



Commission for  
**Communications Regulation**

## Information Notice

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

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

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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 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 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 29<sup>th</sup> October 2003 from Cinergi Telecom regarding certain pricing comparisons made by eircom which purportedly compared eircom's and Cinergi Telecom's prices for call rates. The complaint consisted of the following:

- 1 eircom quoted Cinergi Telecom's minimum call charge as being 6.4c instead of 6.35c (while quoting eircom's at 6.35c), thereby making it appear that the Cinergi rate was more expensive (Cinergi Telecom's minimum call charge was, at that time, the same as eircom's i.e. 6.35c).
- 2 eircom's field sales (Feet On The Street (FOTS)) personnel quoted out of date rates approximately four and possibly five months after Cinergi Telecom had informed eircom of the change to their rates. The Cinergi rates dated 22<sup>nd</sup> May 2003 were being quoted by eircom in mid October even though Cinergi had updated eircom with its revised rates in June.

Both of the above items were shown on a comparison sheet that eircom's field sales representatives presented to customers when making a comparison between eircom and Cinergi Telecom's call rates.

### **3 Finding**

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

- 1 eircom had misled customers by quoting Cinergi Telecom's minimum call charge as being 6.4c instead of 6.35c and that consequently eircom had breached its obligations in relation to the CPS Code of Practice; and
- 2 while eircom had been technically correct by quoting Cinergi Telecom's rates as on 22<sup>nd</sup> of May 2003, eircom had been remiss in not updating the rates when they received notice of the new rates or in a reasonable timeframe thereafter.

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 notified eircom of these findings on 16 December 2003 and, in that notification, ComReg gave eircom an opportunity to state its views or remedy its non-compliance with the CPS Code of Practice. In that regard, eircom has responded to ComReg and has indicated that an administrative oversight, which has since been rectified, was the cause of its non-compliance with the CPS Code of Practice.

#### **4 Next Steps**

As the cause of this particular complaint has been rectified, ComReg does not propose to pursue this matter further. However, 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 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.