



Office of the Director of
**Telecommunications
Regulation**

**The role of resellers in Carrier Pre-Selection
&
the block transfer of customer accounts.**

Consultation Paper

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1. Introduction

Carrier Pre-Selection (CPS) was introduced into the Irish market on 1st January 2000 in fulfilment of a timetable set out in Decision Notice (D2/99) *Introducing Carrier Pre-Selection in Ireland*. Since its introduction CPS has been a key enabler of effective competition within the liberalised market. This paper addresses the role and responsibilities of CPS Resellers and how they operate within the CPS environment.

Interested parties are invited to submit their views on the Consultation in writing before 5pm on Friday 10th August 2001 to: -

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All comments are welcome, but it would make the task of analysing responses easier if respondents refer to the relevant question numbers in this document. In order to promote further openness and transparency, the ODTR will publish general summaries of responses received to this consultation paper. Where material that is commercially sensitive is included in a response, this should be included in an annex and clearly marked “confidential”. After the publication of the response all other material will be available for inspection at the offices of the ODTR.

The ODTR will analyse the comments received, take them into consideration and issue a Decision Notice in August 2001.

This consultative document does not constitute legal, commercial or technical advice. The Director is not bound by it. The consultation is without prejudice to the legal position of the Director or her rights and duties to regulate the market generally.

2. Definitions

Definitions and obligations of the CPS Operator are as set out in Decision Notice D2/99-*Introducing Carrier Pre-Selection in Ireland*. The proposed definition of CPS Reseller is broadly based on that used in the document ODTR 00/32, *The Regulatory Framework for Access in the Mobile Market*, which defines Resellers in the mobile market.

2.1 CPS Operators

In Decision Notice D2/99 - *Introducing Carrier Pre-Selection in Ireland*, the Director decided that network operators (“CPS Operators”) are eligible to provide a CPS service if they: -

- hold a Basic or General License
- become signatories of a CPS Code of Practice
- have a Network to Network Interface with an access network operator who is obligated to provide CPS facilities (currently *eircom* only)

A CPS Operator can offer the consumer the following options: -

- Option 1 - International Calls only
and / or
- Option 2 - National calls only
or
- Option 3 - All calls

(Options 1 and 2 may be combined so that the customer has pre-selections for both national and international calls).

CPS Operators may provide these services directly to consumers or they may do so indirectly via Resellers. The relationships between Resellers and CPS Operators are defined in the next section.

2.2 Resellers in the CPS Environment

The definition of the CPS Reseller must cater for all possibilities of service provision. The Director suggests that the following proposed definitions of "Tied CPS Reseller" and "Independent CPS Reseller" illustrate the two basic business models that a resale agreement might follow. These definitions have been based on those put forward in the context of the mobile market¹ and the Director considers that these definitions –with contextual changes- are also broadly suitable for the CPS environment.

¹ *The Regulatory Framework for Access in the Mobile Market*, ODTR 00/32

- **Tied CPS Reseller**

Tied CPS Resellers sell branded subscriptions and calls on their parent network. The reseller purchases them at wholesale rates and has some freedom to vary packaging and tariffing. The key point is that the customer's contract is with the reseller but it is the wholesaler - the CPS Operator who is eligible to provide the CPS service - that is responsible for processing the orders and trafficking the calls. The CPS Reseller handles the customer service, tariffing and billing.

- **Independent CPS Reseller**

Independent CPS Resellers are similar to the Tied CPS Resellers in that they purchase wholesale from CPS Operators and resell to their contracted customers. The difference is that Independent CPS Resellers are not tied to an individual CPS Operator and can make a choice between networks. For example, the CPS Reseller could negotiate several agreements for different areas and/or for different call types. As with the Tied CPS Reseller the customer's contract is directly with the Independent CPS Reseller itself rather than a CPS Operator and the CPS Operator is responsible for processing orders and trafficking calls.

These proposed definitions represent the most likely forms that a CPS Reseller might take. However, other variations of the relative roles and responsibilities of reseller and operator are possible (e.g. the CPS Operator might provide the customer service function in relation to fault handling). The ODTR will continue to support innovation in the reseller market, particularly if customer service or the value proposition can be enhanced.

A Tied or Independent CPS Reseller does not operate any part of a telecommunications network infrastructure and relies wholly on the CPS Operator for the transmission and/or routing of all call traffic. As such, the CPS Reseller does not offer to the public a licensable service as defined by the ODTR.

Questions

Q 2.1 Are the definitions of the Tied CPS Reseller and the Independent CPS Reseller correct and sufficient? If you disagree, please specify alternative definitions in detail.

3. Obligations

Whilst facilitating the presence of CPS Resellers in the market, the ODTR recognises the need for certain safeguards to ensure that customers receive at least the same quality of service from the CPS Reseller as they would directly from the CPS Operator.

3.1 Commercial agreements and the Code of Practice

As the CPS Reseller does not operate any part of a telecommunications network infrastructure and relies wholly on the CPS Operator for the transmission and/or routing of all call traffic, the CPS Reseller must enter into a commercial agreement with a CPS Operator for the transmission of calls. The Director now proposes that to be eligible to enter into such an agreement the reseller must become a signatory of the CPS Code of Practice and both commercial agreement and CPS Code of Practice must be signed at the same time.

The existing CPS Code of Practice is a mandatory agreement for all CPS Operators, but only CPS Operators can sign it. CPS Resellers are currently not eligible to become signatories and therefore the CPS Code of Practice must be amended to facilitate the inclusion of the CPS Resellers.

3.2 Registration

The Director proposes that all CPS Operators should be required to register each resale agreement with the ODTR before the CPS Reseller can offer services based on it to the public. Whenever a new pairing is registered, the ODTR proposes to update and circulate a list of registered CPS Operator / Reseller pairs to all CPS Operators and CPS Access Network Operators (currently *eircom*). The list would provide industry visibility of all legitimate CPS Resellers and potentially serve as an additional safeguard in validating a request for a block transfer of customers.

3.3 Customer Visibility of Licensed Operator

The ODTR understands that in comparable reseller / operator pairings existing elsewhere in the telecommunications industry, the practice of providing visibility of the licensed operator to the customer on contractual material supplied by the reseller varies from a bold footnote to no mention whatsoever.

Any requirement for the CPS Reseller to inform the customer about the underlying CPS Operator will normally be contained in the CPS Operator / Reseller contractual agreement. The ODTR sees an advantage to such information being provided as it adds transparency for the customer, but believes its inclusion should only occur with the willing agreement of both Reseller and Operator. While association with a major supplier may be seen as an advantage, provision of this information may also be seen as a problem by either the Reseller or the CPS Operator, for competitive reasons. It is also possible that the identification of multiple parties may contribute to customer confusion over the appropriate point of contact in the case of an enquiry or a complaint.

Questions

Q 3.1 Do you agree that the CPS Code of Practice should be amended to allow CPS Resellers to become signatories? If you disagree please give your reasons in detail.

Q 3.2 Do you agree that signature of the Code of Practice should form an integral part of the process of establishing a commercial agreement between the CPS Operator and Reseller? If you disagree please give your reasons in detail.

Q 3.3 Do you agree that CPS Operator / Reseller pairs should be registered with the ODTR by the CPS Operator and circulated by the ODTR, as described above? If not, please give reasons in detail.

Q 3.4 Can the provision of visibility of the Licensed Operator to the customer be left to the discretion of each CPS Reseller / Operator pair? If not, please give reasons in detail.

Q 3.5 Do you consider that there should be any additional provisions to ensure a flow through of obligations from the CPS Operator to the CPS Reseller? If so, please give details.

4. Inter Operator Processes

For CPS Resellers to form an effective constituent of the marketplace they should have the ability to change their underlying CPS Operator for the provision of some / all calling services, swiftly, effectively and at their discretion - within the bounds of their contract with the CPS Operator (except, perhaps, in the case of a Tied CPS Reseller, which has waived this right). In this respect, one particular process envisaged is the block movement of customers between operators. This process requires the co-operation of all parties concerned to ensure a seamless transference of service for the customer.

4.1 Block Transfer of Customers

Under current CPS procedures, the transfer of customers between CPS Operators can only take place if those customers sign new Customer Authorisation Forms (CAF) and this process usually takes place at the behest of the customers that wish to change operator. To facilitate a straightforward block transfer process, where the CPS Reseller has initiated the transfer, new procedures must be introduced into the CPS process manual. The Director proposes that block transfers of customers by resellers should not require new or resigned CAFs. However, in the event of a block transfer the CAFs must be relocated to the gaining CPS Operator and the register of CPS Operator / Reseller pairs, which the ODTR will maintain, should be immediately updated to reflect the new arrangement.

Similarly company mergers and acquisitions may require block transfers of customers. If the entity with which the customer has a contract is unchanged in this process then the customer should remain unaffected. If, however, a block transfer of customers between entities would result in a change in their contractual terms, the Director proposes that these customers should be entitled to a period of grace, during which the terms and conditions of their original contracts are maintained by the new entity. Thereafter, the terms and conditions may only be changed in accordance with the procedures established by the original contract.

4.2 Allocation of Additional Routing Codes to facilitate CPS Resellers

In order to facilitate the efficient block transfer of CPS Reseller customers between CPS Operators in the future, the Director proposes that – subject to availability² - a specific CPS routing code could be allocated to a CPS Operator for use in each CPS Operator / Reseller pairing. The short code would identify the CPS Reseller to the CPS Access Network Operator, which could effect a block transfer by simply changing global routing tables rather than individual customer set-ups when a CPS Reseller changed CPS Operator. The number would be transferred between CPS Operators on the occasion of a block transfer and the ODTR would be informed of the transfer as part of the process of updating the CPS Reseller / Operator register.

² There are currently approximately 70 free routing codes in the range currently used for CPS (139XX).

4.3 Customer Notification

If the terms and conditions of the customer's contract with the CPS Reseller are being changed as a result of a block transfer, the ODTR understands that the CPS Reseller would be obliged to communicate the upcoming changes to the customer. This provides the customer with the opportunity to object to the transfer.

Where there are no changes to the terms and conditions of service, but the CPS Reseller had already communicated the identity of the underlying CPS Operator to the customer, it seems reasonable that any change in that underlying CPS Operator might also be communicated. However, if the original customer contract does not disclose this information, then communicating a subsequent change of underlying CPS Operator at a later stage may be a source of confusion to the customer. This is an issue for commercial negotiation between the CPS Reseller and the new CPS Operator (but see also section 3.3).

Questions

***Q 4.1** Do you agree that the block transfer facility, with no requirement for a new or resigned CAF should to be introduced? If you agree, please indicate how you think it should operate. If you disagree please give your reasons in detail.*

***Q 4.2** In the event of a block transfer, do you agree the terms and conditions of the original customer contract should be frozen for a defined period? If so how long would you consider appropriate? If you disagree please give your reasons in detail.*

***Q 4.3** Does the block transfer process require any additional provisions to ensure a seamless transference of service for the customer? If yes, please give details.*

***Q 4.4** Do you agree that additional CPS routing codes should be allocated to CPS Operators to identify CPS Resellers and facilitate their operation within the CPS environment? If you disagree, please give reasons in detail.*

***Q 4.5** Do you agree with the customer notification scenarios described in section 4.3? If you disagree, please give reasons in detail.*

Appendix I - Legislative Background

There is a range of relevant legislation in this area; the most relevant of which is summarised below:

Interconnection Legislation:

- *Directive 97/33/EC of the European Parliament and the Council of 30 June 1997 on interconnection in Telecommunications with regard to ensuring universal service and interoperability through application of the principles of Open Network Provision (ONP).*
- *The European Communities (Interconnection In Telecommunication) Regulations, 1998. SI No. 15 of 1998, transposing the above directive.*
- *Directive 98/61/EC of the European Parliament and of the Council, of 24 September 1998, amending Directive 97/33/EC with regard to operator number portability and carrier pre-selection.*
- *The European Communities (Interconnection In Telecommunication) (Amendment) Regulations, 1999. SI No. 249 of 1999, transposing the above directive.*

Voice Telephony Legislation

- *Council Directive 98/10/EC on the application of open network provision (ONP) to voice telephony and on universal service for telecommunications in a competitive environment, and*
- *European Communities (Voice Telephony and Universal Service) Regulations, 1999, SI No. 71 of 1999, transposing the above directive and Directive No. 97/33/EC*