



Office of the Director of  
**Telecommunications  
Regulation**

## **Codes of Practice by Cable and MMDS operators for handling consumer complaints**

Decision Notice and Response to the Consultation

D06/01

|                                |                       |
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| <b>Document No. ODTR 01/22</b> | <b>06 April, 2001</b> |
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**Oifig an Stiúirthóra Rialála Teileachumarsáide**  
**Office of the Director of Telecommunications Regulation**  
Abbey Court, Irish Life Centre, Lower Abbey Street, Dublin 1.  
*Telephone* +353-1-804 9600 *Fax* +353-1-804 9680 *Web://*[www.odtr.ie](http://www.odtr.ie)

## **1. Foreword by Director**

I would like to thank all those who responded to the consultation on Codes of Practice by Cable and MMDS operators for handling consumer complaints. My Office received a total of twenty-four responses to the consultation. There have been many constructive comments from the industry, consumer groups and individuals that have been taken into account in developing our approach to Codes of Practice for handling consumer complaints in Ireland.

Quality of service is very important for consumers and I look forward to effective implementation of the Codes of Practice

**Etain Doyle**  
**Director of Telecommunications Regulation**

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## **2. Executive Summary**

### **2.1 Introduction**

The introduction, of a code of practice for cable/MMDS operators for handling consumer complaints, gives customers the opportunity to have a clear understanding of the level of service which should be provided and the steps which a licensee should take when problems arise to the service. Furthermore, such information, clearly expressed in a code of practice, places the customer in a better position to insist on their rights under the relevant supply contract.

Publication of the Decision Notice is particularly timely in view of the marked increase in complaints relating to cable and MMDS service received by the ODTR during the first three months of this year. A total of 605 complaints were received in January, February and March 2001 as compared with 327 for all of 2000. Of the complaints for the January – March period, 296 related to the planned introduction by Chorus of an additional charge for maintenance service. The total complaints can be categorised as follows:

#### **Complaints received by the ODTR January to March 2001**

| <b>Customer Service</b> | <b>Service Quality and Installation</b> | <b>Billing</b> |
|-------------------------|---|----------------|
| 429                     | 140                                     | 36             |
| 71%                     | 23%                                     | 6%             |

When complaints about the proposed Chorus service charge are excluded, the underlying complaints amounted to 309 for the quarter. The following table shows the breakdown of these complaints by company

#### **Complaints received by the ODTR January to March 2001**

(excluding complaints on Chorus proposed additional service charge)

| <b>Company</b>    | <b>No of complaints</b> | <b>Percentage of total</b> |
|-------------------|-------------------------|----------------------------|
| Casey Cablevision | 1                       | 0.3%                       |
| Chorus            | 267                     | 86.4%                      |
| ntl:              | 41                      | 13.3%                      |
| Total             | 309                     | 100%                       |

Having considered the twenty four written responses to the public consultation and having taken account of her duties under relevant legislation, the Director has reached a number of conclusions on how to proceed with the code of practice for handling consumer complaints.

### **2.2. Legislative Background**

Regulation 17 (2) of the Wireless Telegraphy (Programme Services Distribution) Regulations, 1999<sup>1</sup>

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<sup>1</sup> S.I. No. 73 of 1999

specifies mandatory elements to be included in licensees' Codes of Practice, as outlined below:

- (a) a first point of contact for members of the public;
- (b) a means of recording complaints;
- (c) a timeframe within which the licensees shall respond to complaints;
- (d) procedures for resolving complaints;
- (e) retention of records of complaints (including copies of the complaint, any response thereto, any determination by an independent commissioner in respect of the complaint and any documentation considered by such a commissioner in the course of such determination) for a period of not less than one year following resolution of the complaint.

### **2.3 Direction to licensees**

Under the provisions of Regulation 17 (3) of the Regulations the decisions of the Director in relation to modifications and additions to codes of practice implemented by licensees are hereby issued as a direction to the relevant licensees. Those licensees are Casey Cablevision Ltd, Chorus Communication Ltd and ntl. The Director requires that the licensees carry out the necessary amendment to their individual codes in accordance with the provisions of this Decision Notice.

#### **Decision 1**

Individual licensees shall discuss their intended amendments with the ODTR during April and May 2001 and shall implement their amended code of practice for handling complaints no later than 1<sup>st</sup> July 2001.

## **3. Consultation**

### **3.1. Background**

The Director of Telecommunications Regulation (“the Director”) is responsible for the management of the radio spectrum which includes, *inter alia*, the licensing of television delivery platforms. Approximately 600,000 households receive television services via cable or MMDS from operators which have been licensed by the Director. These consumers of licensed programme services demand a high quality customer service. Competition provides the strongest impulse to good quality service, but while this is still limited it is essential that there are specific regulatory measures to support high quality service, in particular readily available codes of practice setting out standards of service delivery and complaint handling.

In December 2000, the Director published a consultation document, *Codes of Practice for cable/MMDS operators for handling consumer complaints* (ODTR 00/95) seeking views on her proposals to issue a direction which would require licensees to apply an appropriate code of practice for all of their customers which meets, at minimum, a basic standard of service which customers should receive. It is stressed that what is intended is that the decisions of the Director set out in this Decision Notice would amount to a minimum basic standard of customer care and that licensees would adopt a higher standard to better meet the needs of their customers.

In dealing with the issue, the Director considers it necessary to define what is meant by complaint for the purposes of a code of practice and related matters. A complaint is any expression of dissatisfaction with the licensee or the service provided by the licensee, received from a customer or a member of the public.

A further issue which has arisen in relation to services provided by licensees is what constitutes loss of service. Loss of service is the absence of any channel from the basic service, as stipulated in Part VII of the licence. Degraded Service is where any part of the signal (Video, audio and teletext data) is interfered with in any way, such that it no longer meets the requirements laid down in the technical conditions as stipulated in Parts IX and X of the licence. Examples of such interference include; snowy pictures, ghosting, presence of light and dark bars, herringbone patterns, noisy or distorted audio, Nicam failure or cracking and corruption of Teletext. It should be noted that a breach of the technical conditions is a breach of the licence.

### **3.2. List of Respondents**

Twenty-four responses to the consultation document were received, as listed below:

- Eircom
- Chorus
- Consumer Association of Ireland
- Office of the Director of Consumer Affairs
- Sean Fleming, T.D.
- 19 individuals

The Director wishes to express her thanks to everyone who contributed to the consultation. With the exception of material marked confidential, the written comments of respondents are available for inspection at the ODTR's office in Dublin.

### **3.3. Format of Document**

Section 4 of this document addresses the issues raised in the consultation paper. The section is divided into sub-sections, which will comprise of a brief synopsis of the consultation issues, followed by a summary of the consultation responses and a statement of the Director's decision in relation to the issue.

Appendix 1 contains in summary form the Director's decisions in relation to codes of practice and related issues

Appendix 2 sets out a possible standard form for the noting of a complaint.

Appendix 3 sets out the Director's decision on response times for differing categories of complaint

## **4. Consumer Codes of Practice**

The consultation paper set out the Director's proposals for consumer codes of practice, and views were invited on the following specific issues:

- Contact details (Q 3.2)
- Logging complaints (Q 3.3)
- Complaint procedures to be followed (Q 3.4)
- Response times (Q 3.5 a/b/c)
- Guarantees (Q 3.6 a/b/c)
- Right to seek other forms of remedy (Q 3.7)
- Publication and circulation of code of practice (Q 3.8)
- Comments on draft codes of practice proposed by ntl and Chorus (Q 3.9)

### **4.1. Contact Details**

#### **4.1.1 Summary of Consultation Issues**

The Director proposed that customers have clear and up to date information on how to contact the licensee in the event of enquiries or complaints. That licensees should make available contact names (if appropriate) and addresses for contact in person or by post; an e-mail address; and hours of opening of any public offices, phone number (hours of manual operation, hours when recording facility will be in place).

#### **4.1.2 Views of Respondents**

Respondents were in agreement with the proposals on contact details. A fax number was suggested as an additional contact point. Some respondents suggested that all contact numbers should be freephone. Others suggested that when a customer does make contact with the licensee he should be issued with a reference number so that complaints can be followed up at a later date. A further suggestion was that contact details should be on a more localised basis so customers could phone the complaint desk for their area.

#### **Decision 2**

The licensees shall implement the proposals on contact details as follows:

The code of practice must provide details of how customers can make contact by telephone stating times when the service will be attended. At other times a messaging service or equivalent shall be provided. Calls should be charged at no more than local call rates (licensees might consider providing freephone facilities). The codes of practice should also state the postal address for complaints made in writing, contact names (if appropriate), e-mail address, and opening hours for any public offices.

### **4.2 Logging Complaints**

#### **4.2.1 Summary of Consultation Issues**

The Director proposed that all cable/MMDS licensees should specify the means by which customers' complaints will be noted and logged. The Director wishes to clarify that the phrase "recording complaints" used in the consultation paper should not be interpreted as the audio taping of telephone



conversations but in the more generic sense of logging a complaint into a printed or electronic format.

#### **4.2.2 Views of Respondents**

The proposal was met with general agreement. One respondent, while agreeing on the general point, expressed the view that this was an internal matter for the licensee and that the licensee should choose the means of implementation. Another respondent emphasised the point that whatever system is used should be a system that logs complaints rather than simply recording conversations. It was further suggested that the licensees should have a complaint recording system which adheres to the normal industry quality standard of ISO 9000. A number of respondents were of the view that the licensee's call log should be kept for a minimum period of time and should be made available to the ODTR or a similar independent body on a regular basis.

#### **Decision 3**

All licensees shall specify in the code of practice the means by which customers' complaints will be noted and logged.

All complaints shall be acknowledged within 24 hours, preferably by phone.

Customers who make a complaint shall be issued with a unique reference number and/or the name of the person who deals with the complaint. The unique reference number or contact name shall be used by the licensee to follow up action on the complaint.

Complaints shall be noted and action recorded using the format as set out in Appendix 2 or a suitable alternative.

Licensees shall retain records of complaints for at least one year following resolution of a complaint and such records shall be made available to the Director, or to an independent complaints commissioner if such is appointed for investigation at the request of the individual complainant.

### **4.3. Complaint Procedures to be followed**

#### **4.3.1. Summary of Consultation Issues**

The Director proposed a direction that all cable/MMDS licensees shall specify clearly the procedures which customers and the licensee should follow in the event of particular categories of complaint.

#### **4.3.2 Views of Respondents**

Most respondents were in agreement with the Director's proposals. However one respondent did not agree and stated that procedural implementation should be a matter for the licensee. Furthermore the licensee should only have to follow the principles set out in the Director's proposal and that there should be no need for the Director to "specify clearly the procedures".

#### **Decision 4**

Licensees shall specify clearly the procedures which customers and the licensee shall follow in the event of particular categories of complaint. Although the Director is not proposing a text to be inserted into the code of practice she does reserve her right under Regulation 17(3) to issue directions to the licensees specifying any modifications or additions to the licensee's code.

## **4.4. Response Times**

### **4.4.1 Summary of Consultation Issues**

The Director proposed issuing a direction that all cable/MMDS licensees specify maximum response times for each category of complaint. The Director did not propose maximum response times but said that she may do so in the light of comments received. Furthermore the Director proposed to categorise customer complaints into billing; service; installation, transfer and disconnection; and other complaints.

### **4.4.2 Views of Respondents**

Most respondents expressed their agreement that the cable/MMDS licensee should specify maximum response times for each category of complaint. However a number of respondents expressed concern that guaranteed response times were not always practical. One of these respondents also stated that specifying maximum response times would have to be cost-justified and while agreeing with the proposed categories of complaint, suggested that the licensee be consulted if other categories of complaint are added. One respondent stated that guaranteed response times were not practical in the sense of city versus rural appointments (cable versus MMDS) and that the service complaint category was too broad and should be divided into “equipment malfunction” and “cable malfunction”.

A wide range of views was submitted from the respondents regarding reasonable time frames for each category of complaint. The time frame for responding to billing or service complaints ranged from 24hrs to 15 working days. The time frame for complaints concerning installation, transfer, disconnection ranged again from 24hrs to 15 working days. Reasonable response times for any other type of complaint ranged from 24hrs to 25 working days.

#### **Decision 5**

When acknowledging receipt of a complaint, licensees shall also state the timescales within which specific categories of complaint will be addressed and normally resolved. The Director recognises that it may not always be possible to resolve all complaints within stated timescales but it is considered imperative that customers know the minimum standard of service which they can expect. Appendix 3 sets out the minimum service which licensees shall provide, allowing them flexibility to propose a superior service in response to customer demands/wishes.

The Director considers these target response times to be the maximum timescales which customers should encounter and would encourage licensees to set tighter standards over and above those outlined here.

## **4.5. Guarantees**

### **4.5.1 Summary of Consultation Issue**

The Director considered that licensees might demonstrate their commitment to complaints handling through providing a guarantee on response times. The issue was what form such guarantee should take. The Director recognised that the issue was complex and did not propose any particular form of guarantee.

### **4.5.2. Views of Respondents**

There was unanimous agreement amongst the respondents that some form of compensation was necessary and reasonable. One respondent stated that compensation was a reasonable objective but was a matter for the licensee to specify in contractual circumstances and that the cost of compensation could limit its general application by licensees.

Many of the respondents also suggested the form which the compensation might take. Some of the suggestions were as follows:

- X number of day's free service in specified circumstances.
- Financial compensation in the form of a refund, credit and retrospective interest.
- Minimum compensation of 1/365 of the yearly premium for each and every day or part thereof of service lost.
- The right to withhold payment until service restored.
- Refund and access to pay channel for limited period if service cut off due to fault of the licensee.

#### **Decision 6**

In view of the unanimous acceptance of the principle of compensation for failure to meet the guaranteed response time targets, the Director expects to see the issue addressed by the licensees in their codes of practice. In the Director's opinion some form of compensation is the only way that the licensees can express their commitment to their customers to meet the guaranteed response time targets. At this stage the Director does not intend to issue a direction to licensees concerning the form of guarantee but will review the issue in the light of licensees' actions.

In order to measure the extent of compliance with response times, the Director will require, in accordance with Regulation 14(1)(a), that licensees provide detailed statistics on a monthly basis on complaints received. The Director shall publish these statistics on a regular basis for the information of customers.

## **4.6. Right to Seek Other Forms of Remedy**

### **4.6.1. Summary of Consultation Issues**

The Director had proposed issuing a direction that all cable/MMDS licensees shall clearly specify a customer's right to seek other forms of remedy or obtain independent advice, such as the right to refer matters to the Office of the Director of Consumer Affairs or the Office of the Director of Telecommunications Regulation.

### **4.6.2. Views of Respondents**

There was general agreement on this proposal. One respondent considered that specifying a customer's right to seek other forms of remedy should be a matter for the licensee provided that they comply with general guidelines issued by the Director. Another respondent suggested that what the industry really needed was a properly set-up and financed Ombudsman and that both the Office of the Director of Consumer Affairs and the Office of the Director of Telecommunications Regulation were not suited to the level of complaint remedy at present.

Many of the respondents suggested what level of detail should be provided in the code of practice on this matter. One respondent stated that the Office of the Director of Telecommunications Regulation should be referred to in the first instance; that the Office of the Director of Consumer Affairs should be referred to in cases of misleading advertising or the provision of misleading information; that reference should also be made to the Advertising Standards Authority for Ireland and the Sale of Goods and Supply of Services Act 1980. Furthermore one respondent suggested that the complaint procedures should be clearly defined on the customer's bill, along with alternative forms of remedy.

The Director will shortly review the arrangements for the handling of consumer issues by the ODTR. Responsibility for providing customer care lies with the companies providing the service and this will remain the case. Consumers should, in the first instance, address their complaint to the relevant

company. If the complaint remains unresolved after the operation of the procedures in the code of practice, consumers might then consider contacting the ODTR or the Director of Consumer Affairs for advice.

#### **Decision 7**

Licensees shall specify clearly that customers' statutory rights are not affected by the code of practice. Furthermore licensees shall specify clearly that customers have the right to seek independent advice. In this regard the contact addresses of the Director of Consumer Affairs and the Office of the Director of Telecommunications Regulation shall be given.

### **4.7. Publication and Circulation of the Code of Practice**

#### **4.7.1. Summary of Consultation Issues**

The Director proposed issuing a direction that all cable/MMDS licensees shall publish their code of practice and circulate it to their customers.

#### **4.7.2. Views of Respondents**

There was full agreement that the code of practice should be published and circulated amongst customers. Chorus expressed their concern that it was not financially viable or practical to send out copies of the code on an annual basis. They proposed that initially it should be sent out to all existing and new customers. It would be sent out again when amendments were made to the document. Copies would of course be available for inspection at their offices. However many respondents were of the view that the code should be issued on an annual basis. Some respondents emphasised the point that the code should be user-friendly and in an understandable format. One respondent suggested that the publication and circulation of the code was a good idea but the industrial standard ISO 9000 would be better. Another respondent expressed concern that the cost of publication and circulation of the code would be born by the customer.

#### **Decision 8**

The licensees shall distribute their code of practice to all existing customers and to new customers at the time of installation. The code of practice shall also be provided to customers on request. Where the licensee provides a web site, the code should be accessible.

Licensees shall give proper notice to their customers of any amendments to their code of practice.

### **4.8. Draft Codes**

#### **4.8.1. Summary of Consultation Issues**

In the consultation paper, the Director published the codes of practice as proposed by the three licensees and views were sought on the suitability of those codes.

#### **4.8.2. Views of Respondents**

A variety of responses were received generally pointing out what were considered to be deficiencies in the individual codes. The issues which were identified by respondents are addressed in Sections 4.1. to 4.6 of this document. Licensees are required to revise their codes of practice to incorporate the decisions set out in this Decision Notice.

## Appendix 1

### Summary of minimum provisions of codes of practice and related arrangements

- ◆ Individual licensees shall implement codes of practice in conformity with this Decision Notice no later than 1<sup>st</sup> July 2001.
- ◆ Codes of practice shall specify contact details in full. Telephone calls by customers should involve no greater expense than local call rates.
- ◆ Codes of practice shall specify the means by which customers' complaints will be noted and logged.
- ◆ All complaints shall be acknowledged within 24 hours, preferably by phone.
- ◆ Customers who make a complaint shall be issued with a unique reference number or alternatively the name of the person who deals with the complaint.
- ◆ Complaints shall be noted and action recorded using the format as set out in Appendix 2 or a suitable alternative.
- ◆ Licensees shall retain records of complaints for at least one year following resolution of a complaint and such records shall be made available to the Director or an independent complaints commissioner.
- ◆ Codes of practice shall specify clearly the procedures which customers and the licensee shall follow in the event of particular categories of complaint.
- ◆ Customers should be informed at the time of making a complaint of the timescales within which the complaint will be addressed. Appendix 3 sets out the **minimum** service which licensees shall provide, but licensees are encouraged to exceed the minimum standard in response to customer demands/wishes where possible.
- ◆ In order to measure the extent of compliance with response times, the Director will require, in accordance with Regulation 14(1)(a), that licensees provide detailed statistics on a monthly basis on complaints received. The Director shall publish these statistics on a regular basis for the information of customers.
- ◆ As a minimum requirement licensees shall specify clearly that customers' statutory rights are not affected by the code of practice.
- ◆ Furthermore licensees shall specify clearly that customers have the right to seek independent advice. In this regard the contact addresses of the Director of Consumer Affairs and the Office of the Director of Telecommunications Regulation shall be given.
- ◆ Licensees shall distribute their code of practice to all existing customers and to new customers at the time of installation. The code of practice shall also be available on request.
- ◆ Licensees shall give proper notice to their customers of any amendments to their code of practice.

## **Appendix 2:**

### **Record of Complaint**

This form sets out information which shall be recorded in a central data base to facilitate a licensee in addressing a complaint and in enabling the customer to be informed of progress in resolving the complaint. Licensees are free to design a similar record to suit their own needs

**Complaint No**

**Date**

**Area**

### **Complainant Details**

**Name**

**Address**

**Account No**

**Telephone No**

**Email Address**

**Fax**

**Previous Complaint No**

### **General Details of Complaint (Problem Type)**

Billing  Service (network failure)  Service (access required)  Installation

Transfer  Disconnection  Other

### **Details of Complaint (recorded by \_\_\_\_\_)**

Action planned/carried out by

Communication with Complainant by

## Appendix 3

### Response times

**Target response times for different categories of complaint to be provided by licensees as standard.**

| <b>Category of Complaint</b>  | <b>Target Response Time</b>  |
|---|--|
| Billing complaints/queries  | Within 5 working days – with no disconnection while a bona fide dispute is unresolved  |
| Service (network failure)   | Immediate response with objective that service not be lost for more than 24 hours  |
| Service (necessitating access to customer's premises and assuming access is possible) | <ul style="list-style-type: none"><li>◆ To arrange for call out within 2 working days for cable</li><li>◆ To arrange for call out within 5 working days for MMDS</li><li>◆ If not possible to rectify service fault, customer to be given written explanation and proposals (including timescale) to restore service to required standard.</li></ul> |
| Installation, Transfer, and Disconnection   | To be dealt with within 10 working days  |
| Other complaints  | To be dealt with within 20 working days  |

