before the initial agreed Time Slot has expired, by agreement between the Provider and Customer, and if the rearranged Appointment is on the same Working Day and is fulfilled on that date.

The Draft Decision further states that failure to comply with any QoS standard, as set out above, would constitute a "specified failure" under section 39 of the 2023 Act. It would therefore be a specified failure:

- (i) to fail to arrange and confirm an Appointment;
- (ii) to fail to fulfil an Appointment;
- (iii) to miss an Appointment; or
- (iv) to delay an Appointment.

The Consultation further proposes that the minimum QoS standards would apply to all instances of MDSIA and not only those that occur in cases of porting or switching.

Section 2 sets our responses to each of the five questions listed in Annex 3 of the Consultation.

2 General Questions

Q.1 Do you agree with ComReg's proposed minimum QoS standards for Missed and Delayed Appointments?

At the outset, we would note that at Virgin Media we are committed to delivering the highest quality of service to our customers at every point in the customer relationship. From the moment our customers first engage with us, and through every interaction and transaction, we aim to ensure that their experience is positive and meets or exceeds expectations. Our exceptional customer service is the cornerstone of our success, especially given the highly competitive retail markets in which we operate.

We also agree with ComReg's overarching view that missed or delayed Appointments can cause inconvenience to end-users such that they should be avoided, wherever possible, and where an appointment is cancelled or delayed that all reasonable measures should be taken to mitigate the impact on the end-user. We do not dispute the importance of minimising occurrences of MDSIA and mitigating impacts. However, we do not consider that it is justified or proportionate to impose very tightly defined QoS obligations of the type proposed in the Consultation, and especially not in the case of MDSIA occurrences that do not relate to switching or porting of customers. The reasons for our position are set out below.

i. Lack of pre-Consultation engagement with industry

There are numerous practicalities and complexities involved in scheduling and fulfilling customer appointments. These have not been properly considered by ComReg and this should happen before any strict obligations are implemented. The Draft Decision Instrument proposes an overly rigid framework that would eliminate much of the flexibility Providers need to effectively engage with both Customers and Wholesalers. Several concerns, in this regard, were raised during the Industry Engagement Forum held at ComReg's offices on 18 December 2024. To our knowledge, this was the only occasion, apart from the Consultation, where industry stakeholders were afforded the opportunity to express their views. It would have been advantageous for all parties if ComReg had issued a Call for Inputs or had otherwise engaged with industry prior to initiating a full consultation. This is an area where it is crucial to consult with the people "on the ground" as only they have a comprehensive understanding of the intricacies of setting and fulfilling customer appointments. Such in-depth engagement is essential to determine the appropriate obligations and the manner of their implementation. For example, rather than issuing a standalone decision, as proposed, the existing framework for porting and switching could be amended to incorporate any new provisions. We therefore submit that ComReg should adjust course and fully engage with industry. We would welcome such engagement noting that we do not oppose justified and proportional rules that give effect to Article 106(8) of the Code, though we do object to rules that would exceed the scope of Article 106(8)).

ii. Beyond the purpose and scope of the Code

The core legislation is the Code, which underpins all national legislation, and Article 106(8) of the Code is clear as to its purpose and scope. The full text of Article 106(8) and Recital 282 of the Code is set out below:

- *Article 106(8) - Member States shall lay down rules on the compensation of end-users by their providers in an easy and timely manner in the case of the failure of a provider to comply with the obligations laid down in this Article, as well as in the case of delays in, or abuses of, porting and switching processes, and missed service and installation appointments.*

- *Recital 282 - In order to ensure that switching and porting take place within the time-limits provided for in this Directive, Member States should provide for the compensation of end-users by providers in an easy and timely manner where an agreement between a provider and an end-user is not respected. Such measures should be proportionate to the length of the delay in complying with the agreement. End-users should at least be compensated for delays exceeding one working day in activation of service, porting of a number, or loss of service, and where providers miss agreed service or installation appointments. Additional compensation could also be in the form of an automatic reduction of the remuneration where the transferring provider is to continue providing its services until the services of the receiving provider are activated.*

Article 106(8) does stipulate that Member States shall lay down rules on compensating end-users where a provider fails to comply with its obligations under Article 106, and where porting or switching processes are delayed or abused, and Article 106(8) does include missed service and installation appointments in this requirement. That much is clear. However, Article 106(8) does not require Member States to lay down rules on compensation for all categories of MDSIA, irrespective of whether they relate to porting or switching.

In the Consultation, ComReg acknowledges that Article 106 of the Code is solely concerned with switching and porting and that Article 106(8) is drafted in that context. ComReg is also clear in its proposal to *"extend the specification of minimum QoS standards and of compensable failures to MDSIA beyond the scope of porting and switching"* (Paragraph 1.10 of the Consultation).

We do not consider it justified or proportionate for ComReg to go beyond the scope of the Code in the manner proposed. It is clear, from Article 106(8) and Recital 282 of the Code, that the EU legislature sought to address the issue of MDSIA only in the context of switching and number portability. The EU legislature did not create, or seek to create, statutory provisions that would empower regulators to impose rules for MDSIA in general. The reason for this, presumably, is that the EU legislature did not consider it necessary. This approach makes sense if one considers the overarching economic principle that competitive markets drive price and quality, such that regulatory intervention is justified and appropriate only if there is some clearly identified market failure or consumer harm that cannot be corrected by competition alone.

Article 106 is solely concerned with any abuse of, or interference with, switching and porting, and not with missed service and installation appointments in and of themselves. As noted above, ComReg acknowledges the limited scope of Article 106(8) of the Code and proposes to impose broader QoS standards for all MDSIA under national legislation - Section 39(1)(g) of the 2023 Act:

37. (1) The Commission may specify minimum quality-of-service standards to be met by providers of internet access services or publicly available interpersonal communications services when providing such services to end-users generally, or such class of end-user as the Commission may specify, in respect of any of the following:

... (g) connections, including –

- i. the time for initial connection to the network,*
- ii. connection failure rates, and*
- iii. missed and delayed service and installation appointments*

On the face of it, Section 39(1)(g) of the 2023 Act does appear to grant ComReg wide discretionary power, to include doing what is proposed in the Consultation (though always subject to actual evidence of market failure or consumer harm, of which there is almost none). However, the preamble to the 2023 Act makes clear that its core purpose is *"to give effect to certain provisions of Directive 2018/1972*

of the European Parliament and of the Council of 11 December 2018 establishing the European Electronic Communications Code". The preamble also states that the 2023 Act provides "for measures to assist consumers and other end-users"; it is evident, however, that the nature and scope of such consumer-related measures, as may be taken by ComReg, ought to have very close regard to the relevant provisions of the Code.

The Code lies at the heart of the telecommunication regulatory framework across the EU and national regulatory authorities ("NRAs") should closely adhere to it. Clearly, an NRA cannot take a national measure that breaches the Code or runs contrary to it. An NRA should also be very cautious before taking any national measure that goes beyond the scope of the Code, even if the NRA is empowered to take that measure under national legislation. This is especially true if the core purpose of the relevant national legislation (i.e., the 2023 Act) is to transpose the EU legislation (i.e. the Code).

In short, ComReg is not strictly prohibited from applying a provision of national legislation in a manner that goes beyond the purpose and scope of the equivalent EU legislation, but ComReg should have the strongest possible grounds for doing so. ComReg, at the very least, should be able to produce hard evidence showing consistent behaviour within industry that results in significant ongoing consumer harm. Based on the content of the Consultation, ComReg has not met this evidential threshold. The combination of going far beyond the scope of the Code, and doing so without any solid evidential basis of market failure or consumer harm is, altogether a step too far.

We further note ComReg's rationale for adopting a wider approach as set out in paragraphs 4.7 and 4.8 of the Consultation which includes this summation: "*By introducing a compensation scheme for certain missed and delayed service and installation appointments and not others, the narrow approach will result in certain MDSIA being favoured over others. ComReg is of the view that the direct end-user harm of an MDSIA for an end-user to be similar, regardless of whether the appointment is associated with the switching or porting process or more generally.*" We must submit that ComReg's reasoning is flawed. The EU legislature focussed on compensation for missed appointments in the specific context of porting and switching. It did so to ensure the smooth and timely completion of ports and switches, not because it was concerned about setting rules for broadband-related appointments in general.

Many thousands of commercial appointments are made in Ireland every day, across multiple industries, and the vast bulk of them happen under market conditions rather than regulatory obligations. If a doctor has a personal emergency and is forced to cancel his appointments for the day, his patients are not entitled to compensation. If a plumber takes longer than expected to complete a job which delays his next job, the awaiting customer is not entitled to compensation. Best practice and professionalism apply in such circumstances, not imposed regulatory obligations. Broadband-related appointments that do not concern porting or switching, and which happen in highly competitive retail markets, are essentially no different to appointments in any other industry.

iii. No evidence of substantial market failure or consumer harm

The Consultation describes, at length, the intended purpose and scope of the proposed minimum QoS standards and the legislative basis for establishing the standards, but it says practically nothing about the nature and scale of the supposed problem which the new QoS standards would seek to correct. The Consultation seems to take it as read that MDSIA is a significant issue within the industry such that regulatory intervention is justified. However, practically no evidence has been produced to establish that this is the case. Paragraph 2.2 of the Consultation states that approximately 3,600 issues were recorded by ComReg Consumer Care in Q1 2024, of which 82% related to ECS and, of that 82%, 5% related to installation issues. Those figures indicate that approximately 147 complaints, out of approximately 3,600 recorded over a 3-month period, concerned installation and there is no breakdown beyond that. Footnote 17, on page 8, further states that "*ComReg's Consumer Care data indicate that for the period January 2023 to December 2023, of the total appointment related*

complaints received, approximately 65% were complaints about missed appointments and 35% were complaints about rescheduled appointments without customers' consent." Again, there is no further breakdown. For instance, 65% and 35% of how many complaints in total? And how many complaints were upheld and how many quickly resolved? Paragraph 2.2 and Footnote 17 contain practically the only hard data in the entire 55-page document. This is insufficient. Regulatory intervention is justified and proportionate only if it seeks to address some clearly identified significant market failure or consumer harm. It cannot be justified or proportionate if it is based on mere supposition and repeated reference to legislative provisions, but very few actual facts. Evidence is required and, in the case of the Consultation and the Draft Decision, the evidence is notably absent.

iv. Market forces are sufficient

If the quality of the services provided by Virgin Media Ireland do not meet our customers' expectations, they can go elsewhere. We know this and, it must be said, our competitors know it too, for this is the nature of any competitive telecommunications market. This plain fact goes to the heart of our concern with ComReg's proposal to impose minimum QoS standards for all MDSIA. Market driven competition is the most effective means of driving prices down and quality up and, at a certain point, it becomes necessary to rely upon market forces in Ireland's highly competitive markets.

Blanket QoS standards for MDSIA would have been more justified ten or twenty years ago when the market was less evolved. Today, they are unnecessary. There is no need to impose blanket QoS standards in a retail market that is aggressively competitive because market forces compel all players in the market to operate according to high QoS standards. ComReg, in effect, is in large part proposing to compel Providers to do that which they already do. This point is expanded upon in our response to Q.4 below, concerning the draft Regulatory Impact Assessment.

For example, Paragraph 2.2 of the Consultation states that "*in the absence of there being a consequence for providers for MDSIA, there may be little incentive to reduce these service quality failures that may occur.*" The assumption that there are currently no consequences for Providers in respect of MDSIA is unfounded and incorrect. A Provider who delivers poor QoS in relation to MDSIA damages its relationship with the immediate customer and will gain a reputation for poor QoS amongst consumers generally. In a highly competitive retail market, no Provider can afford a reputation for poor QoS.

ComReg's proposed measure is also contrary to the overarching economic principle of light-touch regulation, meaning that an NRA should intervene in competitive retail markets only when it is necessary to correct some clearly identified, significant market failure or consumer harm, and should avoid imposing unnecessary burdens on businesses. In this regard, at Virgin Media we already operate off QoS standards that are approximately equivalent to those proposed by ComReg as, indeed, do our competitors. We currently do the following in respect of Installation:

- We offer Customers a choice of AM and PM Times Slots and Working Days.
- We confirm Customers' Appointments by SMS.
- We aim to fulfil any Appointment that has been made.
- If an Appointment must be cancelled or is delayed, we inform the affected Customer promptly and take every reasonable measure to minimise inconvenience.

ComReg notes, in paragraph 2.4 of the Consultation, that "*multiple stakeholders ... are usually involved in scheduling, facilitating and attending an installation or service appointment, effective coordination of the appointment is necessary to avoid any end-user harm.*" We agree with this observation and we agree that missed or delayed appointments can cause inconvenience to end-users such that they should be avoided, wherever possible, and if an appointment must be cancelled or delayed then all reasonable measures should be taken to mitigate the impact on end-users. There is no dispute on the

importance of minimising occurrences of MDSIA and mitigating the impact where it does occur. We only question the need for narrow QoS obligations. Overall, the Consultation comes across as a solution in search of a problem.

Q.2 Do you agree with ComReg's proposals to specify a breach of the minimum QoS standards proposed as failures under Section 39(a) of the 2023 Act?

For the reasons set out in our response to Q.1, we do not consider it justified or proportionate for ComReg to impose blanket QoS standards in relation to MDSIA. We again note that doing so would entail going far beyond the scope of Article 106(8) of the Code, without evidence of any significant market failure or consumer harm as to justify such a degree of regulatory intervention. Consequently, we also do not agree with the proposal to specify that breaches of the proposed minimum QoS standards would constitute specified failures under Section 39(a) of the 2023 Act.

Q.3 Do you agree with ComReg's preliminary view that it is appropriate to extend the specification of minimum QoS standards and compensable failures to all MDSIA?

For the reasons set out in response to Q.1, we do not agree that it is appropriate for ComReg to extend the specification of minimum QoS standards and compensable failures to all MDSIA. Doing so would go far beyond the scope of Article 106(8) of the Code, without evidential justification.

Q.4 Do you have any comments on ComReg's draft regulatory impact assessment?

Paragraph 5.11 of the Draft RIA states: *"ComReg wants to ensure a consistent level of protection and redress for end-users in the case of any consumer harm arising from MDSIA and promote their interests, particularly by enabling maximum benefits in terms of quality-of-service on the basis of effective competition."* We fully support the objective of maximising end-user benefits in terms of QoS through effective competition. We note, in this regard, that regulatory intervention in an effectively competitive market should occur only when there is robust evidence of a failure of market competition. Intervention in the absence of such robust evidence would be contrary to the principle of market-based efficiency.

Paragraph 5.12 of the Draft RIA states: *"ComReg recognises that any regulatory measure should be kept to the minimum necessary whilst ensuring the needs of industry and end-users are met"*. We agree with this statement; however, the Consultation does not propose a regulatory measure that would be the minimum necessary, but the opposite. The proposed regulatory measure would go far beyond the scope of the core EU legislation, without evidence as to why this is justified or proportionate.

As to Section 5.4 of the Draft RIA, our views are set out below as to ComReg's preliminary conclusions on the likely impacts on Providers:

Option i	ComReg assessment of impact on Providers	Virgin Media response
1. Appointment Agreement	<p><i>The requirement of an agreement of a specific time and date is an important basis for this standard, as it is used to subsequently determine whether an appointment has been missed or delayed.</i></p> <p><i>Currently standard practice is to agree a time and date and therefore</i></p>	We generally agree with ComReg's observations. However, it is currently industry standard practice to agree a time and date for an Appointment. That being the case, why is it necessary to turn an established practice into a QoS obligation? We think it is not necessary. We see no

	<i>ComReg believes the inclusion of this requirement in the minimum QoS standards on providers should not result in a significant incremental effort for providers, while also providing surety for providers.</i>	need to compel Providers to do that which they already do.
2. Confirmation of Appointment	<p><i>ComReg believes it is current standard practice for providers to issue a confirmation through SMS or otherwise to end-users when an appointment is agreed. Therefore, this requirement in the standard should not be onerous for providers operational processes.</i></p> <p><i>The requirement to be in a position to provide a record of agreement can be facilitated by the confirmation issued, particularly in the case of a dispute, and therefore should not pose a significant burden on providers or cost of implementation.</i></p>	We reiterate the same point as with No.1 above. If current standard practice is for Providers to issue a confirmation through SMS or otherwise, why is there a need to turn this established practice into a QoS obligation?
3. To allow for the use of time slots	<i>Currently largely standard practice in the industry allow for the use of time slots and therefore its inclusion in the standards should minimise regulatory burden and cost of implementation. Time slots allow for a more effective planning, and should benefit providers as they can employ flexibility in technicians' schedules.</i>	We reiterate the same point as with Nos. 1 & 2 above. If it is largely standard industry practice to use time slots, why is there a need to turn this established practice into a QoS obligation?
4. Limiting the length of Time Slots to an interval of time no longer than 4 hours that falling within the time period from 8am to 1pm or the time period from 1pm to 6pm	<i>By limiting the length of time slots, this may assist efficiency in the planning and scheduling of appointments, assisting providers to fulfil appointments. This provision in the standard may require some providers to change their operational practices in terms of scheduling appointments, including:</i> - Operational change to meet shorter time slots (i.e. planning of technicians' daily schedule). - This may take some time to implement fully and as a result missed and delayed appointments may occur which may increase the volume of compensation payments due to be paid. However, efficiency gains in the planning and scheduling of appointments would minimise any	We agree with Time Slots of specific lengths though we offer a 4-hour AM Time Slot, from 8am to 12pm, and a 5.5-hour PM Time Slots from 12pm to 5.30pm. This is an example of where close industry alignment would be required, between Providers, Wholesalers, and Wholesalers' third-party service providers. And again, we see no need to impose an QoS obligation for something which is already industry practice.

	<i>regulatory burden and compensation paid.</i>	
5. Missed Appointment	<i>ComReg believes that the definition of a missed appointment, prior to considering the exceptions listed, provides a basis for minimum QoS standards which is not onerous on the provider.</i>	We would support a definition of missed appointment in the context of QoS standards for porting and switching under Article 106(8) of the Code.
6. Adequate Notice	<i>ComReg proposes that RSP's will not be liable to pay compensation if they cancel or reschedule an appointment no less than 24 hours in advance of the appointment. This would help enable providers to minimise possible compensation payments where they can foresee that an appointment is unlikely to be met. ComReg is aware that in principle providers will encounter situations where adequate notice cannot be provided due to unforeseen circumstances, such as delays in previous appointments, traffic etc. Therefore, the length of the notice period may impact the volume of MDSIA and, subsequently, compensation claims. Thus, a 24-hour notice period, compared to a shorter period, may have a higher volume of compensation claims for MDSIA.</i>	ComReg correctly observes that Providers will sometimes encounter unforeseen situations where adequate notice cannot be provided. It would also be exceptional that our team would be aware, 24 hours in advance, of a circumstance that would make it necessary to cancel or reschedule an appointment. A forecast of a severe weather event, for example, might give the level of certainty needed to notify customers 24 hours in advance. Most often, however, the circumstances that necessitate a cancellation or rescheduling are unpredictable and arise at short notice on a daily basis. For example, if a road accident results in a few hours of very slow traffic then that could throw a Technician's entire schedule out of kilter but this is not something that anyone can predict. There must be enough flexibility in the system to enable parties to adjust to real-world situations as they occur. A minimum 24-hour notice, in order for a Provider to avoid being liable to pay compensation, is far too long. Providers would become liable to pay compensation in all sorts of cases that were beyond Providers' reasonable control.
7. Inability to access premises	<i>Providers may have a lower volume of compensation payments through the inclusion of this exception. However, the inclusion of this provision will also create an obligation for providers to evidence how the technician could not access the premises, in the case of a dispute. Many providers have existing procedures for instances where endusers do not respond, or the</i>	We consider ComReg's proposal regarding inaccessible premises to be fair and reasonable, though only in the context of QoS standards for porting and switching under Article 106(8) of the Code. ComReg is also correct in noting that many providers already have procedures for instances

	<i>premises is inaccessible, which would minimise any regulatory burden and cost of implementation.</i>	where end- users do not respond, or where a premises is inaccessible.
8. Delayed appointments	<i>Providers are likely to benefit from the delineation between missed and delayed appointments in their compensation schemes, as delayed appointments may require a lower compensation amount. By including this definition, providers can endeavour to meet appointments later than originally agreed to minimise a compensation owed to end-users.</i>	Overall, we consider ComReg's proposal regarding delayed appointments to be reasonable, though subject to future engagement on the details while we reiterate that this should only apply in the context of QoS standards for porting and switching, under Article 106(8) of the Code.

Q.5 Do you have any comments on the draft Decision Instrument?

We would have no overall objection to a decision by ComReg (or some other measure equivalent to a decision) which fell squarely within the scope of Article 106(8) of the Code – i.e., which applied to MDSIA but only in the context of porting and switching. We further suggest that any such measure could be built into the existing framework for porting and switching, which works very well because it was established through lengthy engagement with industry on the operational issues.

We would further note that even if the current draft Decision was one that we considered justified and reasonable, a 3-month timeframe for its implementation would be far too short. In terms of the amount of preparation and industry engagement that would be required, 12 months would seem a more appropriate timeframe. Comreg correctly notes, in paragraph 2.4 of the Consultation, that because *"multiple stakeholders (including the RSP, the network operator and/or the network operator assigned contractor) are usually involved in scheduling, facilitating and attending an installation or service appointment, effective coordination of the appointment is necessary to avoid any end-user harm."* A timeframe of approximately 12 months would be needed to arrange for such effective coordination, especially if compensation payments to customers were to be mandated.

In closing, we would strongly urge ComReg to adjust its course and to fully engage with industry on the detail and practicalities before taking any final measure. We emphasise our willingness to engage positively with ComReg and with other stakeholders on this matter, in order to find a reasonable and practical solution that meets the reasonable needs of end-users while also minimising the regulatory burden on industry.

- End -

2 Three

Three

Three's response to the Consultation by ComReg on Installation Appointments – End-User Compensation

20th December 2024



Confidential Version

Installation Appointments Compensation

Contents

1	Introduction	3
2	Summary	4
3	Detailed Response	5
3.1	Timeslots Vs all day appointments.....	5
3.2	Duration of timeslots.....	5
3.3	Working Day	6
3.4	Implementation Period	6
3.5	Competition aspects renegotiation of wholesale SLAs	7
3.6	Benchmarks	9

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Installation Appointments Compensation

1 Introduction

Three welcomes the opportunity to comment on ComReg's consultation on Installation Appointments – End-User Compensation. While the concept of mandating minimum service standards is clear the extent to which a Regulator should intervene in the detailed operation of retail markets which are considered to be effectively competitive is less so.

A balance must be struck between consumer protection and aspects of the market which might constitute areas for competitive differentiation.

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Installation Appointments Compensation

2 Summary

Three's position on the ComReg proposals can be summarised as follows:

- ComReg's proposed definition of appointment slots is overly granular and risks unintended adverse outcomes both in terms of operational efficiency, costs and reduction in potential competitive differentiation.
- The proposals to mandate a six-day working week for appointments is not adequately justified and risks unintended adverse outcomes both in terms of operational efficiency, costs and reduction in potential competitive differentiation.
- The proposed timelines for implementation of the proposed operational changes along with the required changes to IT systems is unrealistically short.
- ComReg has failed to adequately take account of the structure of the market and in particular the fact that a significant proportion of retail service provision is based on wholesale inputs where retail service providers have limited countervailing bargaining power and will not be able to "back-off" the proposed retail obligations into the wholesale inputs.
- The consideration of competition impacts in the RIA fails to adequately assess the potential competition incentives for vertically integrated wholesale providers not to "back-off" the retail requirements.
- The comparators that ComReg has chosen as "benchmarks" do not support ComReg's proposed approach.

These positions are set out in more detail below.

3 Detailed Response

Three believes that ComReg's approach to specifying minimum QoS standards for Missed and Delayed Appointments is overly prescriptive and granular. it represents too low level an intervention onto the detailed operation of the market. ComReg's approach will likely force cost into the field operations of Service Providers and potentially restrict retail competitive differentiation.

3.1 Timeslots Vs all day appointments

In relation to the issue of morning/afternoon versus all day appointments Three notes that ComReg has outlined that the domestic comparator (as opposed to international comparators) the Gas Networks Ireland Customer Charter explicitly provides for appointments which are "*am, pm or all day*"¹. This comparator is a strong indicator of what is expected and acceptable in the context of the wider Irish market for service delivery.

ComReg has outlined that there may be consumer harm from all-day appointments as opposed to half day timeslots but has not quantified the extent of this harm, especially in the context of the post-Covid environment in respect of hybrid and remote working.

ComReg also explicitly acknowledges that "*RSPs may be required to amend their operational processes relating to allocating technicians to appointments.*"

ComReg has not provided any estimate of the effort required to make and support these changes.

Absent any quantification of the relative costs and benefits it is not clear how ComReg has reached its conclusion that this proposal represents a proportionate intervention in the market.

3.2 Duration of timeslots

ComReg proposes to require a timeslot that is no more than 4 hours long that which cannot end after 1pm for "morning" appointments and cannot start after 1pm for afternoon appointments. This approach is not evident in any of the comparators chosen by ComReg. ComReg proposes to define the Working Day as beginning at 8am and finishing at 6pm. When split into morning or afternoon at 1pm this results in two 5 hour slots, 8:00-13:00 and 13:00-18:00pm. ComReg's proposal would result in 4 timeslots, 8:00-12:00, 9:00-13:00, 13:00-17:00 and 14:00-18:00. This adds significant complexity to IT systems and field force scheduling systems and process.

One example of the complexities can be illustrated as follows, given travel time and likely time spent on site a technician with an 8:00 appointment is unlikely to be above to move to a second appointment at 9:00. This means that to make use of the 9:00-13:00 slot Service Providers would have to have two pools of field force – one starting at 8:00 and another at 9:00.

¹ Paragraph A4.2 of the Consultation document

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Installation Appointments Compensation

ComReg has posited that offering one 5 hour am/pm slot as opposed of two 4 hour slots, which have a 75% overlap with the corresponding 5 hour slot, would result in sufficient consumer harm to justify a more granular intervention in the operation of the market and would similarly be proportionate in the light of the additional complexity and cost that would result from this intervention. Three does not believe that this has been demonstrated.

3.3 Working Day

ComReg has proposed a definition of the Working Day that would include Saturday. This based on an observation that "*some providers ... currently offer end-users a broader selection of timeslots and dates to choose from including on Saturdays*".

The fact this is available from some sections of the market and not others indicates that this is potentially a competitive differentiator.

As worded, the draft Decision Instrument, would oblige Service Providers to offer appointments on Working Days. Extending the definition of Working Day to include Saturdays in respect of minimum QoS standards is a significant intervention market.

For those Providers not already doing so it would require new working arrangements to achieve six day cover.

ComReg has not provided any justification as to why this intervention is necessary or proportionate.

3.4 Implementation Period

ComReg has proposed a total of six months for Service Providers to have a functioning compensation scheme in place.²

However ComReg also sets out that "*missed or delayed appointments may arise as RSPs and technicians adapt to narrower time slots.*" This is an explicit recognition by ComReg that the proposed six month implementation period is too short fully implement the proposed changes.

In the RIA ComReg outlines that "*Existing third-party SLAs may need to be reconsidered and may involve renegotiation of aspects of SLAs.*"³ ComReg has direct visibility of the timelines involved in renegotiation of SLAs from the various Industry product fora. Three does not believe that any of the information available to ComReg would demonstrate that a six month period for changes to wholesale SLAs is either achievable or realistic.

² Paragraph 3.17 of the Consultation document

³ Section 5.15 of the Consultation document

3.5 Competition aspects renegotiation of wholesale SLAs

If a Retail Compensation level is set at €10 per event and a corresponding Wholesale level is set at €8 per event then there are clear incentives for a vertically integrated Wholesale Service Provider not to offer a wholesale SLA.

This is illustrated below.

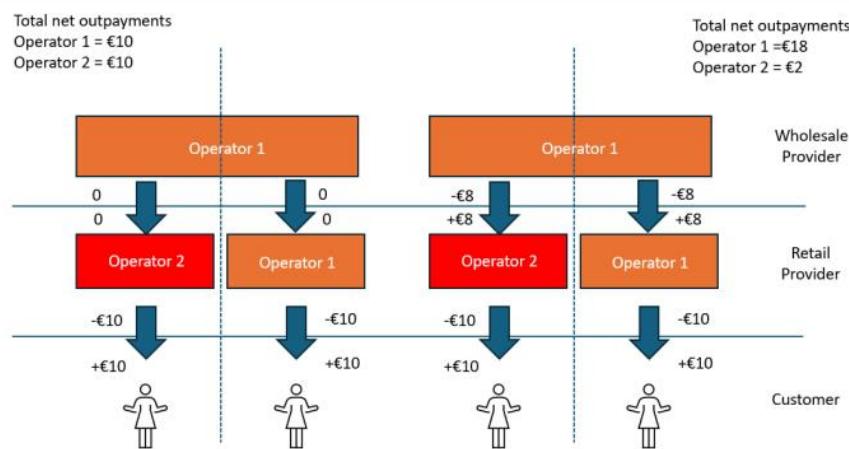


Figure 1

Where no wholesale compensation is offered both providers are equally affected by any shortfalls in service performance. Where wholesale compensation is offered the vertically integrated provider is at an overall cost and competitive disadvantage. Unless there is very strong countervailing bargaining power there is no incentive for Operator 1 to offer wholesale compensation.

At the wholesale level similar dynamics apply.

Consider the situation of two wholesale providers, one vertically integrated and the other not.

In this scenario if both wholesale providers offer wholesale compensation then the vertically integrated provider has higher overall outpayments than either its retail competitors or its wholesale competitor. See Figure 2

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Installation Appointments Compensation

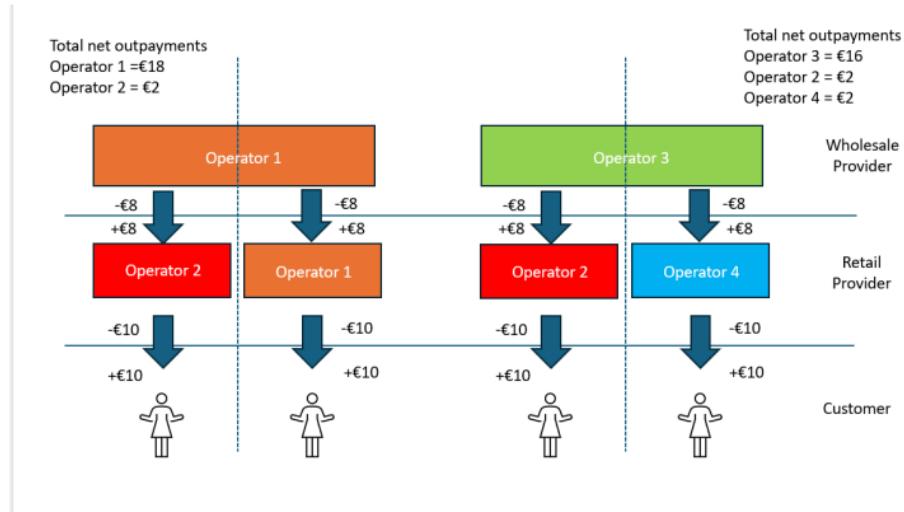


Figure 2

If the vertically integrated provider chooses not to offer wholesale compensation, then it has a lower overall outpayment compared to its wholesale competitor and has improved its position as against its retail competitors. See Figure 3 below.

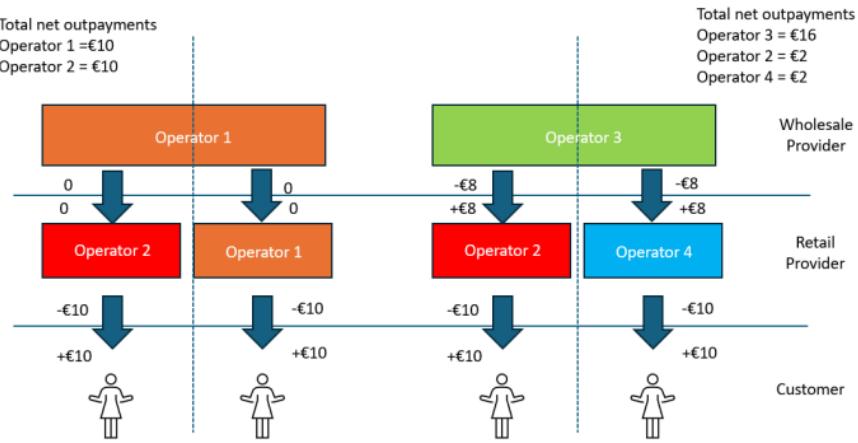


Figure 3

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Installation Appointments Compensation

ComReg posits that “*a well-functioning, competitive market should ensure wholesale inputs are adequate to underpin any retail obligations concerning the standards and compensation*”⁴

However this bare assertion does not take account of the actual cost and time required to switch wholesale providers.

For example NBI’s standard connection charge is €100⁵ and eir’s connection charge for an FTTH connection is €40⁶. Three’s own experience of a change in platform provider is that changes to end user CPE equipment (which are separate and in addition to connection costs) for [REDACTED] customers cost just under €[REDACTED].

While market force might allow for retail provider migration in the longer term the examples above show that, when taken in conjunction with high switching costs and long switching leadtimes, in the short to medium term there are significant advantages to a vertically integrated provider with a large embedded base in not offering wholesale compensation.

ComReg’s RIA fails to adequately take account of these potential competitive distortions and the extent to which these might result in adverse consumer effects.

3.6 Benchmarks

Three notes that the referenced “Benchmarks” are not benchmarks per se they are selected examples of approaches in other sectors and countries. In relation to the Irish comparator referenced (Gas Networks Ireland) the extract that ComReg has used actually provides for all day appointments – ComReg does not address the fact that this selected examples has adopted an alternative approach to that which it is proposing or why the approach which is acceptable in one sector of the Irish economy is not appropriate to the communications sector.

Of the three non-Irish comparators one of them (UK) is not covered by the EECC and in any event the Ofcom documents referenced by ComReg do not address the issue of timeslots for appointments.

The details set out by ComReg on the Slovenian regime do not mention missed appointments at all – they reference delays in switching and circumstances where compensation would not be payable for such delays.

The Belgian example does not specify timeslots more granular than “morning” and “afternoon”

It would appear therefore that none of the “benchmarks” advanced by ComReg can be relied on in support of a market intervention which imposes restrictive operational constraints on the segmentation of the working day and indeed the definition of a

⁴ Section 5.14 of the Consultation Document

⁵ [NBI Published Promotions v2.3 \(Clean \(1\).pdf](#)

⁶ [Broadband Price List V39.0 Unmarked 03112024 \(1\).pdf](#)

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Installation Appointments Compensation

working day. ComReg's analysis simply omits any consideration of these aspects of the comparators it itself has chosen.

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Page 10 of 11

Confidential Version

Installation Appointments Compensation

-End-

NON-CONFIDENTIAL

Page 11 of 11

3 ALTO



Consultation: Missed and Delayed Service and Installation Appointments - End-User Compensation - Ref: 24/89 and 24/95.

Submission By ALTO

Date: December 20th 2024

ALTO is pleased to respond to the Consultation: Missed and Delayed Service and Installation Appointments – End-User Compensation - Ref: 24/89 and 24/95.

ALTO welcomes this opportunity to comment on this consultation paper. We also thank ComReg for granting industry and ALTO members an extension of time to consider the complex matters arising within this Consultation.

Preliminary Remarks

ALTO notes that ComReg's Consultation does not have desirable levels of evidence upon which to base its decisions within this Consultation. Instead, ComReg moves to comply with conditions within Title III of the Code or EECC. While we have no major objection to this, we note that some of the changes proposed by ComReg under MDSIA do not adequately consider or arguably do not consider at all, the position of wholesalers and wholesale agreements.

ALTO notes, and as should be obvious, that this is not some *ex-ante* measure, but it is instead a response to legislative intervention. There are not Significant Market Power ("SMP") levers or requirements prevailing to dictate that ComReg take a sweeping set of interventions which may costs industry in terms of time and system changes and updates. One very obvious change arising is that of a redefinition of the Working Day and arguably the working week. There is also clarification required on what precisely the market and working impact will be of "*all day appointments*" that remains quite unclear to ALTO at this time.

Similarly, elements of ComReg's definitions and proposed Working Day definition appear to be out of synchronisation with other applicable laws and may have serious unintended commercial consequences on the wider market.

The Consultation paper does not account for wholesale operators providing access services in the manner that would ordinarily be anticipated. ALTO submits that ComReg should carefully consider the potted history on the market of negotiating Service Level Agreements ("SLAs") and compensation or penalty provisions which has been a market feature in both the wholesale and retail markets since early liberalisation of the sector. The market considers these issues as both important and legally problematic if not properly assessed and analysed prior to implementation.

ALTO has had experience in the late 1990's with the Switchlink Penalty regime, and we observe that regulatory compensation regimes can be open to interpretation by incumbent or access operators, who may seek to rely on new or updated system developments and phenomena to either avoid or to levy compensation cost on access seekers and new entrant operators. Such a market dynamic should be avoided at all costs.

Benchmarks

ALTO notes that none of the benchmarks advanced by ComReg in the Consultation paper and expressly those benchmarks set out at Annex 4 can be relied upon in to support a market intervention which seeks to impose constraints on operators concerning working practices and the working day or working week or appointments. The comparators chosen by ComReg do not appear to consider these significant market impacting changes or issues at all.

Large Enterprise End-Users

ComReg's proposals focuses on addressing direct harm experienced by end-users as a result of missed or delayed appointments. Direct harm is defined as frustration, anxiety, stress, loss of time, adverse impact on personal and professional schedules due notably to the fact that the end-user made special arrangements (such as, re-adjusting their work or social schedule) to be available for the appointment.

First, large enterprise end-users have internal resources, including dedicated personnel such as Front desk employees as well as operational processes, to handle potential impact from delays or missed appointments and mitigate disruption in their multiple premises.

In its consultation, ComReg does not provide evidence demonstrating that there is customer direct harm in the large business market that needs to be addressed.

Furthermore, it is important to also highlight that large enterprise end-users and their providers fully understand the impact that delays can have on business customers' businesses. This is why there are strong SLAs for provisioning and repair for business customers' services. Failure to meet those SLAs will usually result in service credits under these arrangements. SLAs for large business customers tend to be bespoke and will align with the criticality of that service to the business customer in question. ALTO therefore believes that large enterprise end-users are not subject to harm in this area as they are already served by market-led approaches to this issue, and that therefore no intervention is warranted – irrespective of Title III of the Code or EECC.

Second, large enterprise end-users often require engineer intervention to be operated outside of standard business hours, requiring flexible scheduling that differs from residential appointment models. This means that potential disruption is already minimised through these measures. The proposed definitions of missed and delayed appointments may – and more than likely – will not align with the operational realities of large business customers.

Delivery to large enterprise end-user premises can also depend on several factors, some of which will be out of control of either the customer or the service provider. Issues like coordination in multi-tenant buildings (e.g., landlord agreements, access to shared spaces) will also add various challenges compared to single-dwelling

homes notably by making the mechanism for compensation very complex. Again, flexibility to handle such issues on a bespoke basis is necessary.

Given the distinct needs of large enterprise end-users,¹ and the fact that ComReg has the discretion to tailor the scope of these requirements to specific classes of end users.²

ALTO submits that ComReg should adopt a more proportionate approach and to limit the scope of the proposals to residential customers and small businesses only, where harm is most pronounced. This targeted approach ensures regulatory measures are effective without imposing unnecessary burdens on providers serving large business customers who are not at risk of harm for the reasons set out above. We note that a differentiated approach has been adopted by Ofcom in the UK, where not only is the scheme voluntary and industry-led, but it is also aimed at consumers, with only transparency requirements for providers serving small and medium businesses. This in turn should reduce the amount of supervision that could potentially be required by ComReg in the medium to long term.

Response to Consultation Questions:

Q. 1. Do you agree with ComReg's proposed minimum QoS standards for Missed and Delayed Appointments, as outlined above? Please provide detailed reasons and supporting evidence for your view.

A. 1. ALTO notes ComReg's high level position but remain unconvinced as to the validity of the underpinning reasoning. We submit that we have concerns about the widening of the "Working Day" as now defined by ComReg as "*the period from 8AM*

¹ As mentioned in section 37 of the 2023 Act and highlighted in in ComReg [Consultation](#) [...] allows ComReg to specify minimum QoS standards to be met by providers of IAS or PANBICS when providing such services to end-users generally, or such class of end-user as the Commission may specify, in respect of, amongst others, MDSIA..

² <https://www.ofcom.org.uk/siteassets/resources/documents/consultations/uncategorised/98684---automatic-compensation/associated-documents/statement-automatic-compensation.pdf?v=322815>

to 6PM, Monday to Saturday, excluding Sundays and public holidays."

Specifying a six-day working week will not suit all undertakings on the market, or even be workable for consumers, and there is a risk that economies of scope and scale could cause unintended squeeze or pressures on smaller access seekers which is not an ideal outcome. There are also potential consequences flowing from this proposal that may require analysis of wider employment and renegotiation of external contractor terms and conditions of work and time that could be outsourced to third parties. Separately, the Consultation paper does not consider the Organisation of Working Time Act, 1997 (as amended variously).

Clarity is also required on the newly defined "*all day appointments*" and how it is envisaged by ComReg that those will work effectively and practically.

ALTO submits that ComReg appears to have not carried out as full an analysis as would ordinarily be required and anticipated in advance of such changes to expected work systems and physical working practices. We have set out our remarks concerning Large Enterprise End-Users above.

Q. 2. Do you agree with ComReg's proposals to specify a breach of the minimum QoS standards proposed as failures under Section 39(a) of the 2023 Act? Please provide detailed reasons and supporting evidence for your view.

A. 2. ALTO notes ComReg's proposal to specify the breach of minimum QoS Standards as failures under Section 39(a) of the Act. ALTO also notes that the distinction between Missed and Delayed Appointment as impacts on the end-user are different, the compensation should differ.

ALTO submits that the proposed timeframe for implementation appears to be too short. There is a requirement for full consideration of wholesale and commercial reciprocal arrangements in order to ensure that ComReg's proposals function

correctly. ComReg must take due regard of the fact that these proposals should not put retail operators at commercial risk if and where access operator processes and procedures do not meet a baseline operating standard for the management of appointments and scheduling.

Q. 3. Do you agree with ComReg's preliminary view that it is appropriate to extend the specification of minimum QoS standards and compensable failures to all MDSIA? Please provide detailed reasons and supporting evidence for your view.

A. 3. ALTO notes ComReg's preliminary view in broad terms, but we note the lack of any proper evidential assessment underpinning or supporting the view that it is immediately appropriate to extend the specification of minimum QoS standards and compensable failures to all MDSIA. In ALTO's experience, bad data usually will cause industry issues with services and facilities such as porting and addressing. Those issues usually end-up at ComReg's door in the form of disputes or requiring industry engagement and possible decisions to remedy matters.

Q. 4. Do you have any comments on ComReg's draft regulatory impact assessment? Please provide detailed reasons and supporting evidence for your view.

A. 4. ALTO submits that the ComReg RIA appears to fail to address the competition impacts of a vertically integrated wholesale/retail service provider, with a large and embedded customer base, who might notionally refuse to provide a back-to-back wholesale SLA. The fact that switching costs to alternative networks at the wholesale level are high, could mean that any future refusal to supply, gives potential competitive advantage at the wholesale level where this approach may give a cost or price advantage in circumstances where a standalone entrant wholesale provider

must give matching wholesale SLAs in order to effect market entry or build base. This is a very obvious and academic example of a potentially huge issue with these proposals and any unnecessary rush to implement measures in the absence of careful, thorough and thoughtful analysis and industry engagement at both layers – retail and wholesale.

Similarly, it is at least possible that a retail advantage against a vertically integrated competitor who is offering wholesale SLAs could arise, as the total cost of the compensation scheme to the competitor across retail and wholesale will potentially be higher.

ALTO submits that more collaborative work is required from ComReg Retail and Wholesale Divisions on the subject of wholesale agreement mapping for all MDSIA. Similarly, we anticipate and submit that ComReg should carve out Large Enterprise End-Users for separate consideration.

Q. 5. Do you have any comments on the draft Decision Instrument?

A. 5. ALTO has raised some fundamental issues regarding working time and definitions which we submit should be reviewed further from a practicality and legal point of view. We also believe that Large Enterprise End-Users should be carved out and separately analysed and catered for within the Consultation and Decision Instrument.

ALTO

20 December 2024

4 Blacknight

To Whom it may concern:

While we recognise the importance of ensuring customer satisfaction and redress for service failures, the proposed measures are disproportionate and could have unintended negative impacts. Here are some key points of disagreement:

- Operational Challenges: The requirement for strict 4-hour time slots and compensation schemes imposes significant logistical and financial burdens on providers, especially smaller ones. A more flexible approach that allows providers to set realistic timeframes should be considered.
- Equitable Responsibility: The draft does not adequately address scenarios where the customer is at fault, leading to unfair penalties for providers. A balanced framework with shared accountability is needed.
- Economic Impact: The additional costs of compliance will likely translate into higher service fees for end-users, undermining affordability in the long run.
- Phased Implementation: Instead of applying the rules broadly, an initial focus on critical appointments, such as first-time installations or fault repairs, would be more manageable and impactful.
- Competition Considerations: The proposal risks exacerbating disparities between small and large providers, potentially reducing competition and consumer choice.
- Appointment duration: While considerations for time slots have been taken, no effort has been made to offer appointment duration information. Why this causes issue can be demonstrated with a simple example. Engineer arrives 5 minutes before the end of the appointment slot. He decides he's done for the day and heads home. This does nothing for the RSP or the consumer.
- RSPs are not in control: Comreg want RSPs to pay out of pocket for these missed appointments when it is in fact the three wholesale operators sub contractors that are at fault. The appointments are fed from third parties back into the system and presented to RSP's operators which are then relayed back to the consumer. RSPs do NOT make contact after the appointment has been handed over. This is handled by sub contractors of the wholesale networks.

Finally, It is our belief that the draft decision we've been asked to consult on was the incorrect move here. Lets start again, engage with RSPs, Wholesalers and consumer advocacy groups and find out what the actual root cause of the issues are and address those with industry buy in, rather than trying to bludgeon small firms with the burden when they are in fact not in control of the situation.

Regards,

5 BT Communications Ireland Limited

ComReg Consultation Reference 24/89

BT Communications Ireland Limited response to ComReg's Consultation:

Missed and Delayed Service and Installation Appointments - End-User Compensation Consultation

Issue 1: 20th Dec 2024
Not Confidential

1.0 Introduction and Summary

1.1 Wholesale

We welcome the opportunity to comment to this consultation in the major area of customer appointments being established and fulfilled. However, whilst we can see improvements, we consider further work is required to reach a considered optimum approach. We believe there are underlying complexities within this proposal some of which were observed within the Regulatory Impact Assessment (RIA) but do not seem to have made it to main report, for example the wholesale implications.

Whilst the existing regime may not be perfect it was designed to provide increased appointment flexibility to both the customer and the provider, for example accommodating the school run or customers working around other appointments during the day etc., however, ComReg's proposed approach appears to curtail the existing flexibility by effectively not accepting local (technician and customer) previous day appointment fine tuning. Whilst we are supportive of improving the process ComReg does not appear to have provided customer research from the Irish communications market, instead benchmarking to other countries and industries which have wholesale variations.

A second and worrying unexpected consequence is the lack of appropriate legally binding wholesale agreements between retail providers, wholesalers and some access providers which may create problems for the retailers to back-off the penalty fee back to the Access Provider that missed the appointment. Failure to back-off the penalty fee may force the retailer to raise their price to the customer, with a possible loss of the customer to vertically integrated providers that can manage the pass-through penalty end-to-end. We consider this an unfair and unreasonable distortionary pressure to the market, particular against smaller entrant operators and potentially a breach of the 2002 Communications Act (amended 2007). We have had poor experiences of

ComReg Consultation Reference 24/89

agreeing wholesale SLAs with some Access Providers and we would evidence this by referring to ComReg document 17/08¹ which took several years to resolve from start to end.

1.2 All-Day Appointments – Clarification required

We believe ComReg need to further clarify the situation around all-day appointments to differentiate between meeting the appointment time and to address appointments that take all day to complete the work required (all-day appointments). We understand some tasks can take longer than half a day so in effect an all-day work appointment is required. The industry clearly needs the opportunity to agree new industry processes and review whether changes to automated appointment software is required.

1.3.1 Definition of Working Days – Impact on central inter-operator systems.

We note the Irish legislation – [Organisation of Working Time Act 1997](#) nor other appropriate legislation does not force telecoms companies to operate a six-day week. It does not appear reasonable that this Missed Appointments regulation should be used to mandate a six-day working week on operators. It should be clear that where operators chose to offer a six-day service (an additional fee is charged by some) then there is merit in applying the Missed Appointment rules to the additional voluntary day(s)/ hours.

1.4 Consequences for Inter-operator central systems (Porting and Internet Access Systems IAS)

Whilst it should be possible to conduct many activities at a customer premises for longer hours than the Normal Monday to Friday, 9am to 5pm week, ComReg's proposal of regulating to a longer Standard week of Monday to Saturday 8am to 6pm will create challenges for wholesale central inter-operator systems such as for number porting and Internet Access Switching which are set up for a Normal working week. Even if these were modified operators are permitted to work a shorter week as legislation permits and ComReg acknowledges it's possible, so problems can emerge where services are ported or service transfers during periods where the type of week does not align. This could also create billing discontinuities creating a lessor customer experience. It would be better for those that want to work a longer week to do so and manage the consequences appropriately.

For certain services such as porting it is worth noting that the central fixed number porting system deployed in Ireland is set up to support 5 days working, although voluntary out of hours can be supported for large business transfers (such as moving a call centre) which are project managed. This is not normally appropriate for consumer transactions.

There are also implications for the Internet Access Switching (IAS) System which has a dependency on the porting system and switching could be delayed if both operators involved are not working

¹ Final Determination in a dispute between (i) BT Communications Ireland Limited, Magnet Networks Limited, Sky Ireland Limited and Vodafone Ireland Limited and (ii) Eircom Limited.

ComReg Consultation Reference 24/89

the same days/times. Billing system alignment is based on existing systems, and this may need to be re-worked if switching times were to become confused lessening the customer experience.

Apart from Working Days, we note ComReg also extended Working Hours from 9 am to 5 pm (as currently in place for porting requests) to 8 AM to 6PM. This poses similar concerns as those outlined above.

If ComReg is intending to modify the working week such should be the subject of a dedicated and well evidenced consultation.

2.0 Response to the Questions

Question 1: Do you agree with ComReg's proposed minimum QoS standards for Missed and Delayed Appointments, as outlined above? Please provide detailed reasons and supporting evidence for your view.

We agree with ComReg's approach of introducing minimum QoS as it is a means to ensure consistency across industry. However, we note some concerns over some of the proposed QoS standards.

We agree with the proposed definition of appointment; it is in line with the industry's interpretation of the notion. ComReg's proposal that agreed appointments are to be confirmed via a durable means (such as an email or SMS) is also welcome. It ensures a record of the appointment is kept, which limits disputes. It is also widely used by the industry.

All Day Appointment Slot – Clarification required as conflicts where a full day of work is required.

While we are sympathetic with ComReg's proposal of morning/afternoon slots we consider further clarification is needed. For example, we would agree with ComReg that appointments are based on when the engineer turns up, i.e. AM or PM. However, ComReg clarification is required where the duration of the work to be carried out will require more than an AM or PM slots. For example, if an engineer visit requires say 7 hours to complete the task, then this should be conveyed to the customer and currently would be fulfilled by an all-day appointment. We understand that an all-day appointment is scheduled for a full day of work, and we would ask ComReg to clarify its proposals to support all day work appointments vs turn-up time. We would also request that ComReg considers that appointment systems are automated and complex, and modifications must be made by all operators using inter-operator automated systems. In our view the proposed implementation time does not acknowledge the complexity of wholesale networks. Indeed, wholesale SMP regulation requires Eircom to provide three months' notice of product changes. The wholesale Eircom data contract provides a 6 month's notification for what is known as a "breaking change" – i.e. changes that are not backward compatible. The ComReg proposals would appear significant and would be a breaking change.

Working Day – please also see our introduction section.

ComReg has proposed to define: ““Working Day” as the period from 8AM to 6PM, Monday to Saturday, excluding Sundays and public holidays.”⁶⁸

ComReg Consultation Reference 24/89

We are concerned that this definition goes beyond the provisions of the Organisation of Working Time Act 1997. The legislation focuses on the working hours, which are 48 hours maximum on average. There is no obligation for undertakings to work a 6-day week. We believe that ComReg's proposed definition of a Working Week exceeds the provisions of the Act.

Although we understand ComReg's intention to enhance flexibility for end-user, we note that this definition also has implication at the wholesale level. For instance, some Access providers propose Saturday appointments for an additional cost, others do not provide this option at all. While this definition could be accommodated by larger operator with an economy at scale, this definition of Working Day could potentially be discriminatory against smaller operators that may not have the resources to accommodate a 6-day work week, and it may increase costs to the customer.

We also note number porting, and IAS are set up to operate Monday to Friday 9 am to 5 pm. ComReg's proposal is not consistent with these hours of operations and would impose longer working hours for the industry.

For the reasons outlined above, we believe that the Standard working week should remain Monday to Friday, with Saturday and beyond 5pm appointments being optional to the provider as today. It seems that ComReg defining a Standard week which is longer than the current normal week ComReg is attempting (without evidenced research) to pressurise the industry to move to six days which some companies may not be able to achieve and would likely raise customer prices to cover additional costs. A key operator providing Saturday appointments already charges a premium for this option. Should an undertaking decide to work Monday to Saturday and/or longer hours, they should remain under regulation. They should also be aware of the potential customer impact if their activity impacts other operators.

Finally, ComReg raised the definition of a "Working Day" as a minimum Quality of Service standard but at the same time, state that it is "without limiting providers' option to establish a shorter range of working days/times to schedule an appointment." This has additional implications as the central industry systems used to transfer information are set up for a normal working week of 9 to 5. When working outside of these hours other operators may not be available to take the requests or resolve difficulties until the next working week/day. We believe ComReg should keep the standard as being Monday to Friday 9am to 5pm, without limiting the providers' option to establish longer working days/time according to their own commercial decisions, on a voluntary basis. **We are concerned the option to work shorter time is not present in the consultation Annex 1 - Draft decision instrument, therefore as the decision is drafted, it would be a regulatory obligation to work Monday to Saturday – 8am to 6pm.**

Missed Appointment

We agree with the distinction between Missed and Delayed Appointments as re-arranging the appointment within the same day is less of an inconvenience than a missed appointment without prior notice. However, the ComReg proposal of limiting the time for agreeing a final appointment time lessens the current flexibility which was designed to allow the customer and provider to fine tune the appointment time. It would have been helpful if ComReg had evidenced this with recent research of this market.

ComReg Consultation Reference 24/89

Regarding the exception on the “inability to access the premise”, ComReg state that this scenario is not deemed as being a Missed Appointment. However, the consequences of such inability to perform the work is not addressed in the proposal. We are concerned the proposal does not take sufficiently into account the wholesale agreements in place. In practice, the cost of the unsuccessful attempt to perform the work is borne by the retail provider while the retail provider had no opportunity to manage the situation. We would propose that for such a scenario, the Access Provider’s technician should, *at minima*, contact the retail provider to give them the opportunity to address the situation and support the technician getting access to the premises. Similarly, the scenario where the end-customer has provided inaccurate location data is not addressed. We believe that in that case, the situation should not be defined as a Missed Appointment either, but it should be included as an exception.

Finally, and based on the above issues the 3-month implementation time is not realistic.

Question 2: Do you agree with ComReg’s proposals to specify a breach of the minimum QoS standards proposed as failures under Section 39(a) of the 2023 Act? Please provide detailed reasons and supporting evidence for your view.

Minimum QoS Standards

We generally agree with ComReg’s proposal to specify the breach of minimum QoS Standards as failures under Section 39(a) of the Act.

We agree with the distinction between Missed and Delayed Appointment as their impact on the end-user are different, the compensation should differ.

It is critical to ensure that the compensation scheme is aligned with the Wholesale agreements already in place. Experience has shown that negotiation on such matters is difficult as Access Providers do not have the same regulatory obligations as Retail providers.

We are concerned over the timeframe for implementation proposed by ComReg. Our experience is that there are problems with some access providers not paying penalties and/or not providing customer reference information when an appointment is missed, and we anticipate it could take considerable effort and time if they are not incentivised to resolve this situation. A concern is that it would put the Retail Provider at a commercial disadvantage as they would be required to bear the cost for missed appointment by the customer whilst the Access Provider does not reciprocate when their technician misses the appointment. We would like to emphasise that this observation does not apply to all Access Providers.

As expressed earlier, we are concerned the proposal did not sufficiently take into the account the lack of appropriate wholesale agreements in place and the difficulties associated with ensuring they align with this proposal at the retail level. The timeframe for implementation is too short to ensure these problems are dealt with.

Force Majeure and Storm Mode

Force Majeure should be reserved for very exceptional circumstances as it can trigger significant contractual issues. In Ireland very poor weather conditions are therefore dealt with through what is known as Storm Mode.

ComReg Consultation Reference 24/89

In Storm Mode, access and network operators would re-deploy staff to make urgent repairs to the network to bring back service to customers as soon as possible. Given these services may include access to 112/999, restoring service is normally the priority. We consider ComReg need to acknowledge these events in its proposals, particularly as climate changes is making these events more frequent and more severe. Where Storm mode is declared it should be possible and a genuine reason for operators to cancel end customer appointments at short notice without retailers incurring penalty costs. Quite a few years ago, Storm Darwin² of February 2014 caused considerable network problems which triggered industry discussions as to when Storm Mode should be triggered and managed.

Question 3: Do you agree with ComReg's preliminary view that it is appropriate to extend the specification of minimum QoS standards and compensable failures to all MDSIA? Please provide detailed reasons and supporting evidence for your view.

We would generally agree with widening the scope for Missed Appointments; however, we are concerned that at the wholesale layer industry does not have the appropriate agreements in place with all the Access Providers to be in a situation to recover the penalty payments from the Access Provider that missed the appointments. We are concerned there could be protracted and difficult negotiations, potentially leading to requiring ComReg to address complex regulatory disputes.

Generally, we would welcome consistency of approach and regulatory certainty, however we are concerned that without the appropriate support of all the upstream Access Providers we do not have the means to meet these requirements as such is out of our reasonable control until updated wholesale contracts are agreed. We are aware of how difficult this can be, and problems already exist in this matter. We acknowledge this does not apply to all access providers.

Separately some Access providers don't provide a customer reference hence making it difficult for the retailer to know which customer should be paid the missed appointment penalty. This also needs to be resolved.

Given the seriousness and potential difficulties of backing off the penalty to the Access Providers who missed the appointment, this issue is introduced at the beginning of our whole response in clause 1.1. Clause 1.1 and our response to this question should be read together.

Question 4: Do you have any comments on ComReg's draft regulatory impact assessment? Please provide detailed reasons and supporting evidence for your view

We concur with ComReg on the definition of an Appointment agreement as well as confirming being provided via a durable means.

We are concerned with the RIA conclusion (page 31) that some operators only offer all day timeslots. Our experience of one of the major Access Providers is it offers half day slots as normal and a full day time slot for a major task which will take more than half a day to complete. In this case the RP does not get a choice of time slot size. I.e. Depending on the complexity of the work, a

² The Irish Times 25 November 2016

ComReg Consultation Reference 24/89

half-day time slots may not be sufficient to complete the task. We would recommend keeping the all-day time slot for operational reasons where the task is expected to take more than half a day. Such a time slot is not designed to force the end-user onsite, rather it is to accommodate the operational requirements where the task takes more than a single AM/PM slot. This will in turn limit Missed and Delayed Appointments as the technician will have the appropriate amount of time to complete their task, without risking missing or delaying further appointments.

We fully agree with ComReg's determination that: "A well-functioning, competitive market should ensure wholesale inputs are adequate to underpin any retail obligations concerning the standards and compensation"². However, the inputs that ComReg are assuming are in place are not correct for all Access Providers and problems already exist in this area.

Experience has shown that negotiating SLAs requires significant effort and time, a three-month implementation time is not enough time to resolve wholesale related issues.

Noting the asymmetric negotiation power between RP and some Access Providers, a retail only obligation without the appropriate wholesale support could limit the RPs competitiveness and in effect distort the market.

Finally, the RP has little control over the situation when the AP technician cannot reach the customer or access premises, but they are at the same time liable for compensation to the Access Provider. We propose that at least the RP is given a chance to address the situation by receiving a notification from the Access Provider's technician. We note, however, that ComReg did not assess the impact when it is the end-customer that misses their appointment and how compensation in such situation may have an impact at the wholesale level.

We have not seen a mention of the definition of the working week in Steps 3 and 4 of the RIA³, we would have welcomed such an analysis given the enormity of such a proposal. ComReg's definition of the Work Week also poses some concerns. We believe such regulatory obligations go beyond the requirements of legislation ⁴. Smaller operators may not have the resources to accommodate longer working days and hours. Despite ComReg's position that operators could choose to work smaller hours, this is not present in the decision instrument. We believe that operations should be maintained from Monday to Friday 9am to 5pm, in line with Porting and the IAS systems. The decision to work longer hours and/or offer Saturday Appointments should be a commercial decision determined by individual operators. Imposing Working days beyond the "regular working week" has a potential of putting smaller operators at a competitive disadvantage and driving costs for the end-users.

Question 5 Do you have any comments on the draft Decision Instrument?

The definition of Working Day appears to go beyond legislation and poses operational issues as demonstrated in our introduction and Question 1 and 4. ComReg in paragraph 3.9.4 determined that the operator could chose to work shorter working time/days, yet this does not appear in the

³ ComReg Consultation 24/89 Missed and delayed Service and Industry Installation Appointments - Section 5.4 Steps 3 and 4 Determine the impacts on Stakeholders and Competition

⁴ Irish Statute legislation - ORGANISATION OF WORKING TIME ACT, 1997

ComReg Consultation Reference 24/89

decision instrument which is where it matters. Based on our comments in this response we believe Working Day should be defined as Monday to Friday 9am to 5pm, in line with porting and IAS processes. Choosing to work longer hours and days should be a determination by the individual businesses rather than a regulatory obligation.

We believe the definition of time slot should allow for all-day to appointments to account for complex installations that would require an all-day appointment and propose timeslots for 9 to 5pm, consistent with our comments on the definition of a Working Day. We would therefore seek from ComReg that they modify the definition of time slots. Changing the appointments automated systems across the industry will be expensive and take a considerable time. Indeed, wholesale regulated notification periods alone will breach the 3-month proposal to implement.

We note the exceptions to a missed or delayed appointment⁵. We would recommend that the exception further includes scenarios where the user has provided inaccurate location information which prevented the technician performing the work. We would propose the adding paragraph:

"c. The Provider can establish that the Customer has provided inaccurate location information, and that the Technician could not complete the work on the appointed Working Day as a result."

We believe that Storm Mode, when declared appropriately, is also a valid reason to suspend appointments without penalty.

It is our understanding that ComReg is planning on establishing the effective day three months post publication. Apart from operational implementation at the retail level, we hope to have demonstrated throughout this paper that the wholesale layer will need difficult negotiations. Three months is not sufficient time to resolve the underlying issues at a wholesale level. Some of the wholesale issues mentioned above date back years. Therefore, we would ask ComReg to extend the implementation deadline to allow for sufficient time to address these issues. We are concerned the proposal will amplify these pre-existing issues and distort the market against RPs and smaller operators.

3.0 Conclusion

Whilst we are sympathetic to ComReg's proposal, we have concerns about potential negative impacts at the retail level (i.e., working time and days, working slots, 3 months implementation etc.) which overall may create a lesser level of service to the customer. In our view a more considered review is required where the consequences of the changes are evaluated.

Our main concern remains with the wholesale aspect of the proposal. We are anxious this proposal does not consider wholesale challenges to a sufficient degree. We would welcome a review of the proposal from the dedicated wholesale team at ComReg to understand and provide solutions for the underlying issues we have discussed above.

We thank ComReg, again, for the opportunity to comment on the proposal and we remain available should ComReg wish to engage bilaterally on the matter.

⁵ Paragraph 4.1iii of the draft decision instrument

ComReg Consultation Reference 24/89

End

9 | Page

6 eir

eir's Response to ComReg Consultation & Draft Decision:

Missed and Delayed Service and Installation Appointments – End-User Compensation

ComReg Document: ComReg 24/89



20 December 2024

DOCUMENT CONTROL

Document name	eir response to ComReg Consultation 24/89
Document Owner	eir
Status	Non-Confidential

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

eir response to ComReg Consultation 24/89

Response summary

eir welcomes the opportunity to contribute to this consultation process and agrees that, in principle, this consultation on end-user appointments and compensation is positive from a customer experience perspective. That said, eir also believes that there is a need for developments to the retail regulatory regime to be cognisant of established industry practices and of wholesale practices, many of which have regulatory implications at a wholesale level.

It is concerning that ComReg has published this consultation without any prior engagement with Industry. eir believes that the consultation process must be further extended to include direct Industry engagement, to ensure the end-result does not run counter to the stated aims of the consultation, from an effectiveness, efficiency and cost perspective.

There is a potential impact on established RAP processes arising from the requirements set out in this draft Decision, including in relation to product development processes, customer engagement, planning, development and notification periods which could take over a year if IT development is required by the wholesale and retail providers. In this context, the proposed timeline of 3 months for retail providers to comply is unrealistic.

From a practical and wholesale perspective, eir has set out below some amendments and clarifications it believes are required to the draft Decision. These comments are offered without prejudice to the clear need for direct engagement between ComReg and Industry to establish a reasonable definition of appointments.

eir response to ComReg Consultation 24/89

Q. 1 Do you agree with ComReg's proposed minimum QoS standards for Missed and Delayed Appointments, as outlined above? Please provide detailed reasons and supporting evidence for your view.

1. ComReg proposes that appointment time slot should be defined by reference to morning and afternoon with a divider of 1pm and for periods no longer than 4 consecutive hours.
2. From an efficiency and cost perspective, the four hour time slots proposed by the consultation document unnecessarily reduces the available work hours for open eir to meet appointment needs to successfully deliver the required customer service. Neither the regulatory impact assessment nor benchmarking information set out in the consultation document supports the definition of a time slot being restricted to four hours. ComReg's definition of a Working Day covers the period 8am to 6pm. This is a 10 hour period within which Provider's need to have a degree of flexibility. As such eir requests that the time slot period (for morning or afternoon appointments) be increased to 5 hours.
3. eir also requests that 1pm not be set as a hard divider. As such a morning appointment could include timeslots to 1.30pm and evening timeslots could commence from 12.30pm. Flexibility is required to manage technician resources whilst also maximising the availability of appointments for end users.
4. With regard to all-day appointment slots, certain provisioning orders such as non-in situ FTTH and non-in situ FTTC may require a longer time than allowed for in an AM/PM slot. In these circumstances, all-day appointments will need to be offered and the final Decision will need to allow for this. The appointment window needs to allow for installation, in-home services, and network connectivity / re-arrangement. Delivery of the customer service may take significant time depending on the specific requirements.
5. In relation to the notice periods required by the draft Decision for changes to appointments, open eir believes this has the potential for materially reducing the number of appointments that can be completed on a daily basis, which would ultimately impact on overall connection times and efficiency, potentially impacting costs to end-users. eir proposes that a missed appointment should not arise where an appointment requires rescheduling up until 3pm the previous working day, and also for any further rescheduling which the customer is agreeable to.
6. Where there are additional available resources for any reason, open eir will, where possible and on occasion, rearrange appointments in the following scenarios. open eir understands that, under the current draft Decision, the RSP would not in these circumstances be liable for a compensation claim from the

eir response to ComReg Consultation 24/89

end user and open eir can in these circumstances treat the appointments as met. Confirmation of this is requested.

- a. Where an appointment is re-scheduled by open eir for an earlier date with the consent of the customer.
- b. Where an appointment is re-scheduled by open eir for an earlier time on the appointment date with the consent of the customer.
- c. Where, prior to the appointment day or on the appointment day, a customer requests an appointment re-schedule to a later date.
- d. Where, on the appointment day, a customer requests an appointment re-schedule to a later time on that day which open eir can accommodate.
7. open eir defines working days as Monday to Friday, excluding bank holidays and Good Friday. While premium agreements allow for appointments outside of these days, Saturday and Sunday are not considered working days. eir understands that the provision of Saturday appointments as standard is not required by this draft Decision.

Q. 2 Do you agree with ComReg's proposals to specify a breach of the minimum QoS standards proposed as failures under Section 39(a) of the 2023 Act? Please provide detailed reasons and supporting evidence for your view.

8. Nothing additional to add under this point.

Q. 3 Do you agree with ComReg's preliminary view that it is appropriate to extend the specification of minimum QoS standards and compensable failures to all MDSIA?

9. Nothing additional to add under this point.

Q. 4 Do you have any comments on ComReg's draft regulatory impact assessment? Please provide detailed reasons and supporting evidence for your view.

10. The RIA provides no evidence-based objective justification for the proposed measures. As noted above, the RIA has failed to consider the proportionality of the proposal to restrict appointing slots to 4 hours.

eir response to ComReg Consultation 24/89

Q. 5 Do you have any comments on the draft Decision Instrument?

11. The draft Decision fails to take account of wholesale providers issuing Storm Mode Notices to RSPs. During these periods, RSPs cannot be liable for missed appointments where wholesale providers are unable to meet provisioning appointments as they are busy restoring services to existing customers throughout the country.

National Broadband Ireland



Missed and Delayed Service and Installation Appointments – End-User Compensation
ComReg Consultation 24/89 (the “Consultation”)

NBI 17 December 2024 Confidential Response to Consultation Questions

Where capitalised terms are used in this response these have the same meaning as set out in the Consultation Document.

Q. 1 Do you agree with ComReg’s proposed minimum QoS standards for Missed and Delayed Appointments, as outlined above? Please provide detailed reasons and supporting evidence for your view.

NBI Response

We welcome ComReg’s overall proposal as set out in the Consultation and agree that it is appropriate to ensure that the inconvenience to end users arising from missed and delayed service and installation appointments (“MDSIA”) is minimised and, where appropriate, compensated.

As the operator of one of the largest electronic communications networks in the State, with almost 70 retail service providers (“RSPs”) signed up to our network, NBI will have an important role in facilitating compliance with the proposals ultimately adopted by ComReg.

We thus request that ComReg considers the following points which we think may merit an adjustment to, or reconsideration of, some of the specific proposed minimum standards set out in the Consultation.

Time Slots

For Time Slots, NBI, via its subcontractor(s), offers four different time slots to RSPs, who, in turn, offer these to end users. The time slots offered by NBI at present are from: 08:00am – 12:00pm (AM), 12:00pm – 16:00pm (PM), 16:00pm – 20:00pm (EV) and 8:00am – 20:00pm (AD) on working days.



NBI considers that this greater range of slots (compared to the two Time Slots set out in the Consultation), including the option of evening appointments up to 8pm, is valuable to end users, particularly those in full-time employment.

The 8:00am – 20:00pm (AD) appointment slot is used for complex appointments, where we expect that technicians will need to arrive early and use the full day to complete the works required. The duration of this time slot is used as an indicator to end users that the end user needs to be available for the whole day.

Under NBI's current agreements, alternative time slots can also be agreed between the NBI sub-contractor and the RSP/ end user. NBI considers that this flexibility is a valuable option for end users that maximises choice and should not be constrained.

NBI requests that the final ComReg Decision allows for this existing range of NBI time slots to be maintained in light of the purpose behind each.

Missed Appointments

Notice restriction: At present, NBI's subcontractors frequently contact end users on Saturdays to arrange and/or rearrange appointments for other days (including the immediately following Monday). NBI is not aware of any end-user concerns with this practice, and to change this would involve a major alteration of RSPs' current appointment methods. Contacting end users on Saturdays and/or carrying out works on Saturdays often suits end users who are less available from Monday to Friday due to work commitments. Indeed, RSPs are supportive of carrying out works on Saturdays because this facilitates end-user choice. We do not consider that a different position should apply to contacting end users on Saturdays to re-arrange scheduled appointments for the following week. We thus request that ComReg reconsider this restriction on the days on which notice of (re)arrangement can validly be given. We also note that this specific restriction could make RSPs more reluctant to offer Monday appointments.

Evidential requirement: Further guidance on the appropriate evidential requirements to show that the end user was not contactable or available at the premises would be useful.



Delayed Appointments

We note ComReg's proposal that an Appointment will be considered a "Delayed Appointment" if it is arranged on the same Working Day before the expiry of the original Time Slot and the Appointment is fulfilled on the same day.

If this is agreed with the end user, NBI considers that this should be considered a relatively minimal breach of the rules, since any delay and inconvenience suffered is likely to be less significant. It is also common for end users to request that appointments be moved from morning to afternoon/evening and it would not, in so far as NBI is aware, be common for RSPs to charge end users for facilitating this end-user request.

Service / repair

NBI is concerned that ComReg's proposals may lead to unintended consequences in respect of repair and assurance appointments at end users' premises. By obliging RSPs to offer a range of Time Slots and Working Days, with compensation payable where these are missed, the proposals may in fact drive a behavior whereby repairs take longer due to the need for RSPs to push out the slots to the most readily achievable dates.

The proposals on these types of appointments also represent a significant change from NBI's current practices. In many cases, assurance issues can be resolved without an end-user appointment, for example where the problem is a fibre break outside the end-user premises. Where a visit to the end-user premises does transpire to be required, these appointments are usually arranged directly by NBI (i.e., rather than with NBI's subcontractor(s)) at present, with a focus on resolving the issue as soon as possible rather than giving a wide range of appointment options. Given the specific circumstances of these appointments, which involve an urgent need for resolution, combined with unknowns in respect of the cause of the fault, [REDACTED]

[REDACTED].



The current engagement with RSPs and end users is thus significantly different to that envisaged by the Consultation in many respects. As noted above, NBI considers that the imposition of a new requirement to offer a range of service appointment times, with compensation payable for missed appointments, could in fact inhibit the flexibility required to deal with such issues in the timeliest way possible, and ultimately delay the resolution of assurance issues. NBI thus requests that ComReg reconsiders this aspect of the proposal.

If material changes are not made to this element of the proposals, NBI requests an appropriate lead-in time to adjust its systems to facilitate the appointment arrangements required.

Q. 2 Do you agree with ComReg's proposals to specify a breach of the minimum QoS standards proposed as failures under Section 39(a) of the 2023 Act? Please provide detailed reasons and supporting evidence for your view.

NBI Response: As noted above, we consider that Delayed Appointments should not be considered to be a material breach of the obligations. See also NBI's other comments on Q1 above.

Q. 3 Do you agree with ComReg's preliminary view that it is appropriate to extend the specification of minimum QoS standards and compensable failures to all MDSIA? Please provide detailed reasons and supporting evidence for your view.

NBI Response: NBI agrees with the proposals in the Consultation, subject to our comments at Q1 above.

Q. 4 Do you have any comments on ComReg's draft regulatory impact assessment? Please provide detailed reasons and supporting evidence for your view.

NBI Response: No.



Q. 5 Do you have any comments on the draft Decision Instrument?

NBI Response: No.

NON-CONFIDENTIAL

7 IFA Telecom



Reference; Consultation on Missed and Delayed Services and Installation Appointments (MDSIA) – End-user compensation



IFA Telecom, Irish Farm Cent
Bluebell, Dublin 12, YXW5 E
info@ifatelecom.ie
Phone: 0818 924 851

Q1. Proposed Minimum QoS Standards for Missed and Delayed Appointments:

While we acknowledge the intention behind ComReg's proposed QoS standards, several key areas require further consideration:

- **Time Slot Duration:** The use of time slots is a sensible approach but limiting them to a maximum of 4 hours may prove impractical. Complex installations, particularly prevalent in rural areas serving our customer base, frequently require longer durations. A more flexible approach, perhaps with tiered time slots (e.g., 4-hour, 6-hour, full-day options) accommodating complexity, is needed. A matrix outlining appropriate durations based on the complexity of the service/installation as defined by the provider, subject to customer agreement could be adopted.
- **Definition of "Meeting the Slot":** The current definition lacks clarity. If a job exceeds the allotted time due to unforeseen technical challenges, how should this be addressed? A clear definition distinguishing between unavoidable delays and provider inefficiency is crucial, alongside a fair mechanism to prevent penalisation for genuinely unavoidable overruns. This could involve a process for reasonable extensions supported by documented evidence of the circumstances.
- **Working Day Definition:** The proposed 8 am – 6 pm, Monday to Saturday working day is too broad. A more realistic working day, aligned with standard industry practice (9 am – 5 pm, Monday to Friday), should be adopted. This would minimise disruption to both technicians and customers, improve adherence to appointments, and avoid unnecessary overtime costs.

Regarding RSP, it's crucial to acknowledge RSPs lack direct control over appointment scheduling, technician efficiency, and on-the-ground issues. Any QoS standard must account for this dependency on Network Operators, including clear protocols for communication and responsibilities in case of delays. This should be reflected in fully backed-off industry standard SLAs.

Q2. ComReg's Proposals to Specify a Breach of Minimum QoS Standards:

The proposed definition of a breach requires significant refinement to ensure fairness and practicality:

- **Time of Year and Day:** The proposal lacks consideration for seasonal variations in daylight hours and weather conditions affecting technician access to customer premises. Clear exemptions or adjusted thresholds should be implemented for day light hours and challenging weather conditions particularly during winter months
- **Local Arrangements:** The inflexible nature of the proposed standards fails to accommodate the need for flexibility in communication with end-users and for managing "on-the-day" issues. A defined process allowing for reasonable adjustments to appointment times, with mutual agreement between technician and customer, should be incorporated.
- **Durable Medium for Communication:** The requirement for capturing all communication in a durable medium necessitates clarification. Defining an acceptable format and ensuring this process is feasible for all operators is vital to avoid administrative burdens.
- **Storm Mode Impact:** The consultation lacks clarity on how severe weather events ("storm mode") impact the application of minimum standards. A defined protocol, prioritising service restoration and allowing for reasonable extensions, is essential to prevent unfair penalties.



IFA Telecom, Irish Farm Cent
Bluebell, Dublin 12, YXW5 E
info@ifatelecom.ie
Phone: 0818 924 851

Q3. Extension of Minimum QoS Standards to All MDSIA:

While extending minimum QoS standards to all MDSIA seems reasonable, this must be balanced against the need for practical application. Concerns raised in Q2 remain relevant here and need careful consideration.

Q4. Comments on ComReg's Draft Regulatory Impact Assessment (RIA):

The current RIA requires further revision:

- **Flexibility and Local Arrangements:** The RIA fails to account adequately for the need for flexibility and local arrangements in handling appointments. We strongly recommend including provisions allowing for reasonable adjustments with documented mutual agreement.
- **Durable Medium:** The RIA needs further explanation and definition of "durable medium" to ensure feasibility and practicality for all stakeholders, particularly for smaller RSPs. Consideration must be given to data protection and security.
- **All-Day Appointments:** The RIA needs to incorporate mechanisms for justifiable all-day appointments for exceptionally complex installations.
- **Storm Mode:** The RIA must explicitly address how storm mode and emergency situations impact the application of QoS standards and potential penalties.
- **24-Hour Notice:** A thorough review is needed to assess the feasibility and appropriateness of the 24-hour notice period, given potential operational challenges. A tiered system, considering the complexity of the issue, may be more suitable.
- **Disputed "Inability to Access Premises":** A more precise definition and a clearer process for handling these situations are essential to prevent unfair penalties. This requires clear evidence gathering protocols.
- **Implementation Timelines:** The proposed timelines are far too short. The RIA needs to reflect the substantial systems, operational, and billing development required, particularly for smaller RSPs. A phased implementation with longer lead times is strongly recommended.

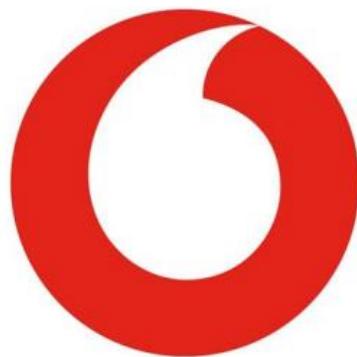
Additional Concerns:

- **Industry SLA:** The lack of pre-agreed fully backed off standard industry SLAs for compensating RSPs for network operator failures represents a significant risk. A comprehensive, mutually agreed SLA framework is paramount to ensure fairness and prevent and undue financial burden, particularly for smaller RSPs.
- **Fibre Market Viability:** The proposed measures, in the absence of agreed fully backed off standard industry SLAs, could negatively impact profitability in the highly competitive fibre market, making it particularly challenging for smaller RSPs already operating on tight margins.

Conclusion:

We support the overall aim of protecting end-users, but the current proposals require significant revisions to ensure their practical and equitable implementation. This position was reflected and minuted in the general consensus of participants at the Industry Engagement Forum meeting held in the Comreg Offices on 18/12/24. Collaboration between ComReg, network operators, and RSPs is crucial to develop a viable framework that balances end-user protection with the needs and realities of the industry. We urge ComReg to engage in further consultation to address these concerns before finalising its decision.

8 Vodafone



Vodafone Response to Consultation

Missed and Delayed Service and Installation Appointments

Public Consultation

Reference: ComReg 24/89

Version: Confidential

Date: 20/12/24

Introduction

Vodafone welcomes the opportunity to respond to the Commission for Communications Regulation (ComReg)'s consultation on proposals for regulatory intervention on end-user compensation for Missed and Delayed Service and Installation Appointments ("MDSIA"). Vodafone also wish to express appreciation for consideration of the request from Alto for extension to the consultation period. Vodafone is a leading provider of fibre services to Irish customers and makes use of all available wholesale providers – SIRO, Openeir, Virgin and NBI. The matters under consideration as part of this consultation are material to Vodafone.

Vodafone do not support the ComReg proposed intervention, and we provide a detailed response below. Firstly, for clarity, Vodafone understand the logic behind policy objective. At Vodafone, we want our customers to have confidence, when they are waiting at home or at their business, that we will arrive within the timeframe committed, and we will install or fix their services. If, for any reason, that is not the case then we will do our absolute best to manage advance notice and minimise any inconvenience for the customer. There are considerable logistical arrangements in place to manage appointments and they are continuously improving. We also work with our customer to address any inconvenience arising. Vodafone also maintain pressure on our wholesale partners to support service improvements in this regard.

It does not make any commercial sense for a retailer, having made a sale and a commitment to our customer, having invested in modems, TV boxes and booster equipment, having committed to wholesale installation and monthly charges, and paid commissions to agents - to then deliver a poor service experience. This annoys our customers and only drives further cost into the retail business. The reality however is that in many cases the retailer cannot control aspects of the logistics of the wholesale provider. We will go through the exact reasons for this within the consultation response.

SUMMARY OF POSITION

In summary our views as to why ComReg should reconsider this proposed intervention

1. This intervention **requires more in-depth engagement** across the telecoms sector to fully understand the impact.
2. The measures **will impose significant system and process changes**, and the complexity has not been considered. This includes the removal of all day appointments, the reduced amount of time permitted in AM/PM slots, the removal of ability to do local arrangements due to 24hr requirements, the need to capture agreement and comms across schedule, reschedule, return visits etc.
3. The **cost of implementation has not been assessed**.
4. The **ability of the retailer**, who relies on the wholesale provider and their partners to complete the install or repair **to recover the cost of compensation has not been considered**.
5. There is **no consideration of the impacts of weather events** and the inability of a retailer to rely on their SLA during Storm Mode.
6. Notwithstanding our opposition to the measures **the timelines for implementation are completely unrealistic**.
7. ComReg's proposals **will challenge the business case** for delivery of fibre for Irish retailers.

The investment by retailers of fixed services in Ireland supports the ambitious national Digital Connectivity Strategy target that all Irish households and businesses will be covered by a Gigabit network no later than 2028. The current reality is that Ireland is going through a transformation as fibre rolls out nationwide. As at the end of Q3 2016 ComReg figures indicate 142K premises had adopted fibre broadband. In the 5 years since that has grown to 818K¹. This remarkable period of growth will hopefully continue if Ireland is to achieve its national ambitions however the fact remains that the current level of demand must be met with finite expert resources for installation and repair.

ComReg understandably raise a concern on the proportion of contacts to their consumer line regarding poor customer experience on appointments. Our objectives are aligned that this should not be the case and at Vodafone we work continuously to remove the underlying issues as they arise. This has been evidenced in our fixed complaint statistics. The stark reality as fibre rolls out and copper transition progresses is that issues arise around, access to properties, ducting, device configuration, in home wi-fi and appointment issues all of which can impact the customer experience. However in general fixed complaints are falling. If complaints are falling while there is such an intense level of market activity the case for intervention is further weakened.

We submit the comments below for consideration.

¹ ComReg data portal All data Q2 2024

Consultation Questions

Question 1: Do you agree with ComReg's proposed minimum QoS standards for Missed and Delayed Appointments, as outlined above? Please provide detailed reasons and supporting evidence for your view.

Vodafone do not agree with the ComReg proposals on minimum QoS standards.

This intervention is neither appropriate or proportionate and, in our view, requires more in-depth engagement across the telecoms sector to fully understand the impact. Failure to do so will give rise to unintended consequences which, in our view, will not benefit customers and could in fact be detrimental to their interests. This will be the case if processes that currently work, such as local arrangements are impacted, as appointment slot windows are limited to 4 hours meaning the hours of service may reduce from wholesalers, as system development costs are imposed (and need to be recovered) to implement capture of agreement, durable comms and rescheduling requirements.

Paragraph 3.3 of the consultation states that "ComReg has examined the current processes of Irish retail providers in relation to MDSIA" and further notes that "the process of scheduling, confirming and rescheduling appointments vary across the industry". This is not a sufficient level of assessment. Vodafone believes that ComReg has not considered the complexity arising from the broader fixed delivery and assurance landscape.

In relation to the specific standards we address them in sequence below.

Appointment Agreement

The ComReg preliminary view is that a scheduled appointment is one where the date and time have been mutually agreed upon between the provider and the end-user. It is important to note that the appointment slot is wholly dependent on the agreement of the wholesale provider. The technician appointment can only be arranged following consultation between the retailer and the wholesaler. That can be live data or follow up may be required. Vodafone will agree an appointment with the customer however the process for completion will differ once scheduled and reschedules are often dependent on the wholesaler and involve engagement direct between the wholesaler back office and the customer and even the technician and the customer.

Appointment Confirmation

Confirmations are already sent to customers. There is no need to set a regulatory obligation in this regard. The industry practice however does not always align with the ComReg preliminary view. Confirmed dates will often change due to factors outside the control of the retail service provider.

The process for provision of an install date varies by wholesale provider. Vodafone use live calendars for orders from some providers while others are confirmed post order date and confirmation follows.

There are also long-established practices developed through industry wholesaler engagement and via ComReg industry forums in the case of regulated fixed products. Such practices are important when considering customer engagement as communications responsibilities can often pass to the wholesaler to deal directly with the customer. The wholesaler would take responsibility to contact the customer confirm the appointment and where necessary agree any reschedule appointments with the end customer. These

processes are designed to ensure better resource management by the wholesaler to complete retailer orders. Reschedules often occur and this can happen for a host of reasons and including customer availability, third-party access issues, local power or storm damage, technician delay and network or engineering problems. In certain cases technicians may need to resolve install issues via local arrangement with the customer.

It would not be appropriate to impose any regulatory obligation on confirmations without consideration of the intricate and multifaceted nature of agreed industry processes to ensure that any regulatory requirements are fair and feasible for all parties involved.

Removal of Local Arrangements

One process that wholesalers use to manage customer appointments is often referred to as local arrangements. The complexity of fixed delivery means that a retailer may communicate directly with the customer, or it may be the back office of the wholesaler but another way of communicating with the customer is directly via the technician on the day of the order. This is where the technician calls the customer to discuss their appointment and advise of specific timeframes and this can often mean the appointment is moved to later or the technician must advise the customer that the delivery will take longer than expected and might require follow up visits and they agree timing with the customer. This requirement for removal of this process, through the imposition of a mandatory 24 hour contact, will impose a significant change on established wholesale and retail business processes. It also removes flexibility from the delivery process which can often be utilised to ensure that all assigned customer orders across multiple retail operators are delivered on the day planned.

System Change Impacts

This is no consideration in the consultation to potential system change impacts for both wholesalers and retailers. The nature of the retail/wholesale fixed market structure is that a process is defined by each wholesaler. In many cases the process must be understood and planned for collectively by retailers. That requires engagement via the wholesaler forums such as the Openeir PDW, the NBI Industry Council Meeting etc. Notwithstanding our comments above that the measures proposed cannot work the implementation timeframes are completely unrealistic.

The proposed changes by ComReg trigger a system development engagement which incorporates impact assessment, agreements on process, requirements definition, design, test, and release. This extensive process takes time, especially when any change impacts the different systems used across the retailer community and the fact that changes may need to be adapted for each wholesaler. Each wholesale provider has their own delivery model and many use 3rd party installation companies such as Circet, Actavo and other expert network support services. Vodafone will try to ensure alignment of process however there will always be differences across multiple vendors and this does present challenges.

Such system changes require meticulous planning and coordination to ensure seamless integration and functionality across all platforms. Retailers and wholesalers must collaboratively work through the engagement process to identify potential challenges and develop solutions that are both effective and feasible. The complexity of these adjustments underscores the need for ample time and thorough consideration to avoid disruptions in service delivery and to maintain the high standards expected by customers.

In relation to changes the other factor that must be considered for the SMP operators and their retail customers is whether notification of change is required. Under Section 9.9 of D/24 the SMP operator shall not make amendments to existing products services or Associated Facilities *“without first publishing at least 2 months in advance the amendments or changes, having notified ComReg in writing with the information to be published at least one (1) month in advance of any such publication taking place.”* For clarity several ComReg proposals will enforce product process amendment including the removal of all day appointment, the move to 4-hour appointment slots, the requirements for durable format comms, the impact on local arrangements by technicians in service delivery etc.

Time Slots – All day appointments

ComReg propose to amend existing industry process to remove all-day appointments. This will place a requirement on retailers to engage the wholesalers to redesign existing process to align with the ComReg requirement. The wholesale process for Openeir requires all-day appointments for specific order types. When an order is submitted, it is assessed and an appointment date is offered. If an AM/PM appointment is not possible an all-day appointment is assigned to the order by the wholesaler. This is a system impacting change. NBI also provide double slots, that are 8 hours in duration for use with certain order types depending on the drop type and work required.

Time Slots limited to 4 hours

The wholesale processes do not limit appointment windows to 4 hours. For installation the Openeir process sets the AM appointment window at 5 hours duration from 8.30am to 1.30pm and an afternoon 4.5-hour PM appointment window from 12.30pm to 5pm. For another provider the provisioning appointment windows are 4 hours from 8am to 12pm Monday to Saturday and 5.5 hours from 12pm to 5.30pm Monday to Saturday. The obligation to limit the slot to 4 hours cannot be imposed where the retailer can only avail of slots that are longer in duration as it places a jeopardy on the retailer. This does not seem to have been fully considered as part of this proposal. The different slot structure across wholesalers needs to be assessed. It appears that ComReg have not actively engaged the wholesaler community in developing this requirement.

Definition of the Working Day

The definition of the working day proposed by ComReg is the period from 8am to 6pm Monday to Saturday. This does not align with regulated inputs available to fixed retail operators which sets the working day at 9am to 5pm on Monday to Friday for appointments on installation and on faults.

The question arises as to why ComReg are setting a different working day for services that are being delivered via regulated inputs. Vodafone has sought extended hours cover especially for business customers however this has not been forthcoming. It is not appropriate to set the working day to greater than that which is made available to retail operators. This may give the impression that retail operators are able to offer extended working day hours across all wholesale inputs.

ComReg engagement on SLAs

Vodafone has sought increased SLA cover on installation and faults through the Industry Engagement Forum. This request was appropriate to ensure the service experience for our end customers, in particular business customers was enhanced. The current regulated SLA is not fit for purpose, and we have been frustrated in our efforts to negotiate improvements. A poor SLA undermines the customer experience and drives the cost-of-service delivery failures into the retailer in a market where margins are already squeezed.

The imposition of proposed obligations will only serve to erode margin with no incentive on a dominant wholesale provider to back off the retail obligation.

Definition of Missed and Delayed Appointments

ComReg state that a technician failing to attend a premises during an agreed time slot "is the most straightforward scenario" ...and the ComReg preliminary view is that this meets the standard of a missed appointment. As is generally the case in the delivery of fixed services it is not often that simple. At time of response Storm Darragh remediation remains ongoing 10 days after the event and a wholesaler is in a status of Storm Mode. Under Storm Mode conditions there is no SLA cover for retailers and the wholesaler will advise that installation resource may be reallocated at short notice to repair. New appointments are curtailed as the focus switches to service restoration. Storm Mode can happen year around and we would have seen significant durations in assigned Storm Mode status in January, February, June, July and December this year.

It is very clear that the benefits for end-users can only be realised if there is more effective engagement on regulated SLAs to deliver the improvements that are needed. It is not appropriate to set regulatory obligations only at the retail level with no back off at wholesale level.

Question 2: Do you agree with ComReg's proposals to specify a breach of the minimum QoS standards proposed as failures under Section 39(a) of the 2023 Act? Please provide detailed reasons and supporting evidence for your view.

Vodafone do not agree with ComReg proposals to specify a breach of the proposed minimum QoS standards as proposed failures under Section 39(a) of the Act. The decision to do so in our view would not be considered appropriate, effective or proportionate. We set out our detailed reasons in answer to question 1 and question 4. Please consider the comments in both sections in response to this question.

Question 3: Do you agree with ComReg's preliminary view that it is appropriate to extend the specification of minimum QoS standards and compensable failures to all MDSIA? Please provide detailed reasons and supporting evidence for your view?

Vodafone do not agree with ComReg view that it is appropriate to extend the specification of minimum QoS standards and compensable failures to all MDSIA. We set out our detailed reasons in answer to question 1 and question 4. Please consider the comments in both sections in response to this question.

There is discretion on the decision to implement this measure.

Paragraph 5.9 in the consultation states that "This consultation aims to ensure the rights for compensation for missed service and installation appointments as required in Article 106 (8). This article in the Code is specific to porting and switching and ComReg has already discharged its requirement under the Code in Decision 01/24 concerning end-user compensation for switching and number portability. This further intervention is discretionary under Section 39 of the Act and requires much more in-depth engagement

across the sector. The decision to implement this proposal, would, in our view, not be appropriate, effective or proportionate.

Question 4: Do you have any comments on ComReg's draft regulatory impact assessment? Please provide detailed reasons and supporting evidence for your view.

ComReg has not conducted sufficient assessment of the impact of the proposed discretionary intervention.

1. The wholesale operators have not been engaged to assess impacts.
2. The impact on the business case for providing fixed services has not been considered.
3. The consumer impact has not been correctly assessed.
4. The SLA regime has not been considered.

Wholesale operators have not been engaged in advance to discuss measure impacts:

Under Step 2 the requirement to identify and describe the regulatory options we do not believe that ComReg has engaged the wholesale operators in any discussion around appointments issues in its consideration of options. Having discussed the consultation at the Industry Engagement Forum (IEF) in December it was evident that wholesale operators did not have any advance notice of proposed measures or engage in any discussion regarding system, process, personnel, commercial or contractual matters with ComReg. In Vodafone's view it does not make any sense to intervene regarding compensation for install and fault assurance appointments without first engaging the service providers who control the process that retail operators engage with to deliver services to customers.

The impact on the business case for fixed services

Vodafone currently provide [REDACTED] The monthly wholesale charge that we must pay [REDACTED] excluding additional monthly bitstream usage charges. In addition a retailer may need to cover installation charges, CPE costs, agent commissions and this excludes consideration of customer missed appointment charges imposed by the wholesaler or administration, billing marketing costs etc.

It is clear this is a challenging business case. Vodafone continue to invest in fixed services, however in our view the commercial conditions must improve in the retail market to ensure long term success. ComReg now propose to limit its intervention to the retail service provider market without any consideration of the margin challenges and commercial impact. We would ask that ComReg reconsider.

This intervention will in effect be a margin squeeze on retail markets as ComReg impose cost measures at the retail level and do not propose any intervention at the wholesale level.

The impact to customers has not been appropriately assessed

ComReg state in paragraph 2.6 that "RSPs seek to be compensated by charging customers a fee" when the customer for whatever reason has missed the appointment. At present Vodafone do not impose any charge despite incurring wholesale cost and we are a lead retailer for fibre connections in Ireland. The

Vodafone Response – ComReg 24/89

MDSIA – End User Compensation Consultation

intervention by ComReg is based on an understanding that such charges are generally imposed, and this is not the case.

In addition ComReg has not, to our knowledge, done a full evaluation on the measures taken by operators to compensate for inconvenience in relation to missed appointments. Vodafone has sourced data on credits for delays as part of this consultation process and we are happy to share with ComReg at any time.

[REDACTED]

The SLA regime has not been considered

ComReg state in the consultation that SLAs may need to be reconsidered. The entire SLA regime would require review. ComReg will be aware of attempts by Vodafone to seek improvement to the regulated installation SLA and the faults SLA for fibre services. Despite considerable efforts to improve the standard of service we have not been able to satisfactorily progress. The need for better SLAs is not referenced in the impact assessment other than to reference the possibility of low countervailing buying power in any renegotiation.

[REDACTED]

[REDACTED] In addition there is no signal of any corresponding engagement at the wholesale level in respect of this policy proposal. The impact here needs to be considered and ComReg cannot adopt a siloed approach to policy interventions of this nature. This sector engagement is often cumbersome and challenging however it is necessary if we want to improve SLAs and therefore the standards of service delivered to end customers.

Question 5: Do you have any comments on the draft Decision Instrument?

Vodafone do not agree with the measures proposed.

ENDS

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PrepayPower

Paramount Court
Corrig Road
Sandyford
Dublin 18

Commission for Communications Regulation

Retail Policy
One Dockland Central,
1 Guild St.,
North Dock,
Dublin 1
D01 E4X0
Ireland
Email: RetailConsult@comreg.ie
Ref: Submission to ComReg 24/89

16 December 2024

In Re: Response to ComReg Consultation on Missed and Delayed Service and Installation Appointments

Dear ComReg,

We welcome the opportunity to respond to your consultation on End user Compensation for Missed and Delayed Service and Installation Appointments ComReg 24/89.

We pride ourselves in providing our customers with the highest levels of customer service and are broadly supportive of the principal that end users be compensated for the inconvenience suffered as a result of a specified service failure surrounding missed or delayed appointment(s).

Prior to adopting a final decision herein, we would support ComReg's engagement with the relevant Network Providers who are responsible for setting appointment slots, ensuring that technicians arrive at the pre-agreed appointment time and where necessary directly engage with end users in order to reschedule appointments.

ComReg's final decision should also make provision for whole day appointment slots under circumstances where it is evident that the work required cannot be completed in a 4-hour time slot i.e. new service installations.

Providers should be afforded flexibility in communicating appointments to end users, in the format most suited to their customers. We would question the rigid requirement of furnishing customers with their appointment slot by Durable Medium. This requirement could stifle innovation and prevent the development and use of modern technologies such as in app notifications and customer portals which are used to promptly communicate with customers. It would also carry a large administrative burden involved with the manual collection, storage and retrieval of these communications, often times from

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Paramount Court
Corrig Road
Sandyford
Dublin 18

third parties i.e. where a rescheduled appointment is agreed on directly between the installer and the End- User.

We would support ComReg's position that this compensation scheme should be a Provider led scheme whereby Providers are responsible for setting the compensation amount that end users are entitled to, the procedure and the means by which compensation is paid.

The wholesale providers responsible for ensuring that the appointment is fulfilled would need to be responsible for compensating the customer. As contractual amendments would be required between wholesale providers and internet providers an implementation window of 9 months post the publication of this decision would be necessary and appropriate.

Yours sincerely,

Donovan Sheridan
Regulatory Affairs Manager and DPO

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10 SIRO

1 SIRO Response to ComReg Consultation 24/89



SIRO response to ComReg Consultation 24/89



Table of Contents

Executive Summary.....	3
Impact on Wholesale FTTH providers	3
Key Recommendations and Rationale	4
Conclusion	5
Response to Questions	7
Q1. Do you agree with ComReg's proposed minimum QoS standards for Missed and Delayed Appointments, as outlined above? Please provide detailed reasons and supporting evidence for your view.	7
Recommendations on Minimum QoS Standards:	7
Conclusion	8
Q. 2 Do you agree with ComReg's proposals to specify a breach of the minimum QoS standards proposed as failures under Section 39(a) of the 2023 Act? Please provide detailed reasons and supporting evidence for your view.	9
Recommendations for Specifying Failures Under Section 39(a):	9
Conclusion	10
Q. 3 Do you agree with ComReg's preliminary view that it is appropriate to extend the specification of minimum QoS standards and compensable failures to all MDSIA? Please provide detailed reasons and supporting evidence for your view?	11
Key Points Against the Extension of Minimum QoS Standards to All MDSIA:	11
Conclusion	12
Q. 4 Do you have any comments on ComReg's draft regulatory impact assessment? Please provide detailed reasons and supporting evidence for your view.	13
Comments on Each RIA Step	13
General Observations	14
Conclusion	16
Q. 5 Do you have any comments on the draft Decision Instrument?.....	17
Conclusion	19
Comparison with the UK Experience and Justification Against an End-User Compensation Scheme	20



Executive Summary

In responding to *ComReg 24/89* on the proposed framework for Missed and Delayed Service and Installation Appointments (MDSIA), we advocate a cautious and balanced approach to regulatory intervention. While we acknowledge ComReg's goals to improve service quality, we emphasise that the regulatory obligations should be proportionate, with a focus on substantiated consumer harm.

We find that minimal evidence has been provided to support a sweeping application of regulatory measures across all MDSIA incidents. Our own information would suggest that the cause of missed/delayed appointments is circa 5 times more likely to have been the consumer than the operators. If a symmetric implementation of the ComReg proposal results in consumers being universally penalised for causing these incidents, then ComReg would be responsible for shifting a substantial consumer surplus to retailers. A move that would be courageously anti-consumer.

Our response therefore also underscores the importance of scaling obligations to areas of clear and documented consumer impact, particularly where service failures disrupt critical switching functions.

Impact on Wholesale FTTH providers

The introduction of retail-level automatic compensation obligations has significant implications for wholesale network providers, such as SIRO as a fiber-to-the-home (FTTH) infrastructure builder. These obligations create a cascade effect across the supply chain, particularly for wholesale providers reliant on third-party infrastructure. Key impacts include:

1. Increased Costs and Payment Risks for Wholesale Providers

- Retail service providers (RSPs) are required to pay compensation directly to end-users for specific service failures, such as delayed repairs, missed appointments, or provisioning delays.
- Where service failures occur due to faults in wholesale infrastructure, retail providers may seek to recover these costs from their wholesale suppliers through renegotiated Service Level Agreements (SLAs) and Guarantees (SLGs). If the wholesale agreements do not adequately reflect these new obligations, the costs may remain with retail providers.
- For wholesale providers with SMP, such as OpenEir, there is particular lack of pressure to incorporate compensation mechanisms into existing SLAs, as retail providers lack sufficient bargaining power to negotiate terms unilaterally. This will create an imbalance between OpenEir and operators such as SIRO and Virgin, who have little countervailing power in their relationship with retailers, increasing our costs while not necessarily impacting on OpenEir's.

2. Operational and System Enhancements

- Wholesale providers such as SIRO may need to make extensive system upgrades to ensure timely incident detection, reporting, and compensation processes. This includes improving Key Customer Information (KCI) messaging systems and data accuracy.

4 SIRO Response to ComReg Consultation 24/89

- For instance, retailers have dependencies on wholesale operators systems to align with retail-level compensation obligations, which require significant lead times in the order of twenty four months for implementation.

3. Imbalance in Compensation Accountability

- Many service issues occur at the wholesale level, but retail providers are held responsible for compensating end-users. This can create a financial and operational burden for retail providers, particularly small providers, who may struggle to implement reconciliation and reporting systems with wholesalers.
- For wholesale providers, there is pressure to ensure that SLG payments align with automatic compensation amounts to mitigate retailer losses. However, discrepancies between retail compensation obligations and wholesale SLG arrangements can persist, leading to disputes.

4. Competitive and Investment Impacts

- If wholesale providers fail to align their SLGs with retail compensation obligations, retail providers may face unsustainable financial pressures. Small or regional providers are particularly vulnerable, as they may not have the scale to absorb additional costs.
- Wholesale providers, particularly those with SMP, may pass compensation costs through increased charges for wholesale services. This could have downstream effects on retail pricing and may indirectly affect the affordability of services for end-users.
- Although ComReg sites anecdotal accounts of retailers charging end-users for missed appointments. This is not currently wide-spread practice across industry. However, it is likely with the introduction of this proposed new regime, there will be a perverse incentive now on retailers to introduce and enforce such charges to counterbalance the costs to introduce and to operate the proposed compensations for MDSIA. ComReg have not modelled the impact of these cross-purpose incentives emerging, nor weighed the balance of the benefits as against the harm of this situation emerging.

5. Need for Regulatory Intervention

- Regulators often rely on market negotiations to resolve wholesale-retail cost alignment, but imbalances persist where wholesale providers have SMP. For instance, renegotiating wholesale agreements concerning SLAs with OpenEir remains challenging without regulatory support.

Key Recommendations and Rationale

1. **Evidence-Based Approach to Regulatory Scope** ComReg's proposal extends the application of minimum Quality of Service (QoS) standards and compensable failures to all MDSIA appointments, yet the documented consumer harm remains focused primarily on switching and porting contexts. We find this evidence insufficient to justify an expansion to non-critical service appointments. Accordingly, we recommend restricting the scope of compensable failures to scenarios where consumer impact is demonstrably significant, such as in the context of switching or initial installation delays. This targeted scope would maintain consumer protections where they matter

5 SIRO Response to ComReg Consultation 24/89



most, while reducing unnecessary burdens on providers for routine appointments where consumer impact is minimal.

2. **Specification of Failure and Reasonable Exemptions** The definition of "failure" within the proposed regulatory framework is overly broad, potentially classifying minor delays or incidents outside a provider's control as compensable failures. We suggest refining these definitions to distinguish material service failures from minor delays or unavoidable circumstances (e.g., extreme weather or last-minute access issues). By establishing reasonable exemptions, ComReg can create a fairer regulatory landscape that focuses on genuine service lapses, thus avoiding penalties for isolated or uncontrollable or force majeure events. This approach ensures that the focus remains on substantive failures of service providers that directly affect consumer experience, supporting a fair and proportionate enforcement of the rules.
3. **Tailored Compliance for Providers of Different Scales** A universal application of minimum QoS standards could disproportionately affect smaller or regional retail service providers, who may face unique logistical constraints. We propose a tiered compliance framework that recognises operational realities based on provider size, geographic area, and capacity. This approach would allow smaller providers to comply with modified standards that reflect their resources, while larger providers with greater operational capacity would adhere to the full scope of obligations. This differentiation supports a competitive and diverse marketplace by minimising the regulatory load on smaller providers, fostering a more inclusive telecommunications landscape without compromising consumer protection.
4. **Phased Implementation Timeline and Prioritisation** Given the breadth of obligations proposed, we recommend extending the implementation period eighteen to twenty four months, with an initial focus on enforcing standards in high-impact scenarios such as switching and porting appointments. This phased approach would give providers adequate time to adapt operational systems, adjust appointment scheduling, and implement compliance processes. Gradual enforcement would reduce the risk of disruptions and compliance costs, promoting a smoother transition while still achieving regulatory goals.
5. **Flexible Compensation and Streamlined Reporting** The current framework's compensation structure, based on uniform monetary payments, risks imposing high administrative costs on providers, especially those with limited resources. To address this, we advocate for flexible compensation options, such as capped service credits or tiered compensation based on the severity of service lapses. Additionally, a streamlined reporting system would help providers manage compliance more efficiently, reducing unnecessary administrative burdens while maintaining transparency.

Conclusion

Our response highlights the need for a cautious and targeted regulatory approach in the absence of compelling evidence on widespread consumer harm. By focusing on high-impact scenarios, refining the definition of failures, and adopting a phased implementation, ComReg can uphold its consumer protection objectives without imposing disproportionate obligations on service providers. This balanced regulatory strategy will not only ensure that consumers

6 SIRO Response to ComReg Consultation 24/89



receive fair treatment in critical service scenarios but will also support the viability and competitiveness of a diverse telecommunications sector.



Response to Questions

Q1. Do you agree with ComReg's proposed minimum QoS standards for Missed and Delayed Appointments, as outlined above? Please provide detailed reasons and supporting evidence for your view.

In response to Question 1 on whether ComReg's proposed minimum QoS standards for Missed and Delayed Appointments are appropriate, we recognise the intention to protect end-user rights by setting out consistent and transparent standards for appointment management and compensable failures. However, we recommend a more tailored and proportionate approach to minimise burdens on providers, particularly for smaller or emerging network operators, while still achieving the desired consumer protections.

Recommendations on Minimum QoS Standards:

- 1. Simplified Time Slot Requirements:** ComReg's current proposal specifies time slots limited to four-hour windows between 8am-1pm or 1pm-6pm. While this standard aims to limit inconvenience to end-users, a uniform application may place an undue scheduling strain on providers, particularly those relying on third-party field engineers or serving rural areas with fewer resources. Flexibility in allowing slightly extended time slots where operationally necessary (e.g., 5- or 6-hour slots) could alleviate scheduling challenges and avoid increased compensation liabilities stemming from logistical issues, particularly during peak installation periods. Such flexibility is in line with industry standards and would minimise operational disruptions while still ensuring customer-focused appointment windows. In addition, ComReg's exclusion of evening and Sundays limits innovation and customer choice - where a retail provider may wish to offer these options, there does not seem to be any good reason for ComReg to exclude them.
- 2. Extended Notice Period for Appointment Rescheduling:** ComReg's draft suggests a 24-hour minimum notice for rescheduling without penalty. We propose modifying this notice period to include 'the working day before, up-to 6pm', which would reduce instances of last-minute cancellations and improve customer experience. This adjustment could be especially beneficial in cases where technician availability fluctuates due to unforeseen issues (e.g., technical problems at prior appointments). A 'working day before, up-to 6pm' threshold period would align with consumer expectations while providing providers a realistic timeframe to manage unforeseen delays effectively.

SIRO notes that if ComReg mandates penalties where appointments are rescheduled at short notice (e.g. the day before, but less than 24 hours before the appointment), the end result is likely to be that providers no longer offer consumers next-day or 2nd-day appointments at all, resulting in a worse outcome for the consumer market overall. Same-day installations are also being trialled in other countries, which would not be possible under this proposed regime.



3. **Refined Definition of “Missed” vs. “Delayed” Appointments:** ComReg’s delineation between missed and delayed appointments is essential, allowing providers to address issues within the same working day without incurring full penalties. To ensure consistency, we recommend explicitly defining “delayed” appointments as those rescheduled to a later time on the *same day* by agreement with the end-user. This approach acknowledges operational realities and reduces compensation events tied to minor timing shifts, which do not significantly inconvenience end-users yet contribute to administrative burdens for providers.
4. **Inclusion of Additional Exceptions for Non-Fulfilment:** Under the current standard, a missed appointment occurs if a technician does not attend within the agreed slot unless a 24-hour notice of rescheduling was provided. Expanding these exceptions to include factors beyond the provider’s reasonable control, such as sudden road closures, third-party infrastructure provider difficulties, end-user unavailability, or force majeure events would fairly allocate responsibility and reduce avoidable compensation cases. A provision requiring evidence of attempts to contact end-users in such cases could further ensure balanced treatment without encouraging excessive claims.
5. **Scalable Implementation Period:** The proposed three-month implementation period post-decision may not be feasible for smaller providers who may lack established appointment systems or need additional time to negotiate third-party SLAs that align with the new standards. We propose extending this period to six months, allowing providers adequate time to build out or adjust operational systems, thereby reducing risks of early non-compliance and associated compensation.

Conclusion

While we support ComReg’s goals to enhance service standards for end-users, we recommend that the minimum QoS standards for Missed and Delayed Appointments be tailored to allow operational flexibility, particularly in time slotting, rescheduling requirements, and manageable timelines. These modifications would not only preserve the protective intent of the regulation but also support a balanced operational framework for network providers, fostering a sustainable rollout of the standards.



Q. 2 Do you agree with ComReg's proposals to specify a breach of the minimum QoS standards proposed as failures under Section 39(a) of the 2023 Act? Please provide detailed reasons and supporting evidence for your view.

In response to Question 2, concerning ComReg's proposal to designate breaches of minimum QoS standards as failures under Section 39(a) of the 2023 Act, we generally support the objective of enhancing service reliability and consumer protection. However, to achieve these goals while minimising unnecessary regulatory burdens, we propose a nuanced approach that allows flexibility, limits blanket penalties, and considers operational challenges faced by providers.

Recommendations for Specifying Failures Under Section 39(a):

- Differentiated Classification of Failures:** We recommend that ComReg refine the specification of "failure" to distinguish between systematic breaches and isolated incidents. The mitigating actions taken by the service provider also need to be taken into account. For instance, providers who encounter minor or sporadic delays in service should not face the same penalties as those consistently failing to meet standards. Establishing thresholds or tolerances for delays before they are classified as compensable failures could help mitigate the risk of disproportionate penalties for minor, isolated incidents.
- Incorporating Flexibility for Exceptional Circumstances:** To support operational feasibility, we suggest incorporating force majeure exceptions for instances outside the provider's control, such as severe weather, public emergencies, or access issues caused by the end-user. These provisions would enable fairer treatment while protecting consumers where failures result from factors within a provider's control. A policy of documented exceptions, where providers show reasonable efforts to meet obligations, could also enhance transparency and maintain the scheme's integrity.
- Flexible Compensation Models Based on Service Scope:** ComReg's proposal broadly applies to all providers of internet access and publicly available interpersonal communications services (PANBICS). We recommend considering a tiered approach, with higher thresholds or alternative compliance mechanisms for smaller or regional providers who may face distinct logistical challenges compared to larger national providers. Tailored compliance obligations would allow smaller providers to meet QoS standards without imposing excessive financial or operational burdens, especially in rural or underserved areas where service logistics are inherently more complex.
- Gradual Implementation and Evaluation Period:** A phased introduction of compensable failures would allow providers time to adapt operational processes to comply with the new standards and avoid premature penalties. This period could include an initial grace phase, during which ComReg collects and reviews data on compliance rates and operational impacts. Such an approach enables evidence-based adjustments to the scheme before full enforcement, reducing inadvertent and adverse impacts on service providers.



5. **Evidence of Consumer Harm and Targeted Scope:** To justify compensable failures, ComReg should continue to require evidence that a breach has resulted in tangible consumer harm. This approach not only provides clarity on when compensations apply but also ensures the regulation's proportionality. By requiring demonstrable consumer impact for compensable claims, the proposed regulation aligns more closely with harm-based principles in regulatory practice.

Conclusion

In summary, while we recognise the importance of compensable failures in supporting service quality improvements, a balanced and flexible regulatory framework is essential. By incorporating tolerances, specific exceptions, and tailored obligations, ComReg can maintain high consumer protection standards without imposing disproportionate burdens on providers. This balanced approach ensures effective industry participation and encourages continuous service improvements while keeping compliance feasible for all providers.



Q. 3 Do you agree with ComReg's preliminary view that it is appropriate to extend the specification of minimum QoS standards and compensable failures to all MDSIA? Please provide detailed reasons and supporting evidence for your view?

In response to Question 3 on ComReg's preliminary view regarding the extension of minimum QoS standards and compensable failures to all Missed and Delayed Service and Installation Appointments (MDSIA), we respectfully disagree with the proposed extension. While we recognise ComReg's goals of improving end-user experience and ensuring fair redress, extending these standards to all MDSIA appointments—beyond the scope of switching and porting—imposes significant obligations on providers and may result in unintended consequences that do not proportionately enhance consumer welfare.

Key Points Against the Extension of Minimum QoS Standards to All MDSIA:

1. **Disproportionate Burden on Service Providers:** Expanding compensable failures to include all MDSIA appointments, rather than limiting them to instances of switching and porting, places a broad operational and financial burden on providers. The current standards for porting and switching processes already require extensive compliance adjustments. Expanding this requirement to encompass all service and installation appointments would necessitate even more comprehensive scheduling, tracking, and reporting measures, disproportionately impacting smaller providers or those with less extensive operational infrastructures.
2. **Consumer Harm in Non-Switching Contexts is Less Evident:** ComReg's own consultation acknowledges that the harm associated with missed appointments is most pronounced in switching and porting contexts, where the end-user is particularly dependent on timely service completion for continuity. For standard MDSIA appointments (e.g., routine maintenance or intra-provider service upgrades), the criticality of the appointment is often less, and alternative service arrangements can frequently mitigate consumer inconvenience. Therefore, expanding compensation requirements to all MDSIA appointments may not yield proportionate consumer benefits.
3. **Risk of Increased Costs to End-Users:** The cost implications of administering a broad compensation scheme across all appointment types will likely increase operational costs for providers. Given the competitive nature of the telecommunications market, such costs would likely be passed on to end-users through higher service fees. This approach could inadvertently harm end-users by increasing their cost burden without delivering a commensurate increase in service quality.
4. **Operational Complexity and Increased Compliance Risk:** Expanding compensable failures to all MDSIA types introduces significant operational complexity, as providers would be required to monitor and document an expanded array of appointment types. This heightened compliance requirement not only increases administrative workload but also raises the likelihood of non-compliance due to the sheer volume of appointments to be managed. Smaller providers, in particular, may struggle to adapt



systems and processes to meet these expanded requirements, potentially distorting competition in the sector.

5. **Balanced Approach to Consumer Protection and Provider Feasibility:** Limiting the compensable failures to switching and porting appointments strikes an appropriate balance by focusing regulatory intervention on high-impact scenarios. This targeted approach ensures that consumer protection is prioritised where service disruptions have the most significant impact, while also keeping the regulatory burden manageable for providers. Expanding the specification of failures unnecessarily risks tipping this balance and increasing regulatory costs across the industry without yielding proportional improvements in consumer experience.

Conclusion

While we support measures that enhance service quality in switching and porting contexts, we recommend against the blanket application of minimum QoS standards and compensable failures to all MDSIA appointments. This approach would lead to undue operational and financial burdens for providers, potentially higher costs for end-users, and an administrative complexity that may not significantly improve end-user outcomes. A more targeted application of compensable failures limited to critical service transition contexts would better align with ComReg's regulatory objectives without imposing disproportionate obligations on service providers.



Q. 4 Do you have any comments on ComReg's draft regulatory impact assessment? Please provide detailed reasons and supporting evidence for your view.

In response to Question 4 on ComReg's draft Regulatory Impact Assessment (RIA) for establishing minimum QoS standards for Missed and Delayed Service and Installation Appointments (MDSIA), we appreciate the assessment's intent to balance consumer protection with provider obligations. However, to maintain proportionality, minimise regulatory burden, and avoid unintended costs that could ultimately impact consumers, we recommend adjustments to several elements of the RIA.

Comments on Each RIA Step

Step 1: Policy Issues and Objectives

ComReg highlights the consumer harm associated with MDSIA in certain contexts, particularly in switching and porting. However, broadening the regulatory scope to cover all MDSIA, beyond the critical cases of switching and porting, does not provide a clear policy justification proportional to the observed consumer harm. We recommend that the policy objective prioritise high-impact areas, such as switching and porting, where consumer expectations for seamless transitions are critical. This narrower focus would achieve ComReg's objectives of consumer protection and service reliability without imposing excessive obligations on providers for standard service or installation appointments that may not carry equivalent harm implications.

Step 2: Identify and Describe the Regulatory Options

ComReg's RIA outlines several regulatory options yet assumes uniform compensation requirements for all MDSIA categories. To address this, we suggest adopting a tiered approach, where minimum QoS standards and compensable failures are applied specifically to MDSIA incidents involving switching and porting, while less critical appointments remain subject to voluntary standards. This approach would allow providers flexibility in non-critical appointments, which typically involve fewer dependencies, and ensure regulatory intervention remains focused on the most impactful areas. A tiered approach aligns with the proportionality principle and reduces potential administrative strain.

Step 3: Determine the Impact on Stakeholders

The draft RIA does not fully address the operational and cost burdens that small or regional providers may face when implementing uniform QoS standards. For example, limiting appointment time slots to four hours and enforcing strict rescheduling requirements could disproportionately affect providers with limited field resources, particularly in rural or less densely populated regions. ComReg's proposals may result in increased operational costs that could eventually lead to higher service prices for consumers, counteracting the intended consumer benefits. We recommend allowing providers more flexibility in setting appointment windows or applying differential standards based on the provider's operational scale.

Step 4: Assess the Competition Implications



While ComReg asserts that the draft RIA has no adverse competition impact, a broader scope of regulation could impact market dynamics. For instance, smaller providers with fewer resources might struggle to meet the strict requirements, potentially disadvantaging them against larger providers who have more robust infrastructures to accommodate regulatory changes. This impact could reduce market competition and ultimately limit consumer choice. A narrower application of compensable failures would support a competitive landscape by reducing compliance costs for smaller entities, allowing them to compete more effectively in terms of service innovation and pricing.

The proposal does not consider the arising potential for distortion to competition at a wholesale level. It neglects to analyse how the impacts prefer SMP regulated OpenEir due to their advantages in the following areas vis-à-vis their emerging competitors such as Virgin and SIRO:

1. OpenEir has an extensive infrastructure and customer base that can absorb the financial impact of compensation payments more easily due to larger revenues and economies of scale. They are better positioned to implement automated processes for managing compensation claims and allocate resources to resolve issues quickly, or simply just pay – what for them – may well be immaterial penalties.
2. OpenEir has well-established and regulated operational frameworks, including service level agreements (SLAs) and automated systems for tracking and addressing service issues. These existing and already funded systems streamline compliance with compensation requirements.
3. As the primary wholesale provider, OpenEir can transfer service quality costs to retail providers through contractually agreed pass-through mechanisms, leveraging their power in the relationship. This arrangement shifts financial and operational risks downstream to retailers, ensuring that the SMP operator's profitability is less affected by the compensation scheme. Smaller operators do not have the same bargaining position.
4. OpenEir has long-standing and preferential relationships with subcontractors and vendors, allowing them to prioritize service recovery efforts and maintain compliance with compensation schemes.

Step 5: Select the Preferred Regulatory Option

In evaluating options, ComReg proposes a universal standard for all MDSIA instances. However, a one-size-fits-all model may result in inefficiencies and an undue regulatory burden on providers, particularly in less critical service appointments. Instead, we support a regulatory model that applies minimum QoS standards and compensable failures to high-priority contexts (e.g., switching and porting). This focused approach would streamline the regulatory framework, ensure proportionality, and preserve ComReg's consumer protection goals without imposing excessive costs on providers.

General Observations

1. Working Day Over the Weekend – e.g. Storm Darragh

Impact of Unforeseen Damages: Severe weather events like Storm Darragh highlight the challenges of maintaining service continuity during exceptional circumstances. These events,



classified as force majeure, are beyond the control of operators and inherently unpredictable. The regulatory framework should explicitly exempt such cases from automatic compensation obligations to ensure fairness.

Proposed Adjustment: Operators cannot reasonably foresee or prevent damages caused by extreme weather. Including provisions to exempt force majeure situations would align compensation policies with practical operational realities and reduce undue burdens on providers. This is especially relevant in the context of the tightly defined definition of "Working Day", where a storm emerges over the course of a weekend impacting on Monday appointments. The definition does not provide the flexibility to exclude the impact of such 'Force Majeur' events.

2. Specification of Time Slots Based on Core Working Hours

Misalignment with Operational Flexibility: While standardizing time slots enhances predictability for consumers, rigid enforcement of narrow time windows (e.g., four-hour slots) may not reflect the operational flexibility needed in FTTH deployments. Wholesalers, in particular, often extend working hours to meet installation demands, and this should be accommodated. Extensions into the weekend and into daylight hours of summer months is also available for the benefit of consumers to avoid impacting on their working hours.

Proposed Adjustment: The framework should prioritize core working hours but facilitate for extended slots where operationally viable, avoiding unnecessary constraints that could hinder the use of resources or flexibility offered by wholesalers. An inflexible penalty regime may have an unintended consequence of reducing flexibility beneficial to the consumer.

3. Appointment Misinterpretation and FTTH Installations

Nature of FTTH Installations: Unlike simple service activations, FTTH installations involve significant physical work, often requiring multiple site visits. Treating an initial appointment as indicative of a guaranteed installation completion misrepresents the complexity of the process.

Proposed Adjustment: Clear communication by ComReg of the limitations of its proposal to end users that initial appointments for FTTH installations may lead to subsequent locally rescheduled appointments is necessary. Compensation schemes should differentiate between delays in the installation process, locally rescheduled continuation appointments and missed initial appointments, ensuring consumers have realistic expectations.

4. Severity of Missed vs. Delayed Appointments

Uniform Penalties Are Misleading: Equating missed and delayed appointments in terms of penalty severity does not account for the varying levels of inconvenience caused to end users. A delayed appointment may involve minor scheduling adjustments, whereas a missed appointment often results in significant disruption.

Proposed Adjustment: Introduce a tiered penalty structure reflecting the distinct nature and impact of these failures, ensuring proportionality and fairness in the application of penalties.

5. Benchmarking Concerns

Irrelevance of Some Comparators: Comparisons with non-analogous industries or unrelated geographies may not capture the unique challenges of the telecommunications sector, especially in the context of FTTH rollout complexities.



Proposed Adjustment: Ensure benchmarking efforts focus on relevant comparators, such as telecommunications providers in jurisdictions with similar regulatory frameworks or infrastructure conditions. This will help establish realistic and actionable standards that benefit consumers without unfairly burdening operators.

6. Missed / Delayed Appointments arising from customer actions.

There is a genuine concern that ComReg has failed to sufficiently gather data to understand the impact of their proposal. ComReg uses unclear language in indicating that anecdotally it is aware of retailers charging customers for where the customer misses an appointment. This is not a universal approach of retailers, however, should this regime come into play it is likely that retailers will need to treat symmetrically missed/delayed appointments the result of customer behaviour, including where the customer misses the appointment or seeks to reschedule within 24 hours of the appointment falling due.

Conclusion

While we recognise the importance of establishing reliable and transparent appointment standards, extending uniform compensable failures to all MDSIA contexts may lead to unnecessary complexity, increased costs, and potential market disadvantages for smaller providers. By narrowing the scope to switching and porting and allowing flexibility in other appointment types, ComReg can achieve balanced consumer protections that align with its regulatory principles without burdening providers disproportionately.

This approach will meet consumer protection goals effectively while ensuring that the regulatory measures imposed are practical, proportionate, and conducive to a competitive and diverse telecommunications market



Q. 5 Do you have any comments on the draft Decision Instrument?

In response to the draft Decision Instrument at Annex 1 of *ComReg 24/89*, our review emphasises a balanced approach that aims to achieve regulatory goals while minimising the obligations imposed on service providers. Here is a critique of each element in the draft, along with suggested adjustments to reduce unnecessary burdens on providers.

1. Statutory Powers and Functions (Section 1)

The Instrument grounds its authority in the Communications Regulation Act 2002 and 2023 amendments, establishing ComReg's power to regulate QoS standards.

SIRO believes that ComReg is acting ultra vires in making Technical Regulations that purport to specify obligations on operators without complying with EU law requirements.

Furthermore, for the provisions concerning end-users, including compensation, the relevant provisions of the EECC require full harmonisation. The additional measures provided for in this decision instrument are beyond the simple compensation provisions which plainly encompasses the scope of the anticipated powers in the EECC in this regard.

Specifically, retailers are entitled to agree with the customer the Time Slot between them, and the duration of the change window prior to the Time Slot. Mandating Time Slots and Change Windows is not within the scope of ComReg's powers to specify in the context of end user compensation requirements.

Furthermore, while this purported legal basis is set out, additional clarity on how ComReg will exercise these powers proportionally would help to ensure that the focus remains on addressing material breaches rather than minor or isolated incidents. We recommend including language that affirms ComReg's commitment to enforcing these standards primarily in cases of persistent or significant failures. This clarification would reassure providers that minor lapses will not automatically incur penalties and align with proportional regulatory principles.

2. Definitions (Section 2)

The definitions provided, especially for terms like "Appointment," "Service Failure," and "Specified Failure," are foundational to understanding compliance requirements. However, some refinements could reduce ambiguity and potential burdens:

- **Appointment:** Define "Appointment" to include a reasonable range of mutually agreeable time windows. For example, allowing flexibility for providers to set appointment windows in coordination with customers (e.g., 6-hour or even full-day slots when required) would better accommodate logistical realities, particularly for providers with smaller operational capacities.
- **Specified Failure:** Introduce a tiered definition to differentiate material service failures from minor delays or issues beyond the provider's control (e.g., severe weather, delays due to customer unavailability). This distinction could help in assessing whether a given incident should trigger compensation obligations, thereby avoiding disproportionate penalties for minor or uncontrollable incidents.

3. Scope and Application (Section 3)



The draft Decision Instrument applies uniformly to all Missed and Delayed Service and Installation Appointments (MDSIA), which may be overly broad. To better align with practical service requirements and reduce operational burdens, we propose limiting the Instrument's scope to critical instances, such as missed or delayed appointments specifically related to switching or initial installations. Non-critical appointments (e.g., routine maintenance) could be governed by voluntary standards, maintaining focus on high-impact areas for consumer protection while reducing regulatory strain for providers on routine service appointments.

4. Specification of Failure (Section 4)

Under this section, the draft identifies specific actions or inactions that constitute failures. While we recognise the need for clarity in defining failures, we suggest:

- **Inclusion of Exemptions for Extraordinary Circumstances:** Clearly allow for exceptions in cases where delays are beyond the provider's reasonable control, such as force majeure events including severe weather, emergency situations, or last-minute access issues which impact the service provider at the customer's premises. By including exemptions, ComReg could reduce the risk of unfair penalties that may occur in genuinely unavoidable scenarios.
- **Thresholds for Defining "Failure":** Set reasonable thresholds (e.g., a grace period or tolerance for minor delays) before an incident qualifies as a "Specified Failure." This adjustment would acknowledge operational complexities and avoid penalising providers for isolated, small delays that may not materially impact the customer experience.

5. Compensation and Reporting Obligations (Section 5)

This section outlines providers' obligations for compensating end-users and reporting failures. To make compliance practical and minimise unnecessary burdens, we recommend the following:

- **Flexible Compensation Mechanisms:** Allow providers to offer reasonable compensation options, such as capped service credits or tiered compensation amounts, which may be more manageable than uniform monetary payments, especially for smaller providers. This flexibility would support proportional compensation without burdening the service provider, while maintaining consumer satisfaction.
- **Streamlined Reporting Requirements:** Simplify reporting obligations by allowing periodic reporting (e.g., quarterly) instead of requiring real-time or monthly reporting for every incident. For smaller providers, especially, such streamlined requirements could mitigate administrative workload while still meeting transparency goals.

6. Statutory Powers Not Affected (Section 6)

The Instrument's provision for maintaining ComReg's broader statutory powers is standard but could benefit from an assurance that enforcement will prioritise material, systemic issues over minor, isolated cases. We recommend including an explicit statement indicating that ComReg will focus enforcement on repeated non-compliance or severe, material service lapses, thus minimising obligations for providers who may otherwise face regulatory action for isolated incidents.



7. Maintenance of Obligations (Section 7)

This severability clause is appropriate, ensuring that individual invalid provisions do not affect the entire Instrument. To further support industry stability, however, we suggest adding a provision that allows for regular review and adjustment of obligations as market conditions and technologies evolve. This would ensure that the regulatory framework remains relevant and practical, particularly for emerging and evolving service models in telecommunications.

8. Effective Date and Duration (Section 8)

The effective date may not provide sufficient lead time for providers, particularly those with limited resources, to align with new obligations. A twenty four month implementation period, rather than three, would enable more effective compliance preparation, including system adjustments and staff training. For a smoother transition, ComReg could also consider a phased approach where only critical aspects (e.g., switching-related standards) are enforced initially, with additional elements coming into effect after an evaluation period.

Additional Recommendations

- **Evidence-Based Failure Assessment:** Only clear, documented cases of consistent and or material service failure should incur compensatory obligations. Providers should be able to demonstrate compliance mitigation efforts (e.g., customer contact records) to mitigate penalties for inadvertent failures.
- **Tiered Compliance for Different Provider Types:** Consider varying requirements based on provider size or geographic service area, allowing smaller providers or those in rural areas to meet modified compliance obligations that reflect logistical realities.

Conclusion

While the draft Decision Instrument provides a structured approach for addressing service quality issues, several refinements could improve its feasibility and reduce undue burdens on providers. Our proposed amendments—including refining definitions, limiting scope to high-impact situations, incorporating exemptions, allowing for flexible compensation mechanisms, and extending the implementation period—would ensure the framework effectively protects consumers without imposing excessive operational demands on providers. By adopting these modifications, ComReg can create a balanced regulatory environment that maintains service quality without constraining industry growth or competition.



Comparison with the UK Experience and Justification Against an End-User Compensation Scheme

Drawing from the UK's experience with end-user compensation, we see that such schemes should be evidence-driven and narrowly applied to address specific, substantiated consumer harms. The UK's initial automatic compensation scheme, introduced by Ofcom, focused on a limited set of scenarios—namely missed or delayed service appointments in the context of switching and provisioning. The scope of Ofcom's scheme was carefully defined after extensive industry consultations and evidence-gathering, including data on consumer complaints, service disruptions, and average wait times, to ensure that regulation was based on measurable consumer need. In contrast, ComReg's proposed compensation framework expands beyond switching and provisioning to cover all missed and delayed service appointments (MDSIA) without a similar evidence base, resulting in an unnecessary and disproportionate burden on providers.

1. Lack of Evidence to Support a Broad End-User Compensation Scheme

Unlike the UK, where Ofcom identified specific service gaps that materially impacted consumer satisfaction, ComReg has yet to provide sufficient data on the frequency, duration, or consumer impact of missed and delayed appointments across all MDSIA types. Evidence from the UK showed high consumer dissatisfaction specifically in the switching process, as delays and missed appointments could lead to unexpected service downtime. This context-specific data underpinned Ofcom's decision to limit its automatic compensation requirements to switching and provisioning failures. In Ireland, no such evidence has been provided to substantiate the claim that consumers experience significant harm from all types of missed or delayed appointments, suggesting that the regulatory intervention may be premature and overly broad.

2. Risk of Disproportionate Regulatory Burden on Providers

Implementing a broad compensation scheme in the absence of targeted data places a disproportionate burden on providers, particularly smaller and regional operators who may not have the infrastructure or resources to handle extensive regulatory compliance costs. Providers will likely need to invest in new monitoring systems, customer service training, and administrative processes to track all MDSIA-related activities, which may be especially burdensome for providers with limited operational scale. In the UK, the voluntary adoption phase allowed providers to implement such processes incrementally, helping them balance compliance costs with consumer demands. Applying a similar approach in Ireland would avoid imposing excessive operational and financial burdens, allowing providers to gradually adjust while more data is gathered on the consumer impact of specific MDSIA scenarios.

3. Increased Costs for Consumers Without Clear Consumer Benefits

The broad application of compensable failures across all appointment types may ultimately raise the cost of services for consumers, as providers are likely to pass compliance costs on through increased service fees. In the UK, Ofcom's impact analysis focused on ensuring that compensation rates were proportionate to consumer harm and did not inadvertently drive up costs across the board. In Ireland, without clear evidence of widespread consumer harm, a compensation scheme risks adding costs without delivering corresponding improvements in service quality or consumer satisfaction. Furthermore, in cases of routine appointments or



maintenance services, where delays may be of minor inconvenience to the consumer, the cost-to-benefit ratio of applying compensation appears unfavourable.

4. Unfair Impact on Competition and Market Dynamics

In the UK, Ofcom's scheme was structured with options for voluntary compliance, allowing providers flexibility and mitigating risks to competition. The current draft in Ireland lacks such flexibility, potentially disadvantaging smaller and new providers that may not have the resources to comply uniformly with comprehensive compensation requirements. This lack of proportionality risks skewing the market in favour of larger, established providers who can absorb these costs more easily. By imposing compensation requirements that do not differentiate based on provider capacity or regional service constraints, the proposed scheme may inadvertently stifle competition, reduce service diversity, and limit consumer choice in rural or underserved areas.

Conclusion: Focus on Evidence-Based, Proportionate Intervention

In light of the UK's cautious and evidence-based approach, we recommend that ComReg adopt a more targeted and gradual regulatory framework, concentrating initially on high-impact scenarios, such as switching and provisioning, where consumer harm is likely to be significant. This approach will ensure that consumer protections align with actual needs and that service providers are not unfairly burdened by regulations unsupported by consumer evidence. By limiting initial regulatory intervention to well-defined contexts, ComReg can better balance its goals of safeguarding consumer rights and fostering a competitive and resilient telecommunications market

11 Sky Ireland

Sensitive



Missed and Delayed Service and Installation Appointments –
End-User Compensation - Consultation

ComReg 24/89

20 December 2024

#AIC06, , 11523806 v1

Sensitive

Introduction

Sky Ireland Limited ("Sky") welcomes the opportunity to respond to ComReg's Consultation on missed and delayed appointments.

At Sky, we prioritise customer satisfaction and strive to deliver exceptional service. We recognise that missed and delayed appointments can significantly impact customer experience, leading to frustration and inconvenience. Therefore, we view this consultation as an opportunity to collaborate with ComReg and industry stakeholders to identify and implement effective solutions that benefit all parties involved. We fully support the goal of reducing missed and delayed appointments however, we believe involving the wholesale network providers in this process is paramount to achieving this objective. To ensure a consistent level of protection and redress for end-users (which is ComReg's stated aim in the consultation) all of industry must be involved. By fostering a collaborative approach, we can streamline operations, improve coordination, and ultimately enhance the overall customer journey.

Please find Sky's response below to the specific questions asked in ComReg's consultation document. We look forward to working with ComReg and other industry stakeholders to develop effective solutions that benefit Irish consumers.

Q.1 Do you agree with ComReg's proposed minimum QoS standards for Missed and Delayed Appointments, as outlined above? Please provide detailed reasons and supporting evidence for your view?

Response: While Sky agrees with ComReg that minimum quality of service standards for missed and delayed service and installation appointments are necessary, the implementation of the required changes to ensure compliance with such minimum QoS standards has complexity that will result in challenges for all operators in the Irish market. The proposed implementation period of 3 months does not adequately consider the complexity of the requirements, including the challenges of amending industry wide processes, negotiating with wholesale network operators and the interoperable systems development that will be required. The challenges and our recommendations are further described below.

Firstly, retail service providers (such as Sky) are reliant on wholesale network providers to facilitate the processing of service and installation appointments. Once the appointment date has been agreed by the retail service provider with the customer, the wholesaler network provider's dedicated team that handles the physical installation of broadband services coordinates directly with the customer on fulfilment of the appointment including any time adjustments (including on the appointment date). This operational model has streamlined the process of delivering broadband services to end-users and enhanced overall customer experience. We do our best to manage any issues that arise during the process (such as a lack of communication during the process, miscommunication, or delays in passing relevant information from the wholesale provider). However, the wholesale network providers are solely responsible for setting their own timelines and ensuring that reasonable efforts are made to avoid unnecessary delays. In cases involving wholesale network provider issues, Sky, unfortunately, is entirely reliant on the quality of the information passed on to them. Any new minimum QoS standards must reflect that retail service providers operate based on this model.

There should also be a clear distinction between the appointments that require end-user involvement and those where end-user presence is not required (for example property surveys). While the customer must be informed of the progress of their order throughout the process, retail service providers should not be responsible for paying compensation in the scenario where there is no customer involvement, as the direct consumer harm that is to be addressed by this consultation does not arise.

#AIC06, , 11523806 v1

Sensitive

In relation to timeslots, it is important to note that the definition of an AM and PM appointment varies between wholesale network providers and may also depend on specific requirements related to individual orders. Retail service providers may not be able to fully comply with the proposed minimum QoS standards if the wholesale network providers are not required by ComReg to agree standardised and uniform timeframes across the Irish market.

On the 18th of December 2024 the Industry Engagement Forum was held, and this consultation was a specific agenda item for the session. During the meeting, it was clear that by omitting the wholesale network providers from ComReg's proposals in relation to missed and delayed appointments the proposed changes may not have the desired effect ComReg and Industry wish to achieve. We believe that it is necessary to include wholesale network providers as part of this process and issue relevant guidance and obligations on their part so that they are required to address any such issues. We have written to each of our wholesale network operators in relation to this consultation and ComReg's proposals for missed and delayed appointments however we have not had any response. We do not believe it will be possible to impose these rules on our partners without ComReg involvement.

It is also important to have some mechanism in place between the wholesale network provider and retail service provider for recovery of the compensation amount that the retail providers have to pay out in the event that the issue is caused by the wholesale network provider. We do not see any reference to the wholesale network providers in the consultation or any plans for how this should be dealt with. For example, in the UK, there is an established recovery mechanism where Openreach (a wholesale network provider) is required to automatically compensate the retailer service providers in such scenarios. We recommend that ComReg consider following a similar approach to ensure the industry process is fair to all parties involved.

To require retail service providers to comply with minimum quality of service standards for missed and delayed service and installation appointments without imposing relevant obligations or specific regulatory timeframes or guidelines governing these processes that wholesale network providers must follow, will result in serious challenges for retail service providers. To comply with minimum QoS standards we must redesign the current process which involves significant technical development within our and network providers systems. Due to Sky's dependency on wholesale network providers, we will have to engage with four different entities and their own IT systems and processes to ensure that we collate the correct data before processing any compensation. However, all this work is subject to the agreement with the relevant wholesale network provider. To agree on the new process with a third party and then scope, design, build, and test such a new process in 3 months would not be possible. A holistic approach from ComReg is essential to ensure that industry-wide solutions are developed and implemented. By fostering a collaborative approach between service providers and wholesale network providers, we can work together to streamline processes, improve data sharing, and ultimately enhance the overall customer experience.

Q.2 Do you agree with ComReg's proposals to specify a breach of the minimum QoS standards proposed as failures under Section 39(a) of the 2023 Act? Please provide detailed reasons and supporting evidence for your view.

Response: Sky welcomes ComReg's approach which allows room for a provider-lead process and affords flexibility in terms of the process. As we can see based on the experience with the compensation scheme for switching and number porting breaches such an approach allows for healthy competition in the market, as retail service providers have the flexibility to adjust the level of compensation provided at a retail level according to the issues that arise.

Sensitive

Q.3 Do you agree with ComReg's preliminary view that it is appropriate to extend the specification of minimum QoS standards and compensable failures to all MDSIA? Please provide detailed reasons and supporting evidence for your view.

No additional comments.

Q.4 Do you have any comments on ComReg's draft regulatory impact assessment? Please provide detailed reasons and supporting evidence for your view.

Response: In the draft of the regulatory impact assessment, ComReg notes that existing third-party SLAs may need to be reconsidered which may involve renegotiation of certain aspects of SLAs. ComReg also accurately assessed that some retail service providers may have low bargaining power in such a renegotiation. While the assessment is correct, it is important to note that this aspect is not addressed at all in the draft Decision.

ComReg's impact assessment supports Sky's position that involving the wholesale network providers in this process is paramount to achieving the goal of reducing missed and delayed appointments. As mentioned in response to Q1 above, it is necessary to include wholesale network providers in the proposed measures and issue relevant guidance and obligations on their part so that they can be asked to address any such issues.

Moreover, any implementation period must adequately factor the time required for renegotiation of such SLAs across all wholesale network providers. However, any such renegotiation may only begin once the final ComReg decision that includes wholesale network providers as part of this consultation is issued.

Q.5 Do you have any comments on the draft Decision Instrument?

Response: As mentioned in response to Q1 above, we believe that it is necessary to include wholesale network providers in the proposed measures and issue relevant guidance and obligations on their part so that they can be asked to address any such issues. In addition, if the cause and responsibility for the breach is a failure of a wholesale network provider, Sky must be permitted to recover those compensation amounts. ComReg should address these aspects in its ultimate Decision. The Decision should not be addressed to retail service providers only – it must include also the wholesale network providers on which we are reliant and implement a process for cost recovery.

Sky also recommends that the Decision gives a clear distinction between the appointments that require end-user involvement and those where end-user presence is not required to ensure that such appointments do not fall under the compensation regime.

Implementation of required changes to ensure compliance with such minimum QoS standards has complexity that will result in challenges for all operators in the Irish market. The implementation period specified by the Decision has to adequately factor in the necessary changes that have to be completed at the retail service providers and wholesale network providers levels.

12 Pure Telecom

Pure Telecom Submission to Missed and Delayed Service and Installation Appointments – End-User Compensation Reference: ComReg 24/89.

In addition to our comments below, please reference the discussions documented in the draft minutes from the Industry Engagement Forum dated 18/12/2024, held at midday in ComReg offices.

Q. 1 Do you agree with ComReg's proposed minimum QoS standards for Missed and Delayed Appointments, as outlined above? Please provide detailed reasons and supporting evidence for your view.

1. Pure Telecom do not agree entirely with the proposed minimum QOS standard for Missed and Delayed Appointments:

Pure Telecom are not in direct control of the visiting engineers as we rely on our wholesale network suppliers and their contracted parties to interact with customers and are required to receive feedback from these interactions via automated systems.

The notice period proposed of 24 hours is unrealistic in many situations.

Eg. The customer may make a local arrangement between the visiting engineer or the wholesale network scheduling team on the day of the Appointment or shortly prior to the Appointment – it will need to be established what the durable format that confirms this local arrangement as it is effectively rearranging the pre-confirmed appointment.

During an adverse weather event and where “Storm mode” is initiated resulting in network resources being redeployed, it may not be possible or practical to provide the customer 24 hours’ notice of an appointment re-schedule/delay.

Significant process and software changes will be required to meet a 24-hour notice period. Currently Appointment times are available to be changed up to circa 3pm the afternoon on the day prior to the Appointment which allows changes to be made by customers. However, the introduction of a 24-hour notice period will impact customers’ flexibility to change their Appointment (assuming equivalence of notice period between customer and service provider for information flow both ways is the intention). Otherwise, would the suggestion here be to keep the circa 3pm time the afternoon on the day prior to the Appointment for the customers to change Appointments, but impose a 24-hour notice on service providers to change Appointments?

Q. 2 Do you agree with ComReg's proposals to specify a breach of the minimum QoS standards proposed as failures under Section 39(a) of the 2023 Act? Please provide detailed reasons and supporting evidence for your view.

2. Pure Telecom do not agree with ComReg's proposals to specify a breach of the minimum QOS standards proposed as failures under Section 39(a) of the 2023 Act.

Levying an obligation on the service provider to pay compensation to an affected end-user when a specified failure is committed without the relevant processes in place to in turn receive reimbursement of this financial commitment from the relevant wholesale network providers and their representative contractors imposes significant potential financial burdens on service providers to pay out on events which the service providers have no control over whatsoever in terms of whether Appointments are fulfilled or not or in the timeslot previously agreed.

As per the draft minutes from the Industry Engagement Forum dated 18/12/2024, held at midday in ComReg office – there is agreement within the industry that significant industry engagement will be required to ensure necessary software information flows and reporting structures are put in place to amend existing processes to achieve a scheme which may form any type of compensation scheme as proposed.

Q. 3 Do you agree with ComReg's preliminary view that it is appropriate to extend the specification of minimum QoS standards and compensable failures to all MDSIA? Please provide detailed reasons and supporting evidence for your view?

3. Pure Telecom do not agree that it is appropriate to extend the specification of minimum QoS standards and compensable failures to all MDSIA.

Pure Telecom are not in direct control of the visiting engineers we rely on our wholesale network suppliers and their contracted parties to interact with customers and only receive feedback from these interactions via automated systems.

Q. 4 Do you have any comments on ComReg's draft regulatory impact assessment? Please provide detailed reasons and supporting evidence for your view.

4. Pure Telecom Comments on Impact assessment:

Time Slots: –

These would ideally need to be aligned for both time of day and duration between all wholesale network providers to avoid confusion and provide consistency throughout for service providers and customers alike.

Adequate Notice: –

- i. The customer may make a local arrangement between the visiting engineer or the wholesale network scheduling team on the day of the Appointment or shortly prior to the Appointment – it will need to be established what the durable format is which confirms this local arrangement and is effectively rearranging the pre-confirmed appointment.
- ii. During an adverse weather event and where “Storm mode” is initiated resulting in network resources being redeployed, it may not be possible or practical to provide the customer 24 hours' notice of an appointment re-schedule/delay.

Impact of making a breach of the standards a compensable failure: –

Levying an obligation on the service provider to pay compensation to an affected end-user when a specified failure is committed without the relevant processes in place to in turn receive reimbursement of this financial commitment from the relevant wholesale network providers and their representative contractors imposes significant potential financial burdens on service providers to pay out on events which the service providers have no control over whatsoever in terms of whether Appointments are fulfilled or not or in the timeslot previously agreed.

As per the draft minutes from the Industry Engagement Forum dated 18/12/2024, held at midday in ComReg office – there is agreement within the industry that significant industry engagement will be required to ensure necessary software information flows and reporting structures are put in place to amend existing processes to achieve a scheme which may form any type of compensation scheme as proposed.

Q. 5 Do you have any comments on the draft Decision Instrument?

5. Please reference the discussions documented in the draft minutes from the Industry Engagement Forum dated 18/12/2024, held at midday in ComReg offices.

13 Imagine Ireland

Imagine Non-Confidential



Commission for Communications Regulation
Retail Policy
One Dockland Central,
1 Guild St, North Dock,
Dublin 1, D01 E4X0

18th December 2024

Re: Submissions to ComReg 24/89

Dear Sir/Madam,

Imagine has the following responses to ComReg's consultation on Missed and Delayed Service and Installation Appointments – End-User Compensation: -

General

Imagine is supportive of measures aimed at ensuring consumers are treated fairly and that retail service providers provide good levels of service quality, including compensation if things go wrong .

In terms of ComReg's proposals Imagine makes the following general observations that it believes should be considered in setting out standards for MDSIA: -

- Four-hour appointment windows may be difficult to achieve in remote rural areas where long travel times on poor roads and not infrequent disruptions due to poor weather occur. An eight-hour window may be more achievable, with 4-hour windows being offered where possible, provided certain exclusions can be considered.
- Increasingly as the access component of ECS networks in the market converge on a small number of wholesale providers the retail service providers become dependent on the wholesale provider for service delivery and fault management of their access services. It cannot be assumed that the current agreements and contracts '*ensure wholesale inputs are adequate to underpin any retail obligations concerning the standards and compensation*'¹
- Retail service providers (RSPs) are heavily dependent on wholesalers for service delivery and maintenance. Current Service Level Agreements (SLAs) with wholesalers do not adequately support the proposed standards. Revising such contracts will require cooperation from wholesale providers and may not be feasible within the proposed implementation timeline, as many agreements cannot be renegotiated until their expiry.
- An increase in the administration and scheduling of appointments, additional reporting requirements, and the requirement for the development of the systems to support it, will incur additional costs that may in turn lead to increased costs to consumers

¹ ComReg 24/89 Page 31

Faster Broadband, Faster

Imagine Communications Group Ltd

Registered Address: Sandyford Business Centre, Sandyford, Dublin 18 | T: +353 1 437 5000 | W: www.imagine.ie

CRO: 309126 | VAT No: IE 63771810

Directors: R.Ingram (UK), S.Cast (UK), D.Kickham, B.O'Donohoe, B.Bates (USA), J.Demeester (FRA), E.Brogan (UK), B.Harrup (UK), J.Rooney, A.Letts (UK)



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Question 1:

Do you agree with ComReg's proposed minimum QoS standards for Missed and Delayed Appointments, as outlined above? Please provide detailed reasons and supporting evidence for your view.

Four-hour appointment windows are difficult to achieve in remote rural areas where , travel times are longer due to poor roads and disruptions due to bad weather. Statistically these are more prevalent due to the geographic location of these consumer. Imagine notes that ComReg has recognised this as an issue for some RSP's by including the statement 'ComReg is aware that a requirement to limit appointment duration may cause operational issues for some RSPs whilst caveatting this statement with , ComReg is of the preliminary view that the greater consumer harm arises from being assigned all-day appointment slots.'

However, the removal of all day appointments does not eliminate the reality that the need for an all-day appointment exists for some consumers and by effectively 'outlawing' the 'all day appointment' ComReg are forcing RSP's that operate in these areas to incur significant additional cost or moreover take a commercial decision not to offer service which is not in the consumers interest. Therefore, imagine requests that any proposed measure takes these difficulties into account and provides the required degree of flexibility to accommodate same.

Ultimately the proposal, if adopted, will impose additional obligations on an RSP which will in effect mean that the current SLA's in situ between the RSP and Wholesale provider will no longer meet the RSP's regulatory obligations. From a practical perspective RSPs are heavily dependent on the Wholesaler Providers for service delivery and maintenance. Therefore; any revision to such contracts will require cooperation from the wholesale provider. This may not be feasible within the proposed implementation timeline, as many agreements cannot be renegotiated until their expiry.

Question 2:

Do you agree with ComReg's proposals to specify a breach of the minimum QoS standards proposed as failures under Section 39(a) of the 2023 Act? Please provide detailed reasons and supporting evidence for your view.

It's Imagine's view that section 39(a) does not align with the legislative intent and furthermore that ComReg's proposed use of such in this consultation, is too broad and outside the scope and context of its original design. Furthermore, ComReg have failed to provide any insight or indeed context into how their interpretation aligns with section 39(a) and consequently, when viewed from this perspective, it undermines the consultation to such an extent that is must be deemed to be fundamentally flawed.



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Question 3:

Do you agree with ComReg's preliminary view that it is appropriate to extend the specification of minimum QoS standards and compensable failures to all MDSIA? Please provide detailed reasons and supporting evidence for your view.

Imagine do not agree with this view for the following reasons:

1. Over Regulation of ISPs: -

These new regulatory requirements will impose disproportionate compliance and operational burdens on smaller Retail Service Providers (RSPs), further harming competition and innovation. It also as has been highlighted elsewhere in this response that it ignores or fails to consider the practical implementation for RSP's operating in specific geographic areas.

2. Practical Feasibility: -

The definition possibly introduces confusion and inconsistency when compared to existing regulatory frameworks

3. Consumer Impact: -

Additional regulatory burdens such as compensation schemes place further operational costs on commercial organisations. Ultimately these lead to increased costs for end-users or reduced service offerings, which may ultimately contradict ComReg's broader mandate to promote fair competition and protect consumers.

Question 4:

Do you have any comments on ComReg's draft regulatory impact assessment? Please provide detailed reasons and supporting evidence for your view.

Imagine agree with the statement that: -

*'a well-functioning, competitive market should ensure wholesale inputs are adequate to underpin any retail obligations concerning the standards and compensation'*²

However, Imagine do not agree that a well-functioning, competitive market exists in many parts of the country (as directly evidenced by the existence of the NBP).

Imagine do not agree that current wholesale inputs are adequate to underpin any retail obligations concerning the standards and compensation.

As per our previous comments above, the ability to publish a compensation scheme within 3 months is impractical, given that RSPs will need to re-negotiate contracts with its wholesale service providers and installation service providers.

² ComReg 24/89 Page 31



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In terms of the impact on providers, the assessment does not sufficiently account for the disproportionate burden on smaller service providers including the costs of system updates to support new tracking and reporting requirements, additional administrative resources required to manage the compensation scheme, the operational impracticality of maintaining sufficient unassigned staff to enable same-day rescheduling, especially in rural areas. These challenges could result in significant operational strain and increased costs, with the risk of these being passed on to consumers to remain commercially viable for RSPs to continue operating.

Regarding the use of time slots, while all providers do provide timeslots, the provision for four-hour time slots lends significantly more favourably to 1) RSPs working in urban areas and 2) larger Retail Service providers with large installation crews and/or more leverage on installation partners as seen in ComReg's assessment of issues with providers lower bargaining power. Despite this analysis, there does not appear to be any provision for smaller RSPs which may result in these smaller RSP's withdrawing from the market resulting in less competition within the market. This will not be to the benefit of the consumer in the longer term

Therefore, it is Imagines view that Option (ii) as opposed to Option (ii)b is the more appropriate response to meet the required minimum QoS standard as defined.

Question 5:

Do you have any comments on the draft Decision Instrument?

In relation to: -

'The Provider can establish that a technician arrived at the Customer's Premises during the agreed Time Slot, that contact was attempted with the Customer during the Time Slot, and that the Technician could not access the Customer's Premises and this was not due to any act or omission on the Provider's part;'³

Imagine believes a provision should be included to exclude compensation claims in cases where the RSP can demonstrate that genuine, but unsuccessful, attempts were made to contact the customer to reschedule an appointment within the 24 hours preceding the scheduled time. Such a provision would support operational efficiency and help prevent unnecessary disruptions or unwarranted compensation claims from Wholesale Service Providers to the RSP caused by unresponsive customers.

Regarding the requirement to provide 24 hours notice to rearrange an appointment Imagine believes that the range of exceptional circumstances where an event or occurrence could not reasonably have been foreseen and accommodated needs to be broader than what is typically considered to be Force Majeure and that this should take account of the additional challenges of operating in rural markets. This would include situations such as technician unavailability due to vehicle breakdowns, sickness, or other unexpected circumstances.

³ ComReg 24/89 Page 46 Section 4.1, Part iii a



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The proposal to extend the definition of working week to include Saturday is unnecessary as provisions for out of hours appointments including Saturdays are already catered for under the within the NGA IPM which defines the 'Working Day' as the time between 09:00-17:00 or any day other than Saturday, Sundays or Public holidays as defined in the Second Schedule to the Organisation of Working Time Act 1997. This SLA provides for installations outside of the 'working week' .and as such there is already a facility in-situ that covers this requirement. Therefore the extension of the working week to include Saturday is unnecessary and imposes an additional burden on RSP's.

The proposed timeline for implementation does not account for the time required to renegotiate wholesale contracts, develop systems to support compensation schemes, and address administrative and staffing challenges. A phased implementation approach would provide a more realistic pathway for compliance.

While Imagine supports the overall intent of the Decision Instrument, these adjustments are critical to ensure that the framework is equitable, practical, and sustainable for all stakeholders.

14 Westnet



Westnet Submission to ComReg 24/89

Westnet welcomes the opportunity to respond to ComReg's consultation on end-user compensation for missed and delayed service and installation appointments (MDSIA). We have a number of general observations on ComReg's proposals and some detailed comments on specific aspects.

We wish to emphasise up-front that we agree whole-heartedly with the goal of improving end-user experiences. As the first point of contact for unhappy customers, anything that can be done to reduce the level of customer dissatisfaction with delayed and missed appointments is to be welcomed - but only if it will be effective. We are not convinced that the proposals as outlined will achieve that goal.

General observations

Short lead-in time and lack of prior engagement

The first point we would make is that this appears to be a major regulatory intervention that has not had nearly enough engagement with industry prior to ComReg arriving at a draft Decision. The initial consultation document was published on November 6th with an original deadline for responses of December 6th; a two-week extension into the Christmas break isn't a significant improvement. A three-month implementation period is also completely unrealistic, given (a) the likelihood that access providers would almost certainly be required to introduce new or changed processes, some of which are subject to regulatory oversight and as such simply can't be done in the timeframe envisioned; and (b) the fact that new retail processes and compensation schemes will likely require significant IT development work, which can't realistically be done at short notice by large retail providers, and will impose significant administrative burdens on smaller ones.

It's our strongly-held view that this process needs to be begun afresh, not with a draft Decision document and a short consultation window, but with a period of active engagement with everyone involved - wholesale access providers, aggregators, retail service providers and installation contractors.

This consultation was discussed (at some length) at the Industry Engagement Forum held in ComReg's offices on December 18th, and we believe the minutes of the meeting will show that (a) everyone present (including representatives of both wholesale and retail operators) agreed with the goal of improving the end-user's experience with appointments, and (b) everyone equally agreed that the Decision as drafted is the wrong way to go about it.

Retail-only perspective

At 3.3 in the consultation document, ComReg states that it "examined the current processes of Irish retail providers" in order to understand how appointments are created, but it's not clear that ComReg has fully understood the extent to which the creation of appointments, and much more so the fulfilment of appointments, is entirely out of the hands of the retail providers themselves.

For example, at 3.9(4):

ComReg is aware that a requirement to limit appointment duration may cause operational issues for some RSPs, who may only offer longer time slots. In such cases, RSPs may be required to amend their operational processes relating to allocating technicians to appointments.

But RSPs may not be in a position to unilaterally amend their operational processes. The open eir NGA Industry Process Manual, on page 42, states:

Certain provisioning orders such as non-insitu FTTH and non-insitu FTTC may require an All Day appointment; if an operator selects an AM or a PM appointment this will be changed to an All Day appointment in the acceptance notification.

Similarly, NBI has assigned "connection standards" (Bitstream and VUA Process Manual v1.4 pages 57-58), several of which explicitly state that an all-day appointment will be required for installation.

Most if not all access providers have a process, at least for installations, whereby control over scheduling of appointments is actively removed from the RSP a day or two in advance of the appointment. In reality, the actual appointment scheduling, contacting of customers and so on is often carried out by the installation contractor's back office. The draft Decision pushes the entire responsibility for appointment scheduling onto the retail provider which would require fundamental changes to the access providers' processes.

Charging customers for missed appointments

At 2.6 the consultation says:

ComReg has also ascertained from an analysis of industry practices, that in the situation where end-users themselves miss an appointment (for instance where customers are not available or do not respond to communication attempts or the premises is inaccessible) at the agreed time, RSPs seek to be compensated by charging customers a fee.

This is a very blanket statement. Some RSPs have never charged customers for missed appointments (despite in many cases incurring several €30 missed appointment penalties themselves, which may more than offset the entire first-year margin of that customer - even assuming that that customer does, in fact, go on to get connected).

The footnote to the quoted paragraph states that it was "ascertained from publicly available online data" - we wonder whether this was a reference to providers reserving the right to charge for missed appointments, as a way of encouraging customers not to miss them, rather than any actual evidence that it's a widespread practice?

In fact, if RSPs are required to automatically compensate customers for missed appointments as envisaged by the draft decision, many of them may feel that they have no choice but to introduce customer missed appointment charges in turn, in order to maintain already very narrow margins.

Specific observations

Definition of an appointment

At 3.12 the consultation document defines an appointment as "an agreement between a RSP and a customer of that RSP for a technician to attend at the customer's premises for the purpose of a Service or Installation at an agreed Time Slot on a specific Working Day."

This definition includes no recognition of the time the technician will have to spend at the customer's premises to carry out the work; it simply requires the technician to show up during the time slot. An appointment, particularly for a new connection or for repair of significant damage, may require hours of work running cables, climbing ladders, clearing ducts, drilling holes and more.

At 3.13.iv:

An Appointment shall be deemed missed if the Technician has not attended the Customer's Premises during the agreed Time Slot on the agreed Working Day

If a customer has taken a morning off work on the basis of an assigned morning time slot, and the technician arrives five minutes before the end of that time slot to carry out a 2-hour installation, the customer will likely want to reschedule. This will likely lead to a "customer requested reschedule" referral, and a penalty levied on the RSP by the access provider.

This is one of a number of scenarios we could describe where a customer suffers harm but isn't entitled to compensation; we could also describe a number of situations where the customer doesn't suffer harm but compensation is automatically applied.

Time slot definitions

At 3.9(4) the consultation refers to time slots as being of no longer than four hours, and falling between 8am and 1pm or 1pm and 6pm. These are five-hour windows, so it's not at all clear to us how four-hour time slots are consistent with five-hour windows.

The time windows proposed are also inconsistent with those offered by NBI - the Bitstream and VUA Process Manual defines three four-hour time slots of 8am to noon,

noon to 4pm and 4pm to 8pm (page 42 - it also defines an all-day appointment slot and explains why it may be necessary). It would be impossible for a retail provider of NBI products to comply with ComReg's proposed time windows (other than possibly the morning one).

Force Majeure / Storm Mode

The consultation envisages a "very narrow exception" for force majeure scenarios, but makes no allowances for "storm mode".

In the aftermath of a severe storm such as the recent Storm Darragh, there can be widespread damage to access networks, particularly from trees falling on distribution cables. The extent of the damage often only becomes clear several days after the storm has passed, as power is restored across the affected region.

This can trigger "storm mode" with some wholesale providers, during which time certain SLAs are suspended as the volume of repair work makes it impractical to commit to normal timeframes for appointments. The consultation as drafted makes no such allowances for exceptional circumstances that fall short of force majeure.

Saturday is a working day?

The consultation appears to consider Saturday a normal working day, and - at least by our reading of it - requires that RSPs offer their customers appointment slots on Saturdays. In our experience, Saturday appointments are not generally made available by wholesale access providers to RSPs, so it would not be possible to comply with the requirement to offer them.

It also seems strange on the face of it to consider Saturday a working day for the purposes of scheduling appointments, but not to allow appointments to be rescheduled on Saturdays (3.10(b)).

In Summary

We urge ComReg to restart this process in the way we and others in the industry feel it should have been done from the beginning - with robust engagement with retailers, wholesalers, aggregators and installation contractors. We genuinely believe that this is the only way to achieve better outcomes for end customers.