



Commission for
Communications Regulation

Information Notice

CPS Code of Practice Breach

Ryanair Telecom Website advertising breach

Document No:	04/67
Date:	11th June 2004

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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 and require the operator to remedy such breach within a specified time. Further, ComReg may publish the particulars of such notification. This Information Notice contains details of a complaint made against Ryanair Telecom and the findings, of ComReg, in respect of a breach by Ryanair Telecom 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.

¹ See Appendix A

2 Complaint

ComReg received a complaint from eircom on 3rd March 2004 regarding advertising on the Ryanair Telecom website (Ref: <http://www.ryanairtelecom.com/>). The complaint alleged the following:

- In the ‘landline’ section of Ryanair Telecom’s website, eircom’s minimum fee is quoted as 6.53c which is incorrect, eircom’s minimum fee is 6.35c, including VAT
- The home page of the Ryanair Telecom’s website contains the statement “*Stop the Rip-Off on Phone Charges*”. This is in breach of sections 4.1 and 4.5 of the CPS Code of Practice. It would appear that Ryanair Telecom are referring to eircom’s phone charges, as eircom is the only phone company they refer to in their price comparisons. The categorisation of eircom’s phone charges as a “rip-off” is untrue, misleading, derogatory and seriously detrimental to eircom’s reputation
- If the above statement is claiming that all other CPS providers (including eircom) are “ripping off” customers then this is likely to mislead the customer into believing that unless they are with Ryanair Telecom they are being “ripped off”. In addition, this sweeping statement is claiming that Ryanair Telecom are the cheapest which is referring to all tariffs of all other providers under all circumstances which is certain to be incorrect and derogative to all other service providers service offerings

3 Finding

On foot of this complaint, ComReg conducted an investigation and following its investigation, ComReg found that;

- In the ‘landline’ section of Ryanair Telecom’s website, eircom’s minimum fee is quoted as 6.53c which is incorrect, eircom’s minimum fee is 6.35c, including VAT. ComReg finds that this misquoting of another operator’s rates is in breach of the CPS Code of Practice because it is misleading.
- The home page of Ryanair Telecom’s website contains the statement “*Stop the Rip-Off on Phone Charges*”. There is no basis in fact to support that statement. However, Ryanair Telecom does not mention any specific operators in relation to this statement. Both eircom and British Telecom are listed in pricing comparisons and therefore it is not clear to which operator(s) the above statement refers. Accordingly, ComReg finds this is not in breach of the CPS Code of Practice.
- ComReg finds that the statement “*Stop the Rip-Off on Phone Charges*” is not misleading or derogatory. Some operators may charge more than other operators for services offered and the statement does not specify to which operator(s) it refers. Therefore ComReg finds this is not in breach of the CPS Code of Practice.

Clause 4.1 of the CPS Code of Practice states that “*An operator must not release misleading or derogatory information about another operator*”. ComReg finds from its investigation that Ryanair Telecom has not complied with clause 4.1 of the Code of Practice and consequently, Ryanair Telecom is in breach of its obligation to be bound by the CPS Code of Practice.

ComReg investigated the complaint. ComReg sought information from Ryanair Telecom regarding the website advertising on 8th March 2004. Ryanair Telecom responded in writing on 16th March 2004. ComReg has considered the representations made by Ryanair Telecom and all other relevant information.

ComReg notified Ryanair Telecom of these findings on 30th April 2004 and, in that notification, ComReg gave Ryanair Telecom an opportunity to state its views.

4 Next Steps

ComReg notes that Ryanair Telecom amended the Website by 19th March 2004 to remove the reference to the incorrect fee quote (6.35c and not 6.53c) and remove the statement “*Stop the Rip-Off on Phone Charges*”. ComReg will monitor the incidence of this type of breach and will take further action as appropriate. Ryanair Telecom has one month from receipt of the notification of ComReg’s findings to state its views in accordance with the Universal Service Regulations.

ComReg continues to proactively monitor compliance by Ryanair Telecom 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 customers 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.