Commission for
Communications Regulation

Decision Notice

Decision Notice in relation to the application of retention rates in the Number Translation Code Market

Decision No: **Document No:**	**D3/04** **04/19**
Date:	**20 February 2004**

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1 Foreword by the Chairperson

A response to a consultation paper issued on the 18 September 2003 (ComReg 03/113) was issued on 3 December 2003 (As ComReg 03/141). The response set out details of the views received from interested parties on the issue related to the current regime of calculating retention rates in the fixed interconnect market. Based on these responses and on the Commission's view of this market a draft decision was included in the paper whereby eircom would have to present new submissions for NTC retentions and settlement rates for the call cases in question. These submissions were to put into effect ComReg's proposed solution to the current regime which has led to OAOs under recovery of costs incurred. The response to the consultation sought the views of interested parties to this draft direction.

Two responses were received from the following parties

- Eircom
- Esat BT

Set out in this document are extracts from the responses received to the draft direction in consultation 03/141.

The Commission wants to thank all the respondents to the consultation for their help in assisting the review of the application of retention rates in the Number Translation Code Market. The responses are available for inspection at the ComReg office, excluding confidential material that respondents specifically asked to be withheld.

John Doherty

Chairperson, Commission for Communications Regulation

2 Introduction

The changes as proposed in the previous Document 03/141 related to calls to *eircom* services as set out in the Reference Interconnect Offer (RIO) price list for services, potentially No's 105-122. These call types follow particular call routing pathways and certain similar calls transiting the *eircom* network.

ComReg regulates the charges *eircom* raises for the work it undertakes in carrying calls which are terminated on OAO hosted NTCs. This type of call is shown diagrammatically in Section 5, Case 1. Cost elements allowed for are:

- call conveyance
- billing
- cash collection, credit control, and bad debt

The sum of these parts is the Regulated Retention. The balance of the retail revenue from the customer less the Regulated Retention is the "Settlement" which is paid to the OAO hosting the service provider. i.e. Settlement = Retail Revenue - Regulated Retention. In this scenario therefore, *eircom* collects the retail revenue, subtracts the Regulated Retention and the balance is passed to the OAO as a Settlement.

When the scenario is that the customer is a CPSO[1] customer and the service provider is with *eircom* i.e. as shown in Section 5 Case 2[2], the same Regulated Retention is currently applied.

This regime has up to now proved simple to implement and practical to operate. However, OAOs have advised ComReg that this is an insufficient sum to recover their costs.

In this call case the CPSO collects the retail revenue from the customer and because this is a CPS call it pays *eircom* a normal CPS origination charge. In addition, because the service provider is hosted by eircom, it also pays over the retail revenues less the Regulated Retention, this settlement being at the same rate as is used in Case 1. i.e. the calculation is Settlement = Retail Revenue – Regulated Retention. Because the CPSO pays an origination charge to *eircom* its net receipt on the transaction amounts to the regulated retention less an origination charge. In effect it recovers an amount relating only to billing, credit control, cash collection and bad debt. There appears to be no recovery of network related costs. This is illustrated below.

[1] CPSO should be taken to include CS Operator and CA Operator throughout this document

[2] ComReg is grateful to one respondent for pointing out that the same issues arise in call case 3

The net amount received by the CPSO in this scenario is:

Retention	Origination + Billing etc
Less Origination paid	(Origination)
Net amount received by CPSO	Billing etc

No monies are retained for the costs associated with the CPSOs network utilised during the call. For this particular type of call from a CPS customer to a non geographic number it appears that CPSOs may indeed be inadequately remunerated for carrying the calls across their network.

On the other hand it was pointed out in one of the responses to the consultation that the two origination charges in the calculation above may be different and a margin created because of the differential. However, as discussed in more detail below this will only happen in certain circumstances and will be very unlikely to allow full cost recovery.

It is also worth noting that there is no circumstance where a similar problem would arise for *eircom* i.e. for a call which transited its network having been originated and terminated on OAO networks. In all such circumstances eircom would recover on a net basis all of its costs, including the cost of conveyance.

This type of call (Case 2) has generated considerable concern amongst CPSOs already because of the low (in certain circumstances, negative) net remuneration available. As a consequence, call types with low retail revenues have tended to be categorised as 'CPS excluded'. Amongst the internet access codes, 1891 has always been excluded from CPS; since introduction, 1892 has, so far, also been excluded. As ISPs have been moving their traffic from geographic numbers (CPS included) to 1892 (currently CPS excluded) CPS operators have witnessed sharp declines in their overall traffic. Any increase in the level of retention for such calls could be a significant factor in a reappraisal of the current excluded calls status of internet access calls.

ComReg views the difficulties caused by current arrangements as a serious matter. It appears likely that the ability of a CPSO to compete on an equal basis with *eircom*'s retail arm is diminished unfairly by the exclusion of certain call categories from CPS. ComReg does not believe that CPSOs should be forced to carry particular calls at a loss simply in order to match *eircom* retail's service offering. It would appear that current arrangements are discriminatory in favour of *eircom* retail. ComReg therefore believes that CPSOs should recover their costs for the carriage of all such calls. This would encourage CPSOs to carry such calls, rather than exclude them from CPS, and thus ensure that their traffic levels and revenues reflect their market share, while enhancing the service provided by CPS to customers. It is not anticipated that a change in the remuneration arrangements for these calls would result in any detriment to consumers.

3 Draft Direction and Responses to it

3.1 Draft Direction Issued in Paper 03/141

eircom are directed to present new submissions for NTC retentions and settlement rates for call cases 2 and 3 shown in section 5 below. These submissions should put into effect ComReg's proposed solution to the current under recovery of OAO costs by ensuring that the net amount retained by the OAO after paying eircom's CPS call origination charge is equal to the regulated retention.

ComReg had proposed to have these submissions received by ComReg by 9 January 2004 and that the new charging arrangements would become effective from 16 January 2004 although interim arrangements will have to be agreed between ComReg and *eircom* to allow for system development and implementation.

In this Document ComReg now direct *eircom* to make the relevant submissions by March 5th 2004 and that the new arrangements would become effective from date of direction.

3.2 Responses to Draft Direction

3.2.1 Views of Respondents

Esat BT commented on their interpretation of the draft direction in that they say "the draft direction means that in practice that for calls originating on CPSO networks and terminating on *eircom* NTCS or OAO NTCs (transiting via eircom), the CPSO will not pay the call origination charge, and the relevant settlement rate to eircom, rather they will in effect pay eircom only the relevant settlement rate."

They also go on to say that "the early implementation of the draft direction coupled with an early resolution of excluded CPS numbers will assist in the development of competition in the CPS (and WLR) market."

Specific comments made by this respondent in relation to the draft direction were as follows;

- For the avoidance of doubt they support the early introduction of itemised billing.
- They have requested that charging retrospection (retroaction as termed by ComReg) be applied back to 1999.
- They have requested that the industry have the opportunity to review eircom's proposed solution as submitted to ComReg on the 9th of January and prior to implementation in order to ensure that it will be fit for purpose.

This respondent also had comments on the issue of call exclusion as follows; "….we agree that the matter of call exclusion requires rapid resolution. We would suggest that ComReg bring forward a proposed solution prior to any industry forum in order to provide focus. This needs to be done in line with the WLR development. It is important that this issue is resolved prior to the launch of the automated WLR process.

We agree that 1891 and 1892 should be CPS inclusive once the new regime for CPS calls is established. We do not agree that 1893 FRIACO calls are capable of inclusion due to the fundamental different engineering realisation of that service."

eircom responded with the following;

They clarified their understanding of the draft direction by stating that "ComReg's draft direction requires eircom to submit NTC retention and settlement rates which ensure that the net amount retained by the OAO, after paying eircom's CPS call origination charge, is equal to the eircom regulated retention."

This respondent then goes on to say "we believe this draft direction is essentially flawed in principle and would result in CPSOs obtaining additional revenues that are not cost oriented at the expense of Service Providers. Consequently it must be recognised that there is a real risk that retail charges may increase if input costs rise as a result of the draft direction being finalised as proposed."

eircom objects to the proposed approach to the determination of the CPSO network costs in the draft direction "as they are not based on a detailed cost- oriented study of the actual costs incurred by CPSOs in call conveyance to NTCs as it uses an inappropriate proxy for such costs. This draft direction represents an intervention by ComReg to determine the interconnect settlement rates for NTC calls leaving CPSO networks. These rates have been set through commercial negotiation and ComReg have produced no evidence of market failure in this area."

They also go on to say that "ComReg has proposed eircom's call origination rate as a proxy for the CPSOs network costs. The respondent refutes the idea that call origination is a satisfactory proxy given the transit nature of the CPSO activity in conveying CPS calls. ComReg is incorrect to suggest that call origination is an appropriate proxy as the subscriber stage of the call originates entirely on eircom's network. This respondent's original submission on consultation 03/113 presented an analysis to show the CPSO retains a sufficient margin to allow for its network conveyance costs when compared with eircom's transit charge."

The respondent believes that a cost oriented study of CPSO network conveyance costs by ComReg is warranted prior to the issue of a direction.

The respondent also says that "without prejudice to the incumbents' position that the draft direction is flawed, they believe that implementation of ComReg's existing draft direction is not possible based on the practicalities of delivering what has been proposed and the timelines that have been outlined. They believe that timeframes for implementation of any proposed rate changes should allow for systems development and adhere to existing rate change processes."

They also state the "the implementation date for any rate changes affecting transit services, such as transit to NTCs, should take into consideration existing agreed industry processes and the requirement for completion of contractual agreements between *eircom* and the relevant OAOs. Amendment of *eircom*'s rates without a corresponding amendment to OAO terminating rates would unfairly discriminate against *eircom*."

The respondent also goes on to state that the draft direction is contrary to the six generally recognised principles of cost recovery applied to pricing of interconnect services, namely;

- Cost Causation
- Distribution of benefits
- Effective Competition
- Cost Minimisation
- Reciprocity
- Practicality

They give detailed explanations as to why they think the draft direction is contrary in their response.

ComReg have set out their position in relation to these matters below.

As the case of their previous response to consultation 03/113 this respondent has outlined why it considers the ComReg view that the call origination charge results in the CPSO's costs being in excess of *eircom*'s retention fee to be flawed. The main reason again given is that they believe the transit rate is a more suitable proxy for CPSO conveyance costs than the call origination.

The respondent then outlines its views on three main areas;

- ➢ Interpretation of the Draft Direction
- ➢ Implementation of the Draft Direction
- ➢ NTC Market Impact Assessment

<u>Interpretation of the Draft Direction</u>

The respondent has examined two main options based on the draft direction but stresses that they consider both options to be impractical from an implementation perspective and have also expressed concern regarding the timescales for implementation. The two options considered were as follows;

- Increase the retention amount by a blended call origination amount on an individual operator basis
- Develop a single retention rate for each operator based on a weighted average of calls from directly connected and indirectly connected(CPS) customers on a quarterly basis.

<u>Implementation of the Draft Direction</u>

Option 1- *eircom* state that

"ComReg's draft direction proposes that a second retention rate per operator be introduced to enable CPSOs increase the retention amount to recover their network costs. This poses an additional billing difficulty for NTC terminating operators including *eircom*. In the scenario where the call is terminating on an eircom hosted

NTC service *eircom* is not in a position to identify the individual call as originating on a CPS or directly connected OAO customer. Development of a CPS database and integration of this database and the number portability database into a wholesale billing system may alleviate this problem.

In the transit scenario the NTC terminating operator faces a similar issue. The NTC terminating operator will be incapable of billing the NTC settlement amount correctly for transiting NTC calls. This will add additional complexity to the billing process and will undoubtedly result in billing disputes unless the NTC terminating operators should be willing to implement billing solutions equivalent to that required of eircom.

ComReg has suggested that eircom has overstated the complexity of the billing reconciliation issue in its response to the consultation. However, eircom considers ComReg's appreciation of the ease with which a billing solution can be implemented and the willingness of NTC terminating operators to invest in an industry solution based around the use of databases to be misguided. The use of numerous IN look-ups using a CPS database combined with the number portability database would be required at a minimum to allow billing reconciliation. It is doubtful whether the CPSOs would find the development and use of such a CPS database favourable given that it would make their competitive CPS position and customer base available to industry.

The use of a database solution would introduce additional conveyance costs to Industry, which would appear counter-productive given the intention of the draft direction to allow recovery of network costs for CPSOs. In addition, to these practical implementation issues, *eircom*, as the transit operator, would increase its exposure to billing disputes with NTC terminating operators who are not in a position to correctly generate or reconcile their invoices.

eircom notes that the critical issue here is one of originating operator identification. *eircom* has previously contributed significant resources and manpower to this issue as part of a ComReg sponsored industry working group. Numerous technical approaches were proposed by *eircom* to industry. However a lack of direction from ComReg combined with the inability of industry to reach a consensus on the feasibility of any single approach resulted in the industry working group being disbanded. ComReg has since proposed reconvening this forum however no noticeable action in this regard has been forthcoming and ComReg has failed to provide leadership or guidance to industry on this issue.

ComReg's draft direction, interpreted as implying that two retention rates should be introduced, is essentially flawed and is incapable of being implemented without the willingness of NTC terminating operators to accept significant Industry capital investment in billing solutions."

Option 2
The second option proposed by *eircom* is that

"an alternative and more simplistic interpretation of the draft direction would be to maintain a single retention rate for each operator. The retention rates for such operators would be based on a weighted-average of calls from their directly connected and indirectly connected (CPS) customers on a quarterly basis. The methodology for the determination of their weighted average would need to be carefully determined and agreed by Industry.

As the method of calculating the CPSO retention would need to be carefully considered *eircom* urges ComReg to resist the temptation to rush to implement new rates without giving full consideration to this issue and to the existing processes for rate changes. Sufficient time for determination of the rate calculation method, the adherence to the existing process for rate changes and the timely agreement and completion of necessary contractual arrangements is required."

NTC Market Assessment

Eircom are of the opinion that

"ComReg's draft direction will dramatically impact the existing NTC charging regime. The draft direction suggests that NTC settlement revenue to terminating operators be reduced which will squeeze the existing tight margins available in this business.

As a result, this draft direction will negatively impact on the revenue available to service providers for PRS services and to the costs of customers such as tele-marketing companies for free-phone, lo-call and shared-cost services. ComReg's draft direction essentially rewards the CPSO and allows excessive cost recovery whilst penalising the service providers.

Since the settlement rates are negotiated with Service Providers it must be recognised that Service Providers may not be willing or may not be in a position to accept a lower settlement. Several situations could emerge including some of the following:-

- For services where retail rates are set by the Service Provider, some Service Providers may decide to increase the retail charge for their service
- Other Service Providers may refuse to agree to any change in settlement rates
- For those services where *eircom* sets the retail charge on the basis of its input costs and on the basis of its own costs, *eircom* would be forced to increase the retail charges to ensure that it does not under-recover all input costs
- Consequently it must be recognised that there is a real risk that retail charges may increase if input costs rise as a result of the draft directive being finalised as proposed."

3.2.2 Commission's Position

ComReg agree with Esat BT in that the early resolution of this issue will assist in the Development of the CPS market. The office will also look into publishing a consultation in the area of itemised billing and seek comments from the industry on this before implementation is proposed.

The office welcomes Esat's request that the solution submitted by *eircom* be reviewed by industry and will facilitate this.

In relation to specific comments made by *eircom*, ComReg have the following responses;

The office believes that any change to the regime should not impact on prices offered to Service Providers as a range of operators already support Service Providers. If an operator has to pay an increased price for the service it receives from other operators as a result of this Direction and seeks simply to pass this on to its Service Provider customers, these customers will undoubtedly consider taking their business elsewhere.

As described above the regulated retention rate applied to the incumbent in call case 1 has 3 elements:-

- Conveyance
- Billing
- Bad debt

These reflect the costs incurred in carrying the call across eircom's network and maintaining the retail relationship with the calling customer so as to collect the retail call revenue.
In contrast call cases 2 and 3 the CPSO incurs 4 cost elements:-

- Conveyance
- Billing
- Bad debt
- Access (eircom call origination)
-

This cost of access is not reflected in the current interconnect agreements and ComReg propose that these agreements be amended to allow recovery of this manifest cost.

eircom have not sought to defend the existing arrangements in the terms which has been negotiated and described – i.e. reciprocity. Rather they have sought to sustain the existing rates but have provided a novel line of reasoning to arrive at the existing conclusion. In response to the consultation and draft direction they have argued that:-

- The call origination element of the NTC retention is greater than the call origination charge for CPS calls, on average, creating a margin for the CPSOs to recover their costs.
- The conveyance, billing and bad debt elements of the regulated retention rate do not form a good proxy for the costs incurred by the CPSO.
- Instead *eircom* proposes that its own transit charge makes a better proxy for costs, after the following adjustments have been made:-
    - The transit charge is reduced by eliminating the billing and bad debt elements.

- The transit charge is reduced by a factor reflecting the increased number of switches used by eircom's network in handling a transit call when compared with the number of switches employed by the flat networks operated by CPSOs.

In reviewing the incumbent's arguments ComReg notes the following points:-

- *eircom* have correctly identified network elements whose cost are included in eircom's regulated NTC retention (call case 1) but which would not be needed to carry the CPS call through a CPSO network (call cases 2 & 3). However, eliminating these costs would not be a sufficient adjustment to reflect all the differences between OAO costs and those of the incumbent. At the least an adjustment would be necessary for the very different scale of operation of these networks and the incumbents. Piecemeal adjustments are inappropriate, OAO network costs in call cases 2 & 3 may be higher than those of eircom's NTC retention, but only a major and intrusive cost investigation could establish this with any certainty. Given the value of the calls involved in ComReg prefers not to further amend the existing practice of using *eircom*'s costs as a proxy for those of CPSOs.
- *eircom* are wrong to treat these calls as if they were simply transit calls. Call origination functions need to be performed by the CPSO to maintain the retail relationship with the calling customer so as to collect the retail call revenue. The CPSO is the Originating Operator for these calls while *eircom* is the Access Provider. Some operations will typically be carried out by both Access Provider and Originating Operator, the fact that the Access Provider has incurred costs in performing call functions does not mean that the Originating Operator may not have to carry out similar functions.
- Having stipulated that the proper cost proxy for these calls is transit *eircom* reduce the level of charge associated with transit before seeking to establish whether sufficient margin is generated by the difference in the NTC and call origination charges.
- *eircom* contend that the billing and bad debt elements of the transit charge should be excluded because these charges are provided for in the NTC retention. This is simply illogical. While it is true that these charges are provided for in the NTC retention, these items are not excluded from the calculation of margin in *eircom*'s computation (supplied in confidence). If they are not excluded at this stage it is incorrect to eliminate them from the cost proxy to be tested against that margin.
- In addition *eircom* argue that since more switching stages are used in the *eircom* network in handling a transit call than would be used by a CPSO network handling either call cases 2 or 3. This is an incomplete analysis of the differences between incumbent and OAO networks. It is *eircom*'s larger scale of operation that allows them to introduce a hierarchy of switches so as to provide economies in network operations – a possibility not open to OAOs. Piecemeal adjustments to cost proxies are inappropriate and run the risk of cherry-picking cost reductions or increases depending on the

argument being pursued. At the least adjustments would be necessary for the very different scale of operation of the different networks. It would be unwise to presume that an exhaustive cost investigation would find that OAO network costs for call cases 2 & 3 are lower than *eircom*'s transit costs.

- *eircom* have supplied a (confidential) cost model and actual interconnect call volumes which demonstrate that if:-
  - *eircom*'s transit charge forms a better CPSO cost proxy than eircom's NTC retention rate,
  - and *eircom*'s reductions to the level of this charge, in respect of billing, bad debt, and routing factors, are valid,
- then CPSOs paying the average call origination charges will achieve a margin between NTC retention and origination which is:-
  - greater than the adjusted cost of transit per minute of traffic
  - less than the adjusted cost of transit per call.

eircom conclude that this will achieve adequate cost recovery on average, and on a call by call basis for all but short calls.

If, however, one considers the margin available to individual OAOs it becomes clear that the available margin varies widely from one to another and can be well away from the average. The position of OAOs on average benefits from those operators which have built out their networks widely, but those which retain minimal levels of interconnect – the situation which faces any new entrant, at least initially – receive quite a different profile of charges.

For these operators NTC retentions are less than the call origination charges that they pay and the margins they receive are generally negative. According to the data supplied by *eircom* as much as 96% of an OAO's traffic could generate negative margins on call cases 2 & 3, which constitutes a major disincentive to their operating as a CPSO.

Such operators, including potential new entrants to the CPS market must pay for the privilege of carrying these calls rather than be recompensed for the costs they incur.

In summary, ComReg considers that eircom's demonstration of adequate cost recovery through the existing rates is incorrect in that it:-

- Treats the CPSO's functions as originating operator as simply equivalent to transit.
- Inaccurately eliminates billing and bad debt costs
- Adopts piecemeal cost adjustment through routing factors which do not take into account economies of scale and other circumstances affecting OAO costs.
- Even if these issues are ignored insufficient margin is demonstrated for calls under 2 minutes in duration.
- Operators with minimal interconnect with *eircom*, and potential new entrants, face negative margins in all circumstances.

On the basis of these observations ComReg concludes that:

- *eircom*'s access charge (eircom call origination) must be explicitly recognised and recompensed in call cases 2 & 3.
- The simplest and most practical way of doing this is to add this term to the existing scale of charges.
- The resulting cost recovery calculation remains a proxy for the accurate estimation of CPSOs' actual costs. ComReg's proposal should therefore constitute the offer contained in eircom's RIO and all existing interconnect contracts but this should not preclude the evolution of individual contract terms through negotiations between the parties.

eircom have declared ComReg's proposal incapable of implementation because, they can not identify the affected calls for billing and reconciliation. OAOs can not identify the affected calls for billing and reconciliation. No means exists for terminating operators to identify originating operators in real time.

ComReg still feels that *eircom* are overstating the difficulties of implementing the Direction. The costs that the Direction requires to be recovered as part of the retention in call cases 2 & 3 are after all charges raised by *eircom* themselves. ComReg considers that if *eircom* can identify these charges with sufficient precision to raise them in the first place then they can identify them for the purposes of a recharge. OAOs' responses to the consultation do not indicate similar concerns for their own ability to bill correctly. Their responses included specific proposals for billing arrangements which ComReg endorses. ComReg believes that it must be guided by the OAOs' own views of their capabilities rather than eircom's assertions in this regard.

While it is true that no entirely satisfactory means of identifying originating operators in real time exists this is true for many types of calls besides those being considered here. The problem was considered by the Mobile Transit Working Group, convened by ComReg, chaired by *eircom*, which concluded that no fully cost-effective solution was available, and that 'A number analysis' would suffice as an interim measure until the advent of Mobile Number Portability brought about a significant increase in the number of such calls. MNP having been launched, and the numbers of ported numbers building steadily, ComReg intends to revisit this issue in the near future

Nonetheless ComReg wishes to address the implementation of the current Decision in two stages so as to provide time for *eircom* to address the issues it perceives. ComReg believe that the capability is available in *eircom*'s billing system and that every effort should be made to get the system compatible to any change as soon as possible.

In relation to eircom's NTC Market Assessment, ComReg has arrived at the Direction in order to ensure the current barriers to entering the CPS market are alleviated and there are sufficient margins available in the future which are not currently available under the old regime. As such we do not envisage that this will have a negative impact on revenue to Service Providers or that there will be excessive cost recovery.

Direction **In furtherance of this Decision D3/04 and for the purpose of further specifying requirements relating to obligations imposed on *eircom, eircom* are directed to present new submissions for NTC retentions and settlement rates for call cases 2 and 3 shown in section 5 of this Decision. These submissions should put into effect ComReg's proposed solution to the current under recovery of OAO costs by ensuring that the net amount retained by the OAO, after paying *eircom's* CPS call origination charge, is equal to the regulated retention. These submissions must be received by ComReg by the 5th March 2004. New charging arrangements shall become effective from 1 March 2004, although interim arrangements will have to be agreed between ComReg and *eircom* to allow for system development and implementation. *eircom* are therefore further directed to produce an implementation plan within one (1) month of the date of this Decision D3/04; complete that implementation within six (6) months of the date of this Decision D3/04 and make off-line calculations of amounts due with immediate effect.** **This Direction is made pursuant to the provisions of Regulations 6 (1), 6 (5), 8 and 17 of the Access Regulations,[3] Regulations 13 (b) and 31 of the Universal Service Regulations[4] and sections 10 and 12 of the Act of 2002.[5]** ***Eircom* shall comply with this Direction.**

[3] S.I. No. 305 of 2003 the European Communities (Electronic Communications Networks and Services) (Access) Regulations 2003 which transposes Directive 2002/19/EC of the European Parliament and the Council of 7 March 2002 on access to, and interconnection of, electronic communications networks and associated facilities ('the Access Regulations').

[4] S.I. No. 308 of 2003 the European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2003 which transposes Directive 2002/22/EC of the European Parliament and the Council of 7 March 2002 on universal service and users' rights relating to electronic communications networks and services.

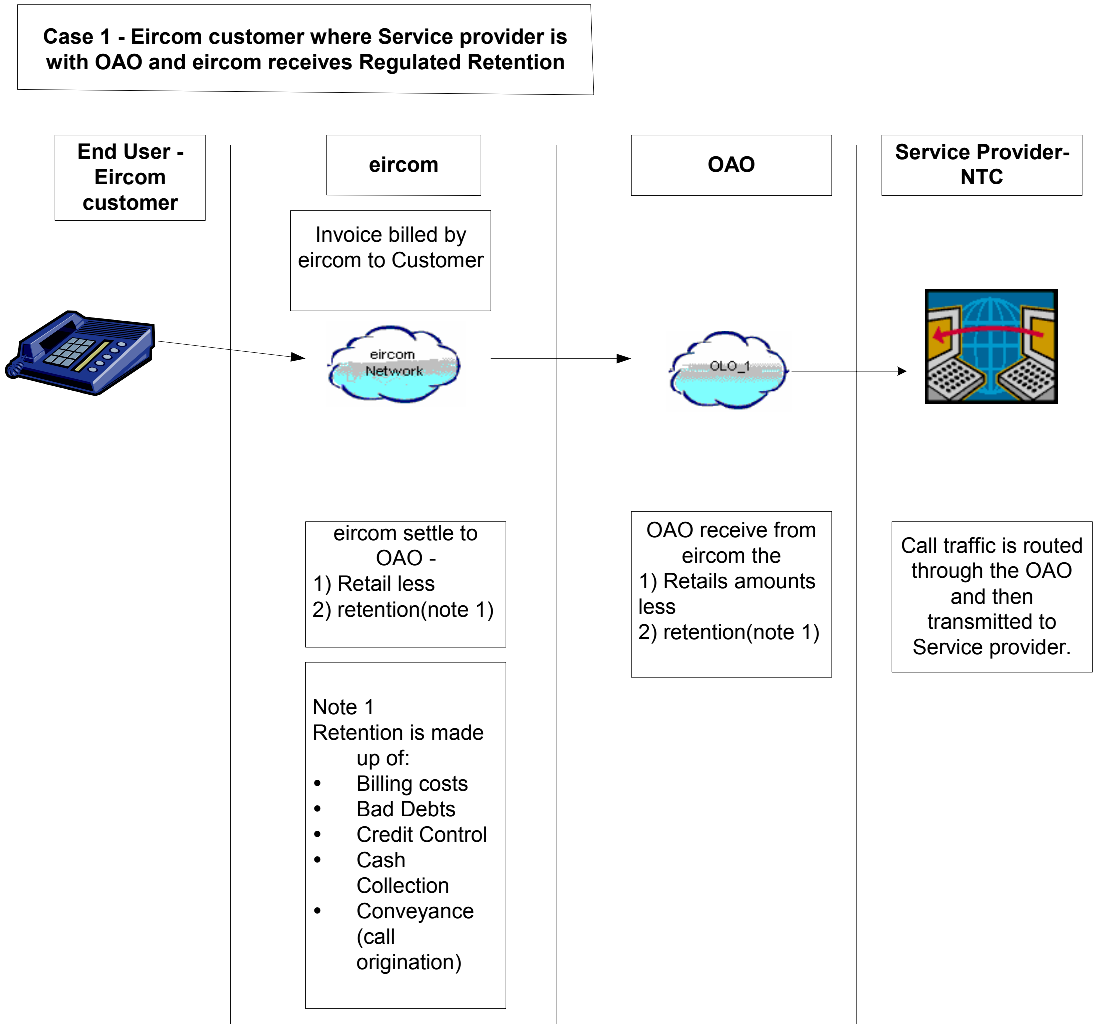
[5] Communications Regulation Act, 2002 (2002 No. 20).

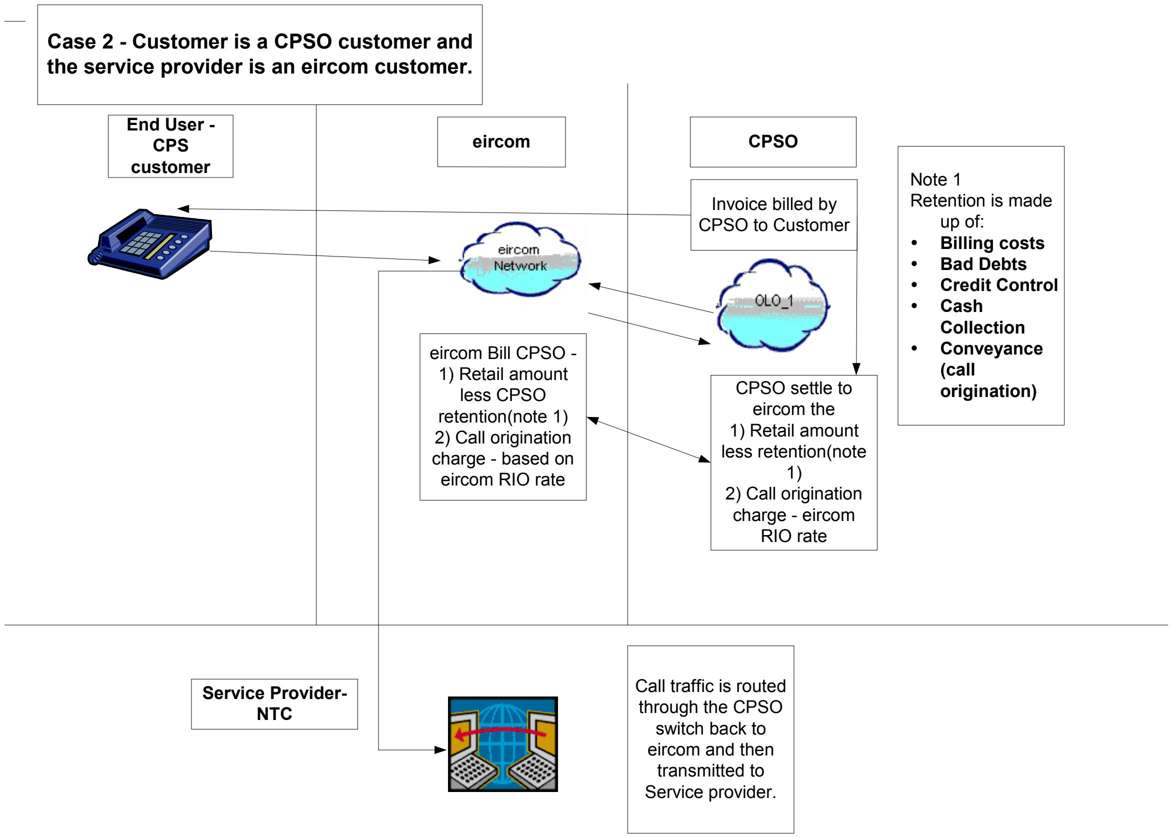
4 Decision Notice Issues

The following issues will require attention in the foreseeable future to enhance the CPS market even further;

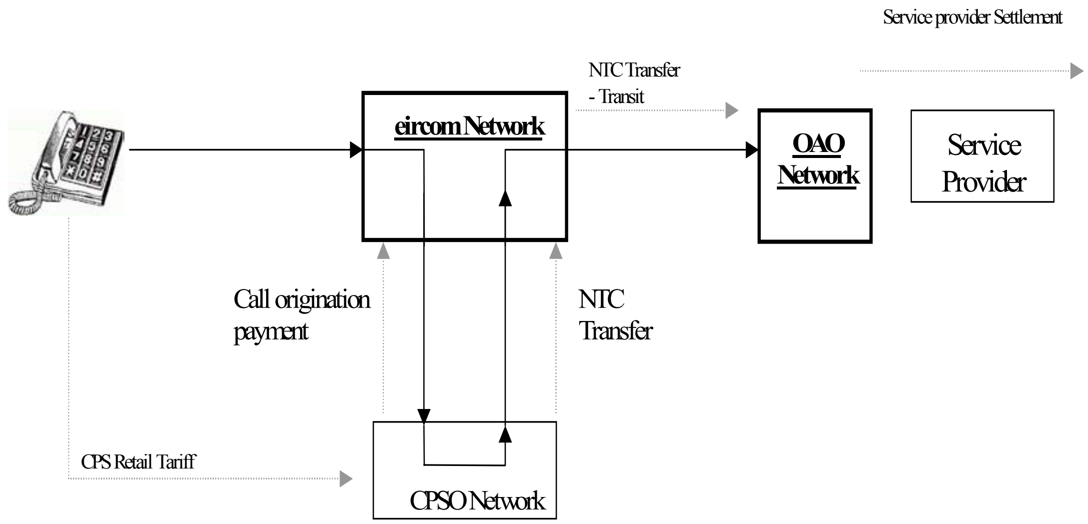
- Introduction of itemised billing
- Identification of actual cost borne by CPSOs
- Consultation required in relation to Internet Access Codes. It is proposed to carry this out by way of an industry forum rather than written consultation.
- Enhancement of eircom/OAO billing systems to aid implementation of the new regime and the reconciliation of the various call types.

5 Call Case Diagrams




Case 2 - Customer is a CPSO customer and the service provider is an eircom customer.
End User - CPS customer
eircom
CPSO
Invoice billed by CPSO to Customer
eircom Network
OLO_1
Note 1
Retention is made up of:
• Billing costs
• Bad Debts
• Credit Control
• Cash Collection
• Conveyance (call origination)
eircom Bill CPSO - 1) Retail amount less CPSO retention(note 1) 2) Call origination charge - based on eircom RIO rate
CPSO settle to eircom the 1) Retail amount less retention(note 1) 2) Call origination charge - eircom RIO rate
Service Provider- NTC
Call traffic is routed through the CPSO switch back to eircom and then transmitted to Service provider.

Case 3


Service provider Settlement
NTC Transfer
- Transit
eircom Network
OAO
Network
Service
Provider
Call origination
payment
NTC
Transfer
CPS Retail Tariff
CPSO Network

6 Next Steps

ComReg will review the submissions by eircom which will incorporate the change to the regime and ensure that this is effective from the date specified.

ComReg will convene an industry working group to review eircom's proposed interconnect billing solution and any related issues.

The regime will be reviewed on an ongoing basis to ensure the smooth implementation and to further enhance the process when more information on network costs from Other Operators is available and the market becomes more competitive.

Appendix –Direction

Direction

In furtherance of this Decision D3/04 and for the purpose of further specifying requirements relating to obligations imposed on *eircom, eircom* are directed to present new submissions for NTC retentions and settlement rates for call cases 2 and 3 shown in section 5 of this Decision. These submissions should put into effect ComReg's proposed solution to the current under recovery of OAO costs by ensuring that the net amount retained by the OAO, after paying *eircom's* CPS call origination charge, is equal to the regulated retention. These submissions must be received by ComReg by the 5th March 2004. New charging arrangements shall become effective from 1 March 2004, although interim arrangements will have to be agreed between ComReg and *eircom* to allow for system development and implementation. *eircom* are therefore further directed to produce an implementation plan within one (1) month of the date of this Decision D3/04; complete that implementation within six (6) months of the date of this Decision D3/04 and make off-line calculations of amounts due with immediate effect.

This Direction is made pursuant to the provisions of Regulations 6 (1), 6 (5), 8 and 17 of the Access Regulations, Regulations 13 (b) and 31 of the Universal Service Regulations and sections 10 and 12 of the Act of 2002.

***Eircom* shall comply with this Direction.**