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## **DISPUTE RESOLUTION DETERMINATION NUMBER 05/00**

### **Summary**

**Document No ODTR 00/58**

**17 August 2000**

**Oifig an Stiúirthóra Rialála Teileachumarsáide**  
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**Summary of the final determination of the Office of the Director of Telecommunications Regulation (ODTR) regarding a complaint by Ocean Communications Limited (“Ocean”) against *eircom* regarding its Carrier Pre-Selecion (CPS) winback activities.**

Carrier Pre-Selection was introduced to the Irish Telecommunications market on 1 January 2000. With CPS, consumers select an alternative service provider in advance to carry their calls. *eircom* continues to provide the telephone line to the customer’s premises and is responsible for billing line rental.

Winback is a name given to a sales campaign within *eircom* aimed at enticing back to *eircom* customers who have signed up to other operators under CPS.

On 25 February 2000, Ocean submitted a complaint concerning *eircom*’s alleged behaviour in relation to its CPS win back campaign. In its complaint to the ODTR, Ocean alleged that:

- *eircom* retail staff were receiving specific customer information from *eircom* carrier services in relation to CPS;
- consequently *eircom* was in breach of Conditions 20 and 23 of its Licence;
- *eircom* retail staff were employing aggressive sales tactics and sought to deliberately provide misleading information about competitors;
- the CPS Code of Practice was in draft form and that it had not been agreed by the industry and that, in any event, the provisions of *eircom*’s licence prevail over the Code.
- Ocean also alleged that the CPS Industry Committee had not signed off on the key documents for CPS and that these documents form a series of working drafts to allow for the launch of CPS from 1 January 2000.

In response to these allegations, *eircom* refuted the suggestion that it was misusing confidential information and engaging in improper selling practices in relation to the operation of CPS. *Eircom* stated that the reason a customer’s bill showed the alternative carrier(s) was, firstly, to inform and benefit the customer and secondly to aid *eircom* staff handling fault reporting and account queries. *eircom* stated that staff involved in the win back process use screens that do not show the billing information.

In accordance with the dispute resolution procedures, the ODTR afforded both parties the opportunity to comment on the draft determination and considered the comments received before arriving at this final determination.

In relation to the notification of the loss of a customer under CPS, the Case Officer has found evidence arising from this dispute to support the allegation that *eircom* is in breach of its obligations under Conditions 20 and 23 of its Licence. Specifically, it is the decision of the Case Officer that the identification of the gaining operator on the *eircom* bill is unnecessary

Eircom has therefore been directed to desist from this practice immediately. Notification of the gaining operator should be ring-fenced and confined to staff handling inter operator fault reports and, in exceptional circumstances, customer account enquiries. Staff involved in eircom's win back campaign must not have access to the identity of the gaining operator.

*eircom* will be required to demonstrate the efficacy of the steps taken to ensure that this ring-fencing has been completed in a timely manner to a team of ODTR officers who will visit eircom premises at a time and date to be separately agreed between eircom and the ODTR, but in any event not later than two months from the effective date of this determination.

On the basis that eircom undertakes these steps which are necessary to bring it into compliance with its licence, the Director does not intend to pursue sanctions at this time. However, she reserves her right to do so should eircom fail to act in compliance with the determination.

The Case Officer has not found evidence arising from this dispute sufficient to support the allegation that *eircom* is in breach of its obligations under Conditions 20 and 23 of its Licence in relation to sales tactics used in its win back campaign. However, in light of the potential seriousness of the issue the matter will be kept under review.

The Case Officer considers that the CPS Code of Practice has been finalised and is not in draft form. The Case Officer also notes that Ocean has signed a revised interconnect agreement that includes the Code. The Case Officer understands that certain provisions of the CPS process documents are to be revisited at committee level.