



Office of the Director of
**Telecommunications
Regulation**

Itemised Billing by Telecommunications Operators

Response to Consultation & Decision Notice D9/01

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1. Introduction

The Director of Telecommunications Regulation (“the Director”) and her Office (“the ODTR”) are responsible for the regulation of the Irish telecommunications market in accordance with EU and national legislation.

The Director is committed to providing the necessary regulatory framework so that all consumers benefit through more choice, competitive pricing and improved service. Itemised billing is a facility employed by many users to assist in checking and controlling their purchase of telephony services. Although this facility is generally available to users, some operators provide itemised bills for free while others apply a charge for some users. The detail of itemisation provided also varies.

Irish and European legislation emphasise the importance of ensuring that itemised billing is widely available to those who wish to use it, and there are provisions empowering the Director to define a minimum level of itemised billing that should be provided to requesting subscribers at no further charge. To assist her in doing so, views were sought by the Director in ODTR document 01/30 ‘Itemised Billing by Telecommunications Operators’.

This Decision Notice directs that the ‘specified minimum level’, that is the minimum level of itemised billing that should be made available at no additional charge, includes two elements. The first element is the destination telephone number, date, time, duration and charge for each individual call made which incurred a charge over a certain fixed level (suggested as the minimum charge/call set-up fee). The second element is any charge not relating to calls, such as rental charges for the subscriber line or customer premises equipment.

Further levels of detail, such as itemisation of calls below the specified minimum level, banding of these calls, or subtotals of calls, may be offered to subscribers at reasonable tariffs or free of charge. The Director considers this to be a commercial decision for operators.

The Director considers that the specified minimum level should be generally available for all users. However she recognises the right of users not to receive an itemised bill. Therefore she considers it should be available on an ‘opt-in’ basis; that is consumers should explicitly indicate their requirement for an itemised bill. Customers may choose to receive this either in printed format or through another preferred medium, such by accessing their details through the Internet.

The Director's view is that, to ensure that all consumers benefit, all operators providing fixed public telephony networks or services should provide at least the specified minimum level. In this Decision Notice, the Director directs eircom, as the operator with Significant Market Power, to provide the specified minimum level. However she is of the view that all operators should offer this specified minimum level, and urges all operators to do so. Insofar as these operators voluntarily offer such a facility, there may be no need for intervention by the ODTR. However by 31st December 2001, the Director will consider whether or not it is necessary to issue further directions to any operator or operators under the terms of Regulation 18(1) to enforce the relevant obligations.

This Decision Notice also confirms that calls that do not attract a charge, e.g. freephone calls, should not be identified in any way in itemised bills.

2. Background

In May 2001, the Director issued ODTR document 01/30 'Itemised Billing by telecommunications operators' in which views were sought to enable her to define such a minimum level of itemised billing to be offered for free, and the elements that should be included. The paper also sought to clarify the obligation with respect to calls that do not attract a charge e.g. freephone and so should not be itemised.

Seven organisations responded in writing to the Consultation namely,

- Chorus
- Eircell
- eircom plc.
- Esat Telecommunications Ltd / Ocean Communications Ltd
- European Commission (DG Information Society)
- Nevada tele.com
- Swiftcall Centre Ltd

The Director wishes to express her thanks to everyone who contributed to the consultation. With the exception of material marked as confidential, the written comments of respondents are available for inspection at the ODTR's office in Dublin.

3. Legislative Framework

Measures affecting itemised billing are set out in Regulation 18 of the European Communities (Voice Telephony and Universal Service) Regulations, 1999¹. This regulation is reproduced below:

18. (1) The Director may issue directions to one or more fixed operators to ensure that by the 31st day of December, 2001, users of its fixed public telephone networks have access to the facilities of -
- (a) tone dialling, as defined in Annex I, part 1,
 - (b) itemised billing, as specified by the Director pursuant to paragraph (3), and
 - (c) selective call-barring, as defined in Annex I, part 1, as a facility available on request.
- (2) Subject to paragraph (4) and the requirements of the law on the protection of personal data and privacy, a fixed operator shall ensure that itemised bills contain a sufficient level of detail to allow verification of the charges incurred in using the fixed public telephone network, fixed public telephone services or both such networks and services.
- (3) (a) The Director may specify a minimum level of information to be provided in itemised bills which shall be made available at no extra charge.

¹ This regulation transposes Article 14 of European Parliament and Council Directive 98/10/EC.

(b) Where appropriate, additional levels of detail may be offered to subscribers at reasonable tariffs or free of charge.

(4) Calls which are free of charge to the calling subscriber shall not be identified in the calling subscriber's itemised bill.

4. The Specified Minimum Level ²

In defining the minimum level of itemised billing to be offered at no additional cost, the Director has based her decisions on the responses to questions raised in the consultation paper ODTR document 01/30 'Itemised Billing by Telecommunications Operators'. These questions, together with the views of respondents, are set out below. The Director's position is then outlined.

In arriving at her position, the overwhelming principle guiding the Director has been the needs of consumers to receive sufficiently detailed itemised billing to verify and control their usage of telephony. She has also taken into account other factors such as

- The right to privacy and the right of users not to receive itemised bills
- As billing is an essential element of the service provided by any operator, its quality and ease of access are of fundamental concern to customers. However above the minimum the scope and format of itemised billing is a commercial issue and can be used as a tool of competitive advantage
- It is important to protect consumer choice in the format of their bill: more and more customers are requiring electronic access or access through differing media for bills.
- The imposition of regulatory obligations in relation to itemised billing must allow reasonable timeframes for operators to implement any required changes. The Director recognises that some of the decisions in this paper will require that significant systems development work including scoping, implementation and testing be undertaken.

4.1 Obligation to provide the specified minimum level

Q.1 Do you agree that all operators providing fixed public telephony networks or services should be required to provide access to at least a minimum level of itemised billing at no additional cost? If not, what subset of operators should be required to do so? Please provide reasons if you feel that the obligation should be limited.

Views of Respondents

Five respondents agreed that the requirement to provide access to at least a minimum level of itemised billing at no additional charge should apply to all fixed operators. One respondent added that this should also apply to mobile operators. Another respondent noted that all fixed operators should be required to provide access to a minimum level of itemised billing. This respondent proposes that this may be available online free of charge or on payment of a charge if required in printed format.

Respondents accept that the information provided at no additional cost should be sufficiently detailed to meet customer needs and enable them to verify their charges

² The minimum level of itemised billing to be provided at no additional charge as set out in Regulation 18 3(a)

for use of telephony services. However one respondent stated that a standard bill format, such as already provided by eircom, may be sufficient to meet this requirement. This respondent also stated that customers should have a range of options in terms of the level of detail open to them and that this is primarily a commercial issue for each operator to identify the billing information needs of its customers in terms of bill format/structure and decide how best to provide for these.

Those respondents who differed made two arguments: one respondent suggested that the requirement should only apply to those operators who serve 'the most telephone users' as is thought to be defined in the Directive as covering 'general availability'. This respondent suggest that eircom, as the SMP operator, should be directed to provide itemised billing free of charge and so this would allow most telephone users to have access to it. Another respondent stated this requirement should apply only to a subset of fixed operators i.e. those operators who provide postpaid services. This is because the nature of the postpaid market is such that most competitors are established companies relying on service competition, whereas prepaid operators provide other mechanisms for verification of call charges and rely on low barriers to entry. Experience by prepaid operators also show that an insignificant volume of customers take up the option of itemised bills. (Prepaid PSTN services are mainly used for calling card services).

Position of the Director

Regulation 18(2) states that fixed operators shall "ensure that itemised bills contain a sufficient level of detail to allow verification of the charges incurred in using the fixed public telephone network, fixed public telephone services or both such networks and services."

Regulation 18(1) states that the Director may issue directions to one or more fixed operators to ensure that by 31st December 2001, users of its fixed public telephone network have access to the facilities of, inter alia, itemised billing. Directive 98/10/EC states that access should be 'generally available'. Given that eircom is designated as the operator with Significant Market Power, the Director is of the view that eircom should provide the specified minimum level as defined under Regulation 18(3) in Decisions 4.2; 4.3; and 4.4. This should be completed by 31st December 2001.

Decision 4.1

Pursuant to her powers under Regulation 18(1) of the European Communities (Voice Telephony and Universal Service) Regulations, the Director directs that eircom provide the specified minimum level as defined under Regulation 18(3)a and set out in Decisions 4.2; 4.3 and 4.4, by 31st December 2001.

In addition, the Director is of the view that all operators should offer this specified minimum level, particularly as 20% of the fixed line market is now served by new entrants.³ The Director considers that it is not necessary to issue further directions to other licensed operators at this time; however by 31st December 2001, the Director will consider whether or not it is necessary to issue further directions to any operator or operators under the terms of Regulation 18(1). Insofar as these operators voluntarily offer such a facility, there may be no need for intervention by the ODTR.

³ See ODTR document 01/41 'The Irish Telecommunications Market – Quarterly Review'

The Director is mindful of the right to privacy of the individual and recognises the right of individuals not to receive itemised bills. The Director considers that users should have to ‘opt in’ rather than ‘opt out’ and should have to explicitly request an itemised bill. The rights of subscribers receiving itemised bills must also be reconciled with the right to privacy of calling users and called subscribers in accordance with Article 7 of the Data Protection Directive.⁴ This ‘opt-in’ regime is the one currently used by most operators.

The Director is also aware of the advances in technology and increasing use of the Internet to access billing details. She welcomes provision of the minimum level of itemised billing in as many media as possible. It is a matter for the consumer at the time of ‘opt-in’ or at any other appropriate time to indicate in which medium they wish their bill to be provided. The Director considers, at least in the short term, the requirement for the minimum level to be provided in printed form should form the default where the customer does not indicate a preference. The Director will review this position as appropriate, with respect to, for example, the takeup by end users of the Internet to access bill details.

The Director also expects that, as at present, in the event of a billing dispute, the relevant operator will provide full details of the disputed calls free of charge to the subscriber.

4.2 Items to be included in the specified minimum level

Q.2 Do you agree that the minimum level of itemised billing to be offered at no additional charge by a fixed operator should include, in a printed form, the destination telephone number, date, time, duration and charge for each individual call made, for those calls on which a charge was incurred during the relevant billing period? If not, what items should be included?

Views of Respondents

Three respondents agree that this level of detail should be set out for all calls. One respondent suggests that only calls over a certain level (see section 4.4) be itemised to this level of detail. Another respondent states their view that the basic level of itemised billing has to individualise calls by showing a reasonable and appropriate number of digits of the numbers called if it is to meet the requirements to show a sufficient level of detail.

One respondent disagrees with the level of detail included in the question and states that its existing bill format, providing aggregate information for each call type (meaning local/national/calls to mobile/international/other) is sufficient to allow verification of charges. They warn that adopting full itemisation as the minimum level of itemised billing would raise two issues – firstly, recovery of costs, and secondly, a difficulty in defining further levels of detail.

Turning to the method of provision, some respondents point out that they either do, or are investigating, access to and provision of itemised bills over the Internet. One respondent points out that the requirement to provide billing information in a printed

⁴ Directive 97/66/EC of the European Parliament and of the Council concerning the processing of personal data and the protection of privacy in the telecommunications sector.

format only effectively ignores the e-commerce environment which may not have been as prevalent at the time of the Directive. Provision of bills in electronic format is more cost efficient but is also more environmentally friendly. Two respondents stated that there is increasing takeup of electronic billing services by consumers. Another respondent suggested that aggregate billing (total of all call charges; breakdown of charges i.e.recurring, rental; and summary of call charges by destination, rate, number of calls, duration and cost) of calls should be provided for printed bills, but that full details should be provided in electronic form.

Position of the Director

Regulation 18(2) states that fixed operators shall "ensure that itemised bills contain a sufficient level of detail to allow verification of the charges incurred in using the fixed public telephone network, fixed public telephone services or both such networks and services."

The Director does not believe that aggregate information is sufficient for this purpose. The Director is of the view that the basic information required on call charges for this purpose is the destination telephone number, date, time, duration and charge for each individual call made, for those calls on which a charge was incurred during the relevant billing period. However the Director, under Section 4.4, does accept that calls under a certain level need not be fully itemised. Details of such calls may be made available as an additional level of detail either free of charge or at additional cost.

The Director, as stated under Question 1 recognises the advances in technology and increasing takeup of the Internet, welcomes provision of the minimum level of itemised billing in as many media as possible. The Director believes that consumers should be given the choice, at the time of opting for an itemised bill or at any other appropriate time, of the medium in which they wish their bill to be provided. However this does not substitute, at least in the short term, the requirement for this to be provided in printed form as a default. A review period is provided for in her response to Question 1.

Decision 4.2

Pursuant to her powers under Regulation 18(3)a of the European Communities (Voice Telephony and Universal Service) Regulations, the Director specifies that the minimum level of information to be provided in itemised bills which shall be made available at no extra charge shall be the destination telephone number, date, time, duration and charge for each individual call made, for those calls on which a charge over a certain fixed level as set out in Section 4.4 was incurred during the relevant billing period

4.3 Inclusion of charges not relating to calls

Q.3 Do you agree that charges not relating to calls, such as rental charges for the subscriber line or customer premises equipment, should be included separately as part of the minimum level of itemised billing? Please give details if you believe an alternative treatment would be more appropriate.

Views of Respondents

All respondents agree with this proposal.

Position of the Director

The Director agrees with all respondents that charges not relating to calls, such as rental charges for the subscriber line or customer premises equipment, should be included separately as part of the minimum level of itemised billing.

Decision 4.3

Pursuant to her powers under Regulation 18(3)a of the European Communities (Voice Telephony and Universal Service) Regulations, 1999, the Director specifies that charges not relating to calls, such as rental charges for the subscriber line or equipment, should be included separately as part of the minimum level of itemised billing.

4.4 Itemisation of calls incurring less than a set charge

Q.4 Do you agree that every call that incurs a charge be included in the itemised bill, or is it reasonable that calls incurring less than a set charge should be bundled together? If you consider that calls incurring less than a set charge should be bundled, what limit to you consider should be used for such bundling a) 10p, b) 20p c) 50p d) Other?

Views of Respondents

The majority of operators are of the view that all calls should be itemised: they state that a customer either wants or does not want itemisation and so banding is unlikely to be useful. One of these states that it is currently investigating moving to itemising calls which are only above a certain level but has not decided whether to adopt this approach or not.

Two respondents agreed that it is reasonable that calls incurring less than a set charge whether this be 50p or a minimum fee (otherwise known as a call set up charge) be bundled together on the customer's bill. One respondent suggests 50p whereas another cannot suggest a figure without market research and as different customers will have different levels.

To support their decision one respondent states that this approach balances the need for customers to receive sufficient detail and the resource commitment required from operators (cost and administration). They state that itemising every call, based on research and customer feedback, may only serve to dilute the value of billing information and may confuse a customer as calls of small value are likely to be of little interest.

Another respondent states that local calls costing less than a low set charge need only be made available as an additional level of detail at the request of the user.

Position of the Director

Some operators omit calls that have incurred a charge below a certain fixed value from itemisation. For example, calls below 5p or 20p might not be itemised. The Director was interested in the views of respondents as to whether or not this approach should be adopted.

The Director is interested in the view that this approach balances the need for customers to receive sufficient detail and the resource commitment required from operators. She has also taken into account the level of itemised billing currently provided by some operators, for example, eircom who detail calls above the minimum fee for those availing of discount schemes. Therefore, the Director concurs with the view that only calls over a certain fixed level be itemised. She intends to leave definition of the monetary value of this charge to the individual operator but considers that it should be either a minimum fee or call set-up charge. At present, for eircom, this means itemisation of all calls above 5p (including VAT).

Operators are of course free to itemise all calls, including those under this certain fixed value. It is a commercial decision for the operator as to whether this is made available free of charge, or at a reasonable tariff, as provided for in Regulation 14 (3) b.

Decision 4.4

Pursuant to her powers under Regulation 14(3)a of the European Communities (Voice Telephony and Universal Service) Regulations, 1999, the Director specifies that calls below a fixed charge defined by the operator (the minimum fee/call set-up charge) need not be included in the minimum level of information to be provided in itemised bills which shall be made available at no extra charge.

4.5 Banding of calls below a set charge

Q.5 If you consider 20p or other higher figure, do you think that there is an advantage in banding calls – say: below 10p; 10-20p; Other ?

Views of Respondents

Those operators who support a level below which calls are not itemised suggest a variety of figures and bands. One operator suggests itemisation for individual calls above 50p. All of the other calls (below 50p) appear as a group with details of total call time and total charge. Another two respondents suggest banding using the minimum fee level although they add that this will be difficult to judge in the absence of market research as different customers will have different banding requirements. These respondents suggest that banding calls is likely to reduce the size of bills and paper weight and cost.

Another respondent suggests that banding by destination would be more useful. One operator does not think that charge bands are useful as they overcomplicate the bill.

Position of the Director

As Question 4 states, all calls over a certain fixed level, suggested as the minimum fee/call set up charge, should be included in the minimum level of itemised billing and should be provided at no additional charge.

The Director considers that as this fixed level should be low, there is little need for banding of calls below that level. The Director is also aware of the practical difficulties of mandating banding of calls, given differing levels required by customers.

However therefore the Director does not think it appropriate to mandate such a system at present. However banding may of course be introduced on a commercial basis as an additional level of detail. This may be available either free of charge or at a reasonable tariff, as provided for in Regulation 18(3)b.

4.6 Inclusion of subtotals in the specified minimum level

Q.6 Do you agree that the specified minimum level of itemised billing should include subtotals by type of call, time of day band or other characteristics? If so, should the types correspond to charging categories or some other delineation and what information should be provided in each subtotal?

Views of Respondents

The majority of respondents either disagree with the principle of providing subtotals, or disagree with the subtotals which are suggested in the consultation.

Two respondents do not agree with this proposal where fully itemised bills are provided as standard. One respondent does not agree with this proposal as it has significant systems development and implementation effort and time. They emphasise that imposing specific requirements on the operator may not provide the best way to improving the level of service to the customer.

Another two respondents suggests alternative headings such as subtotals by number of calls, number of minutes and total cost. Another operator suggests the types should include subtotals by type of charging category.

One respondent, who currently provides these bands, agrees with this proposal and also proposes filtering of call details through the Internet e.g. highest price, called number etc.

Position of the Director

There is obvious merit in providing subtotals in itemised bills. Such bills normally also include an element of summarisation, which assists subscribers in monitoring their total expenditure on different types of calls. Indeed, this information is often included in non-itemised bills. The number, duration and total charges arising from calls of different types is typically included, and totals are sometimes further subdivided into time of day bands. The most obvious delineation of call types for this purpose would appear to be the bands used for call charging by the relevant operator, e.g. local, national, various international bands, etc.

However the Director is mindful of the commercial difficulties in mandating particular subtotals, due to the different tariff bands and charging structures of operators. She does not wish to constrain the flexibility of offerings which operators may employ to encourage differentiation.

4.7 Treatment of Calls that are free of charge to the calling subscriber

Q.7 Do you believe it would be appropriate to list the individual time and duration of calls that are free of charge in an itemised bill?

Views of respondents

All respondents, with the exception of one, stated that listing the individual time and duration of calls that are free of charge to the calling subscriber would be inappropriate and would not be in keeping with the requirements of the legislation.

Respondents stated that the legislative provision arose from data protection and privacy issues and is designed to protect callers to helplines, and calls which are sensitive in nature due to certain destination numbers. Therefore, the majority of respondents stated that as such it would be wholly inappropriate to have **any** information relating to these calls included on the bill as this would negate these aspects, and furthermore would frustrate the legislative provisions which explicitly eliminate the identification of such calls.

Some respondents were of the view that the inclusion in an itemised bill of any details of a call that is free of charge may mislead the consumer into thinking that they were being charged for these calls.

One respondent disagreed, stating that as they already listed the individual time and duration of calls that are free of charge in an itemised bill, continuation of this would be appropriate. Another respondent had no strong opinion on the matter.

Position of the Director

Regulation 18(4) of the Voice Telephony Regulations specifies that calls that are free of charge to the calling subscriber shall not be identified in the calling subscriber's itemised bill. However, the Director sought views as to whether or not including the time and duration of any such call would constitute "identifying" the call and thus also be prohibited.

The Director accepts the view of the majority of respondents that the provision of any details in an itemised bill of calls that are free to the calling party is inappropriate and contrary to the requirements of legislation. Therefore the Director believes that such 'freefone' calls should not be detailed in any way on the bill. This includes any itemisation of these calls, or a summary page giving details of frequency and/or duration. This applies to all licensed operators.

Decision 4.7

Pursuant to her powers under the European Communities (Voice Telephony and Universal Service) Regulations, 1999, the Director directs all licensed operators that calls which are free of charge to the calling subscriber shall not be identified in any way in the calling subscriber's itemised bill.

5. Next Steps

The Director has now defined the minimum level of itemised billing to be offered to subscribers at no additional cost ('the specified minimum level'). Eircom is directed to provide this by 31st December 2001. This short table illustrates the effect of this decision.

Operator	Provide Itemised Billing?	Current Charge	Itemised Floor (below which calls need not be itemised)	Impact of D9/01
Eircom	Yes, on request	£3 per month (£4 for once-of request). Free for customers on certain schemes	Minimum Fee (5p at present)	Removal of any charge.

Most other operators do currently provide itemised billing, generally on request and without charge, mainly with full itemisation. It would therefore appear that there is a substantial level of itemised billing available to customers from other licensed operators. The Director will continue to monitor its provision, and will consider, by the deadline of 31st December 2001, whether further directions to other licensed operators are required. Insofar as operators voluntarily offer such a facility, there may be no need for intervention by the ODTR.

The Director, as appropriate, will review the elements to be included in the specified minimum level, and also the media in which provision of this is obliged.

Operators are also directed that calls that are free of charge to the calling subscriber should not be identified in any way on their bill. The Director will write to all operators about this matter.