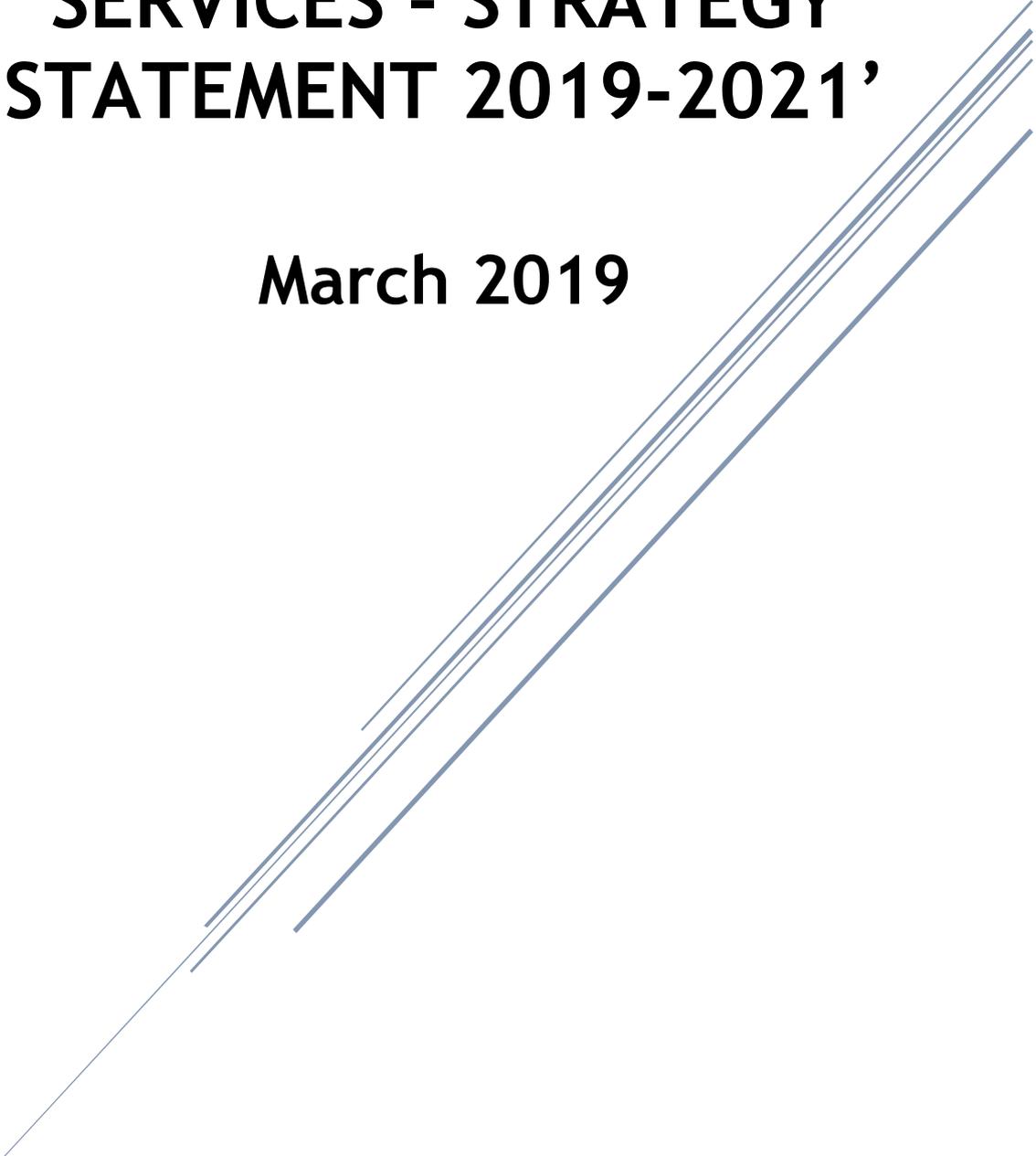


**ICBAN RESPONSE TO COMREG
CONSULTATION ON
'ELECTRONIC COMMUNICATION
SERVICES - STRATEGY
STATEMENT 2019-2021'**

March 2019



INTRODUCTION

The Irish Central Border Area Network (ICBAN) is grateful for the opportunity to respond to the ComReg Consultation on its Electronic Communications Services Strategy Statement 2019-21.

ICBAN is a local authority-led development organisation which works in the cross-border areas of Northern Ireland and Ireland. We have been charged by our local authority members on both sides of the border (Cavan, Donegal, Leitrim, Monaghan and Sligo, and in NI the Councils of Armagh City Banbridge & Craigavon, Fermanagh & Omagh, and Mid Ulster) to help seek solutions to the gaps in broadband service provision on each side of the border.

ICBAN has completed a series of reports which articulate the challenges still being faced in broadband infrastructure investments and service delivery.

ICBAN, at the request of Local Councillors in Northern Ireland, has researched the impact of investments and subsidies in fibre-based services there¹. The need arose from concerns regarding the over-use of Fibre to the Cabinet (FTTC) technology, where the distance limitations of that technology left too many in rural areas without a measurable improvement in service. The research and its conclusions are controversial, but it has made a crucial contribution to securing the funding for 'Project Stratum' in NI, which emerged in the Confidence & Supply Agreement. The research and its conclusions have also played an important part in the ongoing calls for increased transparency in BT's direct capital contributions. The Northern Ireland Audit Office is currently investigating the role of BT's capital in the rural rollout.

The learnings from north of the border, point to much lower costs than originally portrayed by suppliers and their consultants, much lower contributions until challenged, and much higher take-up than forecasted. This suggests greater ambitions can be outlined, subject to the resource available to perform the work.

ICBAN Council members from the counties south of the border have a similar set of concerns about indifferent levels of both Mobile and Broadband connectivity.

ICBAN produced a report on broadband challenges in Republic of Ireland. The "Delivering on the Promise" report focused on how Local Authorities should embrace and support the ambition but also drew attention to the need to address engineering resource shortfalls². It also highlighted the dangers of over-procuring by consultants, through drawing parallels to the apparent abuse of the UK scheme.

¹ <http://icban.com/broadband-telecoms/> Fibre at a Crossroads I and II and available in the library.

² <http://icban.com/site/wp-content/uploads/2018/03/Irelands-NBP-Delivering-on-the-Promise-Jul-17-1.pdf>

SUMMARY OF KEY POINTS BEING MADE TO THIS CONSULTATION

Our comments will focus on the gap between the sentiment expressed in the Strategy Statement and the need for more robust numerical targets. We note the abundance of roles which the Regulator must perform, be it economic regulator, champion of competition, industry policeman, technical expert, spectrum manager, spectrum auctioneer, commentator on national infrastructure, the legal mandate and consumer champion. We have concerns that this complex and wide-ranging role could reduce the clarity of purpose that is needed to secure the delivery of connectivity upgrades in rural areas, and the possible trade-offs that could lead to lower levels of effectiveness against any one measure. Our response will stress that the strategy needs to convert terms such as ‘widespread³’ access into a tangible target, with a date by which that target should be met.

ICBAN shall not comment on those goals which are concerned with how ComReg conducts its own internal affairs. For example, the goals in Chapters 7 & 8, Goals 20-29, look to be internal statements of intent and best practice, rather than outcomes arising from a strategy.

Over the following pages we address the questions posed in the Consultation brief: the following is a summary of the key points being raised by ICBAN.

- A. Overall, from the perspective of the needs of rural border county customers, we believe the strategy needs revising to include some specific targets for the availability of high throughput Broadband and Mobile Broadband coverage, both in terms of service quality by premise, and geography.
- B. There is need for specific licence conditions to protect Border users of mobile services from potential changes arising from Brexit. Progress in preventing inadvertent roaming should not be undermined by Brexit but should be reflected in revised licence conditions that protect progress already made by ComReg.
- C. There is a need from a national infrastructure perspective for ComReg to provide an even stronger lead in setting and articulating the ambition for full fibre services. Currently the strategy, whether intended or not, is creating an ambiguity where Mobile networking and Fixed networks are allowed to compete at one level, but deep in rural areas these are instead acting against each other. This is unlikely to be fully resolved until ComReg define converged fixed and mobile services around a market definition for ‘data transport’ services, using all access mediums available. It is recommended that some work packages should be put in place now.
- D. Given the status of the National Broadband Plan (NBP) procurement, it would be useful for ComReg to review the Universal Service Obligation (USO) for voice with a view to costing the incremental costs of including a Broadband-USO (B-USO) consistent to meet Government’s objectives, and which can better inform the conclusion of the NBP procurement process.

³ As used in Comreg’s top level vision statement or in terms like ‘affordable’.

Q.1 Do you agree that Chapter 3 captures the most important sectoral trends and challenges over the period 2019 to 2021? In providing your view, please also provide supporting evidence.

1.1 The commentary on the growth of connected devices, the growth of over the top services and peoples' expectations, are useful background but it less clear how these trends are impacting upon ComReg's work, and how exactly these trends will be supported.

1.2 It would be helpful if ComReg provided examples of how Internet of Things (IOT) device deployments are supported in its spectrum policy. For instance, how will a million active radios in a square kilometre be supported with spectrum and what spectrum? What spectrum will need to be shared? What competitive model will support that level of connectedness? It may be worth using some examples to illustrate what spectrum is expected to be applied, and why? The role of spectrum sharing needs to be explained and how and when it might be needed, and how ComReg will accommodate such an outcome.

1.3 We note and welcome ComReg's interest in Mobile Coverage Obligations. What options are ComReg reviewing and when will these be consulted upon? Is there an opportunity for a 98% (or higher) coverage obligation by region? We believe the latter will be needed. It would be instructive to learn on what basis ComReg would retrofit a 4G licence condition.

1.4 We would ask ComReg to outline its perspective on converged services, where data transport, independent of the medium, defines the service. As written, rural customers are expected to determine if their fixed line will work. If it does not, they are then expected to switch to a mobile service and determine how well that works. This suggests some work is needed on national infrastructure planning now and what a world class data transport network(s) would look like for Ireland. This should not wait until 2040, but the key parameters should be outlined now.

Q.2 Do you agree with the Strategic Intents discussed in detail in Chapters 4 to 8? In providing your view, please also provide supporting evidence.

We note the strategic intents as follows;

A. Competition - The market delivers innovation and the greatest possible choice of wholesale and retail operators

2.1 ICBAN notes ComReg's complex role but has some concerns that this will reduce the clarity of purpose needed to help secure the delivery of connectivity upgrades in rural areas.

B. Consumer Protection - Consumers can choose and use communications services with confidence

2.2 ICBAN notes ComReg's interest in handset performance and would welcome proposals on any adjustments needed to the licence regime to support this variation in performance.

C. Investment - Efficient investment has enabled affordable, high quality and widespread access to communications services and applications.

2.3 This is important, and we believe the discussion here would benefit by including cost data for achieving, for instance, 95%, 98%+ and 100% availability of access to full fibre services, or a mix of FTTC cabinet and full fibre in-fill. This would then lead to a discussion

about what it would take to achieve such a goal, once informed by the plans of network operators.

2.4 We welcome Goal 16 - *Implement a USO to ensure that basic services are delivered as appropriate*. This is driven from an EU statutory mandate. We believe that implementing a USO for voice but not considering a meaningful Broadband-USO, is a lost opportunity for ComReg and the State.

2.5 We believe there is a disconnect between on the one hand a procurement for NBP, where an underlying data throughput performance based on the attenuation characteristics of copper is predictable, and on the other hand, the implementation of USO for voice (over copper also) where the performance of Broadband is treated as incidental or 'functional' at 28.8Kbps.

2.6 While the complexities of a partially completed procurement process needs to be yet completely navigated, this should not prevent a USO including a high throughput broadband connection to be considered or assessed. It is disappointing that the number of customers and costs of extending the USO to a Broadband-USO was not also considered as an option in the USO review and used to inform what will continue to be a moving target for the NBP. It is noted that the consultation on the AFL (Access at a Fixed Location) USO included some consideration of this point and there was sufficient sentiment to permit the topic to be reviewed. ICBAN believes that review should occur at the earliest.

2.7 There is still time for ComReg to conduct a study on the costs of extending a USO for voice into a Broadband-USO. This should happen to help properly inform the risks to any non-incumbent operator who might be planning to build a new network in rural areas, where the economics are most challenging. It would be imprudent not to make such estimates available to the Irish Government and bidders in the process and we would therefore encourage ComReg to publish estimates for such an option.

2.8 On this point it is not clear how ComReg is going to remove AFL USO should the provision of Broadband, particularly in rural areas, become dissipated. If another year is likely to go by before a decision on NBP is made, then ComReg should in the interests of securing the best outcome for customers and industry consider the incremental costs of extending the USO to include a Broadband service consistent with the goals of NBP. If preliminary work is done now for post 2021 then this may suffice. ComReg could also include the scenario where NBP contracts have not been let or where the NBP holder also acquires the USO for voice in NBP designated areas.

2.9 The above suggestion may be controversial, but it will be less so if the NBP contracts are not informed by these scenarios. It may also provide an alternative to the NBP should those funds be needed for unexpected Brexit related measures.

2.10 ICBAN would welcome some insight into the trade-off ComReg conduct when balancing coverage obligations with the licence fees generated from spectrum. There is much about process in the document but less on how the balance between coverage obligations and spectrum fees are traded in advance of an auction or licence fee-setting process. It would be appreciated if ComReg could outline its rationale and include some examples of the impact of coverage obligations on the yield for spectrum fees.

2.11 ComReg could also expand upon how it intends to measure coverage and enforce coverage obligations, including any penalties.

E. Organisation - ComReg is actively monitoring the potential implications of Brexit on the telecommunications sector and will issue guidance and information as required.

2.12 ICBAN believe ComReg must go beyond monitoring the potential implications but begin to outline the steps needed to preserve progress made in reducing inadvertent roaming charges. ICBAN urges ComReg to work with Ofcom, the Regulator for UK, on this matter and report on any changes needed to licences that would protect customer interests in the Border region.

Q.3 Do you believe that the Goals associated with the Strategic Intents are appropriate, and relevant? In providing your view, please also provide supporting evidence.

3.1 Largely the goals are relevant but from Border county customers perspective discrete numerical targets for coverage and quality of service across all services, would be welcomed. We have referenced 98% (or higher) coverage obligation by region for Mobile and ICBAN believe a full fibre ambition should be consulted upon.

3.2 In addition to the previous comments made under the sections discussing the USO, the section on facilitating commercial investment should perhaps acknowledge to a greater degree the progress made by SIRO and EIR. SIRO, and to a greater extent EIR, are already investing in areas that would not be deemed commercial by BT in the UK. The lessons on lower costs and higher demand occurring in Northern Ireland should be reviewed by ComReg. The Regulator should perhaps take steps to remove older regulations sooner, and to define new converged markets earlier, should this contribute to driving commercial investment.

3.3 The progress in Ireland of NGA rollout without subsidy should be applauded. While this has made the NBP more challenging as a procurement exercise, it should give ComReg and the Government some confidence in assessing steps that would further accelerate the ambition of a full fibre access network and how to support such a goal. Consulting on early removal of PST (telephony) regulations, the offer of sunset dates, or incentives on accelerated rollout in exchange for incentives in the cost recovery regimes, should be considered.

Q.4 In your view, is there anything else that should be added to, or omitted from, this Strategy Statement?

4.1 ICBAN believe that the overall ambition for Connectivity in Ireland has not been outlined clearly enough. The activity and dynamic of SIRO and EIR is unique in Europe, and the challenge faced by the NBP has been contributed to by a procurement process which assumed the gaming of costs and capital witnessed in the UK market, as opposed to appreciating the commitment and progress made by SIRO and EIR. That position needs to be recovered and we believe that examining the incremental costs of extending the USO to a B-USO might be a means of making a better-informed decision on the future of fibre services in rural areas.

4.2 It would be good if the Investment in ECS (Electronic Communication Services)/ECN (Electronic Communication Networks) as represented in the diagram was de-aggregated, itemising incremental direct capital and other costs, providing a split between fixed and mobile and showing the impact of the investment in spectrum fees.

4.3 Under investment, cross-portfolio issues are not considered. The impact of ECN investment can be significant on Business Connectivity Services. The profits in the latter are such that they act as a disincentive to the full fibre case. It would be helpful to see some analysis of this factor and whether any action is needed. The notion of a 'reasonable request' for full fibre services should be considered early and defined from where spare fibre bundles can be accessed. This is particularly important for the edge of the network, where Fibre to the Cabinet (FTTC) solutions fail to deliver an increase in throughput.

4.4 Access remedies can be seen as a disincentive to rural investment, where returns are marginal. There is a need to make whatever accommodations are required to secure coverage in rural areas.

4.5 Under 6.20, ComReg should make a greater commitment to coverage conditions. ComReg should take specific steps to protect inadvertent roaming from the possible consequences of Brexit and extend those benefits to all users, including those not on contracts.

4.6 ComReg could examine the re-use of unused licensed spectrum in rural areas, or work to actively encourage the sharing of spectrum to facilitate wider coverage.

4.7 Goal 17 - *Mobile coverage obligations are used to promote investment where proportionate* - should be expanded and the opt out of proportionate should be explained. A commitment to consider is insufficient - coverage targets of the required depth 98% and strength of signal are required. Maintaining a minimum number of base stations is welcome, but more is needed and this must be stated in terms of premises by region, and geographic coverage by region.

4.8 Goal 19 - *Where necessary assist policymakers to design state interventions that complement the market and regulation*. In the presence of state aid, the Regulator has an important role to prevent an abuse of market position. Preventing the gaming of costs and capital is important. Where gap funding is intended it is important that a uniform investment model is applied and monitored, with a strict definition for allowable costs.