



Commission for  
**Communications Regulation**

## Information Notice

### **CPS Code of Practice Breach**

#### **eircom pricing comparison breach**

<b>Document No:</b>	<b>04/44</b>
<b>Date:</b>	<b>20<sup>th</sup> April 2004</b>

**An Coimisiún um Rialáil Cumarsáide**

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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 Practice<sup>1</sup>.

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

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<sup>1</sup> See Appendix A

## **2 Complaint**

ComReg received a complaint on 16<sup>th</sup> December 2004 from Cinergi Telecom in relation to pricing comparisons made by an eircom representative via a winback call to a Cinergi Telecom customer. The complaint consisted of the following;

- It was alleged that during the course of the call a number of misleading statements were made by the eircom representative when comparing eircom and Cinergi Telecoms call rates.

### 3 Finding

On foot of this complaint, ComReg conducted an investigation and considered representations made by eircom in response to the complaint. Following its investigation, ComReg found that;

- During the course of the call a number of inaccurate statements were made by the eircom representative when comparing eircom and Cinergi Telecom's call rates. These statements were misleading as regards Cinergi Telecom's call rates

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 investigation 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.

ComReg investigated the complaint and sought information from eircom on 23<sup>rd</sup> December 2004. Eircom responded in writing on 9<sup>th</sup> January 2004. ComReg considered the representations made by eircom and on 11<sup>th</sup> February 2004 notified eircom in writing that it found eircom in breach of Clause 4.1 of the CPS Code of Practice. Eircom stated its views in writing in response to the notification on 12<sup>th</sup> March 2004 which were considered by ComReg but did not change the findings made by ComReg on 11<sup>th</sup> February.'

## 4 Next Steps

To remedy the non-compliance eircom have stated that they are taking action in accordance with their disciplinary procedures for failure to quote prices from the eircom Intranet and have highlighted the complaint to their winback teams. Eircom have noted that the inaccurate statements would not have been made had the agent adhered to the company policy of reading from a script and quoting prices from the eircom Intranet. Eircom have stated that written information containing the correct pricing information was sent to the consumer following the original call. 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. Eircom has an opportunity to state its views within a month of receipt of this restated notification of findings in accordance with the Universal Service Regulations.

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.