



Commission for
Communications Regulation

Information Notice

CPS Code of Practice Breach

eircom pricing comparison breach

Document No:	04/55
Date:	27th May 2004

An Coimisiún um Rialáil Cumarsáide

Commission for Communications Regulation

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1 Introduction

Carrier Pre-Selection (CPS) enables consumers to exercise their choice by selecting in advance a specific operator to carry some or all of their telephone calls.

CPS is a vital part of the Irish fixed telecommunications market. It allows for the possibility of competition in the fixed market by new and existing operators without the barrier to entry of large capital investment in extensive infrastructure.

The Code of Practice for CPS sets out the rules and procedures which operators wishing to offer CPS services in the Republic of Ireland must follow. It covers customer contracts, use of customer information, order-handling process, promotion of CPS, bill payment, tariff presentation, complaint and enquiry handling and the activities of the telecommunications service providers to “win back” lost customers. All undertakings providing CPS and eircom are bound by the CPS Code of Practice¹.

ComReg conducts investigations on an ongoing basis into adherence to the CPS Code of Practice in response to issues raised by operators and consumers alike.

ComReg may notify an operator that it is in breach of its obligations. Further, ComReg may publish the particulars of such notification. This Information Notice contains details of a complaint made against eircom and the findings, of ComReg, in respect of a breach by eircom of an obligation under the CPS Code of Practice.

The basis for the investigation of the complaint and publication of this Information Notice by ComReg is set out in Appendix A.

¹ See Appendix A

2 Complaint

ComReg processed seven complaints during the months of January and February 2004 in relation to pricing comparisons made by eircom representatives, specifically, eircom Feet On The Street (FOTS) representatives. The complaints consisted of the following;

- It was alleged that during the course of contacts made in person by eircom FOTS representatives a number of inaccurate and misleading statements were made by the eircom representatives when comparing eircom and other service providers' call rates.

3 Finding

On foot of the complaints, ComReg conducted investigations and following its investigations, ComReg found that;

- During the course of each contact made by the eircom FOTS representatives a number of inaccurate and misleading statements were made by the eircom representatives when comparing eircom and other service providers' call rates.

These findings are in relation to seven separate cases involving five complaints from IFA Telecom and two complaints from Cinergi Telecom.

Clause 4.1 of the CPS Code of Practice states that “an operator must not release misleading or derogatory information about another operator’s service”. ComReg found from its investigations that eircom had not complied with clause 4.1 of the Code of Practice and consequently, eircom was in breach of its obligation to be bound by the CPS Code of Practice.

In each of the seven separate cases ComReg contacted eircom to ascertain their views in response to the complaints made.

On 27th May 2004 ComReg notified eircom in writing that it found eircom in breach of Clause 4.1 of the CPS Code of Practice and gave eircom the opportunity to reply to ComReg stating its views in relation to this matter.

On 27th May 2004 ComReg directed eircom pursuant to Regulation 31 of the Universal Service Regulations to adopt a procedure whereby all eircom representatives who make contacts in person with consumers must offer to provide written confirmation with the consumer of any rate quoted or rate comparison made during all contacts where a rate is quoted or a rate comparison is made. eircom is to become complaint with this direction by 4th June 2004.

4 Next Steps

eircom has stated to ComReg, in the course of ComReg's investigation of these complaints, that the provision of written confirmation of the actual price comparisons made to customers is a process that eircom has been proposing to implement.

ComReg believes that its direction to eircom to adopt the procedure that all eircom representatives who make contact in person with consumers must offer to leave written confirmation with the consumer, of any rate quoted or rate comparison made during all contacts where a rate is quoted or a rate comparison is made is both necessary and proportionate and will assist in minimising the type of breach ComReg has found during its investigations. ComReg will monitor the incidence of this type of breach and will take further action as appropriate should it consider that such processes and controls are not sufficiently effective to ensure eircom's compliance with its obligations.

ComReg continues to proactively monitor compliance by eircom and all undertakings providing CPS with the CPS Code of Practice and to investigate complaints made by operators and consumers.

ComReg is currently working with industry to review the CPS Code of Practice with a view to enhancing the rules surrounding the provision of the CPS service in the interests of operators and consumers alike.

Appendix A

On 24 September 2003, ComReg issued a direction, (Direction 2 in Decision Notice D20/03) in exercise of its powers pursuant to Regulation 31 of the EC (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations, 2003 (the "Universal Service Regulations") which directed, inter alia, that "all undertakings providing CPS and eircom are bound by the CPS Code of Practice." Therefore, compliance with the CPS Code of Practice has become an obligation under the Universal Service Regulations.

ComReg is obliged, under Regulation 32(1) of the Universal Service Regulations, to monitor compliance with the Universal Service Regulations.

Pursuant to Regulation 32(2) of the Universal Service Regulations, where ComReg finds that a person has not complied with a direction under Regulation 31 of the Universal Service Regulations, ComReg shall notify the person of those findings and give the person an opportunity to state his or her views or remedy any non-compliance.

Regulation 32(3) of the Universal Service Regulations provides that ComReg may publish, in such manner as it thinks fit, any notification given by it under this Regulation subject to the protection of the confidentiality of any information which the Regulator considers confidential. In publishing this information notice, ComReg is exercising its power under Regulation 32(3) of the Universal Service Regulations.

In publishing this Information Notice, ComReg has taken account of its statutory objectives which are set out in Section 12 of the Communications Regulation Act 2002.