



Office of the Director of  
**Telecommunications  
Regulation**

## INFORMATION NOTICE

# The Market for Directory Information Services and Products in Ireland

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**Oifig an Stiúrthóra Rialála Teileachumarsáide**

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## Foreword

This Information Notice follows on from the report *"The Market for Directory Information Services and Products in Ireland - Response to the Consultation"* (ODTR Document Number 01/19).

The key conclusion of this report was that a Directory Information Services Forum (DISF) should be created to address issues raised in relation to the operation and maintenance of the National Directory Database (NDD). A fixed operator designated as having a universal service obligation for the provision of directory services must keep a record of all subscribers in the State, including those with fixed, mobile and personal numbers, and who have not refused to be included in that record, and allow access to any information contained in such record to any person requesting such information. This record of subscribers is known as the NDD and is currently maintained by eircom.

The Director also considered that the DISF should prepare and adopt a Code of Practice to ensure that operators develop adequate customer information and consumer protection procedures. In addition, the Director also found that measures should be put in place to protect customers from potential operator misuse of the Data available.

The DISF was established by the ODTR, in accordance with the report referred to above. The DISF has met on six occasions and has representation from the industry, consumer groups and the Data Protection Commissioner.

The report outlined the key issues of concern which the forum should focus on namely:

- customer contracts and consent to use of information
- use of customer information
- confidentiality of information, format and presentation of data
- transfer of information to and from the NDD
- other forms of NDD access
- new services
- search facilities
- ex-directory customers
- complaint and inquiry handling

It was found throughout the responses that the Industry itself is best placed to come to a consensus and progress matters in these areas. The DISF has completed its work on these areas and has formulated a cohesive Code of Practice for the use of data from the NDD and has fully addressed issues raised in relation to the operation and maintenance of the database.

It was agreed that the DISF should meet on an ongoing basis to address future Directory Information matters that may arise and to monitor the operation of the NDD. Over the next months the DISF will discuss matters arising from forthcoming EU Directives and the introduction of new technologies. The DISF will also continue to consider methods to

introduce more subscribers into directories. The Director hopes that the new Code will contribute to an increase in subscriber data as a result of establishing the broad principles to be applied by the industry regarding the use of customer information.

The operation of the NDD has now been examined thoroughly in the Forum and directly with the NDD provider (eircom). The provision of directory information to the NDD is a legislative obligation. The Director will be monitoring the provision of directory information by information providers to the NDD closely.

The Director is very happy with the outcome of the Forum and would like to thank all participants for their interest and hard work.

The Director has pleasure in introducing hereunder the Code of Practice on the Fair Processing of Personal Data in the National Directory Database.

ODTR  
3<sup>rd</sup> August 2001

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# Code of Practice on the Fair Processing of Personal Data in the National Directory Database

July 2001

## Introduction

This Code of Practice ('the Code') has been prepared by the Office of the Director of Telecommunication Regulation ('ODTR') in consultation with the Directory Information Services Forum (DISF) which includes representatives of the National Directory Database provider, other data providers, telecommunication user groups and the Office of the Data Protection Commissioner. The objectives of the code of practice are to :

- Provide clear rules about the uses of National Directory information to address the privacy concerns of residential customers about how their directory information is used.
- Ensure that all those using National Directory information to provide services and products to customers are subject to a common set of rules.

This Code reflects the ODTR's and DISF's views regarding the fair processing of personal data in the NDD. The Data Protection Commissioner has indicated that, in assessing compliance with section 2(1)(a) of the Data Protection Act, 1988 (which requires that personal data "*shall have been obtained, and shall be processed, fairly*"), he will have full regard to the provisions of this Code.

This Code comes into effect on 12<sup>th</sup> July 2001 and shall remain in force, together with any amendments as may, from time to time, be agreed by the signatories, and is binding in its entirety upon those signatories for as long as that operator shall continue to provide a Directory service using or processing information obtained from the NDD.

The sanctions outlined in this code are in addition to any sanctions that may be imposed by the NDD provider under their Directory Information Licence Agreement. This code shall be appended to and form part of the Directory Information Licence Agreement. No operator shall have access to data from the National Directory Database without agreeing to the terms of this Code.

The Code, while arising from a decision of the Director pursuant to statutory provisions, does not itself have statutory status. The Code does not relieve operators from their existing legal obligations. This Code is not binding on the Director and is without prejudice to her legal position generally or her rights and duties with regard to the regulation of the communications market generally. This Code is without prejudice to the General, Basic or Mobile Telecommunications Licence holders obligations in relation to directory information and services.

## **Review**

The Director reserves the right to review the Code in the light of practical experience of its operation, changes in technology, industry practice, legislation or the expectations of data subjects. A review may be initiated in response to representations from representatives of data users and data subjects. If the Director believes there is a need to significantly revise or amend the Code she will do so following consultation with members of DISF and the Office of the Data Protection Commissioner. The Code is subject to the Data Protection Act, 1988, and shall be reviewed as necessary to be compatible with any forthcoming changes to the Act or any new Data Protection legislation. The Code may be reviewed periodically to address any operational difficulties. The DISF will continue to meet on an ad-hoc basis after adoption of this Code to review Directory Enquiry matters generally.

## **Scope**

The Code applies to personal data, that is data relating to living individuals, held in the NDD, and processed for the purpose of providing telecommunications directory information services or products. Although the Code relates particularly to residential subscribers, telecommunications directory information which relates to sole traders and partnerships in Ireland is also personal data. The Director recognises that sole traders and partners may well have different expectations from residential subscribers regarding the basis on which telecommunications directory information relating to their businesses may be made available.

This Code also makes provision for data users processing telecommunications directory information about data subjects and actions to be taken to prevent telecommunications directory information being processed unfairly by others (see below).

The Code applies to any personal data processed from the NDD in order to provide a public telecommunications directory information service or product. As such it covers the processing of personal data derived from publicly available telecommunications directory services or products. Therefore any organisation that processes personal data derived from such services and products for use in its dealings with customers will be subject to the Code.

## **Relationship with telecommunications legislation**

Under the European Communities (Voice Telephony and Universal Service) Regulations, 1999 (S.I. No. 71 of 1999) the Director must designate a person or organisation, to maintain a National Directory Database (NDD) and to provide directory information on request to persons requesting such information. However, the obligation is subject to the law relating to the protection of personal data and privacy. The NDD Provider must refuse persons requesting telecommunications directory information if they do not undertake to process the information in accordance with this Code of Practice, or if they have reasonable grounds to believe that the person requesting the information will not comply with data protection legislation.

## **Definitions**

### **NDD Provider**

The NDD Provider is a person or organisation designated by the Director under S.I. No. 71 of 1999 to maintain the National Directory Database and to provide directory information to all parties in line with the provisions of Regulation 10 of the aforementioned legislation.

### **The Directory Information Licence Agreement**

The Directory Information Licence Agreement sets out the terms and conditions for use of data from the National Directory Database (NDD).

### **Licensed Telecommunications Operator**

A Licensed Telecommunications Operator who is licensed by the ODTR to provide telecommunications services.

### **NDD Licensee**

Any person or organisation that has signed the Directory Information Licence Agreement to use data from the NDD.

Unless otherwise stated the definitions of the Data Protection Act 1988 apply.

Any use by an operator of customer information must be restricted so as to ensure compliance by that operator with their obligations at law. These obligations include but are not limited to obligations under the Data Protection Acts and any other applicable domestic and/or binding non-domestic laws concerning the protection of personal data.

For the avoidance of doubt, nothing in this Code absolves any operator from operating according to the terms of its licence and/or and Irish or EU legislation in force.

Licensed Operators must use bona fide efforts to achieve compliance by its employees, agents and contractors with the provisions of this Code.

This Code provides guidance only on the fair processing of personal data held, or derived from, the NDD. This guidance is limited to fair processing in relation to the basis on which directory information is released or made available. It does not deal with other obligations imposed by the Data Protection Act, 1988, including the requirements regarding the fair obtaining of personal data by licensed operators prior to their disclosure to the NDD, and the requirements relating to fair processing of the data by such operators in the context of that disclosure.

The Director considers that personal data consisting of directory information should only be made available in line with the wishes and expectations of data subjects. Therefore, unless the data subject has given prior unequivocal informed consent,

- (a) A search for a telecoms number using an electronic directory or a directory enquiry service should require the enquirer to provide the approximate name, and the approximate address where appropriate, of the data subject being sought.
- (b) Where the data subject's name, address and telecoms number is published or displayed in printed or electronic form it should be ordered alphabetically by the data subject's surname.
- (c) Where the data subject's name, address and telecoms number is published or displayed in printed or electronic form it should not be ordered to allow searches by address only, or to allow searches by reference to personal descriptors (including qualifications, titles), that are not part of the subscriber surname.
- (d) A data subject's telecoms number only or telecoms number and address may not be used to generate a name and/or address (i.e. reverse searching).
- (e) A data subject's information that is publicly available must not be changed unless it is to correct a piece of directory information that is incorrect and misleading. If a data subject requests that only part of his address is included in a publicly available directory, his full address may not be published.
- (f) In electronic directories, wildcard searches should not be permitted in the "surname" field, unless at least the first four characters in this field are given.

## Security Considerations

NDD Licensees must adopt measures to seek to make it difficult for personal data obtained from the NDD to be used in ways that could be out of line with the fair expectations of subscribers.

The measures adopted by Licensees should reduce the likelihood of telecommunications directory information being misused and should aim to prevent activities such as:

- (a) Bulk copying of telecommunications directory information, through measures such as:
  - restrictions on the number of records generated from a single search using electronic directories;
  - encryption of telecommunications directory information in electronic directories;
  - the absence of an on-line interface to data not specifically requested;
  - restrictions on the number of directory entries which can be copied and pasted from electronic directories
  - restrictions on bulk automated data-matching exercises, which would have the effect of populating third-party databases with subscriber telecoms details.
- (b) Reverse searching of telecommunications directory information, through measures such as:
  - encryption of telecommunications directory information in electronic directories.
- (c) Other misuse of telecommunications directory information, through measures such as:
  - ensuring printed directories contain a minimum number of data subjects or cover a minimum geographical area, to prevent the publishing of a small printed directory which would enable searching by location without using a data subject's name;
  - ensuring all directories contain a clearly visible health warning that the obtaining of personal data from the NDD and its use for direct marketing purposes, without

reference to the consent of the individual in question (whether by way of reference to a central register of subscribers choice as to such use of their personal data, or through some other equivalent means), should not be taken as meeting the requirement set out in section 2(1)(a) of the Data Protection Act, 1988, that personal data shall have been obtained and processed fairly.

## **Complaint Handling and Investigation**

The NDD Provider will investigate all complaints within ten days of the time the complaint is received

Complaints can be initiated where there is a breach of the License Agreement or the Code of Practice.

During the investigation process the NDD Provider can request all reasonable information pertaining to the complaint from the Licensed Directory Information Service Provider or Directory Information Product Provider.

### **Informal procedure**

If an apparent breach of the Code of Practice or the NDD Licence Agreement is of an administrative nature or relates to minor data input errors such that it does not materially affect the listing (i.e. a misspelling or omission of a letter in a listing), the following “Informal Procedures” can be followed.

- (a) The Licenced Telecom Operator (responsible for the provision of the subscriber data) will be contacted and informed in writing of the complaint.
- (b) If the Licenced Telecom Operator agrees that there is a breach they will be required to remedy the breach immediately. No other sanction will be imposed.
- (c) The Licenced Telecom Operator will be sent a letter confirming what has been agreed.
- (d) The NDD will be updated to amend the error and NDD Licensees will be notified of the change by the NDD Provider.
- (e) If the Licenced Telecom Operator disputes the breach the standard procedure may be invoked.

### **Standard Procedure**

When the NDD Provider receives or initiates a complaint, the following standard procedure will be invoked.

- (a) The Licenced Telecom Operator and / or NDD Licensee will be provided with all details about the complaint including the relevant section of the Code which has been breached.
- (b) The Licenced Telecom Operator and / or NDD Licensee will be given five working days to respond to the complaint.



- (c) If the Licenced Telecom Operator and / or NDD Licensee does not respond within the agreed period the matter will be referred to the Data Protection Commissioner or ODTR as appropriate.

## **Sanctions**

### **Where a breach of this code is established:-**

The NDD Provider will immediately withdraw the NDD licence to use the national directory information.

Licensees may be subject to additional sanctions imposed under Data Protection Legislation. Summary proceedings for an offence under the Data Protection Act may be brought and prosecuted by the Data Protection Commissioner.

Where a person suffers damage as a result of a failure by a Directory Provider meet their data protection obligations, then this Directory Provider may be subject to civil sanctions by the person affected.

This Code is without prejudice to the General, Basic or Mobile Telecommunications Licence holders obligations in relation to directory information and services.

### **Note:-**

Any industry formal complaints should be addressed, by written letter only, to the NDD operator or the NDD licensee as appropriate.

Any industry informal complaints or queries should be addressed by written letter or by e-mail to the NDD operator.

All consumer complaints should be directed through the subscribers own telecom provider