



Commission for
Communications Regulation

Information Notice

CPS Code of Practice Breach

Unauthorised provisioning of CPS by NewTel

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An Coimisiún um Rialáil Cumarsáide

Commission for Communications Regulation

Abbey Court Irish Life Centre Lower Abbey Street Dublin 1 Ireland

Telephone +353 1 804 9600 Fax +353 1 804 9680 Email info@comreg.ie Web www.comreg.ie

Contents

1 Introduction 2

2 Complaints 3

3 Finding 4

4 Next Steps 5

Appendix A..... 6

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 NewTel Communications Ltd. and the findings, of ComReg, in respect of a breach by NewTel 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 Complaints

ComReg received a complaint in relation to unauthorised provisioning of CPS by NewTel Communications Ltd.. The complaint alleged the following:

- Fourteen customers, evidenced by the relevant Third Party Verification (TPV) recordings, were subject to unauthorised provisioning by NewTel contrary to Clause 10.1 of the CPS code of practice and Clause 13 of the TPV code of practice.

3 Finding

On foot of these complaints, ComReg conducted an investigation and following its investigation, ComReg found that:

- In twelve of the fourteen cases involved, unauthorised provisioning of CPS did occur contrary to clause 10.1 of the CPS code of Practice.

Clause 10.1 of the CPS Code of Practice states that “*Operators shall not engage in unauthorised provisioning of CPS of any form whatsoever*”. ComReg issued a direction (*viz*, Direction 2) in Decision Notice D20/03 under Regulation 31 of the EC (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations, 2003 (the “Universal Service Regulations”) which states that “all undertakings providing CPS and eircom are bound by the CPS Code of Practice.”

4 Next Steps

ComReg recognises that the twelve cases in question relate to verifications that date back to the first quarter of 2004. Since then, NewTel has implemented various process changes in order to make the necessary improvements to deal with the issues associated with these cases. ComReg understands that NewTel has ensured that the verification company has taken steps to re-train all verifiers and supervisors on how to improve quality. In addition, over the last number of months, ComReg understands that NewTel has also made improvements to various aspects of their operations including employing a dedicated sales supervisor to monitor the daily and monthly performance of the external sales agents and has made changes to the verification scripts and welcome letters. ComReg is monitoring the incidence of this type of breach and is currently working with the relevant industry parties to improve the verification process from both the operator and the consumer perspective.

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

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.