



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

# Provision of Public Pay Telephones Universal Service: Scope and Designation

## NON-CONFIDENTIAL

Consultation and Draft Decision

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

1 Lárcheantar na nDugaí, Sráid na nGildeanna, BÁC 1, Éire, D01 E4X0.  
One Dockland Central, Guild Street, Dublin 1, Ireland, D01 E4X0.  
Teil | Tel +353 1 804 9600 Suíomh | Web [www.comreg.ie](http://www.comreg.ie)

## Additional Information

All responses to this consultation should be clearly marked:

“Reference: Submission re ComReg 20/85” as indicated above, and sent by post, facsimile, e-mail or online at [www.comreg.ie](http://www.comreg.ie) (current consultations)

**Retail Division  
Commission for Communications Regulation  
One Dockland Central,  
Guild Street,  
Dublin 1,  
Ireland,  
D01 E4X0  
Ireland**

**Ph.: +353-1-8049600    Fax: +353-1-804 9680    Email: [retailconsult@comreg.ie](mailto:retailconsult@comreg.ie)**

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# 1 Introduction

- 1 The Commission for Communications Regulation (“ComReg”), under the Universal Service Regulations (“the Regulations”),<sup>1</sup> is obliged to ensure that “*public pay telephones or other public voice telephony access points are provided to meet the reasonable needs of end-users.*”
- 1 The Regulations<sup>2</sup> provide that a designated undertaking shall ensure that:
  - public pay telephones (“public payphones”)<sup>3</sup> and other public voice telephony access points are provided to meet the reasonable needs of end-users in terms of the geographical coverage, the number of telephones or other access points, accessibility to disabled end-users and the quality of services; and
  - that it is possible to make emergency calls from a public payphone using the single European emergency call number “112”; and
  - that users of those telephones have access to a directory enquiry service.
- 2 Public payphones are payphones that are in public areas (e.g. the street) and are available to, and accessible by, the general public.
- 3 ComReg, by Decision D01/19 (“D01/19”)<sup>4</sup> designated eir as the Universal Service Provider (“USP”) for public payphones for the period 25 February 2019 until 31 December 2020. In that Decision, ComReg decided that the number of public payphones in operation at that time should be maintained by eir, unless their usage fell below a specified usage threshold level. This dynamic approach, based on usage threshold levels, ensures that end-users who use public payphones may still have access to them, whilst permitting eir to manage those public payphones for which there is no longer a reasonable end-user need.

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<sup>1</sup> European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011, S.I. No. 337 of 2011 (“Universal Service Regulations”).

<sup>2</sup> Regulation 5 of the Regulations.

<sup>3</sup> Where “public pay telephone” means a telephone available to the general public for the use of which the means of payment may include coins, credit cards, debit cards or prepayment cards, including cards for use with dialling codes. Citations European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011, S.I. No. 337 of 2011 (“Universal Service Regulations”).

<sup>4</sup> Provision of Public Payphones –Universal Service Scope and designation, ComReg document 19/06, 25/02/2019

- 4 ComReg, in D01/19, stated that it “will conduct an analysis of the usage after year one of the designation period, and, based on this review, it will decide if it needs to commence a new consultation process in relation to the provision of public payphones in the State and will publish an information notice regarding this”<sup>5</sup>.
- 5 In June 2020<sup>6</sup> ComReg published an Information Notice setting out its intention to commence a public consultation on the usage threshold and payment methods to be in place until the end of the current designation and the need, if any, for a public payphone universal service designation after the expiry of the current designation period.
- 6 ComReg is now undertaking (1) a review of the public payphone threshold level and payment methods under the current designation, including:
- usage levels and the level of sensitivity to changes in the level of the usage threshold; and
  - types of calls being made from public payphones and the associated payment methods
- 7 ComReg is also undertaking (2) a review of the need, if any, for a public payphone universal service designation and associated public payphone usage threshold level and payment methods, beyond the current designation period. ComReg’s review includes several key considerations, such as:
- whether the reasonable needs of end-users are being met, based on the current public payphone usage threshold level and current payment mechanisms;
  - the current and projected number of public payphones after 31 December 2020 (based on the current trends);
  - projected future public payphone usage levels and the sensitivity to potential changes in the usage threshold level, after 31 December 2020;
  - projected types of calls that may be made from public payphones and the associated payment methods that may be required, after 31 December 2020; and;
  - alternative methods of making a call.

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<sup>5</sup> Provision of Public Payphones – Universal Service Scope and designation, ComReg document 19/06, 25/02/2019 [Page 8, Paragraph 17]

<sup>6</sup> ComReg Information Notice 20/52 “Provision of Public Payphones: Universal Service Review” (24 June 2020)

- 8 Having reviewed these key considerations, ComReg is of the preliminary view that:
- there is no requirement to amend either the current payphone threshold level or payment methods, under the current designation (i.e. until 31 December 2020); and
  - the reasonable needs of end-users will be met by alternative means, including commercially provided payphones (post 31 December 2020) and that any designation of an undertaking(s) in respect of the provision of public payphones after 31 December 2020, would not be appropriate.
- 9 ComReg's preliminary views are set out in further detail within this consultation document.
- 10 ComReg is seeking the views of stakeholders on its preliminary views:
- to retain the existing public payphone usage threshold level and payment methods until the 31 December 2020, in accordance with D01/19;
  - not to designate a USP(s) in respect of public payphones (including usage threshold level and payment methods), post 31 December 2020.
- 11 ComReg looks forward to receiving responses from all stakeholders in relation to the proposals in this consultation document. ComReg will review and fully consider all responses it receives, and consult with the Minister, in reaching a final decision.

## 2 Executive Summary

- 12 Universal service is an important measure of end-user welfare as it provides a safety net that ensures certain basic fixed line services are available at an affordable and uniform price to all citizens and consumers throughout the State, particularly in areas of the State (such as rural or sparsely populated areas) where the market might not deliver these services.
- 13 Services provided under the USO include reasonable access to voice telephony services from public payphones.
- 14 In publishing this consultation, ComReg is cognisant of its statutory objectives, as set out in Section 12 (1) (a) (iii) of the Communications Regulation Act, 2002 (as amended) (“the Act”), including the promotion of interests of end-users of services and protecting end-user welfare, in respect of its review of the current public payphone usage threshold level and payment methods under the current designation (i.e. prior to 31 December 2020).
- 15 Under Regulation 5 of the Regulations ComReg requires the consent of the Minister for Communications, Climate Action and the Environment (“DCCAE”) to “specify terms and conditions applicable to the provision of public pay telephones or other voice telephony access points provided to meet the reasonable needs of end-users in terms of geographical coverage, the number of telephones or other access points, accessibility to disabled end-users and the quality of services, and/or the removal of such services”.
- 16 ComReg, in accordance with the Regulation 5(3) of the Regulations, may decide not to designate an undertaking, after consulting with the Minister, and having regard to views expressed to it under a public consultation.
- 17 ComReg has ensured that the reasonable needs of end-users are met in terms of a usage threshold of existing payphones in Decision D01/19, as was the case in previous decisions, rather than the quantity or distribution of payphones throughout the State. If a public payphone is sufficiently used, it meets the usage threshold, the payphone is therefore a universal service public payphone, and the USP must retain and maintain it. However, the USP may cease service from a public payphone where the usage is below the usage threshold parameters, or there is evidence of anti-social behaviour, or its removal is requested by a Local Authority, but it must act in accordance with the notification requirements in the case of cessation of service from that public payphone.

- 18 ComReg is also mindful of Directive (EU) 2018/1972 (European Electronic Communications Code, “EECC”), when considering its review of the need, if any, for a public payphone universal service designation and associated public payphone usage threshold level and payment methods, beyond the current designation period (i.e. post 31 December 2020). The EECC is to be transposed into national legislation by 31 December 2020.
- 19 Article 87 of Directive (EU) 2018/1972 states that Member States may continue to:
- “ensure the availability or affordability of other services...that were in force on 20 December 2018, if the need for such services is established in light of national circumstances”.*
- 20 Recital 235 of the EECC provide additional context in respect of Article 87, stating that [emphasis added]:
- “Member States should be able to continue to ensure the provision of universal service in their territory, other than adequate broadband internet access and voice communications services at a fixed location, that are included in the scope of their universal service obligations on the basis of Directive 2002/22/EC on the date of entry into force of this Directive, provided the services or comparable services are not available under normal commercial circumstances”.*
- 21 ComReg, as part of this consultation, has sought relevant public payphone and usage information from the current USP<sup>7</sup> and the Emergency Call Answering Service (ECAS). ComReg has analysed the changing market, the existence of alternative methods of making voice calls (including commercial provision of a public payphone service) and noted the declining end-user demand for public payphones. This analysis demonstrates that usage of public payphones has declined considerably between 2018 and 2020, as has the number of payphones that meet the usage threshold for universal service.
- 22 With respect to the usage threshold and payment methods under the current designation (D01/19) (outlined further at Chapter 3 of this document), and:
- The sensitivity analysis undertaken on the usage threshold;
  - End-user usage of public payphones (including call type and duration); and
  - Income derived by eir from public payphones

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<sup>7</sup> A statutory information requirement, pursuant to ComReg’s powers under section 13D of the Communications Regulation Acts, 2002 to 2011 as inserted by Section 6 of the Communications Regulation (Amendment) Act 2007, dated 17 April 2020

and ensuring that the reasonable needs of end users are balanced with the declining usage of universal service public payphones, ComReg is of the preliminary view that it is appropriate to maintain the current usage threshold and payment methods (as specified in D01/19) for the remainder of the designation (i.e. until 31 December 2020).

23 In relation to the designation of a USP(s) in respect of public payphones (including usage threshold level and payment methods), post 31 December 2020 (outlined further at Chapter 4 of this document), and:

- ComReg's assessment of the reasonable needs of end-users for universal service public payphones, based on usage;
- the commercial provision of a public payphone service post 2020 and;
- consideration of legislative developments (in particular, Directive (EU) 2018/1972);

ComReg is of the preliminary view that any public payphone universal service obligation and associated designation, post 31 December 2020, would not be necessary.

24 In its draft regulatory impact assessment (RIA) in Chapter 7, ComReg considers the details of the regulatory options that ComReg has analysed and their respective impacts for end-users, service providers and market competition.

25 ComReg's objectives are to ensure that its preliminary views are set out in an effective manner, (1) minimising any disruption to the reasonable needs of end-users; and (2) minimising the potential costs to the USP, in particular:

- to maintain the existing public payphone usage threshold level and payment methods set out under the current designation in D01/19 until the 31 December 2020, (i.e. up to 31 December 2020); and
- not to designate a USP(s) in respect of public payphones (including usage threshold level and payment methods), post 31 December 2020.

26 ComReg is seeking the views of stakeholders on its preliminary views set out in this consultation document.

### 3 Review of the usage threshold level and payment methods (D01/19)

- 27 This chapter provides an overview of the usage threshold level and the payment methods set out in the current designation (D01/19).
- 28 It sets out ComReg's review and analysis of the current payphone usage levels, and presents ComReg's sensitivity analysis on potential changes to the current usage threshold levels, within the existing designation period (i.e. prior to 31 December 2020).
- 29 It also sets out ComReg's review and analysis of the current payment methods set out in D01/19 and any potential changes to the current payment methods, within the existing designation period (i.e. prior to 31 December 2020).
- 30 ComReg issued an Information Requirement<sup>8</sup> to the current USP, eir, to obtain:
- relevant information on the usage levels (by call type, date and duration, separately identifying ECAS and Freephone)<sup>9</sup> by individual public payphone for the period July 2018 to March 2020; and
  - the payment methods currently used by end-users of public payphones.
- 31 eir provided, amongst other information, freephone and ECAS call volumes for the period July 2018 - March 2020. eir provided averaged freephone call volumes for the period July - December 2019, as it was unable to provide actual freephone call volumes for this period. eir was also unable to provide international calling card call details. eir previously advised ComReg that eir did not have associated revenues broken out by call type. ComReg sought a series of further clarifications on eir's future strategy and commercial agreements in respect of public payphones during the period June to August 2020.

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<sup>8</sup> A statutory information requirement, pursuant to ComReg's powers under section 13D of the Communications Regulation Acts, 2002 to 2011 as inserted by Section 6 of the Communications Regulation (Amendment) Act 2007, dated 17 April 2020.

<sup>9</sup> This data consisted of summary figures and was anonymised prior to receipt by ComReg.

32 ComReg has ensured that the reasonable needs of end-users are met in terms of a usage threshold level in Decision D01/19. Accordingly, the reasonable needs of end-users are not determined by the quantity or distribution of payphones throughout the State, rather by the usage of currently provided public payphones. If a public payphone is sufficiently used, the payphone remains a universal service public payphone, and the USP must retain and maintain it. However, the USP may cease service from a public payphone which falls below the usage threshold criteria, or where there is evidence of anti-social behaviour, or cessation of service is requested by a Local Authority, but it must act in accordance with the notification requirements in the case of cessation of service from that public payphone.

### 3.1 Overview of the usage threshold level (D01/19)

33 Decision D01/19 sets out the current universal service public payphone usage threshold. As referenced in Section 7.10.1.2 (ii) of the Decision Instrument, the USP is permitted to cease to provide service from a public payphone, where<sup>10</sup>: “the usage in the previous 6 months of the Public Pay Telephone (while in Full Working Order) has been low, indicating an absence of “reasonable need” in that location. For the purpose of this provision, “low” means that average usage (including local, national, international, emergency calls, directory enquiry calls, Freephone calls and reverse charge minutes) for the previous six months was less than 1 minute per day and the average minutes for the previous 6 months to Freephone numbers and emergency services numbers combined was not more than 30 seconds of these minutes;”

34 The universal service public payphone usage threshold is a dynamic regulatory measure which ensures that the reasonable needs of end-users for public payphones are met, where the usage level is above the usage threshold, in accordance with D01/19. It provides the current USP, eir, with the commercial freedom to manage public payphones, where their usage levels falls below the usage threshold level, and for which there is no longer reasonable end-user needs (as defined by public payphone usage threshold levels). Where a public payphone usage level falls below the usage threshold level, set out in D01/19, eir has commercial freedom to manage these public payphones as it sees fit, but it must act in accordance with the notification requirements in the case of cessation of service from that public payphone.

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<sup>10</sup> The USP may also cease service from a public payphone where: there is demonstrable evidence that the physical removal of the Public Pay phone is necessary as the Public Payphone concerned is a focus for anti-social behaviour; or there is more than 1 Public Payphone on a single site (i.e. within 100 meters of each other or within a line of sight of each other, which includes either side of a road or on any adjacent road); or the physical removal of a Public Payphone is requested by a local authority.

## 3.2 Usage threshold level – ComReg’s analysis (July 2018 – March 2020)

35 The following section presents ComReg’s analysis of the actual usage levels of universal service public payphones between July 2018 and March 2020. While the current designation period, as set out in D01/19, covers the period 25 February 2019 to 31 December 2020, ComReg has commenced its analysis from July 2018 to ensure a more statistically robust trend analysis, based on a rolling 6 month period.

36 The following ComReg analysis is based on the period July 2018 – March 2020 and provides an overview of:

- the decline in the number of universal service public payphones between July 2018 to March 2020 (based on the current usage threshold level, as set out in D01/19 – Figure 1);
- the breakdown (including average call duration) by ECAS, freephone and voice call types per universal service public payphone (Figures 2 and 3).

37 The number of universal service public payphones has declined steadily from between July 2018 to March 2020. Figure 1 shows the rate of decline in the use, and associated number of, universal service public payphones between July 2018 and March 2020<sup>11</sup>.

38 Based on the usage threshold as set out in D01/19, as of 31 December 2019, there were a small number [x ■■■] of universal service public payphones remaining. This represents a 42% decrease of [x ■■■] in the number of universal service public payphones between 2018 and 2019.

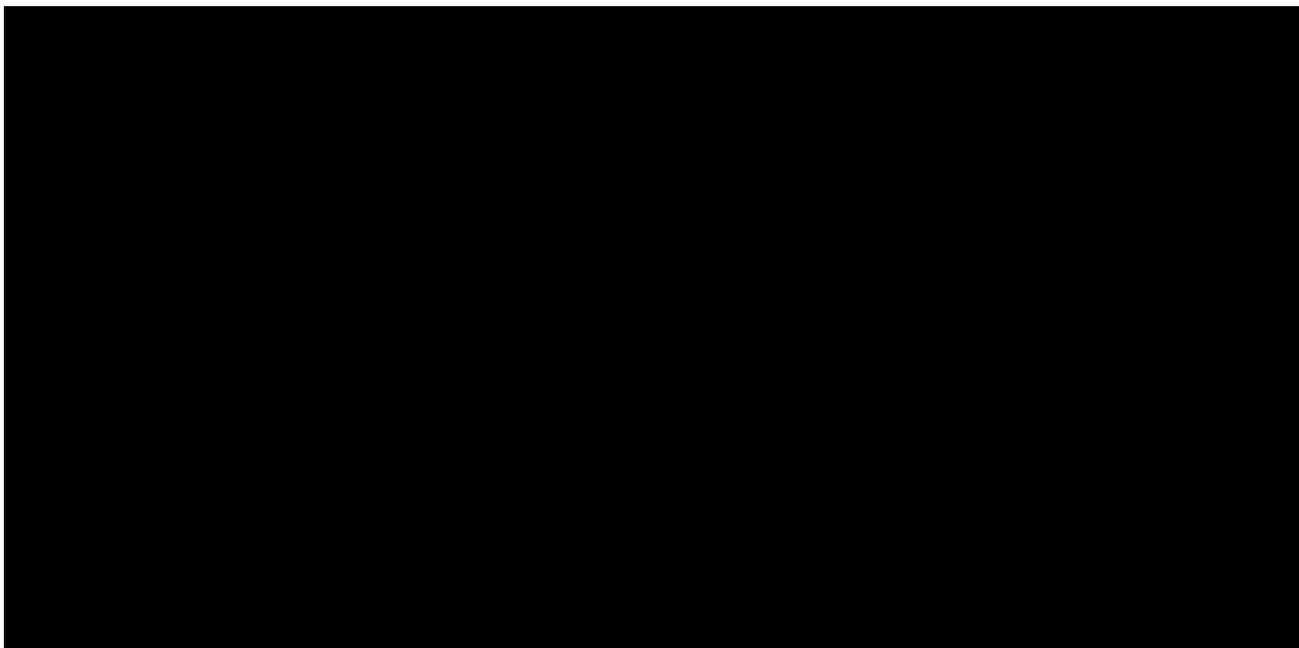
39 Between the period January and March 2020, the use, and associated number of, universal service public payphones declined by a further 40% (i.e. to [x ■■■] universal service public payphones) based on the current usage threshold level, as set out in D01/19 (based on the available three month data period<sup>12</sup>).

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<sup>11</sup> ComReg analysed the usage of universal service public payphones over three, six month, rolling periods (i.e. July-December 2018, January-June 2019, and July-December 2019). This is consistent with ComReg D01/19, which states that “, “low” [usage] means that average usage...**for the previous six months** was less than 1 minute per day and the average minutes for the previous 6 months to Freephone numbers and emergency services numbers combined was not more than 30 seconds of these minutes”. Based on the available information, ComReg also analysed the three month period of January-March 2020.

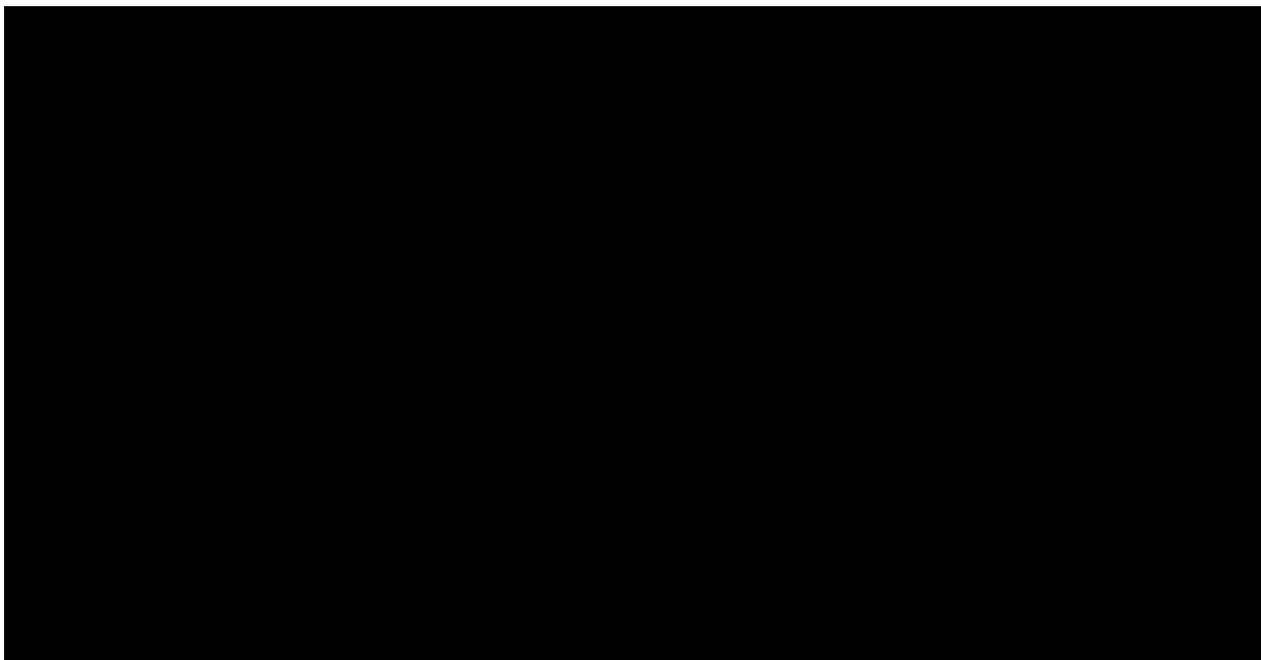
<sup>12</sup> ComReg requested data from eir for the period July 2018-March 2020.

**Figure 1: Number of universal service public payphones - 2018 - 2020 - current usage threshold level (D01/19) – [REDACTED]**

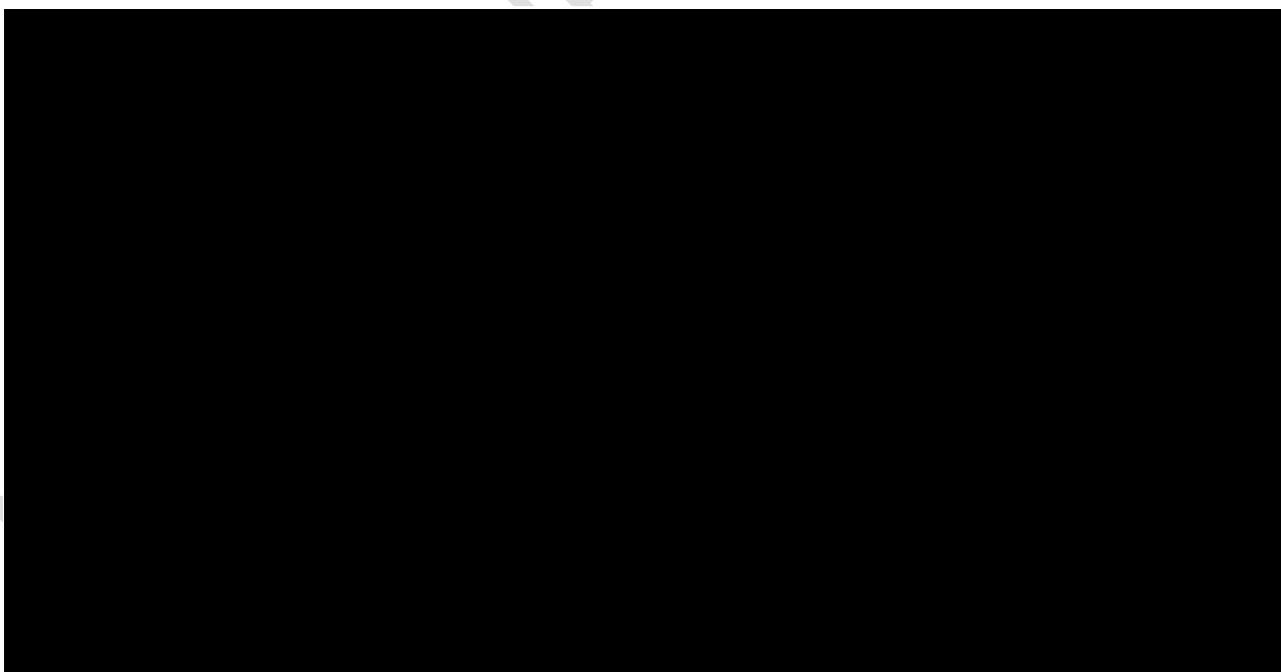


- 40 Figure 2 sets out the average daily call duration, per call type, per universal service public payphone, and Figure 3 sets out the number of calls, by call type per universal service public payphone, during the period July 2018 - March 2020.
- 41 Based on the usage threshold level, as set out in D01/19, the total average daily call duration per universal service public payphone was between [REDACTED] and [REDACTED] minutes, for the period July 2018 - March 2020. The average daily call duration to ECAS and freephone numbers per universal service public payphone was between [REDACTED] and [REDACTED] minutes, for the period July 2018 - March 2020.
- 42 ComReg's analysis (set out at Figures 2 and 3) demonstrates that universal service public payphones are predominantly being used to access the emergency services and freephone services, rather than to place other calls. Voice calls (non ECAS and freephone) account for a much smaller proportion, equating to approximately [REDACTED] of total call duration, during the period July 2018 - March 2020.

**Figure 2: Daily call duration (in minutes) per call type per universal service public payphone 2018-2020 [  ]**



**Figure 3: Daily call volume per call type per universal service public payphone 2018-2020 [  ]**



- 43 ComReg has conducted the following sensitivity analysis (Scenarios 1-4) on the current usage threshold levels, set out in D01/19, to:
- assess the impact of any potential change in the current usage threshold levels; and

- to examine whether the current usage threshold level is still appropriate for the remainder of the current designation (D01/19 i.e. 31 December 2020).

44 The sensitivity analysis was undertaken based on three, six month periods (i.e. July-December 2018, January-June 2019, and July-December 2020) to ensure appropriate trendal analysis of data.

- **Sensitivity analysis 1** – Impact of **decreasing** the current one-minute usage threshold level for all calls to 30 and 45 seconds, while maintaining the current 30 second usage threshold level for freephone and ECAS calls. In this scenario a universal service public payphone would be used, on average, for a **shorter** amount of time per day to reach the thresholds (Figure 4);
- **Sensitivity analysis 2** – Impact of **increasing** to the current one-minute usage threshold level for all calls to 90 and 120 seconds, while maintaining the current 30 second usage threshold level for freephone and ECAS calls. In this scenario a universal service public payphone would be used, on average, for a **longer** amount of time per day to reach the thresholds (Figure 5);
- **Sensitivity analysis 3** - Impact of **increasing** to the current 30 second threshold for freephone and ECAS calls to 45 and 60 seconds, while maintaining the current one-minute current usage threshold for all calls. In this scenario a universal service public payphone would be used, on average, for a **longer** amount of time per day for freephone/ECAS calls in order to reach the thresholds (Figure 6); and
- **Sensitivity analysis 4** – Impact of a **removal of the one-minute threshold for all calls**, and imposing a usage threshold level of 45 and 60 seconds) for freephone and ECAS calls only (Figure 7);

### 3.2.1 Sensitivity analysis 1

45 A **decrease** to the current one-minute usage threshold for all calls to either 45 seconds (scenario 1A) or 30 seconds (scenario 1B) would result in a universal service public payphone being used, on average, for a shorter amount of time per day, while retaining the 30 second per day threshold for freephone and ECAS.

46 Scenario 1A examines the impact of decreasing the current usage threshold for all calls to an average of 45 seconds per day, while retaining the 30 second per day threshold for freephone and ECAS:

- The total average call duration per universal service public payphone varies by 0.3 ([<math>0.3</math>] and [

- The average call duration to ECAS and freephone numbers per universal service public payphone was between [ $\times$  ■ ] and [ $\times$  ■ ] minutes, for the same period, a 0.1 minute variation.

47 Scenario 1B examines the impact of decreasing the current usage threshold for all calls to an average of 30 seconds per day, while retaining the 30 second per day threshold for freephone and ECAS:

- The total average call duration per universal service public payphone varied by 0.4 ([ $\times$  ■ ] and [ $\times$  ■ ]) minutes per day, over the period July 2018 - December 2019.
- The average call duration to ECAS and freephone numbers per universal service public payphone was between [ $\times$  ■ ] and [ $\times$  ■ ] minutes per day, for the same period, a 0.2 minute variation.

48 In both scenario 1A and 1B the number of public payphones that would now reach the usage threshold would increase slightly from the current situation (i.e. D01/19). This is reflective of the inclusion of a number public payphones which are less frequently used by end-users in scenario 1A and 1B. There would be a small decrease in the average call duration to freephone and ECAS numbers, and a negligible decrease in average call duration to non-freephone and ECAS numbers.

49 Total average call duration per day does not vary significantly over time in scenario 1A or 1B; or when compared to the status quo (i.e. current threshold level under D01/19). Accordingly, scenario 1 analysis demonstrates the level of insensitivity to these changes to the current usage threshold level, and that there would be no significant impact on the number of universal service public payphones, at this time.

**Figure 4: Sensitivity Analysis 1 – Decrease in current usage threshold (D01/19) for all calls**

Status Quo (D01/19)		July-December 2018	January-June 2019	July-December 2019
<b>Current Threshold</b> <ul style="list-style-type: none"> <li>• 1 minute per day for all calls</li> <li>• 30 seconds per day for FF/ECAS calls</li> </ul>	Number of public payphones above threshold	[ $\times$ ■ ]	[ $\times$ ■ ]	[ $\times$ ■ ]
	Total Average Call Duration per day	[ $\times$ ■ ] minutes	[ $\times$ ■ ] minutes	[ $\times$ ■ ] minutes
	Average Call Duration per day to Freephone/ECAS numbers	[ $\times$ ■ ] minutes	[ $\times$ ■ ] minutes	[ $\times$ ■ ] minutes

Scenario 1A		July-December 2018	January-June 2019	July-December 2020
<p><b><u>Decrease Threshold</u></b></p> <ul style="list-style-type: none"> <li>• <b>45 seconds per day for all calls</b></li> <li>• <b>30 seconds per day for FF/ECAS calls</b></li> </ul>	Number of public payphones above threshold	[<math>\infty</math> ]	[<math>\infty</math> ]	[<math>\infty</math> ]
	Total Average Call Duration per day	[<math>\infty</math> ] minutes	[<math>\infty</math> ] minutes	[<math>\infty</math> ] minutes
	Average Call Duration per day to Freephone/ECAS numbers	[<math>\infty</math> ] minutes	[<math>\infty</math> ] minutes	[<math>\infty</math> ] minutes

Scenario 1B		July-December 2018	January-June 2019	July-December 2020
<p><b><u>Decrease Threshold</u></b></p> <ul style="list-style-type: none"> <li>• <b>30 seconds per day for all calls</b></li> <li>• <b>30 seconds per day for FF/ECAS calls</b></li> </ul>	Number of public payphones above threshold	[<math>\infty</math> ]	[<math>\infty</math> ]	[<math>\infty</math> ]
	Total Average Call Duration per day	[<math>\infty</math> ] minutes	[<math>\infty</math> ] minutes	[<math>\infty</math> ] minutes
	Average Call Duration per day to Freephone/ECAS numbers	[<math>\infty</math> ] minutes	[<math>\infty</math> ] minutes	[<math>\infty</math> ] minutes

### 3.2.2 Sensitivity analysis 2

50 An **increase** to the current one-minute usage threshold for all calls to either 90 seconds (scenario 2A) or 120 seconds (scenario 2B) would result in a universal service public payphone being used, on average, for a longer amount of time per day, while retaining the 30 second per day threshold for freephone and ECAS.

51 Scenario 2A examines the impact of increasing the current usage threshold for all calls to an average of 90 seconds per day, while retaining the 30 second per day threshold for freephone and ECAS:

- The total average call duration per universal service public payphone varies by 0.2 ([<math>\infty</math> ] and [<math>\infty</math> ]) minutes per day, over the period July 2018 - December 2019.
- The average call duration to ECAS and freephone numbers per universal service public payphone remained constant at [<math>\infty</math> ] minutes per day, for the same period.

52 Scenario 2B examines the impact of increasing the current usage threshold for all calls to an average of 120 seconds per day, while retaining the 30 second per day threshold for freephone and ECAS

- The total average call duration per universal service public payphone was between [x< ] and [x< ] minutes per day, for the period July 2018 - December 2019.
- The average call duration to ECAS and freephone numbers per universal service public payphone was between [x< ] and [x< ] minutes per day, for the same period, a variation of 0.2 minutes.

53 In both scenario 2A and 2B the number of public payphones that would now reach the usage threshold would decrease slightly from the current situation (i.e. D01/19). This is reflective of the exclusion of a number of public payphones which are less frequently used by end-users. There would be a small increase in the average call duration to freephone and ECAS numbers, and in average call duration to non-freephone and ECAS numbers.

54 Total average call duration per day does not vary significantly over time in scenario 1A or 1B; or when compared to the status quo (i.e. current threshold level under D01/19). Accordingly, scenario 1 analysis demonstrates the level of insensitivity to these changes to the current usage threshold level, and that there would be no significant impact on the number of universal service public payphones, at this time.

55 Total average call duration per day does not vary significantly over time in scenario 2A or 2B: or when compared to the status quo (i.e. current threshold level under D01/19). Accordingly, scenario 2 analysis demonstrates the level of insensitivity to these changes to the current usage threshold level, and that there would be no significant impact on the number of universal service public payphones, at this time.

56 **Figure 5: Sensitivity Analysis 2 – Increase in current usage threshold (D01/19) for all calls**

Status Quo (D01/19)		July-December 2018	January-June 2019	July-December 2020
<b>Current Threshold</b> <ul style="list-style-type: none"> <li>• 1 minute per day for all calls</li> <li>• 30 seconds per day for FF/ECAS calls</li> </ul>	Number of public payphones above threshold	[x< ]	[x< ]	[x< ]
	Total Average Call Duration per day	[x< ] minutes	[x< ] minutes	[x< ] minutes
	Average Call Duration per day to Freephone/ECAS numbers	[x< ] minutes	[x< ] minutes	[x< ] minutes

Scenario 2A		July-December 2018	January-June 2019	July-December 2020
<b><u>Increase Threshold</u></b>  <ul style="list-style-type: none"> <li>• <b>90 seconds per day for all calls</b></li> <li>• <b>30 seconds per day for FF/ECAS calls</b></li> </ul>	Number of public payphones above threshold	[<math>\%</math> <b>■</b> ]	[<math>\%</math> <b>■</b> ]	[<math>\%</math> <b>■</b> ]
	Total Average Call Duration per day	[<math>\%</math> <b>■</b> ] minutes	[<math>\%</math> <b>■</b> ] minutes	[<math>\%</math> <b>■</b> ] minutes
	Average Call Duration per day to Freephone/ECAS numbers	[<math>\%</math> <b>■</b> ] minutes	[<math>\%</math> <b>■</b> ] minutes	[<math>\%</math> <b>■</b> ] minutes

Scenario 2B		July-December 2018	January-June 2019	July-December 2020
<b><u>Increase Threshold</u></b>  <ul style="list-style-type: none"> <li>• <b>120 seconds per day for all calls</b></li> <li>• <b>30 seconds per day for FF/ECAS calls</b></li> </ul>	Number of public payphones above threshold	[<math>\%</math> <b>■</b> ]	[<math>\%</math> <b>■</b> ]	[<math>\%</math> <b>■</b> ]
	Total Average Call Duration per day	[<math>\%</math> <b>■</b> ] minutes	[<math>\%</math> <b>■</b> ] minutes	[<math>\%</math> <b>■</b> ] minutes
	Average Call Duration per day to Freephone/ECAS numbers	[<math>\%</math> <b>■</b> ] minutes	[<math>\%</math> <b>■</b> ] minutes	[<math>\%</math> <b>■</b> ] minutes

### 3.2.3 Sensitivity analysis 3

57 An **increase** to the current 30 second usage threshold for freephone and ECAS calls to either 45 seconds (scenario 3A) or 60 seconds (scenario 3B) result in a universal service public payphone being used, on average, for a longer amount of time per day for freephone and emergency calls, while retaining the one minute per day threshold for all calls.

58 Scenario 3A examines the impact of increasing the current usage threshold for freephone/ECAS calls to an average of 45 seconds per day, while retaining the one minute per day threshold for all calls:

- The total average call duration per universal service public payphone was between [ $\% \mathbf{\blacksquare}$ ] and [ $\% \mathbf{\blacksquare}$ ] minutes per day, for the period July 2018 - December 2019.
- The average call duration to ECAS and freephone numbers per universal service public payphone was between [ $\% \mathbf{\blacksquare}$ ] and [ $\% \mathbf{\blacksquare}$ ] minutes per day, for the same period, a variation of 0.2 minutes.

- 59 Scenario 3B examines the impact of increasing the current usage threshold for freephone/ECAS calls to an average of 60 seconds per day, while retaining the one minute per day threshold for all calls:
- The total average call duration per universal service public payphone was between [x< [redacted] ] and [x< [redacted] ] minutes per day, over the period July 2018 - December 2019.
  - The average call duration to ECAS and freephone numbers per universal service public payphone remained constant at [x< [redacted] ] minutes per day, for the same period.
- 60 In both scenario 3A and 3B the number of public payphones that would now reach the usage threshold would decrease slightly from the current situation (i.e. D01/19). This is reflective of the high proportion of freephone and emergency calls made from universal service public payphones. There would be a small increase in the average call duration to freephone and ECAS numbers, and in average call duration to non-freephone and ECAS numbers.
- 61 Total average call duration per day does not vary significantly over time in scenario 3A or 3B; or when compared to the status quo (i.e. current threshold level under D01/19). Accordingly, scenario 3 analysis demonstrates the level of insensitivity to these changes to the current usage threshold level that it would not be appropriate to increase the usage threshold for freephone and ECAS numbers, and that there would be no significant impact on the number of universal service public payphones, at this time

**Figure 6: Sensitivity Analysis 3 – Increase in current usage threshold (D01/19) for freephone/ECAS calls**

Status Quo (D01/19)		July-December 2018	January-June 2019	July-December 2020
<b><u>Current Threshold</u></b> • 1 minute per day for all calls • 30 seconds per day for FF/ECAS calls	Number of public payphones above threshold	[x< [redacted] ]	[x< [redacted] ]	[x< [redacted] ]
	Total Average Call Duration per day	[x< [redacted] ] minutes	[x< [redacted] ] minutes	[x< [redacted] ] minutes
	Average Call Duration per day to Freephone/ECAS numbers	[x< [redacted] ] minutes	[x< [redacted] ] minutes	[x< [redacted] ] minutes

Scenario 3A		July-December 2018	January-June 2019	July-December 2020
<p><b><u>Increase Threshold</u></b></p> <ul style="list-style-type: none"> <li>• <b>1 minute per day for all calls</b></li> <li>• <b>45 seconds per day for FF/ECAS calls</b></li> </ul>	Number of public payphones above threshold	[<math>\times</math> ■ ]	[<math>\times</math> ■ ]	[<math>\times</math> ■ ]
	Total Average Call Duration per day	[<math>\times</math> ■ ] minutes	[<math>\times</math> ■ ] minutes	[<math>\times</math> ■ ] minutes
	Average Call Duration per day to Freephone/ECAS numbers	[<math>\times</math> ■ ] minutes	[<math>\times</math> ■ ] minutes	[<math>\times</math> ■ ] minutes

Scenario 3B		July-December 2018	January-June 2019	July-December 2020
<p><b><u>Increase Threshold</u></b></p> <ul style="list-style-type: none"> <li>• <b>1 minute per day for all calls</b></li> <li>• <b>1 minute per day for FF/ECAS calls</b></li> </ul>	Number of public payphones above threshold	[<math>\times</math> ■ ]	[<math>\times</math> ■ ]	[<math>\times</math> ■ ]
	Total Average Call Duration per day	[<math>\times</math> ■ ] minutes	[<math>\times</math> ■ ] minutes	[<math>\times</math> ■ ] minutes
	Average Call Duration per day to Freephone/ECAS numbers	[<math>\times</math> ■ ] minutes	[<math>\times</math> ■ ] minutes	[<math>\times</math> ■ ] minutes

### 3.2.4 Sensitivity analysis 4

62 ComReg examined the impact of increasing the current 30 second usage threshold for freephone and ECAS numbers to 45 seconds (scenario 4A) and 60 seconds (scenario 4B), while removing the one-minute threshold for all calls.

63 Scenario 4A examines the impact of increasing the current usage threshold for freephone/ECAS calls to an average of 45 seconds per day, with no threshold for all calls:

- The total average call duration per universal service public payphone varies by 0.6 [<math>\times</math> ■ ] and [<math>\times</math> ■ ] minutes per day, for the period July 2018 - December 2019.
- The average call duration to ECAS and freephone numbers per universal service public payphone was between [<math>\times</math> ■ ] and [<math>\times</math> ■ ] minutes per day, for the same period, a variation of 0.2 minutes.

- 64 Scenario 4B examines the impact of increasing the current usage threshold for freephone/ECAS calls to an average of 60 seconds per day, with no threshold for all calls:
- The total average call duration per universal service public payphone was between [x< ■ ] and [x< ■ ] minutes per day, for the period July 2018 - December 2019.
  - The average call duration to ECAS and freephone numbers per universal service public payphone remained constant at [x< ■ ], for the same period.
- 65 In both scenario 4A and 4B the number of public payphones that would now reach the usage threshold would decrease slightly from the current situation (i.e. D01/19). This is reflective of the high proportion of freephone and emergency calls made from universal service public payphones relative to all calls. There would be a small increase in the average call duration to freephone and ECAS numbers, and in average call duration to non-freephone and ECAS numbers.
- 66 Total average call duration per day does not vary significantly over time in scenario 4A or 4B, or when compared to the status quo (i.e. current threshold level under D01/19). Accordingly, scenario 4 analysis demonstrates the level of insensitivity to these changes to the current usage threshold level, and that it would not be appropriate to increase the usage threshold for freephone and ECAS numbers, while removing the one-minute threshold for all calls, at this time.

**Figure 7: Sensitivity Analysis 4 – Increase in current usage threshold (D01/19) for freephone/ECAS calls and removal of current one minute threshold for all calls**

Status Quo (D01/19)		July-December 2018	January-June 2019	July-December 2020
<b>Current Threshold</b> <ul style="list-style-type: none"> <li>• 1 minute per day for all calls</li> <li>• 30 seconds per day for FF/ECAS calls</li> </ul>	Number of public payphones above threshold	[x< ■ ]	[x< ■ ]	[x< ■ ]
	Total Average Call Duration per day	[x< ■ ] minutes	[x< ■ ] minutes	[x< ■ ] minutes
	Average Call Duration per day to Freephone/ECAS numbers	[x< ■ ] minutes	[x< ■ ] minutes	[x< ■ ] minutes

Scenario 4A		July-December 2018	January-June 2019	July-December 2020
<b><u>Increase FF/ECAS Threshold</u></b> <ul style="list-style-type: none"> <li><b>45 seconds per day for FF/ECAS calls</b></li> </ul>	Number of public payphones above threshold	[<math>\infty</math>]	[<math>\infty</math>]	[<math>\infty</math>]
	Total Average Call Duration per day	[<math>\infty</math>] minutes	[<math>\infty</math>] minutes	[<math>\infty</math>] minutes
	Average Call Duration per day to Freephone/ECAS numbers	[<math>\infty</math>] minutes	[<math>\infty</math>] minutes	[<math>\infty</math>] minutes
Scenario 4B		July-December 2018	January-June 2019	July-December 2020
<b><u>Increase FF/ECAS Threshold</u></b> <ul style="list-style-type: none"> <li><b>60 seconds per day for FF/ECAS calls</b></li> </ul>	Number of public payphones above threshold	[<math>\infty</math>]	[<math>\infty</math>]	[<math>\infty</math>]
	Total Average Call Duration per day	[<math>\infty</math>] minutes	[<math>\infty</math>] minutes	[<math>\infty</math>] minutes
	Average Call Duration per day to Freephone/ECAS numbers	[<math>\infty</math>] minutes	[<math>\infty</math>] minutes	[<math>\infty</math>] minutes

67 In summary, regardless of the sensitivity scenarios:

- the primary usage driver for universal service public payphones is access to the emergency services and freephone numbers;
- average call duration for universal service public payphones does not deviate significantly from the current usage threshold, set out in D01/19;
- the number of universal service public payphones, and average call duration has declined over time.

68 ComReg’s sensitivity analysis demonstrates that the dynamic nature of the current usage threshold remains effective. This may also be reflective of the increased use of alternative methods of communication by end-users.

### 3.3 Usage threshold level – ComReg’s Analysis (April 2020 - December 2020)

- 69 Based on an extrapolation of the current usage, ComReg examined the likely changes that would occur in call duration from universal service public payphones until end-2020. This analysis<sup>13</sup> demonstrates that trends relating to calls to non-freephone and ECAS numbers and calls to freephone and emergency numbers will remain relatively constant to end-2020.
- 70 Average daily call volumes from universal service public payphones, when extrapolated in the same manner, appear to remain relatively constant to the end of 2020.
- 71 ComReg’s analysis (based on the available eir data) illustrates the effectiveness of the current usage threshold (D01/19) in addressing the evolving reasonable needs to end-users for public payphones, for the remainder of the current designation period (i.e. 31 December 2020). It provides enough ‘head-room’ to facilitate the transition from universal service public payphones to other commercially available access methods, while ensuring that the reasonable needs of end-users are met.
- 72 The current universal service public payphone usage threshold is a dynamic regulatory measure which ensures that the reasonable needs of end-users for public payphones are met, where the usage level is above the defined usage threshold level, set out in D01/19. It provides the current USP, eir, with the commercial freedom to manage public payphones, where their usage levels falls below the usage threshold level (set out in D01/19), and for which there areas no longer reasonable end-user needs (as defined by public payphone usage levels). Where a public payphone usage level falls below the usage threshold level, set out in D01/19, ComReg has no further role, and eir has commercial freedom to manage these public payphones as it sees fit.

### 3.4 Usage threshold level – ComReg’s preliminary view

- 73 ComReg is of the preliminary view that any proposed change to the current usage threshold set out in D01/19, based on the above analysis, would have a negligible impact on the overall universal service public payphone market. ComReg is therefore of the preliminary view that it would not be appropriate to amend the current usage threshold set out in D01/19 (i.e. one minute per day (of which 30 seconds or more must be to freephone and ECAS numbers)) for the duration of the current designation (i.e. until 31 December 2020).

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<sup>13</sup> ComReg analysed the usage of universal service public payphones over three, six month, rolling periods (i.e. July-December 2018, January-June 2019, and July-December 2019).

74 In the interest of ensuring that the current reasonable needs of end users are balanced with the declining usage of universal service public payphones, ComReg is of the preliminary view that the current usage threshold remains an appropriate dynamic regulatory measure which will continue to meet the reasonable needs of end-users for the remainder of the current designation, set out in D01/19 (i.e. 31 December 2020).

Q. 1 Do you agree with ComReg’s preliminary view that there is no requirement to amend the current universal service public payphone usage threshold level for the remainder of the current designation (i.e. prior to 31 December 2020)? Please provide reasons to support your views.

### 3.5 Overview of payment methods (D01/19)

75 ComReg in D01/19 set out an obligation on the USP to ensure that: “... *all Public Pay Telephones facilitate a number of appropriate payment means including coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialling codes.*”<sup>14</sup>

76 This offers appropriate and accessible payment methods to facilitate the reasonable needs of end-users and, in particular, those who may be vulnerable, with limited access to credit. Where a public payphone usage level falls below the usage threshold level, set out in D01/19, eir has commercial freedom to manage these public payphones as it sees fit, but it must act in accordance with the notification requirements in the case of cessation of service from a public payphone.

### 3.6 Payment methods – ComReg’s analysis

77 Voice calls from public payphones are generally charged on a per unit basis, where the length of time charged per unit will vary depending on the call destination (i.e. local, national and international). The prices charged are geographically averaged throughout the State.

78 There are three type of voice calls that may be made from a public payphone.

- voice calls to private individuals and/or companies – paid for by the end-user, using coins, credit/debit card; and/or pre-payment cards;
- Freephone voice calls to companies; State Agencies and/or charities where calling party may make the call free of charge, and the called party pays for all calls made to the relevant freephone numbers; and

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<sup>14</sup> [REDACTED]



- 85 ComReg is cognisant of the need to offer appropriate and accessible payment methods to facilitate the reasonable needs of end-users and, in particular, those who may be vulnerable, with limited access to credit.
- 86 Accordingly, any potential reduction in the universal service public payphone maintenance charge through the removal of cash/coins, would be unlikely to offset the potential impact on those who may be vulnerable with limited access to credit, during the current designation period (i.e. 31 December 2020).

### 3.7 Payment methods – ComReg’s preliminary view

- 87 ComReg is of the preliminary view that any removal of the ability to make public payphone calls using coins and/or pre-payment cards (as a means of payment), during the current designation period, as set out in D01/19, could exclude vulnerable end-users, who may not have access to a debit or credit card.
- 88 In order to facilitate end-users to make standard voice call, ComReg is of the preliminary view that a universal service public payphone should continue to offer appropriate payment methods to facilitate the reasonable needs of end-users and in particular, vulnerable end-users, for the duration of the current designation period, as set out in D01/19,
- 89 ComReg is therefore of the preliminary view that the requirement to offer the payment methods of coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialling codes, remains appropriate for the remainder of the current designation, as set out in D01/19 (i.e. until 31 December 2020).

Q. 2 Do you agree with ComReg’s preliminary view that there is no requirement to amend the current universal service public payphone payment methods for the remainder of the current designation (i.e. prior to 31 December 2020)? Please provide reasons to support your views.

## 4. Consideration of a universal service public payphone designation (post D01/19)

90 This chapter provides an overview of ComReg’s consideration of a public payphone designation, after the expiry of the current designation, as set out in D01/19 (i.e. post 31 December 2020).

91 It sets out ComReg’s review and analysis of:

- eir’s public payphone base;
- universal service public payphones, post 31 December 2020;
  - eir’s public payphones strategy – counterfactual scenario;
  - alternative methods of making a call;
  - Directive (EU) 2018/1972 (European Electronic Communications Code) – Articles 87 and Recital 235.

92 ComReg has ensured that the reasonable needs of end-users are met in terms of a usage threshold level in Decision D01/19. The reasonable need is not determined by the quantity or distribution of payphones throughout the State, rather by the usage of currently provided public payphones. If a public payphone is sufficiently used, the payphone is deemed a universal service public payphone, and the USP must retain and maintain it. However, the USP is not required to retain a public payphone where there is evidence of anti-social behaviour, or its removal is requested by a Local Authority, but it must act in accordance with the notification requirements in the case of cessation of service from that public payphone.

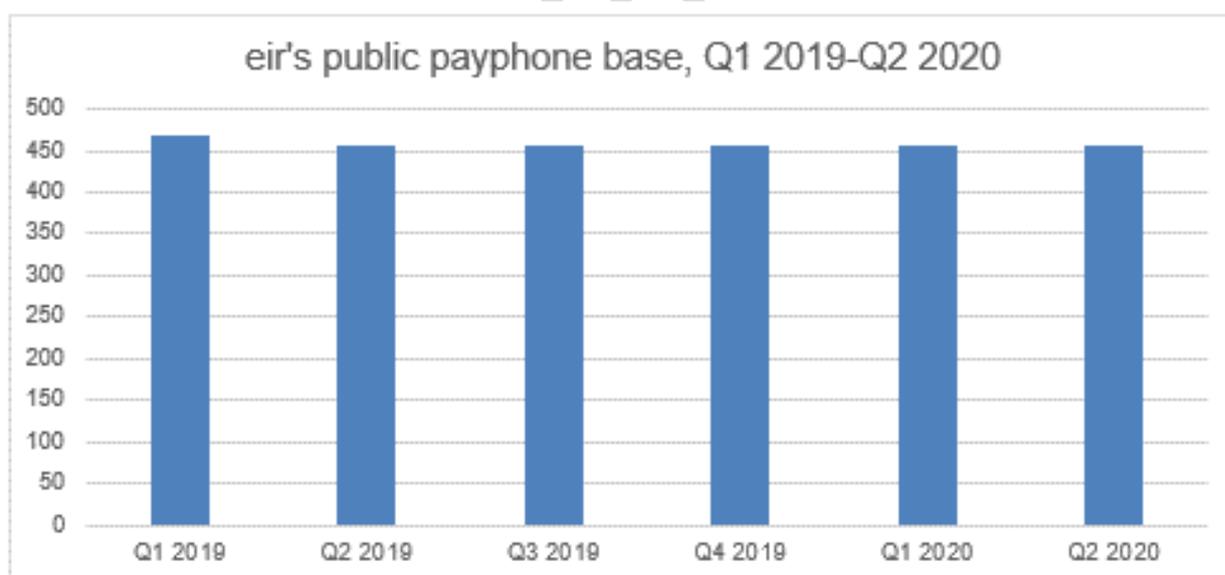
93 The purpose of the usage threshold level is to ensure that end-users who use public payphones can still access them, whilst providing eir with the commercial freedom to manage public payphones for which there is no longer a reasonable need. It is important to note that while ComReg has set out the permissible public payphone removal criteria, the decision on when to cease service from a non-USO public payphone is solely a commercial decision of the USP.

### 4.1 eir’s public payphone base

94 A public payphone relates to those located on the street and in other public areas, available to the general public (i.e. unrestricted access).

- 95 This does not include payphones located in private areas which have restricted access or are typically covered by commercial arrangements between the premises owner and provider (and where access to a payphone is dependent on the pre-existence of a commercial relationship – e.g. pubs, hotels, restaurants and shopping centres) where the payment to the premises owner may involve a fixed amount or a percentage of the revenue earned on calls made from the relevant payphone.
- 96 Public payphone users can currently pay for calls with coins, credit/debit cards and/or pre-payment cards, including cards for use with dialling codes<sup>20</sup>. Calls are generally charged on a per unit basis, and the length of time allowed per unit will vary depending on the call destination. The price of calls from public payphones is the same throughout the State (geographically averaged).
- 97 As published on eir’s website<sup>21</sup> there are currently 456 eir public payphones in the State (Figure 8), consisting of 91 single-site and 365 multi-site eir public payphones

**Figure 8: eir’s public payphone (number) trends Q1 2019- Q2 2020<sup>22</sup>**



- 98 Figure 9 below shows eir’s published public payphone reduction by site type, by year, between 2014 and 2019<sup>23</sup>. There has been no change to eir’s published public payphone base between end - 2019 and the time of writing of this consultation.

<sup>20</sup>The distribution by eir of phone cards ceased in 2016. [ X [REDACTED] ]

<sup>21</sup> <https://www.eir.ie/regulatoryinformation/public-payphones/> (as at 24 August 2020)

<sup>22</sup> <https://www.eir.ie/regulatoryinformation/public-payphones/> (as of 24 August 2020)

<sup>23</sup> The number of single-site payphones may increase, reflecting that a multi-site public payphone may become a single-site payphone location over time (i.e. where the number of payphones is reduced to one remaining payphone at a particular location).

**Figure 9: Summary of eir’s published year on year public payphone movements**

Site Type	end-2014	end-2015	end-2016	end-2017	end-2018	end-2019
<b>Single Site</b>	290	167	170	110	97	91
<b>Multi-Site</b>	994	703	626	435	380	365
<b>Total</b>	<b>1284</b>	<b>870</b>	<b>796</b>	<b>545</b>	<b>477</b>	<b>456</b>
<b>YOY Reduction</b>		414	74	251	68	21

**Source: eir website. <https://www.eir.ie/regulatoryinformation/public-payphones/>**

99 Figure 10 shows the declining trend in the number of single site public payphones, by location, for the period 2018 - 2020<sup>24</sup>.

<sup>24</sup> <https://www.eir.ie/regulatoryinformation/public-payphones/> (as at 24 August 2020)

**Figure 10: Public payphones – Single-sites 2018-2020**

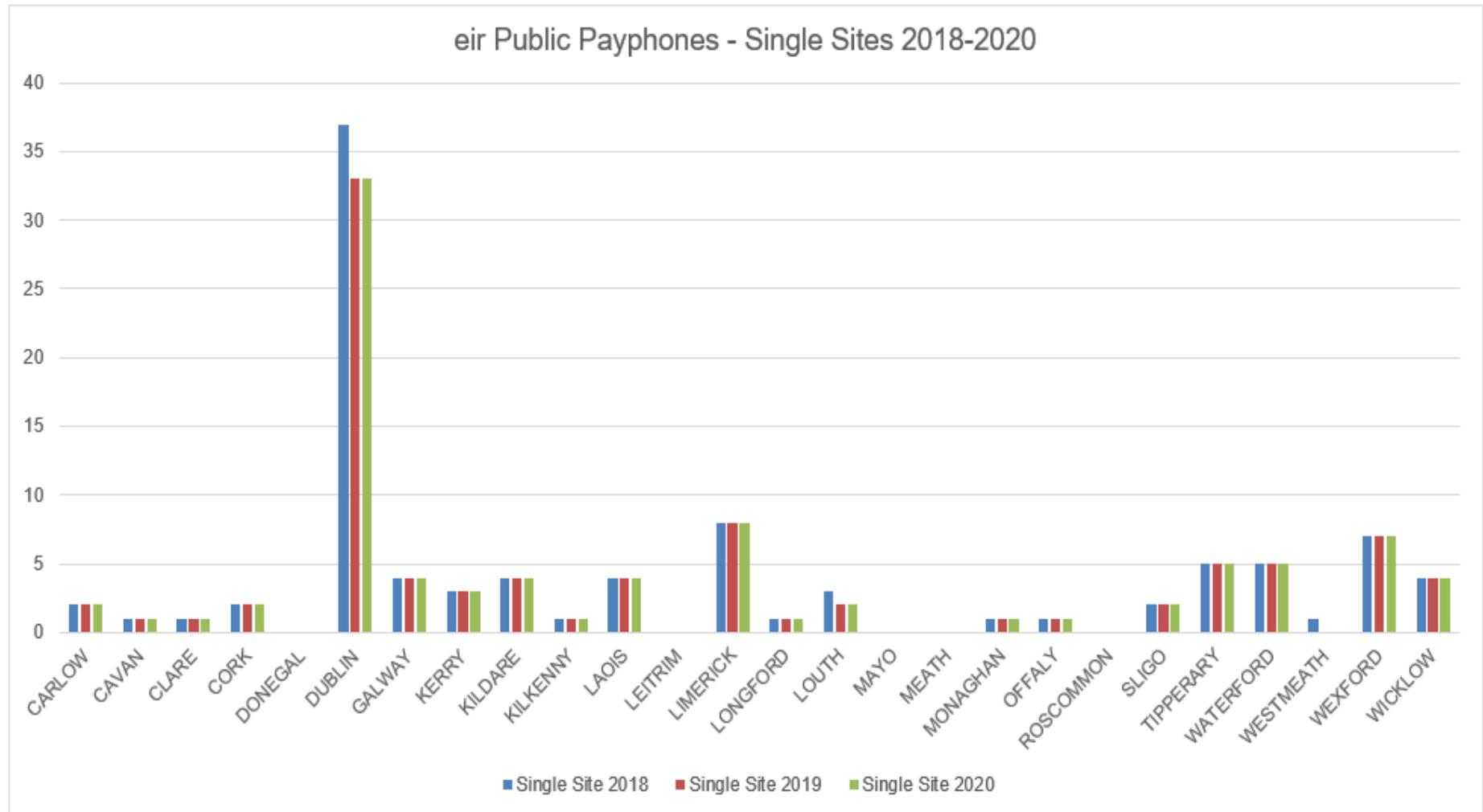


Figure 11: Number of single and multi-site public payphones - April - June 2020

USO Public Payphones: April to June 2020									
County	Single Sites				Multiple Sites				Total No. of multiple payphone sites that became single sites
	No of payphones at start of QTR	No of payphones removed	No of payphones Installed	No of payphones at end of QTR	No of payphones at start of QTR	No of payphones removed	No of payphones Installed	No of payphones at end of QTR	
CARLOW	2	0	0	2		0	0		0
CAVAN	1	0	0	1		0	0		0
CLARE	1	0	0	1	6	0	0	6	0
CORK	2	0	0	2	63	0	0	63	0
DONEGAL		0	0		2	0	0	2	0
DUBLIN	33	0	0	33	155	0	0	155	0
GALWAY	4	0	0	4	30	0	0	30	0
KERRY	3	0	0	3	12	0	0	12	0
KILDARE	4	0	0	4	12	0	0	12	0
KILKENNY	1	0	0	1	6	0	0	6	0
LAOIS	4	0	0	4	4	0	0	4	0
LEITRIM		0	0			0	0		0
LIMERICK	8	0	0	8	2	0	0	2	0
LONGFORD	1	0	0	1	4	0	0	4	0
LOUTH	2	0	0	2	10	0	0	10	0
MAYO		0	0		2	0	0	2	0
MEATH		0	0		2	0	0	2	0
MONAGHAN	1	0	0	1		0	0		0
OFFALY	1	0	0	1		0	0		0
ROSCOMMON		0	0		2	0	0	2	0
SLIGO	2	0	0	2		0	0		0
TIPPERARY	5	0	0	5	7	0	0	7	0
WATERFORD	5	0	0	5	20	0	0	20	0
WESTMEATH		0	0		6	0	0	6	0
WEXFORD	7	0	0	7	8	0	0	8	0
WICKLOW	4	0	0	4	12	0	0	12	0
<b>Total</b>	<b>91</b>	<b>0</b>	<b>0</b>	<b>91</b>	<b>365</b>	<b>0</b>	<b>0</b>	<b>365</b>	<b>0</b>

100 Figure 11 sets out the number of single and multi-site public payphones as at June 2020. Of the single site public payphones in 2020, 36.26% (33) are located in Dublin; 8.79% (8) are located in Limerick; 7.69% (7) are located in Wexford; Tipperary and Waterford have 5.49% (5) each; 4.4% (4) are located in Galway; Kildare, Laois and Wicklow; Kerry has 3.3% (3); Carlow, Louth, Cork, and Sligo each have 2.2% (2); Cavan, Clare, Kilkenny, Longford, Monaghan, and Offaly each have 1.09% (1), while Donegal, Leitrim, Mayo, Meath, Roscommon, and Westmeath have no single site public payphones.

101 Of the multi-site public payphones in 2020, 42.47% (155) are located in Dublin; 17.26% (63) are located in Cork; 8.22% (30) are located in Galway; 5.48% (20) are located in Waterford; Kerry, Kildare, and Wicklow each have 3.29% (12); 2.74% (10) are located in Louth. 2.19% (8) are located in Wexford. 1.92% (7) are located in Tipperary. Clare, Kilkenny, and Westmeath each have 1.64% (6). Laois and Longford, 1.1% (4). Donegal, Limerick, Mayo, Meath and Roscommon each have 0.55% (2). Carlow, Cavan, Leitrim, Monaghan, Offaly, and Sligo have no multi-site public payphones.

## 4.2 Universal service public payphones, post 31 December 2020

### 4.2.1 Universal service public payphones – projected usage patterns

102 The following sub-sections review the current universal service public payphone usage patterns and extrapolates the projected usage patterns across the following call categories:

- ECAS calls
- Freephone calls
- Voice calls

### 4.2.2 Projected usage patterns - ECAS

103 ComReg engaged with the Emergency Call Answering Service (ECAS) to establish the number of ECAS calls by access type for the period July 2018 – March 2020. The majority of calls to the emergency services are made using mobile phones. A very small amount of connected calls made to the emergency services are made using public payphones.

104 The number of connected ECAS calls made from public payphones has declined by 49% between 2018 and 2020.

- 105 Approximately [X [REDACTED]] calls per month were made to the emergency services from public payphones in the period 2018-2020. Based on extrapolation of current trends, this would be expected to decrease to [X [REDACTED]] calls per month by 2021.

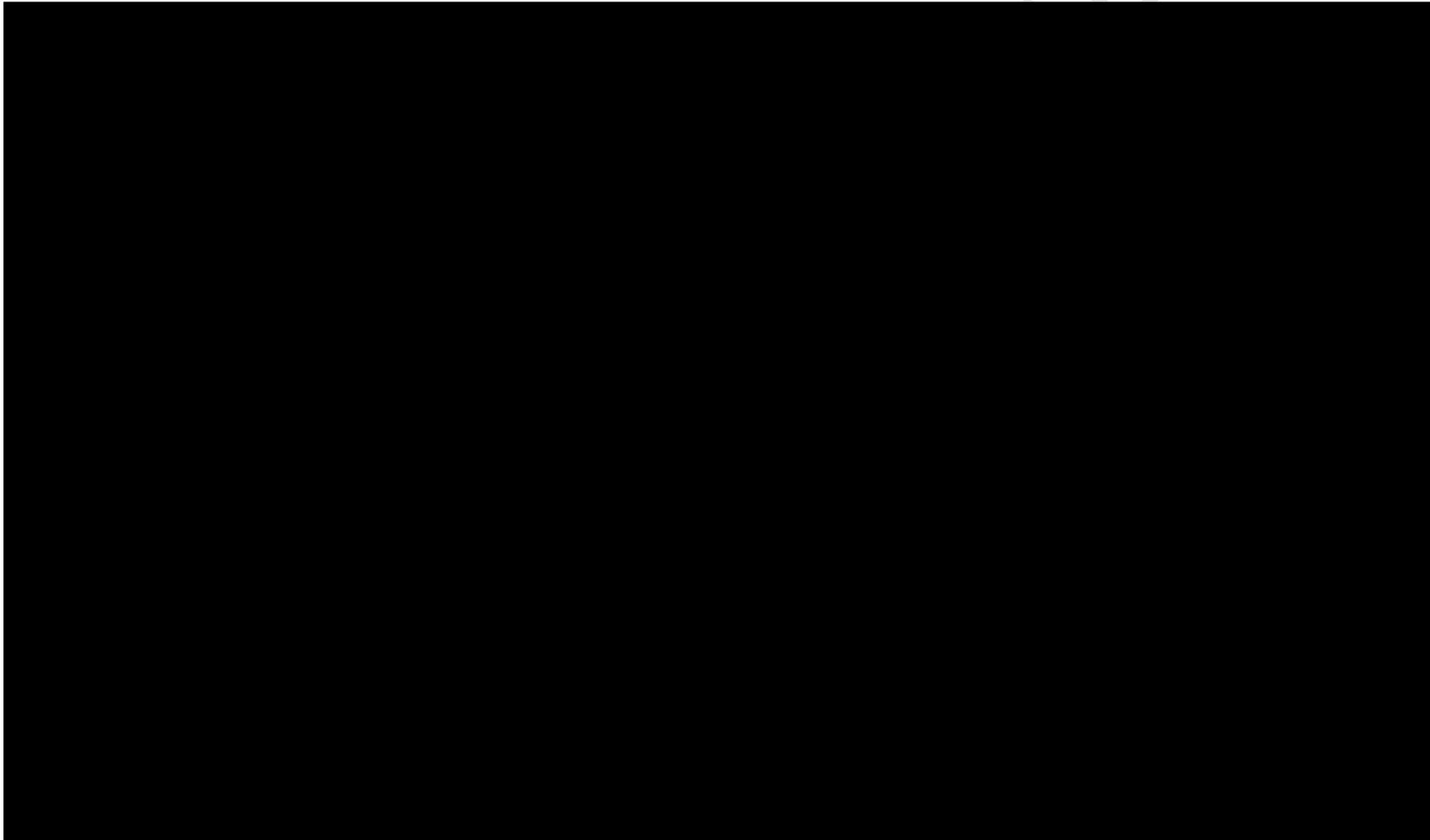
### 4.2.3 Projected usage patterns - freephone

- 106 ComReg issued an information request to eir in April 2020 seeking public payphone call details, by call type, per individual payphone, for the period July 2018 to March 2020.
- 107 eir provided Freephone and ECAS payphone call volumes (including call date) for the period July 2018 - March 2020<sup>25</sup>.
- 108 An analysis of the call volume from public payphones to freephone numbers (July 2018 - March 2020) shows that a high proportion [X [REDACTED]] % of freephone calls from public payphones are accounted for by two call types: [X [REDACTED]] % of Freephone calls are made using international calling cards; and [X [REDACTED]] % of calls made to help lines. Two help lines dominate freephone access calls (Figure 12): [X [REDACTED]] [REDACTED] ]. However, volumes of calls made from public payphones to these services has declined considerably since ComReg's previous analysis of 2018<sup>26</sup> (Figure 12).
- 109 In light of the rapidly decreasing percentage of public payphone freephone calls to contact helplines (approximately 65% decline between 2018-2020), ComReg is of the preliminary view that this cohort of end-users appear to now have alternative means of accessing these services, other than via public payphones.

<sup>25</sup> eir provided freephone call averages for the period August - December 2019, stating that only averages were available.

<sup>26</sup> Provision of Public Pay Telephones - Universal Service: Scope and designation. ComReg Consultation 18/85 [27 September 2018]

**Figure 12: Summary of freephone service type accessed via public payphones 2018-2020 [  ]**



## 4.2.4 Projected usage patterns – voice (non ECAS/freephone)

- 110 ComReg has calculated<sup>27</sup> for the period July-December 2019, that the average number of call seconds, per day, per universal service public payphone (excluding ECAS and freephone) was just over [x< ] seconds, with [x< ] voice calls being made per day, per public payphone.
- 111 Based on an extrapolation of the current trends, the average call volume per day, per universal service public payphone, would decline slightly over the period 2020-2022. Based on a further extrapolation of the current data, the average call duration per day, per universal service public payphone, would also experience a slight decline over the period 2020-2022.

## 4.2.5 Usage Threshold Level (D01/19) post 31 December 2020 – ComReg’s Analysis

- 112 This sub-section sets out ComReg’s analysis from July 2018 to March 2020 and then extrapolates this data to project the likely future trends, post 31 December 2020 to assist ComReg in its review.

### 4.2.5.1 Usage threshold level (July 2018 – March 2020)

- 113 In order to assess universal service public payphone usage, ComReg conducted its analysis (based on the available data obtained from eir) of public payphone information for the period July 2018 - March 2020 to examine the appropriateness of a usage threshold level, post 31 December 2020.
- 114 Following analysis of payphone data<sup>28</sup> [x< ] public payphones, either reached or were above the usage threshold level, as set out in D01/19, and remained classified as universal service public payphones, at the end of 2019.
- 115 Between January and March 2020, the use, and associated number of, universal service public payphones declined by 40% (i.e. to [x< ] universal service public payphones)<sup>29</sup> based on the current usage threshold level, as set out in D01/19. This represents a 97% decline in the number of universal service public payphones between 2015 – March 2020.

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<sup>27</sup> Based on the information provided by eir in its 13D response, ComReg examined the average call volume over three periods (July-December 2018; January-June 2019; July-December 2019) to ensure robust extrapolation of data.

<sup>28</sup> Supplied by the USP for the purposes of this consultation.

<sup>29</sup> ComReg requested data from eir for the period July 2018 - March 2020. This analysis is based on a three month period (January – March 2020).

- 116 As discussed in Chapter 3 of this consultation document, ComReg's analysis demonstrates that the main usage driver for universal service public payphones is to access emergency and freephone services, rather than to access voice (non ECAS and freephone) calls. Voice calls account for approximately [X] % of total call duration.
- 117 The aforementioned demonstrates the changing nature of the public payphone market, the migration to alternative methods of communication by end-users, and the dynamic nature of the current usage threshold level (set out in D01/19).

#### 4.2.5.2 Usage threshold level (post 31 December 2020)

- 118 Based on an extrapolation of the current trends (i.e. current number of universal service public payphones, the continuation of the current usage threshold level and payment methods) there would be [X] universal service public payphones remaining by 31 December 2020 (i.e. the end of the current designation period). This represents a 98% decrease in the number of universal service public payphones between 2015 – December 2020.
- 119 An extrapolation of the current trends projects a modest decrease in average call duration from universal service public payphones, driven by a more pronounced decline in calls to non-freephone and ECAS numbers, over the next number of years.
- 120 An extrapolation of universal service public payphones average daily call volumes projects that call volumes would remain relatively constant over the next number of years.
- 121 ComReg is of the preliminary view that public payphone usage is declining rapidly. While public payphones may provide a basic service to a very small cohort of end-users (1) who may have limited means of making a call (including a freephone call) and (2) who seek a level of anonymity when contacting freephone numbers of a sensitive nature, the majority of end-users appear to be increasingly utilising alternative methods.
- 122 Accordingly, ComReg is of the preliminary view, based on its analysis not to designate a USP(s) in respect of public payphones (including a usage threshold level), post 31 December 2020, as to do so would not be appropriate.

#### 4.3 Payment methods (post 31 December 2020)

- 123 Standard voice calls are charged on a per unit basis, and the length of time allowed per unit will vary depending on the call destination. The price of calls from USO public payphones is the same throughout the State (geographically averaged).

- 124 ComReg has reviewed the current payment methods based on the available data from eir. This illustrates that the volume of voice calls (non ECAS/freephone calls) is low, circa [X [REDACTED]] % of all calls. Voice calls (non ECAS/freephone) may be paid for coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialling codes<sup>30</sup>. Card payments require less operational maintenance and intervention (i.e. no associated collections). This, combined with its low percentage of total call volumes would suggest that coin and card payments are minimal.
- 125 Based on an extrapolation of the current trends, the average call volume per day, per universal service public payphone, to non-freephone and ECAS numbers, would decline slightly over the period 2020-2022. Based on a further extrapolation of the current data, the average call duration per day, per universal service public payphone, to these numbers, would also experience a slight decline over the period 2020-2022.
- 126 Accordingly, ComReg is of the preliminary view, based on its analysis, not to designate a USP(s) in respect of public payphones (including payment methods), post 31 December 2020, as to do so would not be appropriate.

#### 4.4 eir's public payphone strategy – counterfactual scenario

- 127 In order to assist ComReg in its review of universal service public payphones, ComReg issued an Information Requirement<sup>31</sup> and a series of further clarification requests to eir, to understand it's approach, in the counterfactual scenario, post 31 December 2020.
- 128 eir has confirmed to ComReg that it will continue to provide public payphones in line with its obligations as set out in D01/19, until 31 December 2020.
- 129 eir has formally advised<sup>32</sup> ComReg that:

*“eir has a contract with Clear Channel to install circa [X [REDACTED]] Digital Kiosks nationwide in consultation with County Councils. Whenever a request to remove a USO kiosk is received per section 7.10.1.2 iv of D01/19, the Council is made aware of Digital Kiosks and is requested to consider their payphone requirements. In suitable locations, the Council can request recovery of the eir structure and USO payphone and have it replaced with Clear Channel's newer Digital Kiosk and their payphone.”*

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<sup>30</sup> [X [REDACTED]]

<sup>31</sup> A statutory information requirement, pursuant to ComReg's powers under section 13D of the Communications Regulation Acts, 2002 to 2011 as inserted by Section 6 of the Communications Regulation (Amendment) Act 2007, dated 17 April 2020.

<sup>32</sup> eir's responses to Statutory Information requests, pursuant to Section 13D of the Act April 2020, 29 April 2020

- 130 eir has set out the following as its commercial approach to public payphones, independent of any potential future universal service public payphone designation:
1. To liaise with Councils, in relation to the councils' payphone needs;
  2. Offer the Council(s) the option to remove eir USO payphones and structures and replace them with Clear Channel *Digital Kiosks* (including a public payphone), where the council(s) have a payphone requirement;
  3. Where Council(s) have no payphone requirements, then offer the Council(s) car charging points; and
  4. Remove the remaining unwanted payphones
- 131 ComReg sought further information from eir on the nature and status of its engagement with relevant stakeholders (e.g. Local Authorities) and on the provision of universal service public payphones.
- 132 eir has confirmed that it has engaged with Dublin City Council (DCC) in late 2017 regarding public payphones located within DCC's boundaries. [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] ].
- 133 In a submission to Dublin City Council's planning department, eir state that the digital kiosk will include a public payphone, an interactive digital screen, a Wayfinding/Mapping system that is suitable for both visitors and residents, capability for links to promote awareness of Local Authority events and services, public buildings and tourist attractions etc., and a digital advertising display screen.<sup>33</sup> Digital kiosks will be equipped with a public payphone capable of receiving coin and card payments.
- 134 DCC has approved 24 digital kiosk sites to date<sup>34</sup>. eir public payphones will be replaced by digital kiosks at these locations, 22 of which have passed planning, with a planned installation in Q3 2020, Covid-19 permitting.
- 135 At the end of 2019 [REDACTED] universal service public payphones reached or were above the usage threshold level, set out in D01/19. The majority of these are located in Dublin.

<sup>33</sup> <http://www.dublincity.ie/AnitePublicDocs/00818738.pdf>

<sup>34</sup> eir's responses to Statutory Information requests, pursuant to Section 13D of the Act April 2020, 29 April 2020

136 A small number of universal service public payphones [redacted] (13.3%) are planned to be directly replaced with a digital kiosk.

137 A further 80% [redacted] of these universal service public payphones will be within a reasonable distance of a digital kiosk:

- [redacted] will be within 500 metres of a digital kiosk;
- [redacted] will be within 900 metres of a digital kiosk

138 Average service availability for these [redacted] sites has been high, above [redacted] % for the period July 2018-March 2019.

139 A large proportion ( [redacted] ) of the ( [redacted] ) universal service public payphones (as of December 2019) will continue to be provided on a commercial basis, either at their current location, or at locations within a reasonable distance (up to [redacted] metres) from the current location of the universal service public payphone, post December 31 2020

140 eir have stated that discussions for Digital Kiosks are ongoing with the following Local Authorities: [redacted]

141 eir stated that the elapsed time from the initial contact with the relevant local authorities through to the planning phase (in respect of digital kiosks) is just under one year (circa [X [REDACTED] ] months).

142 Based on eir's aforementioned statements, ComReg is of the preliminary view that a public payphone voice service will continue to be provided, on a commercial basis, to meet the reasonable needs of end-users (including payment mechanisms), absent of a public payphone designation, post 31 December 2020.

#### 4.5 Availability of alternative methods of making a call

143 The steady decline in the number of universal service public payphones provides an indication that the reasonable needs of end-users are being met through other mechanisms or methods of making calls.

144 Analysis of ECAS data demonstrates that the majority of calls to the emergency services are made from mobile phones, with a minuscule number originating from public payphones.

145 Analysis of freephone data demonstrates that since 2018, the volume of calls to freephone services has declined significantly.

#### 4.6 eir's Directive (EU) 2018/1972 (European Electronic Communications Code – Articles 87 and Recital 235

146 ComReg is also mindful of Directive (EU) 2018/1972 (European Electronic Communications Code. "EECC"), when considering its review of the need, if any, for a public payphone universal service designation (including usage threshold level and payment methods), beyond the current designation period (i.e. post 31 December 2020). The EECC is to be transposed into national legislation by 31 December 2020.

147 Article 87 of Directive (EU) 2018/1972 states that Member States may continue to:

*"ensure the availability or affordability of other services...that were in force on 20 December 2018, if the need for such services is established in light of national circumstances".*

148 Recital 235 of the EECC provide additional context in respect of Article 87, stating that [emphasis added]:

*“Member States should be able to continue to ensure the provision of universal service in their territory, other than adequate broadband internet access and voice communications services at a fixed location, that are included in the scope of their universal service obligations on the basis of Directive 2002/22/EC on the date of entry into force of this Directive, provided the services or comparable services are not available under normal commercial circumstances”.*

- 149 ComReg notes that Clear Channel, under contract with eir, in the counterfactual scenario, will continue to provide public payphones on a commercial basis. Accordingly, ComReg is of the preliminary view that “the services or comparable services” will be available under normal commercial circumstances, post 31 December 2020. They will be available in reasonable proximity to existing universal service public payphones, with appropriate payment mechanisms, and at an affordable price.
- 150 ComReg, in accordance with the current Regulations, may decide not to designate an undertaking, after consulting with the Minister, and having regard to views expressed to it under a public consultation.
- 151 ComReg will continue to monitor the provision of public payphones, in particular with regard to the affordability of tariffs available at public payphones to ensure affordability for end-users, and may, if deemed necessary, intervene to ensure this. Should any changes arise in this market, ComReg may need to intervene in the future in order to ensure that regulatory requirements, including affordability and ensuring the reasonable needs of end-users, are met.
- 152 Based on eir’s aforementioned statements, ComReg’s assessment of universal service public payphone usage and the reasonable needs of end-users, and having due consideration to legislative developments, ComReg is of the preliminary view that a public payphone service will continue to be provided, on a commercial basis, to meet the reasonable needs of end-users, absent of a public payphone designation, post 31 December 2020.
- 153 ComReg is therefore of the preliminary view that any public payphone universal service obligation and associated designation, post 31 December 2020, would not be appropriate.

- Q. 3 Do you agree with ComReg's preliminary view that considering eir's approach to public payphones (in the counterfactual scenario), a universal service public payphone designation would not be appropriate, post 31 December 2020? Please provide reasons to support your view.
- Q. 4 Do you agree with ComReg's preliminary view, that after consulting with the Minister, and having regard to views expressed to it under a public consultation it may decide not to designate an undertaking, for universal service public payphones, post 31 December 2020? Please provide reasons to support your view.

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## 5. Public payphones – universal service regulatory options

- 154 ComReg, in D01/19, stated that it “will conduct an analysis of the usage after year one of the designation period, and, based on this review, it will decide if it needs to commence a new consultation process in relation to the provision of public payphones in the State and will publish an information notice regarding this”<sup>35</sup>.
- 155 In June 2020<sup>36</sup> ComReg published an Information Notice setting out its intention to commence a public consultation on the usage threshold and payment methods to be in place until the end of the current designation and the need, if any, for a public payphone universal service designation after the expiry of the current designation period.
- 156 ComReg is now undertaking (1) a review of the public payphone threshold level and payment methods under the current designation, including:
- usage levels and the level of sensitivity to changes in the level of usage threshold; and
  - types of calls being made from public payphones and the associated payment methods
- 157 In light of the expiration of this current designation (under D01/19) on 31 December 2020, and having regard to the potential changes in the market, ComReg is also undertaking (2) a review of the need, if any, for a public payphone universal service designation and associated public payphone threshold level and payment methods, beyond the current designation period. ComReg’s review includes several key considerations, such as:
- whether the reasonable needs of end-users are being met, based on the current public payphone usage threshold level and current payment mechanisms;
  - the projected number of public payphones after 31 December 2020 (based on the current trends);
  - projected future public payphone usage levels and the sensitivity to potential changes in the usage threshold level, after 31 December 2020;

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<sup>35</sup> Provision of Public Payphones –Universal Service Scope and designation, ComReg document 19/06, 25/02/2019 (Page 8, Paragraph 17).

<sup>36</sup> ComReg Information Notice 20/52 “Provision of Public Payphones: Universal Service Review” (24 June 2020).

- projected types of calls that may be made from public payphones and the associated payment methods that may be required, after 31 December 2020; and;
- alternative methods of making a call.

158 Regulation 5 (1) of the Regulations provides that: “...*a designed undertaking shall ensure that public pay telephone or other public voice telephony access points are provided to meet the reasonable needs of end-users in terms of the geographical coverage, the number of telephones or other access points, accessibility to disabled end-users and the quality of services.*”

159 ComReg has ensured that the reasonable needs of end-users are met in terms of a usage threshold in Decision D01/19. Accordingly, the reasonable needs of end-users are not determined by the quantity or distribution of payphones throughout the State, rather by the usage of currently provided public payphones. If a public payphone is sufficiently used, the payphone is deemed a universal service public payphone, and the USP must retain and maintain it. However, the USP is not required to maintain service from a public payphone where there is evidence of anti-social behaviour, or its removal is requested by a Local Authority, but it must meet act in accordance with the notification requirements in the case of cessation of service from that public payphone.

160 Article 87 of Directive (EU) 2018/1972 states that Member States may continue to:  
*“ensure the availability or affordability of other services...that were in force on 20 December 2018, if the need for such services is established in light of national circumstances”.*

161 Recital 235 of the EEC provide additional context in respect of Article 87, stating that [emphasis added]:

*“Member States should be able to continue to ensure the provision of universal service in their territory, other than adequate broadband internet access and voice communications services at a fixed location, that are included in the scope of their universal service obligations on the basis of Directive 2002/22/EC on the date of entry into force of this Directive, provided the services or comparable services are not available under normal commercial circumstances”.*

## 5.1 Review of regulatory options - current designation period (D01/19)

162 This section sets out the regulatory options which could be adopted to meet ComReg's objectives in undertaking a review of the public payphone usage threshold level and payment methods under the current designation.

### 5.1.1 Regulatory options (current designation period) - public payphone usage threshold level

163 ComReg has identified the following potential regulatory approaches:

- Retain the usage threshold level, in accordance with D01/19
- Amend the usage threshold level

164 As set out in chapters 3 and 4 ComReg has analysed the impact of the current usage threshold level (D01/19) from July 2018 – March 2020, and has extrapolated these trends, post 31 December 2020.

165 This analysis shows that the usage levels of [X ■■■] public payphones either reached or were above the usage threshold level, and accordingly, remain classified as universal service public payphones, in March 2020.

166 Based on an extrapolation of current trends, the number of universal service public payphones above the current usage threshold level, would decline further to [X ■■■] by the end of 2020.

167 ComReg has also conducted usage threshold sensitivity analysis (scenarios 1A and 1B – 4A and 4B). This analysis demonstrates how the current and projected usage is quite insensitive to 15 and 30 second variations in the overall usage threshold levels, and in the ECAS and freephone usage threshold levels.

168 Accordingly, ComReg is the preliminary view that the usage threshold level, in D01/19 remains appropriate and that no amendment to this usage threshold level is required, within the current designation period (D01/19).

### 5.1.2 Regulatory options (current designation period) - public payphone payment methods

169 ComReg has identified the following potential regulatory approaches:

- Retain the payment methods, in accordance with D01/19; or
- Amend the payment methods to remove the coins/cash payment method.

- 170 As set out in chapters 3 and 4 ComReg has reviewed the current payment methods based on the available data from eir. This illustrates that the volume of voice calls (non ECAS/freephone calls) is low, circa [X ■ ] % of all calls. Voice calls (non ECAS/freephone) may be paid for coins and/or credit/debit cards and/or pre-payment cards, including cards for use with dialling codes<sup>37</sup>. Card payments require less operational maintenance and intervention (i.e. no associated collections). This, combined with voice calls (non ECAS/freephone call) representing a low percentage of the total call volumes, would suggest that coin and card payments are low.
- 171 ComReg is cognisant of the need to offer appropriate and accessible payment methods to facilitate the reasonable needs of end-users and, in particular, those who may be vulnerable, with limited access to credit (i.e. credit/debit card users).
- 172 Accordingly, any potential reduction in the universal service public payphone maintenance charge through the removal of cash/coins, would be unlikely to offset the potential impact on those who may be vulnerable with limited access to credit.
- 173 Accordingly, ComReg is the preliminary view that the payment methods, as set out in D01/19, remains appropriate and that no amendment to the current payment methods is required.

## 5.2 Regulatory options – public payphones post 31 December 2020

- 174 This section sets out the regulatory options which could be adopted to meet ComReg's objectives to conduct a review of the need, if any, for a public payphone universal service designation and associated public payphone threshold level and payment methods, beyond the current designation period, including:
- the projected number of public payphones after 31 December 2020 (based on the current trends);
  - projected future public payphone usage levels after 31 December 2020;
  - projected types of calls that may be made from public payphones and the associated payment methods that may be required, after 31 December 2020; and;
  - alternative methods of making a call.

### 5.2.1 Regulatory options - public payphones post 31 December 2020

- 175 ComReg has identified the following potential regulatory options:

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<sup>37</sup> [X ■ ]

- No universal service obligation and designation for public payphones, post 31 December 2020;
- Retain a universal service obligation and designation for public payphones, post 31 December 2020.

### 5.2.1.1 No universal service obligation and designation

- 176 As set out earlier in Section 4.2.5.2, the number of universal service public payphones has declined by 97% between 2015-2020 ( [§< [REDACTED] ] in 2015, to [§< [REDACTED] ] in 2020.
- 177 There remains a small and ever-decreasing cohort of end-users who continue to access public payphones. The majority [§< [REDACTED] ]<sup>38</sup>% of public payphone freephone calls are to help lines. As outlined in Figure 13, public payphone freephone calls have declined considerably (approximately 65%) between 2018 and 2020. A smaller percentage [§< [REDACTED] ]%, of freephone calls from public payphones are made by international calling cards and reverse charge calls.
- 178 Based on an extrapolation of the current trend (at the current usage threshold level) a small number [§< [REDACTED] ] of universal service public payphones will reach or exceed the threshold by December 2020. This is reflective of the declining usage of universal service public payphones. End-users appear to be increasingly using alternative means, other than via public payphones, in making calls.
- 179 The duration of universal service public payphone voice calls (non ECAS/freephone) is decreasing. Based on an extrapolation of the current trends, the average call volume per day, per universal service public payphone, would decline slightly over the period 2020-2022.
- 180 ComReg is also cognisant of eir's public payphone strategy of liaising with Local Authorities in relation to their payphone needs, offering removal of eir payphones and structures and replacement with Clear Channel Digital Kiosks and payphones, independent of any public payphone designation. The digital kiosk will include a public payphone, capable of receiving card and coin payment.
- 181 ComReg will continue to monitor the provision of public payphones, in particular with regard to the affordability of tariffs available at public payphones to ensure affordability for end-users, and may, if deemed necessary, intervene to ensure this. Should any changes arise in this market, ComReg may need to intervene in the future in order to ensure the requirements of Regulation 5 and Regulation 8 of the Universal Service Regulations are met.

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<sup>38</sup> Average during the period June 2018-March 2020

182 At the end of 2019, there were [§< [REDACTED] ] universal service public payphones. The vast majority [§< [REDACTED] ] of these universal public payphones will be located within a reasonable distance of a digital kiosk.

183 Accordingly, ComReg is of the preliminary view that public payphones will be available, under normal commercial circumstances, post 31 December 2020. It therefore follows that there would be no requirement for ComReg to specify any associated public payphone usage threshold level or payment methods.

### 5.2.1.2 Retain a universal service obligation and designation

184 ComReg has considered:

- the viability of specifying a universal service obligation; and
- who might be designated as the USP

to ensure that the reasonable needs of end-users to access public payphones are met post 31 December 2020.

185 As set out earlier in Section 4.2.5.2, the number of universal service public payphones has declined by 97% between 2015 - 2020 from ( [§< [REDACTED] ] in 2015, to [§< [REDACTED] ] in 2020.

186 There remains a small and ever-decreasing cohort of end-users who continue to access public payphones. While the majority [§< [REDACTED] ]<sup>39</sup>% of public payphone freephone calls are to help lines, this volume continues to decline rapidly.

187 ComReg note the commercial arrangements between eir and Clear Channel in respect of existing public payphones and digital kiosks.

188 ComReg is of the preliminary view having due regard to eir's approach to public payphones, in the counterfactual scenario, Directive (EU) 2018/1972 (European Electronic Communications Code), that any public payphone universal service obligation and associated designation, post 31 December 2020, would not be appropriate.

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<sup>39</sup> Average during the period June 2018-March 2019

### 5.3 ComReg's preliminary view

189 ComReg is therefore of the preliminary view that, following analysis, having due regard to eir's approach to public payphones, in the counterfactual scenario, Directive (EU) 2018/1972 (European Electronic Communications Code) and specifically Article 87 and Recital 235, that any public payphone universal service obligation and associated designation, post 31 December 2020, would not be required.

Q. 5 Do you agree with ComReg's preliminary views the regulatory options which could be adopted to meet ComReg's objectives in undertaking a review of the public payphone usage threshold level and payment methods under the current designation? Please provide reasons to support your view.

Q. 6 Do you agree with ComReg's preliminary views the regulatory options which could be adopted to meet ComReg's objectives in undertaking a review of public payphones post 31 December 2020? Please provide reasons to support your view.

## 6 Draft Decision Instrument

### 6.1 STATUTORY FUNCTIONS AND POWERS GIVING RISE TO DECISION

6.1.1 This Decision and Decision Instrument, made by the Commission for Communications Regulation (“ComReg”), relates to the provision of universal services in the Irish telephony market and is made:

- i. Having regard to sections 10 and 12 of the Communications Regulation Act 2002 ( as amended);
- ii. Pursuant to the functions and powers conferred upon ComReg under and by virtue of Regulation 5(3) of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations 2011 (“the Regulations”);
- iii. Having regard to Regulation 7 and Regulation 5(1) and Regulation 5(2) of the Universal Service Regulations;
- iv. Having regard to the analysis and reasoning set out in ComReg document No. xx/xx.

### 6.2 DEFINITIONS:

6.2.1 The following words and phrases shall have the following meaning unless the context otherwise requires:

“**D01/19**” means ComReg Decision No. 01/19 entitled “Provision of Public Pay Telephones Universal Service: Scope and designation”

“**Effective Date**” means the date this Decision Instrument becomes operative and fully effective as specified in Section 6.4 of this Decision Instrument;

“**eir**” means Eircom Limited and its subsidiaries and any related companies, and any undertaking which it owns or controls or any undertaking which owns or controls Eircom Limited, its successors and assigns and including agents, contractors or sub-contractors of any of the latter. For the purposes of this Decision Instrument the terms “subsidiary” and “related company” shall have the meanings ascribed to them in the Companies Act 2014;

“**existing public payphone usage threshold level**” means the usage referred to in section 7.10.1.2 (ii) of D01/19;

**“payment methods”** means the payment methods referred to in section 7.10.1.1 of ComReg D01/19;

**“Public Pay Telephone”** means a telephone available to the general public for use of which the means of payment may include coins credit cards, debit cards or prepayment cards, including cards for use with dialling codes;

**“The Act”** means the Communications Regulation Act 2002 (as amended)

**“The Framework Regulations”** means the European Communities (Electronic Communications Networks and Services) (Framework) (Regulations), S.I. 333 of 2011.

**“The Universal Service Regulations”** means the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights regulations), S.I. 337 of 2011.

**“Undertaking”** has the same meaning as defined in Regulation 2 of the Framework Regulations

**Universal Service Obligations** has the same meaning as defined in Regulation 2 of the Universal Service Regulations

- 6.2.2 References to European Union legislation or to primary legislation or secondary legislation shall be construed as references to that legislation as amended from time to time.
- 6.2.3 Words in the singular form shall be construed to include the plural and vice versa, unless the context otherwise admits or requires.
- 6.2.4 Examples shall not be construed to limit, expressly or by implication, the matters they illustrate.
- 6.2.5 Other terms that are used in this Decision Instrument shall have the same meaning as when they are used in the Universal Service Regulations and the Framework Regulations, unless the context otherwise admits or requires.

## 6.3 SCOPE AND APPLICATION

- 6.3.1 This Decision Instrument is binding upon eir

## **6.4 PROVISION OF PUBLIC PAY TELEPHONES**

- 6.4.1 ComReg's decision is to retain the existing public payphone usage threshold level and payment methods until the 31 December 2020, in accordance with D01/19; and
- 6.4.2 ComReg's decision is not to designate an undertaking as universal service provider, under Regulation 7 of the Universal Service Regulations, with a public pay telephones universal service obligation from 1 January 2021.

## **6.5 EFFECTIVE DATE AND DURATION**

- 6.5.1 This Decision and Decision Instrument is effective from [date of publication], unless otherwise amended by ComReg.

## **6.6 MAINTENANCE OF OBLIGATIONS:**

- 6.6.1 Unless expressly stated otherwise in this Decision Instrument, all obligations and requirements contained in decision notices and directions made by ComReg applying to eir and in force immediately prior to the Effective Date shall continue in force and eir shall comply with same.

## **6.7 SEVERANCE:**

- 6.7.1 If any Section, Schedule, or portion thereof contained in this Decision Instrument is found to be invalid or prohibited by the Constitution, by any other law or judged by a court to be unlawful, void or unenforceable, then that Section, Schedule, or portion thereof shall, to the extent required, be severed from this Decision Instrument, and rendered ineffective, but as far as possible without modifying the remaining Sections, or portions thereof and shall not in any way affect the validity or enforcement of this Decision Instrument or other decision instruments.

## **6.8 CONFLICT:**

- 6.8.1 For the avoidance of doubt, to the extent that there is any conflict between a ComReg Decision Instrument and ComReg document dated prior to the Effective Date and eir's obligations now set out herein, this Decision Instrument shall prevail, unless otherwise indicated by ComReg.

## **6.9 CONTINUATION OF COMREG DECISIONS:**

- 6.9.1 All other decisions imposed by ComReg in relation to universal service obligations, which were immediately in force prior to the effective date of this Decision and Decision Instrument, shall continue to have full force and effect.

### **CHAIRPERSON**

### **THE COMMISSION FOR COMMUNICATIONS REGULATION**

**THE xx<sup>th</sup> DAY OF xx 2020**

Q. 7 Do you have any comments on ComReg's draft decision instrument? Please provide reasons to support your views.

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# 7 Draft Regulatory Impact Assessment (“RIA”)

## 7.1 Introduction

190 The analysis presented in this section represents ComReg’s draft regulatory impact assessment (“**RIA**”). It sets out ComReg’s preliminary assessment of the likely effect upon stakeholders and competition, of ComReg exercising its discretion on :

- whether or not to amend the public payphone usage threshold level and payment methods, under the current designation (D01/19); and
- the need, if any, for a public payphone universal service designation (and associated public payphone threshold level and payment methods), post the current designation period (i.e. post 31 December 2020).<sup>40</sup>

191 This draft RIA forms part of ComReg’s overall analysis having regard to the evolution of the electronic communications market and the public payphone market.

192 The purpose the draft RIA is to help identify whether ComReg’s proposed regulatory approach is likely to have the desired impact in terms of promotion of the interests of end-users and protecting end-user welfare in respect of public payphones.<sup>41</sup> The draft RIA helps to consider:

- The various regulatory options available to ComReg in respect of :
- the public usage threshold level and payment methods, under the current designation (D01/19); and
- the need, if any, for a public payphone universal service designation (and associated public payphone threshold level and payment methods), post the current designation period (i.e. post 31 December 2020).

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<sup>40</sup> Under Regulation 7(1) of the Universal Service Regulations, ComReg may designate one or more undertakings to comply with an obligation or requirement referred to in Regulation 5 (1) of those Regulations, which relates to public payphone services.

<sup>41</sup> Pursuant to the Communications Regulation Acts 2002 to 2011, as amended, ComReg’s key statutory objectives in relation to the provision of electronic communications services (“ECS”) are to (i) Promote competition, (ii) Contribute to the development of the internal market, and (iii) Promote the interests of users in Ireland, as well as within the European Union.

- 193 ComReg’s aim in conducting this draft RIA is to ensure that its proposals are appropriate, proportionate and justified in light of the analysis conducted, having regard to its objectives, whilst also mindful of the principle of proportionality. ComReg aims to establish an appropriate balance between meeting the reasonable needs of end-users,(defined on the basis of a usage threshold level) and the evolving nature of the public payphone market.
- 194 In selecting an appropriate regulatory approach, ComReg sets out the key policy issues and objectives below, an assessment of potential regulatory options and their respective impacts on stakeholders and competition.
- 195 ComReg’s approach is consistent with the RIA Guidelines<sup>42</sup> and, takes into account the “Better Regulation” programme<sup>43</sup> and international best practice (for example, considering developments about RIA published by the European Commission<sup>44</sup> and the OECD).
- 196 ComReg in now conducting its draft RIA having regard to the Regulations and its obligations under and Section 13(1) of the Act which requires ComReg to comply with Ministerial Policy Directions.<sup>45</sup>

## 7.2 Step 1 – Describe the policy issue and identify the objectives

- 197 In accordance with Regulation 5(4) of the Regulations, and having regard to D01/19, ComReg is assessing:
- whether or not to amend the public payphone usage threshold level and payment methods, under the current designation (D01/19); and
  - the need, if any, for a public payphone universal service designation (and associated public payphone threshold level and payment methods), post the current designation period (i.e. post 31 December 2020).<sup>46</sup>

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<sup>42</sup> ComReg, “Guidelines on ComReg’s Approach to Regulatory Impact Assessment”, [ComReg Document 07/56a](#), 10 August 2007 (the “RIA Guidelines”).

<sup>43</sup> Department of the Taoiseach, “Regulating Better”, January 2004. See also “Revised RIA Guidelines: How to conduct a Regulatory Impact Analysis”, June 2009, [http://www.taoiseach.gov.ie/eng/Publications/Publications\\_2011/Revised\\_RIA\\_Guidelines\\_June\\_2009.pdf](http://www.taoiseach.gov.ie/eng/Publications/Publications_2011/Revised_RIA_Guidelines_June_2009.pdf).

<sup>44</sup> Communication from the Commission to the European Parliament, the Council, the European Economic and Social Committee and the Committee of the Regions, “Second strategic review of Better Regulation in the European Union”, COM(2008) 32 final 30.01.2008, p. 6.

<sup>45</sup> Ministerial Policy Direction made by the Minister of Communications, Marine and Natural Resources on 21 February 2003. It requires that, before deciding to impose regulatory obligations on undertakings, we must conduct a RIA in accordance with European and international best practice and otherwise in accordance with measures that may be adopted under the “Better Regulation” programme.

<sup>46</sup> Under Regulation 7(1) of the Universal Service Regulations, ComReg may designate one or more undertakings to comply with an obligation or requirement referred to in Regulation 5 (1) of those Regulations, which relates to public payphone services.

- 198 Universal service is an important measure of end-user welfare as it provides a safety net that ensures certain basic fixed line services are available at an affordable and uniform price to all citizens and consumers throughout the State, particularly in areas of the State (such as rural or sparsely populated areas) where the market might not deliver these services. Thus, the universal service contributes to social and economic inclusiveness in society.
- 199 ComReg is cognisant of its statutory objectives, as set out in Section 12 (1) (a) (iii) of the Act, including the promotion of the interests of end-users of services and protecting end-user welfare.
- 200 As set out at Article 8 of Directive 2002/21/EC<sup>47</sup> and the Regulations, ComReg must ensure all reasonable, proportionate measures to promote the interests of citizens by ensuring that they have access to universal services at an affordable price.
- 201 ComReg is also mindful of the transposition of the European Electronic Communications Code (“EECC”). Article 87 of the EECC allows Member States to “ensure the availability or affordability of other services...that were in force on 20 December 2018, if the need for such services is established in light of national circumstances”.
- 202 ComReg’s policy objectives for this review are twofold:
- To ensure that the reasonable needs of end-users for public payphones (defined on a usage threshold level basis) are met; and
  - To ensure that the requirements of the Regulations (transposing the Universal Service Directive) are met.

### 7.3 Step 2 – Identify and describe the potential regulatory options

- 203 ComReg has identified the following options which may be adopted for the purpose of achieving the above stated objectives during:
- the current designation period, D01/19 (i.e. until 31 December 2020); and
  - following expiration of the current designation (i.e. post 31 December 2020).
- 204 Under the **current designation** (D01/19 – i.e. until 31 December 2020), ComReg has considered the impact of:

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<sup>47</sup> Directive 2002/21/EC of the European Parliament and of the Council of 7 March 2002 on a common regulatory framework for electronic communications networks and services, as amended (“Framework Directive”).

- Retaining/amending the usage threshold level, as set out in D01/19 (Section 7.3.1); and
- Retaining/amending the payment methods, as set out in D01/19 (Section 7.3.2);

205 Following expiration of D01/19 (i.e. post 31 December 2020), ComReg has considered the impact of:

- Not imposing a USO and relying on normal market conditions to meet the reasonable needs of end-users for public payphones (Section 7.3.3); or
- Imposing a USO designation for public payphones post 31 December 2020 (including usage threshold and payment methods) (Section 7.3.4)

206 The potential effect on stakeholders of imposing these different regulatory options are considered in Section 7.4.

### **7.3.1 Public payphone usage threshold level - current designation (D01/19)**

207 ComReg has identified two regulatory usage threshold level options:

- a. Retain the current usage threshold level, as specified in D01/19 for the remainder of the designation period; or
- b. Amend the current threshold level, from that set out in D01/19, for the remainder of the designation period.

### **7.3.2 Public payphone payment methods - current designation (D01/19)**

208 The current payment methods are: coins, credit/debit cards, and pre-payment cards, including cards for use with dialling codes.

209 ComReg has identified two payment method regulatory options:

- a. Retain the current payment methods, as specified in D01/19 for the remainder of this designation; or
- b. Amend the current payment methods set out in D01/19 for the remainder of this designation period.

### 7.3.3 Public payphone designation post D01/19 (31 December 2020)

210 In this section consideration is given as to whether to impose a USO designation for public payphones. Under this option a public payphone obligation and designation would either be removed, or imposed (in some format), post expiration of D01/19 (i.e. 31 December 2020). ComReg has identified a number of sub-options outlined below:

- a. Do not designate a USP for public payphones;
- b. Designate eir as the USP for public payphones; and/or
- c. Amend the usage threshold level and payment methods.

211 The potential effect on stakeholders of imposing these different regulatory options are considered below.

## 7.4 Step 3 – Determine the impacts on stakeholders and competition

### 7.4.1 Public payphone usage threshold level - current designation

212 The dynamic nature of the usage threshold means that the reasonable needs of end users for public payphones continue to be met, where the usage threshold level is at the appropriate level. However as set out earlier in the consultation document, the use of public payphones continues to decline over time.

213 In general, the public payphones which would remain would be those that are sufficiently used (i.e. above the usage threshold), ensuring that the reasonable needs of end-users are met for the remainder of the designation.

214 There is a risk that if usage threshold level were to be set too high, universal service public payphones could become uneconomic and lead to an increase in the direct net cost claimed as part of the USP's USO funding application.

215 eir appear to have made a commercial decision to retain the majority of public payphones to date, notwithstanding that a significant number of the existing public payphones have usage below the current universal service public payphone usage threshold level (as set out in D01/19) . In a market where public payphone usage continues to decline, the dynamic approach has proved to date to provide a sufficient safety net.

- 216 Under the dynamic usage threshold level approach, eir may choose not to retain certain current public payphones, while being required to retain others. This gives flexibility to eir to adapt to evolving market conditions and end-user needs.
- 217 eir can retain revenue associated with the provision of public payphones (voice calls, Freephone/ECAS) and, having its brand on those public payphones which remain, enabling it to off-set some costs.
- 218 ComReg's usage threshold sensitivity analysis set out in Chapter 3 (scenarios 1A and 1B – 4A and 4B) demonstrate how the current and projected usage is quite insensitive to 15 and 30 second variations to the overall usage threshold levels.
- 219 Accordingly, and as concluded as part of usage threshold review in Chapter 3 of this consultation document, amending the threshold level would seem inappropriate and unnecessary for the remainder duration of D01/19.
- 220 It is therefore ComReg's preliminary view that Option A (Retain the current usage threshold level, as specified in D01/19 for the remainder of the designation period) is the most appropriate option in respect of the usage threshold for the remainder of this designation. This will ensure that the reasonable needs of end-users are met for the remainder of the current designation. Any change in the specification away from the status quo for the remainder of D01/19 may also impose an additional cost and administrative burden.

## 7.4.2 Public Payphone Payment Methods - current designation (D01/19)

- 221 Currently, the USP is required to facilitate a number of appropriate payment means at public payphones, including coins, credit/debit cards, and pre-payment cards, including cards for use with dialling codes.
- 222 As outlined earlier, while the majority of calls from universal service public payphones are made to freephone and ECAS services, a small number, approximately [X ■ ] % of standard voice calls continue to be made from these public payphones.
- 223 ComReg is cognisant of the need to offer appropriate and accessible payment methods to facilitate the reasonable needs of end-users and, in particular, those who may be vulnerable, with limited access to credit.

- 224 Based on analysis of data provided to ComReg by eir for market intelligence purposes, eir's public payphone base generated revenues of approximately [REDACTED] in 2019, indicating that payphones continue to be used for standard voice calls<sup>48</sup>
- 225 eir have contracted a third party to collect revenue from public payphones. [REDACTED]  
[REDACTED]  
[REDACTED] ]<sup>49</sup>.
- 226 The continuation of payment methods for the remainder of the designation, as specified in D01/19, is also unlikely therefore to represent a significant administrative burden on eir as USP.
- 227 Accordingly, any potential reduction in the universal service public payphone maintenance charge through the removal of cash/coins, would be unlikely to offset the potential impact on those who may be vulnerable with limited access to credit, during the current designation period (i.e. 31 December 2020).
- 228 It is therefore ComReg's preliminary view that Option A (retain the current payment methods, as specified in D01/19 for the remainder of this designation) is the most appropriate option in respect of the payment methods for the remainder of this designation.

### 7.4.3 Universal service public payphone designation - post 31 December 2020

- 229 Not imposing a universal service designation post 31 December 2020 appears to be an efficient response to the technological and social changes in the public payphone market. As set out in Chapter 4 of this consultation document, public payphone usage is in steady decline over time.
- 230 This declining public payphone usage trend may be, in part, due to the wide availability of alternative means, such as mobile phones, and non-USO payphones (many shopping centres now open longer). Additionally, SOS phones are also available throughout the State, and end-users may choose alternative means to communicate and make calls.

<sup>48</sup> As data was unavailable for Q4 2018 and Q1 2019, averages were calculated for these periods.

<sup>49</sup> [REDACTED]

- 231 Absent of a universal service public payphone designation, eir would have complete freedom to respond to changing commercial circumstances. It could cease providing public payphones and, may achieve possible associated cost savings. As remaining public payphones would no longer be a USO cost, any potential for a net cost claim would be removed. There would be no impact in respect of sharing of any potential unfair burden, if established, which would ultimately be to the benefit of industry. The potential effect of implementing this option is therefore likely to be largely competition neutral.
- 232 eir have stated that post 31 December 2020, public payphones be provided at specified locations, on a commercial basis, at Clear Channel digital kiosks. [§< [REDACTED] ].
- 233 ComReg will continue to monitor the provision of public payphones, in particular with regard to the affordability of tariffs available at public payphones to ensure affordability for end-users, and may, if deemed necessary, intervene to ensure this. Should any changes arise in this market, ComReg may need to intervene in the future in order to ensure the requirements of Regulation 5 and Regulation 8 of the Universal Service Regulations are met.
- 234 Of the [§< [REDACTED] ] universal service public payphones at end-2019, the majority [§< [REDACTED] ] are planned to be located within a reasonable distance of a digital kiosk.
- 235 ComReg has also considered the transposition of the European Electronic Communications Code (EECC), which states that Member States should be able to continue to provide universal services, provided the services or comparable services are not available under normal commercial circumstances.
- 236 Therefore, on the basis of this information supplied by eir, a commercial public payphone service will be provided by Clear Channel to meet the reasonable needs of end users absent a USO designation.
- 237 With respect to potential wider benefits to society, consumers living in areas where public payphones have become the location for anti-social behaviour may benefit from their removal.
- 238 A cost of withdrawing the public payphone USO at this time is that, if left to the market alone, there is a, albeit small, risk that existing universal service public payphones may be ceased and removed depending on eir or Clear Channel's commercial incentives in the future.
- 239 However, it is important to note that eir have commercial freedom to cease service from the vast majority of public payphones in the State, and have, to date, not chosen to do so.

- 240 Public payphones can often provide an important service to a small disadvantaged and vulnerable cohort of society, helping to facilitate their ability to access basic services, such as by making calls to public helplines (Freephone), and/or emergency services.
- 241 Having regard to the latest data which eir has provided to ComReg, although a significant reduction, calls continue to be made from payphones (primarily freephone calls), many of which are to helplines. However, this considerable decline in call volumes may indicate the use of alternative means of communication available to these end-users.
- 242 Based on eir's aforementioned statements, and ComReg's assessment of public payphone usage and the reasonable needs of end-users, ComReg is therefore of the preliminary view that a commercially operated public payphone service will be provided to meet the reasonable needs of end-users absent of a USO designation.
- 243 Having due regard to the importance of USO as a measure of end-user welfare and, having regard to the counterfactual scenario, and commercial alternatives in place, ComReg, is of the preliminary view that, on balance, the withdrawal of USO upon expiry of D01/19 in December 2020 is unlikely to have a negative impact on overall end-user welfare.
- 244 The following section sets out, in considering whether a USO is considered necessary, the advantages and disadvantages of different options in relation to the potential nature of any USO requirement, as compared to not imposing a USO designation.

#### **Designate eir as USP for public payphones post 31 December 2020**

- 245 This scenario examines the impact of designating eir as USP for public payphones post December 31 2020.
- 246 ComReg is cognisant of eir's response to ComReg's information request which stated that eir propose to, liaise with councils in relation to their payphone needs, and offer removal of eir USO payphones and structures for replacement with Clear Channel digital kiosks and payphones where they have a payphone requirement
- 247 ComReg has considered, however, imposing a designation on eir for the existing [§< [REDACTED] ] universal service public payphones as of December 2019. These payphones would continue to be subject to the usage threshold, and should usage of a universal service public payphone fall beneath this threshold, eir would have full commercial freedom in ceasing service, if it so chooses.
- 248 A designation on eir would ensure that the provision of universal service public payphones continues post 2020.

249 However, ComReg is mindful of the following:

- should eir be designated as USP for public payphones post-2020, this designation would be for an estimated [X [REDACTED]] universal service public payphones in the entire State;
- of the [X [REDACTED]] universal service public payphones at end-2019, the majority [X [REDACTED]] are located within a reasonable distance of a digital kiosk; and
- the digital kiosk will be equipped with a public payphone capable of receiving both coin and card payment.

250 Therefore, on balance, ComReg is of the preliminary view that the imposition of a public payphones USO on eir post 31 December 2020 would not be appropriate.

#### **Amend the usage threshold levels (set under D01/19) post 31 December 2020**

251 The current provision of universal service public payphones throughout the State may not meet the reasonable needs of end-users. This may require modifying the current specified usage thresholds (as specified in D01/19). This may assist in ensuring that any applicable threshold level is set most appropriately.

252 There is a risk that, should a USO designation be imposed post 31 December 2020, and if the current usage threshold level is not reflective of usage patterns, universal service public payphones may become more uneconomic and lead to an increase in the direct net cost claimed as part of the USP's USO funding application. eir appear to have made a commercial decision to retain the majority of public payphones to date, notwithstanding that a significant number of the existing public payphones have usage below the threshold level specified. In a market where public payphones usage continue to decline, and where the dynamic approach has proved to date to provide a sufficient safety net.

253 The USP may benefit from any associated net cost reducing more rapidly over time, than if the current usage threshold was maintained.

254 To the extent that the current regime is an effective solution, a change in the specification away from the status quo approach for the remainder of D01/19 may be unnecessary and may impose an additional cost and administrative burden.

255 As discussed in Chapter 3, when the current usage threshold was applied to the USO public payphone base, [X [REDACTED]] public payphones either met or were above the usage threshold and remained classified as universal service public payphones in March 2020.

- 256 Based on an extrapolation of the current trend (at the current usage threshold level) usage of [x [REDACTED]] universal service public payphones are predicted to be above the usage threshold by end-2020.
- 257 A USP would incur some costs for the provision of a payphones USO. However, for the reasons set out above, imposing a usage threshold post 31 December 2020 would likely to result in a solution that is not more burdensome on a USP(s) than is necessary and, any regulatory burden may be lightened where it allows for a lower removal threshold for public payphones. As any net cost associated with USO would likely reduce over time, a modified USO specification is unlikely to result in a disproportionate cost burden for the USP or industry.
- 258 Based on the rapidly declining (currently [x [REDACTED]]) number of public payphones which now meet the usage threshold, and alternatives available to the public other than a universal service public payphone, including commercial provision of public payphones, ComReg is of the preliminary view that the imposition of a usage threshold post December 31 2020 would be disproportionate.

## 7.5 Step 4 – Assess the impacts and choose the best option

- 259 Having specific regard to the scenario detailed at Section 7.4.1 and 7.4.2, the decision to maintain the usage threshold and payment methods as specified in D01/19 is unlikely to result in end-user detriment.
- 260 Therefore it is ComReg's preliminary view that the usage threshold and payment methods as specified in D01/19 should remain in effect for the remainder of this designation.
- 261 However, from ComReg's analysis of usage data received from ECAS and eir, given that a rapidly decreasing proportion of public payphone freephone call volume is generated from calling help lines, ComReg is of the preliminary view that this cohort of end-users appear to have alternative means of accessing these services, other than via public payphones.
- 262 Furthermore, eir's response to ComReg indicates that the provision of public payphones will continue commercially under Clear Channel, should a Local Authority determine that a reasonable need is required.
- 263 For the reasons set out above, it is ComReg's preliminary view that it would not be necessary to impose a USO for public payphones post 31 December 2020.

- 264 There are, in the event of a USO designation, a number of possible ways to implement such a USO. In order to help identify the most optimal regulatory approach, the advantages and disadvantages of different options in relation to the potential nature of any USO measure follows, as compared to the removal of the USO.
- 265 These options may continue to provide reasonable access to public payphones. Accordingly, each of these approaches would, to a different extent, address possible end-user protection concerns for the 'at risk' end-user.
- 266 An advantage of the designation of eir, is that eir would be required to ensure that the reasonable needs of end-users are met in respect of universal service public. However, ComReg is cognisant of the rapidly declining use of public payphones, the declining number ([ <math>\propto</math> █████ ]) of payphones remaining above the usage threshold, and the future commercial provision of public payphones.
- 267 An advantage of imposing a usage threshold is that, an amended USO specification may help ensure that any USO evolves with technological and social developments in a more targeted way. For example, this may be appropriate in the interest of end-users of public payphones where any applicable threshold level would be set more appropriately for the immediate future. However, this may impose an additional cost and administrative burden on a USP. Importantly, the dynamic nature of the current regime, which is based on usage, helps ensure that the USO can adjust to reflect the reasonable needs of end-users. Therefore, any proposal to impose a usage threshold for public payphones post 31 December 2020 would not appear necessary at this time.
- 268 Having regard to the analysis conducted and, proposed approach of the USP post December 31 2020, ComReg, considers on a preliminary basis that, on balance:
- It is appropriate to maintain the usage threshold and payment methods, as specified in D01/19 for the remainder of this designation; and
  - Not imposing a USO designation for public payphones post 31 December 2020 appears to be the most appropriate approach to the provision of public payphones in the future.
- 269 ComReg will review and fully take into account all responses it receives from stakeholders in relation to the options and proposals in this consultation before coming to a final RIA and decision.

Q8. Do you agree or disagree with ComReg's draft regulatory impact assessment of the impact of the proposed options? Please set out reasons for your answer.

## 8 Next Steps

- 270 The timeframe for receipt of submissions to this consultation paper is 19 October 2020. ComReg welcomes written responses on any of the issues raised in this consultation document. It is requested that comments within submissions reference to the relevant question numbers from this consultation document.
- 271 In order to promote further openness and transparency, ComReg will publish all respondents' submissions to this consultation, subject to the provisions of ComReg's Guidelines on the Treatment of Confidential Information – ComReg 05/24 and its obligation under Regulation 15 of the European Communities (Electronic Communications Networks and Services) (Framework) Regulations 2011.
- 272 Respondents are requested to clearly identify confidential material and place such material in a separate annex to responses.
- 273 Respondents are also requested to provide any electronic submissions in an unprotected format so that they can be appended into ComReg's submissions document for electronic publication.

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## Annex: 1 Legal Basis

Regulation 5 of the European Communities (Electronic Communications Network and Services) (Universal Service and Users' Rights) Regulations 2011 ("USO Regulations") states:

*5. (1) A designated undertaking shall ensure that public pay telephones or other public voice telephony access points are provided to meet the reasonable needs of end-users in terms of the geographical coverage, the number of telephones or other access points, accessibility to disabled end-users and the quality of services.*

*(2) The Regulator may, with the consent of the Minister, specify terms and conditions applicable to the provision of public pay telephones or other public voice telephony access points for the purpose of ensuring that the requirements specified in paragraph (1) are met.*

*(3) Where the Regulator determines, after consultation with the Minister and having regard to views expressed to it under a public consultation carried out in accordance with Regulation 26, that there exists a sufficient number of public pay telephones or other public voice telephony access points in any geographic area to satisfy the reasonable needs for such service in that area, taking into account the population density in such geographic area and the state of development of the communications market in that area, the Regulator may decide not to designate an undertaking under Regulation 7 for the purpose of paragraph (1) in relation to that area or a specified part of that area, as the case may be.*

*(4) (a) The Regulator shall conduct a review of any decision it makes under paragraph (3) as and when it considers appropriate.*

*(b) Where the Regulator makes a decision that the number of public pay telephones or other public voice telephony access points is no longer sufficient to serve the reasonable needs for such services in that area, the Regulator may designate an undertaking under Regulation 7 as having an obligation under paragraph (1) in respect of public pay telephones or other public voice telephony access points in that area.*

*(5) An undertaking providing public pay telephones shall ensure that it is possible to make emergency calls from a public pay telephone using the single European emergency call number "112" and any national emergency call number that may be specified by the Regulator, in each case, free of charge and without the necessity to use coins or cards or any other means of payment.*

*(6) Any undertaking providing public pay telephones shall ensure that the users of those telephones have access to a directory enquiry service referred to in Regulation 4.*

*(7) An undertaking that fails to comply with—*

*(a) a requirement of paragraph (1), (5) or (6), or*

*(b) a term or condition specified under paragraph (2), commits an offence.*

*(8) In proceedings for an offence under paragraph (7) it is a defence to establish that—*

*(a) reasonable steps were taken to comply with the relevant requirement, term or condition, or*

*(b) it was not possible to comply with the relevant requirement, term or condition.*

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# Questions

## Section

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- Q. 1 Do you agree with ComReg’s preliminary view that there is no requirement to amend the current universal service public payphone usage threshold level for the remainder of the current designation (i.e. prior to 31 December 2020)? Please provide reasons to support your views..... 27
- Q. 2 Do you agree with ComReg’s preliminary view that there is no requirement to amend the current universal service public payphone payment methods for the remainder of the current designation (i.e. prior to 31 December 2020)? Please provide reasons to support your views..... 29
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- Q. 5 Do you agree with ComReg’s preliminary views the regulatory options which could be adopted to meet ComReg’s objectives in undertaking a review of the public payphone usage threshold level and payment methods under the current designation? Please provide reasons to support your view. .... 52
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- Q. 7 Do you have any comments on ComReg’s draft decision instrument? Please provide reasons to support your views..... 56
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