



Office of the Director of
**Telecommunications
Regulation**

The Market for Directory Information Services and Products in Ireland

Report on Consultation

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1. INTRODUCTION

The Director of Telecommunications Regulation (“the Director”) is responsible for the regulation of the Irish telecommunications sector in accordance with National and EU legislation.

This Report on Consultation is the ODTR's response to the Consultation Paper *"The Market for Directory Information Services and Products in Ireland"*.¹

The Director would like to thank the organisations that responded to the consultation paper. With the exception of material marked as confidential the responses received to the consultation paper can be viewed in this Office.

Responses were received from:

- A.L.T.O
- Conduit Europe
- Data Protection Commissioner
- Eircell
- *eircom* plc.
- Esat Group (“Ocean Communications and Esat Telecommunications”)
- Esat Digifone
- Golden Pages Ltd.
- VNU World Directories

In the consultation, the Director sought views on the current state of the directory information services market in Ireland. In particular, she sought views on the choice and quality of the directory information services currently available in the market; the identification of any actual or potential barriers to entry or operational difficulties which may exist for telecommunication operators, directory providers or directory information customers. She also raised issues in relation to the regulatory, technical and operational issues associated with the national database and the provision of directory services under the universal service obligation (USO)². Finally, she sought to establish a framework where competition could develop in the supply of directory information services and directories in a way that maximises benefits to customers and subscribers.

The Director herein sets out her report on the consultation, summarising the views expressed in relation to the issues raised in the consultation paper and the proposals for the way forward.

¹ This Report on Consultation should be read in conjunction with the Consultation Paper *"The Market for Directory Information Services and Products in Ireland"*, Document Number ODTR 00/87 available on the ODTR web site www.odtr.ie.

² *eircom*, was designated by the Director in accordance with Regulation 3(2) of the European Communities (Voice Telephony and Universal Service) Regulations, 1999², as having “universal service obligations”, This legislation was signed into law as S.I. No. 71 of 1999 on 25th March 1999, and came into effect on the 15th April 1999.

This document presents the report on the consultation for the market for directory information services and products in Ireland. Specifically, this document:

- Outlines the issues addressed in the consultation document;
- Summarises the views provided by the respondents;
- Presents the Director's proposals for a way forward on the issues arising in, and from, the consultation.

Each section of the report is divided into three parts:

- A summary of the questions together with the supporting text.
- A summary of the responses to the question.
- The Directors conclusion/and brief analysis and planned next steps.

2. EXECUTIVE SUMMARY

The Director issued Consultation Paper *"The Market for Directory Information Services and Products in Ireland"* to address a number of issues that had arisen in relation to the development of the Directory Service Market.

The objectives of this consultation process were to:

- seek views on the price, choice and quality of directory information services currently available in the market;
- identify any barriers to entry or operational difficulties in the directory information market;
- examine the regulatory, technical and operational issues associated with the national database and the provision of directory services under the universal service obligation; and
- ensure that competition can develop in the supply of directory information services and directories in a way that maximises benefits to customers and subscribers.

The Director has carefully examined the issues and the responses to same. The Director has come to a number of conclusions, which are highlighted throughout the paper.

The key conclusion of this Report is that a Directory Information Services Forum should be created to address issues raised in relation to the operation and maintenance of the National Directory Database (NDD). The Director also considers that this group should prepare and adopt a Code of Practice to ensure that operators develop adequate customer information and consumer protection procedures to assist the public in understanding the choices they will have, and how the new services will work. In addition, measures will need to be in place to protect customers from potential operator misuse of the Data available.

These issues are addressed at Section 4 of this Document.

3. LEGISLATIVE BACKGROUND

The Office of the Director of Telecommunications Regulation (“ the ODTR”) was established in 1997 under the terms of the Telecommunications (Miscellaneous Provisions) Act, 1996 (“the 1996 Act”). The Act transferred to the Director a range of powers previously held by the Minister for Transport, Energy and Communications (now Public Enterprise).

Under the terms of the Postal and Telecommunications Services Act, 1983 (“the 1983 Act”), Telecom Éireann had the exclusive right to offer, provide and maintain telecommunications services within the State. In accordance with section 14 of the 1983 Act, Telecom Éireann was charged with meeting all reasonable requests for service. This in effect constituted an obligation to provide universal service. This section of the 1983 Act is repealed with effect from 14th May 1999.

3.1 European Communities (Voice Telephony and Universal Service) Regulations, 1999

By Decision Notice D3/99 - Designation of Universal Service Provider, Telecom Éireann, now *eircom*, was designated by the Director in accordance with Regulation 3(2) of the European Communities (Voice Telephony and Universal Service) Regulations, 1999³, as having “universal service obligations”. Universal Service specifies the minimum set of services that should be included in that concept and provides a mechanism for the designation of organisation(s) to provide the service. The Universal Service provider must provide (at an affordable cost) three elements of universal service;

- (a) access to the fixed network and services
- (b) directory services
- (c) provision of public pay telephones

Section 10 of Statutory Instrument S.I. No. 71 of 1999, outlines the obligations on licensed operators⁴ in relation to Directory Services.

A licensed operator must “*ensure that his or her subscribers have the right to have an entry in publicly available subscriber directories at no charge for such entry and the right to verify and, if necessary, correct or request the deletion of that entry.*”

³ This legislation was signed into law as S.I. No. 71 of 1999 on 25th March 1999, and came into effect on the 15th April 1999.

⁴ Any person licensed under section 111(2) of the Act of 1983

A person designated as having a Universal Service Obligation (for the purposes of directory services, *eircom* is treated as telecommunications organisation to whom this section applies) must

“ensure that one or more subscriber directories setting out all subscribers of public telecommunications networks, including those with fixed, mobile and personal numbers, and who have not refused to be included in such directories, are available to users of any such networks in a form approved of by the Director, whether printed or electronic, or both, and are updated at least once in each year, and

keep a record of all subscribers in the State, including those with fixed, mobile and personal numbers, 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.”

Further, all licensed operators

“shall, subject to all statutory requirements relating to the protection of personal data and privacy, make available upon written request and in an agreed format on terms which are fair, cost oriented and non-discriminatory, the name, address and telephone number of each of its subscribers to each person designated by the Director under Regulation 3 as having an obligation to provide directory services “

This legislation is of course subject to the law relating to the protection of personal data and privacy.

3.2 General Telecommunications Licence

Under their General Telecommunications licence, Licensed operators have certain obligations in respect of Directory Services.

There is the obligation on the Licensee to

“ensure that Users have access to directory information services offered by at least one Directory Information Service Provider.”

The Licensee must

“maintain a complete and accurate database of its customers' numbers and, for the sole purpose of facilitating provision of directory information services, shall make such information available to every Directory Information Service Provider”⁵

⁵ A Directory Information Service Provider shall mean any person to whom the Director has allocated a directory enquiry access dialing code designated by the Director from time to time under the National Numbering Scheme as a dialing code to be used for the provision of directory information services.

This duty is of course again subject to applicable Data Protection laws and compliance with all applicable national and European Communities laws and regulation in force from time to time regarding the protection of personal data.

Further in respect of any information it gathers, under its general telecommunications licence, the licensee must

“not use such information for any other purpose unless specifically authorised to do so by the person disclosing same”

3.3 Data Protection Act 1988

At present the Irish law on Data Protection is afforded by the Data Protection Act 1988. The Data Protection Commissioner performs the functions under the Act. Under that Act, a data controller must observe a number of principles when processing automated personal data. The following principles of the Data Protection Act are relevant to Directory Services.

“the data or, as the case may be, the information constituting the data shall have been obtained, and the data shall be processed, fairly,

the data—

- (i) shall be kept only for one or more specified and lawful purposes,*
- (ii) shall not be used or disclosed in any manner incompatible with that purpose or those purposes,”*

And,

“appropriate security measures shall be taken against unauthorised access to, or alteration, disclosure or destruction of, the data and against their accidental loss or destruction.”

3.4 European Data Protection Directives

Subscribers to a Directory Service are also to be afforded Data Protection through the European Data Protection Directive⁶, which has yet to be transposed into our National legislation. Section 11 of this Directive provides that subscribers will be able to determine the extent to which their personal data is published in a directory. The subscriber will be entitled to be omitted from the printed or electronic directory and safeguards will be provided for subscribers against intrusion into their privacy by means of unsolicited calls and telefaxes.

These concepts are echoed in the recent proposal for a European Directive concerning the processing of personal data and the protection of privacy in the electronic communications sector. This proposed Directive is intended to replace the Directive

⁶ Directive 97/66/EC

97/66/EC. This directive is intended to adapt the existing legislative framework to encompass new developments in communications technologies.

One far-reaching proposal in this directive would give subscribers the right to determine whether they are listed in a public directory and with which of their personal data. The previous default was to list all subscribers. Also this proposed directive provides added protection against unsolicited calls for direct marketing purposes.

The provision of directory services is already open to competition, the provisions of the recent draft proposal for a Directive of the European Parliament on universal service and users' rights relating to electronic communications networks and services complements the Directive concerning the processing of personal data and protection of privacy by giving subscribers a right to have their personal data included in a directory. This proposal also addresses Universal Service Obligations and guarantees access by all users to directory enquiry services

4. VIEWS OF THE RESPONDENTS AND RESPONSE OF THE DIRECTOR

In the consultation paper the Director identified a number of issues on which she sought the views of respondents. These issues are grouped into four sections:

- the market for directory enquiry services;
- expanding choice for ex-directory customers,
- universal service obligations and the national directory database;
- the establishment of a Directory Information Services Forum and a Code of Practice.

This report on consultation outlines each of the questions raised in the consultation paper under the relevant sections. A summary of the responses received is provided along with the Director's conclusions and any proposed actions.

A. THE MARKET FOR DIRECTORY ENQUIRY SERVICES

The choice of directory information services and products in Ireland today indicates that Irish telecom users have a wide variety of options for accessing directory information. In the consultation document, the Director recognised the growth of competition in this market and the number of new players offering a variety of directory information services. This included the wide variety of telecommunications operators offering an operator assisted directory enquiry service, call completion and classified directory searches. In addition the market for printed directories has grown with a number of telecommunication operators and independent providers offering residential, business, fax and email directories. The choice of media to receive directory information has also developed and grown with Internet and CD-ROM services taking a growing share of the market for such services.

Question 1.

Whilst welcoming the development of new innovative services by telecommunication operators and other new players in the market, the Director was keen to elicit views from the industry and from directory service customers as to the current state of competition in the market. Specifically, the Director sought to identify whether there were any actual or potential barriers to entry in the market or whether respondents believed there were operational difficulties that may hinder the further development of competition in this market.

Are there obstacles to providing/using any of the directory enquiry services? Industry respondents should outline any obstacles they encounter in provision and comments from consumer/user interests should focus on difficulties in using these services with suggestions as to how they might be overcome?

The majority of respondents based their response on operational issues relating to the National Directory Database (NDD)⁷. At present, the responsibility for managing the NDD is with *eircom*. *eircom*, as the Universal Service Operator with responsibility for directory services, was of the view that there are no barriers or obstacles to entry in this market. However *eircom* suggested that the non-provision of details by other licensed operators might be hampering the provision of a more comprehensive service. Whilst the NDD is currently operational, it does not contain a full record of subscriber information regularly updated.

Other respondents agreed that in its present form, the NDD is an incomplete listing of mobile and fixed numbers. Many respondents felt the numbers from subscribers other than the incumbent, *eircom*, were not available and they questioned the independence of the NDD.

One operator complained that the structures, arrangements and procedures that have been put in place regarding the NDD have been developed without consultation with data users and suppliers. A number of respondents complained about the non-development of proper data specifications for the system. One respondent complained that data specifications for the NDD had been changed without notice or consideration of the subsequent system changes that would be required.

On a more general level, one operator suggested that there were fundamental difficulties with the centralised database model currently in place and suggested the use of a distributed database model. They argued that such a model would provide for greater data management than a centralised model.

Director's Position

The Director considers that it is a matter of serious concern if the NDD is not operating efficiently for the benefit of operators and users. She is particularly concerned that some operators may not have supplied subscriber information to the NDD. The European and National legislation relating to operators' obligation to supply such data is clear. Section 10 of S.I. No. 71 of 1999 states that all licensed operators have a legal obligation to provide comprehensive directory information to the universal service provider, for those subscribers who have not chosen to be excluded from such a directory. In the ODTR document number D3/99⁸ the Director designated *eircom* with the responsibility for managing the national directory database. While it is the case that the operation of the NDD needs to be examined she considers that this should not preclude operators from supplying subscriber information in accordance with their obligations.

In relation to the effective operation of the NDD the Director will convene a Directory Information Services Forum with all relevant parties.⁹ The forum's task will be to examine the existing operation of the NDD and to agree new procedures where necessary in order to enable the NDD to work more effectively. This may include the

⁷ The creation and operation of the National Directory Database forms one element of *eircom*'s USO obligation

⁸ ODTR Decision Notice – Designation of Universal Service Provider

⁹ See section 4. of Document

formulation of a standard approach for transfer of information to and from the NDD. This Directory Information Services Forum is discussed in more detail in section 4. of the Paper.

The Director believes that the legislation provides for one comprehensive database which should include the directory information of all fixed and mobile customers. The obligation to manage and distribute information contained in the database rests with eircom under the legislation. The Director does not believe that the obligation to establish and manage a national directory database is best served by a decentralised distributed database system. The Director has concerns regarding the legal implications of such a system and further concerns regarding efficiency and workability.

Question 2.

The development of competition in the Directory Enquiry market has led to the development and introduction of new products. The Director sought to identify whether there were technical or other difficulties preventing additional Directory Enquiry products being offered.

Are there other directory service products that could be provided? Are there technical difficulties or bottlenecks preventing the provision of these products?

eircom believed that no bottlenecks or barriers, constraining new services exist at present. They further stated that they are seeking to provide and develop new products, although these were not outlined due to commercial sensitivity.

All respondents confirmed that they supported the introduction of new services. Some examples of which were

- GIS (Geographical Information Systems)
- Internet access
- CD ROM
- Classifieds Directory

As in Question 1 the respondents identified the main bottleneck or difficulty in providing these services as the problem of inadequate access to a comprehensive database of listings.

Director's Position

The Director believes the development of new and innovative products is a key driver in the market for Directory Enquiries and she welcomes and encourages such development. She is pleased that, apart from the effective operation of the NDD, respondents identified no other significant bottlenecks or technical difficulties. The Directory Information Services Forum will address any difficulties in relation to the operation of the NDD¹⁰.

¹⁰ See Section 4. of Document

B. EXPANDING CHOICE FOR EX-DIRECTORY CUSTOMERS

Question 3.

A big challenge for all telecommunication operators in Ireland at present is the large number of customers who have opted for ex-directory status. The Director is concerned that this large number could limit the value of directory services. The Director is cognisant of Data Protection issues and respects the choice of individuals to opt for ex-directory status. However, in the Consultation Paper the Director referred to the possibility that by offering the ex-directory customer increased Directory Enquiry options and by setting up of a code of practice the number of subscribers opting for ex-directory status could be reduced. The Director put the following questions for consultation:

Do respondents believe that all new and existing subscribers should have the choice of opting out of their directory information being used for direct marketing? Please give reasons.

In his response the Data Protection Commissioner pointed out that under section 2(7) of the Data Protection Act 1988 individuals have an unqualified right to stop their data being used for direct marketing. Therefore the use by telecoms operators of customer data for direct marketing is prohibited unless the specific consent of the customer has been obtained. All other respondents believed that the choice of “opting out” for direct marketing purposes would be a welcome development.

Many of the operators already have procedures in place to safeguard their customers from direct marketing and the “opt out” facility already exists with many operators.

Director’s Position

The Director believes that the establishment of clear guidelines on the use to which Directory Enquiry information can be put may serve to allay the privacy concerns of individual subscribers and provide clarity for operators. The Director believes that this can be achieved through the establishment of an appropriate Code of Practice, which will set, amongst other things, the framework within which Directory Enquiry information can be used.

Unfortunately, there were no consumer replies to the Consultation. The Director believes that the issues raised in this Consultation, and which are to be addressed by the Directory Information Services Forum are of concern consumers. She therefore intends to invite consumer group representatives to attend at that Forum.

The Data Protection Commissioner has offered to assist in the development of such a code. This Code of Practice is discussed in more detail in section 4. of the paper.

Question 4.

Do respondents believe that providing the option of opting out of unsolicited marketing would be useful in helping to reduce the number of ex-directory residential customers?

eircom stated that it is not of the opinion that the option of “opting out” of direct marketing would reduce the number of customers “opting for” ex-directory status.

Some operators suggested that any measure that increases consumer confidence would reduce the number of ex-directory listings.

Other operators were of the opinion that customers generally do not choose to be ex-directory because of the possibility of direct marketing, rather their choice is to do with nuisance calls or because of the type of employment they are engaged in.

Director’s Position

As stated by the Data Protection Commissioner customers have the right not to have their data used for direct marketing purposes. From the responses received it is questionable as to whether the issue of direct marketing has a significant bearing on the number of ex-directory customers. There is as of yet no evidence to suggest that by providing customers with an “opt out” option, the number of ex-directory subscribers would be reduced.

However, having regard to obligations and rights under Data Protection Law the Director believes that this matter could be further considered by the Directory Information Services Forum in developing the Code of Practice.

Question 5.

The Director posed the question as to whether a call completion service without number disclosure would be of benefit to ex-directory subscribers. Call completion without number disclosure would enable subscribers to have their details included in a directory enquiry service database without their numbers being given out to the person calling directory enquiries. Instead, the directory enquiries operator would offer the called party the option of taking a call from a particular enquirer and would only connect the call if the called party agreed.

Do respondents consider that call completion at the request of an ex-directory subscriber should be made available to residential customers in Ireland? Please give reasons.

The Data Protection Commissioner stated that the provision of such a service in respect of “ex-directory” customers would be a contravention of the Data Protection Act unless the specific unconditional consent of the ex-directory subscriber is obtained.

eircom proffered the opinion that a call completion service would be technically feasible but may breach existing data protection legislation by giving the operator access to that number.

One respondent felt that as many options as possible should be made available to ex-directory customers, and overall, operators thought that this service would be beneficial to consumers.

Director’s Position

While the Director is keen that consumers have as much choice as possible she recognises that the provision of such a service would require that ex-directory customers “opt in”. She believes that this matter should be addressed by the Directory Information Services Forum and if found practicable may be made available as an “opt in” choice to the ex-directory consumer.

Question 6.

Do respondents consider that a call completion service would help to reduce the number of ex-directory customers in Ireland? Are there any other options that should be considered?

eircom was unconvinced that a call completion service would reduce the number of customers opting for ex-directory status.

One respondent noted that services like call completion to ex-directory customers might encourage ex-directory customers to remain ex-directory rather than encourage them to be listed.

Director’s Position

Having regard to the issues raised in the preceding question, it is uncertain as to whether a call completion service would reduce the number of ex-directory subscribers. Again she considers that the matter should be addressed at the Directory Information Services Forum.

C. UNIVERSAL SERVICE OBLIGATION AND THE NATIONAL DATABASE

Under the terms of the European Communities (Voice Telephony And Universal Service) Regulations, 1999¹¹, the Director was obliged to designate one or more than one fixed operator, as having an obligation to provide universal service or any element thereof. Directory Services is one element of the universal service. At the time of the designation, the Director felt that eircom had by far the largest allocation of numbers from the national numbering plan therefore had available to it the largest directory data-base in the State. It was also felt that eircom had significant experience in the provision of universal directory services for the fixed and (through its subsidiary Eircell), the mobile networks. The Director considered it reasonable at the time to designate¹² eircom as the organisation required to provide this element of universal service.

Question 7.

In Decision Notice D3/99¹³, the Director stated that having regard to the development of competition in the provision of these services, the willingness of other operators to provide this element of universal service, and any other relevant issues, she would consider this designation further. There is no specified duration to the USO designation, it is at the Director's discretion to review and amend any or all of the elements of the designation. For this reason, the Director in the consultation paper asked:

“Do any respondents believe they are capable of providing directory services under the universal service obligation? Please state your reasons and outline your proposals for funding the provision of such services”.

The majority of operators stated that they would not be in a position to provide directory service under the universal service obligation.

eircom stated that when the Director designates an operator with USO, she should consider the willingness of that party to provide directory services.

One operator said it is both willing and capable of providing the national directory database (NDD) aspect of the USO obligation relating to directory services. This operator did not offer to fulfil the other USO provision i.e. publishing either an electronic or printed directory at least once a year. Another operator said it would be willing to provide the paper directory element of the USO.

Another operator advised that the creation of an effective NDD would facilitate competition for directory products and services, and could ultimately reduce the requirement for directory products to be provided under USO.

Director's Position

¹¹ S. I. No. 71 of 1999

¹² Decision Notice D3/99

¹³ Decision which designates eircom as being the USO provider

Having considered the responses mentioned above, the Director does not propose to undertake an immediate review of the designation of USO provider. She will consider further whether a review should be undertaken after the conclusion of the work of the Directory Services Industry Forum. In making the initial designation, the Director took into account the ability of a designated fixed operator or other person to satisfy all or part of the universal service obligation. The Director is concerned about the operational difficulties surrounding the NDD including the fact that all subscriber listings may not be included. The Director notes the willingness of certain operators to provide elements of a directory service. Any current difficulties with the operation of the NDD should be addressed by the industry through the proposed forum in the first instance.

D. DIRECTORY INFORMATION SERVICES FORUM AND CODE OF PRACTICE

As there has been limited discussion among operators as to an agreed format of information to be supplied to the NDD, the Director in her Consultation Paper suggested the creation of a Directory Information Services Forum to resolve outstanding issues.

Question 8.

Do you agree that an industry-working group should be established to agree the terms and format for submissions and uses of the National Database? Is there a need for further direction on the framework for this work?

There was consensus among all the respondents for the creation of an industry-working group to address the operational issues surrounding the national directory database.

One operator believed that there should be agreement between the USO provider and the individual operator supplying data as to the format of such data.

Another operator believed that the ODTR is responsible for defining the high level objectives for the NDD. It believes that there should be a forum, which would define policy and business requirements in greater detail. When policy and business requirements are clearly defined the implementation of technical solutions would be facilitated.

Eircom stated that it has established a modus operandi for the NDD but realises what might be termed 'housekeeping issues' can give rise to conflict. Such issues include changing listings, entitlement to listings, and orders of listings.

One operator asked the Director to note that inclusion of data from the Mobile Operators poses particular problems. Given the proportion of pre-paid mobile

customers who do not register their number the usefulness of the database in relation to mobile customers' listings could be seriously undermined.

One respondent suggested that participation in the industry-working group by the Data Protection Commissioner would be desirable.

Another respondent stated that while it does not oppose the creation of a Directory Information Services Forum for NDD, it is uncertain whether the benefits outweigh the costs and other complications arising out of the co-ordination needed. Moreover, since subscriber data does change significantly over any length of time, the central pooling of data would make the accuracy of the database even more questionable due to additional time lag of updating the central database.

Another operator stated that the industry group should consider the content requirements of the NDD, the procedures and terms for the supply and receipt of data, and the system specifications and technical issues surrounding the NDD.

Director's Position

The Director notes the industry support for the establishment of a DISF. The Director believes that the industry itself is best positioned to establish mutually agreed processes regarding the use and maintenance of the National Directory Database, particularly given the relationship such processes may have with operators internal systems. The ODTR will convene and chair the first of these meetings on the 12th of April 2001. Subsequent working group meetings will be attended by the ODTR in an observer capacity. The Director welcomes the offer of assistance by the Data Protection Commissioner and proposes invite him (or a nominee) to attend meetings as required to address data protection issues. The Directory Information Services Forum is discussed further below.

DIRECTORY INFORMATION SERVICES FORUM

Participants

The Director proposes that the following parties should be invited to attend the forum:

All licensed operators who have been allocated a short code for DQ purposes

The Data Protection Commissioner

Respondents to this Consultation

Representatives from User and Consumer groups

The ODTR will chair and co-ordinate the first meeting of the forum. Subsequent meetings will be chaired on an alternating basis. The Director suggests that subsequent meetings be chaired alternately by *eircom*, the OLOs and a consumer representative. The ODTR will write to all parties outlined above to invite them to participate in the forum. Responses should be sent to Louise Power (email:

powerl@odtr.ie) by 31st March 2001.

The Director has concluded that, in order for the forum to be most effective, it should focus on key issues that will enable the NDD and associated DQ Services to be established as rapidly as possible. The key issues shall be those discussed in this paper. Any further issues that respondents believe should also be focused on, other than those raised in this paper, should be forwarded to the ODTR with the reply regarding participation.

The forum should try to achieve agreement on these key issues and will report to the ODTR on its conclusions.

Again, in order to be effective, the forum should be established and conclude its work as speedily as possible. It is suggested that the forum be established according to the following procedure:

- The first meeting of the forum will take place on 12th of April 2001. This will give all parties sufficient time to consider their representation on the forum;
- The ownership of forum will rest with parties;
- The forum should agree its remit, based on the principles set out in this paper.
- A list of key issues should be agreed and clarified at first meeting.
- For a number of meetings it may prove efficient and expedient to split the forum into two groupings. One to concentrate on technical issues and the other to concentrate on consumer and data issues.

Any adjustments to the timetable will be agreed at the first meeting. The forum will make a final report to ODTR on issues agreed and on any issues that remain outstanding at the conclusion of its work.

Next steps

It is important that the industry makes progress in its discussions following this paper. The proposed work plan for the Directory Information Services Forum is set out in the following table:

Action	By	Due Dates
Confirmation to ODTR by interested parties of Representatives on Directory Information Services Forum	Interested parties	06.04.01
First meeting of Directory Information Services Forum	All	12.04.01
Final conclusions of Directory Information Services Forum	All	12.06.01
Determination by ODTR as necessary	ODTR	12.07.01

Question 9.

The Director asked respondents whether they believed that an agreed code of practice for the use of directory information would be useful in helping to

define and promote the market for directory information services in Ireland?

The majority of respondents felt that a Code of Practice for directory information would be a welcome development. A code would provide transparency and clarity to telecom operators supplying directory information services, which in turn, would result in a more efficient and consumer-friendly service. In addition it could increase confidence in the security of information given by subscribers which could increase the number of entries thereby adding to the comprehensiveness and value of the directories.

Two operators expressed the belief that a code of practice would not be of any additional benefit in promoting the market for directory information services. They believed that this should be left to competitive market forces.

Three respondents felt that the Data Protection Commissioner should be consulted in the drafting of the Code. As stated above the Data Protection Commissioner has indicated that he would be happy to assist in developing this Code.

Director's Position

The Director agrees that a Code of Practice¹⁴ relating to directory information should be developed as soon as possible. . The Director proposes that the Directory Information Services Forum should develop and agree such a code with the assistance of the Data Protection Commissioner.

CODE OF PRACTICE

The ODTR wishes to ensure that operators develop adequate customer information and consumer protection procedures to assist the public in understanding the choices they will have, and how the new services will work.

In addition, measures will need to be in place to protect customers from potential operator misuse of the Data available. This will require the development of a Code of Practice.

The Directory Information Services Forum will develop the Code of Practice. Consumer groups and the Data Protection Commissioner will be involved in the work of the forum to ensure that any consumer protection measures introduced have their support.

This Code of Practice will establish the broad principles that apply to the use of customer information.

The Code will address, inter-alia: -

- 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 e.g. Internet/WAP DQ
- new services e.g. call completion
- search facilities
- ex directory customers
- complaint and inquiry handling

Question 10

Question 10 of the Consultation Paper asked whether respondents consider that such a code of practice should be included in the licensing regime? Could the code be enforced voluntarily?

A number of operators felt that the licensing regime should be amended to require licensees to adhere to the code of practice in their use of directory information and require them to enforce adherence to the code of practice with recipients of such data, through strict contractual agreements.

Another operator stated that if the code of practice relates only to the use of data, then it could be incorporated into the contracts for supply of and use of data from the NDD. A number of operators stated that the Code should be voluntary and would not support any change to the licensing regime. The fact that some providers of directory information services may not be licence holders was one reason given.

Director's Position

The Director believes that it is unnecessary that the Code of Practice for directory information should be included as a licence condition and that it should be developed on a voluntarily basis. However, once agreed, the all participants should agree to be bound by its terms.

Further, compliance with the Code of Practice should be incorporated as a condition into operators contracts for the supply and use of data from the NDD.

DIRECTORY DIALLING ACCESS CODES

At present, in accordance with the General Telecommunications Licence, there is specific reference to persons to whom the Director has allocated a directory enquiry access code. There is no specific provision for service providers who wish to offer

their services by means other than through a short access code. This includes potential Internet or electronic directory information providers.

Question 11.

Question 11 of the Consultation Paper asked whether respondents believed that Directory Information Service Providers should be required to apply for a directory access dialling code?

Condition 6.10 of the General Telecommunications Licence states that all licensees are required to make directory information available to every directory information service provider and to co-operate with them in the supply and compilation of comprehensive and accurate directory information subject always to applicable data protection laws. For the purpose of Condition 6.10 a directory information service provider is taken to mean any person to whom the Director has allocated a directory enquiry access dialling code to be used for the provider of directory information services.

Most respondents addressed this issue by identifying the difference between operator assisted directory enquiry services and other directory information services. Where operators choose to offer an operator assisted DQ service, all respondents were of the view that access dialling codes were necessary and extremely useful in identifying and promoting telephone directory services. The provision of short, easily remembered access codes provides for a user-friendly service to the benefit of customers and operators alike. However, where DQ providers choose to offer their services by means other than through a telephone operator, for example on the internet or a CD Rom, many respondents agreed that requiring such providers to apply for an access dialling code would be unnecessary and could in fact be restrictive in promoting competition amongst these services. Only one respondent felt that access codes should be required for all DQ providers.

The Director's Position

The Director recognises the distinction between directory information providers who wish to offer a telephone-based service and all other information providers in the market. She welcomes the growth of competition in the directory information market through such media as the Internet, CD-ROMs, and printed directories.

The Director's position is that Condition 6.10 of the General Licence relates only to operator assisted directory enquiry services and should not be interpreted to include other directory providers who choose to offer a service unrelated to operator assisted DQ services. Such information providers have no use of a short access code and any such requirement to apply for one would be an inefficient use of the ODTR's access dialling codes. The Director does not accept that licensees can restrict access to directory information to other licensees, who also are in possession of a short access code. Where other providers can clearly demonstrate that the directory information will be used for the purpose intended and that their use of the data complies with all the relevant data protection legislation, then in interests of promoting competition in the directory market licensees, will be urged to supply such information. The Director believes that the terms and conditions under which the data is provided is a

matter best left to contractual arrangements between the operator and the directory information provider. Any complaints relating to an operators' refusal to supply information can be referred to the Director and complaints relating to data protection issues may be referred to the Data Protection Commissioner.

ACCESS TO DIRECTORY INFORMATION

The stated goal of the ODTR is to provide 'Price, Choice and Quality' for the consumer. One of the objectives is to ensure the ensuring provision and choice of the widest range of directory information services and products. Growth in directory services competition should lead to improvements in service quality, variety and value for money whilst at the same time helping to promote further use of other telecommunication services. To this end, the Director asked the following questions:

Questions 12 and 13.

Question 12 asked if respondents considered that expanding the rights of access to directory information would be beneficial to the directory information market?

Question 13 asked what obligations for access to directory information would respondents like to see placed on licensed operators?

Five respondents stated that expanding the rights of access to directory information would be beneficial to consumers by encouraging competition between all types of directory service, notwithstanding the obligations relating to the subscribers right to opt out and the privacy rights of subscribers. Increased competition between directory products would have the effect of reducing or removing the USO obligation on eircom e.g. eircom's duty to publish the phone book.

However, one respondent warned that assurances would have to be given that alternative routes of access (e.g. Internet access) would adhere to all data protection legislation.

Another operator stated that the security of data which is passed to eircom remains an outstanding issue of major importance to the industry and should be one of the first issues to be addressed by the industry-working group.

Two respondents felt that the existing obligations regarding access is adequate.

Director's Position

The Director welcomes the broad industry support for expanding access to operators who do not have a short code in the manner outlined in relation to Question 11. The Directors position is that the use of the information and data should be in accordance

with all relevant legislation, the industry code of practice to be developed and user choice.

Question 14.

Under the General Telecommunications Licence (GTL), licensees are obliged to provide their customers with access to at least one Directory Information Service provider. Under the terms of the Mobile Telecommunications licence, licensees are obliged to ensure that customers have access to directory services offered by every Directory Information Service Provider, subject to fair and reasonable interconnect arrangements being agreed. In order to promote competition in the market, the Director asked if it is necessary to ensure that customers have access to the directory information services offered by every Directory Information Service Provider.

Question 14 of the Consultation Paper asked the following:

Do respondents consider that all telecommunication licence holders should be obliged to ensure access for their customers to the directory information services offered by every Directory Information Service Provider?

Three respondents believed that this obligation should only apply to the SMP operator in the fixed network and services market i.e. eircom. Commercial pressure will be sufficient to ensure that other networks will open access to directory enquiry codes.

Another three respondents felt that through directions issued by the Director, the subscribers of each licence holder would be entitled to access the services of each DQ service provider.

One operator stated that the general licence should be amended to comply with the obligations that are put on mobile operators, i.e. “the licensee shall ensure that its customers have access to directory information services offered by every Directory Information Service Provider”.

Another operator sought clarification that access should be made available to services provided by every DQ service provider *with an access dialling code*, as to capture access to the DQ services offered by every DQ provider would be impractical. Licensed operators should be obliged to have all directory information access codes open on their networks.

Director’s Position

The Director believes that consumers should have the widest available choice of Directory Enquiry Services in both the fixed and mobile markets. While Mobile Licence holders are obliged to provide their customers with access to every Directory Information Service Provider, General Telecommunication Licensees are obliged to ensure access to at least one Directory Information Service Provider. This does not preclude GTL holders from providing their customers with access to more than one Directory Information Service Provider, subject to technical and commercial considerations. Indeed, the Director believes that operators, in seeking to respond to consumer needs, should seek to ensure the widest possible access to directory services is available.

Having considered the responses to the Consultation, at this point in time, the Director does not believe that the requirement to provide access to at least one Directory Information Service Provider represents an obstacle to the development of competition in this market. The Director will review this matter following the presentation of the DISF's conclusions to the ODTR.

6. NEXT STEPS

- Respondents are invited to attend a Directory Information Services Forum. The ODTR will write to all parties to invite them to participate. All Respondents should forward a list of key issues to be addressed with their response.
- Responses should be sent to Louise Power (email: powerl@odtr.ie) by 6th of April 2001.
- The first meeting of this forum will be on the 12th of April 2001.
- The Directory Information Services Forum should submit its conclusions to the ODTR by the 12th of June 2001.
- The ODTR will make a final determination based on these conclusions on the 12th of July 2001.
- The Director may review the USO designation after this final Determination.