



Office of the Director of
**Telecommunications
Regulation**

DECISION NOTICE

CPS in Ireland 2002

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Foreword

The Consultation paper, ODTR 02/47, Carrier Pre-Selection in Ireland, invited comments on the operation and evolution of the CPS service after two years of practical experience and put forward ideas for possible improvements in the service. The document listed certain specific issues, which were not meant to be exhaustive and comment was welcomed on any aspect of CPS which can help improve the quality of service to the end user. I am pleased to note that a wide range of views was expressed and these will contribute to further development of the service, going forward.

I would like to thank all those operators and organisations who have contributed ideas, information and comments for this review. The Decisions I am making in this Document take account of the views expressed and the result is a series of enhancements that I am confident will significantly improve the CPS service and the competitive environment in Ireland.

Furthermore, *eircom's* Conveyance charges are under review by my Office and the methodology of calculating order handling charges will be the subject of a separate consultation exercise in the near future. I believe that together these two initiatives will address the industry's concerns over the level of charges. In addition, my Office will include CPS calls in its future programme of stack testing of retail prices. All of this work will be concluded before the end of October 2002.

In general, I am pleased that CPS has already shown itself to be a powerful tool for driving competition forward and I believe these new changes will set the scene for it to serve the community even better over the years ahead.

Etain Doyle,

Director of Telecommunications Regulation.

1 Background

1.1 Introduction

In early 1999, the Director of Telecommunications Regulation consulted on a framework for the introduction of Carrier Pre-Selection (CPS) in Ireland. Following that consultation, the Director published Decision Notice D2/99¹, which set out a challenging timetable requiring the introduction of CPS services in Ireland by 1st January 2000. Following its on-time introduction, CPS became the preferred way for Other Licensed Operators (OLOs) to provide telephone service to a significant proportion of Irish telephone users.

In the following years of liberalisation, competition has transformed the Irish Telecommunications market. OLOs' share of the fixed line market today stands at 21%, 1% more than in March 2001. For the first quarter of 2002, all segments of the Irish telecommunications market show signs of stabilising, though with the number of CPS lines somewhat down since the previous quarter.

With the CPS service now available for over 2 years and in view of some indications that the market is not yet effectively competitive, the ODTR has undertaken a comprehensive review of the service. A key element of this review was the Consultation process initiated by ODTR Document No. 02/47, Carrier Pre-Selection in Ireland². The specific issues addressed in this consultation paper were:-

- The possibility of providing a single bill for CPS customers, amalgamating both *eircom* and CPS Operator (CPSO) elements. This could be provided to the customer by either the CPSO or *eircom*.
- The inclusion (for some or all CPSOs) of certain call categories that are currently excluded from the 'All Calls' CPS option.
- Provision of Call Barring and other ancillary services to CPS customers.
- CPS Code of Practice issues, focussing on complaint and enquiry handling, customer contact and 'win-back'.

These issues and proposals were not however, meant to be exhaustive; input on any aspect of CPS which can help improve the quality of service to the end user was invited by the consultation paper.

Thirteen responses to the consultation were received, covering all industry sectors affected by CPS. These dealt in detail with the topics raised and also provided useful and varied input in response to the open invitation to comment on any CPS matters not specifically addressed. A good basis has therefore been provided for a thorough overhaul of CPS in Ireland, making it more effective in the years ahead.

¹ Introducing Carrier Pre-Selection in Ireland, Decision Notice D2/99, Document No. ODTR 99/29

² Carrier Pre-Selection in Ireland, Document No. ODTR 02/47

1.2 The List of Respondents

Respondent
ALTO
Chorus
Cinergi
<i>Eircom</i>
Esat
MinuteBuyer
Nevada
Newtel
NTL
Sky-Net
Switchcom
Vodafone
WorldCom

2 Single Bill

2.1 Summary of Consultation Topic

One problem identified by users of the CPS service is that they receive two bills - one from the CPSO for calls and one from *eircom*. This is an inconvenience for the user and can contribute to bad debt problems for the CPSO. A single bill can be produced either by the CPSO or by the CPS Access Provider (*eircom*) and both options were examined.

The CPSO billing option presented was where *eircom* provides the CPSO with details of connection, rental and excluded call charges and the CPSO becomes responsible for bill creation and dispatch, credit control and reimbursing *eircom* for its charges. The OLO is the billing agent on its own behalf and on behalf of *eircom*.

To enable single billing, *eircom* must provide billing data or network solutions for the following categories of service to the end user:

- Line rental;
- Excluded, chargeable calls;
- Ancillary services.

This single billing facility could be provided in combination with Wholesale Line Rental, where the OLO 'rents' the customer access line from *eircom* at a wholesale price, or by Agency Billing, where the OLO collects monies due on behalf of *eircom*. As noted by the Director in Decision Notice D10/02 (*eircom*'s RIO), several other countries have either introduced or are in the process of introducing a Wholesale Line Rental product and the availability of this product seems to be encouraging further development of competition. It should be noted that both the Single Billing through Wholesale Line Rental and Single Billing by Agency Billing options are envisaged as extensions to the CPS service. Neither Wholesale Line Rental nor Agency Billing are seen as independent products in their own right in the context of this Decision Notice.

CPS Access Provider billing is where the CPSO provides details of its call charges to *eircom*, which in turn is responsible for bill creation and dispatch, credit control and reimbursing the OLO for its charges.

2.2 Demand for Single Billing and benefits for consumers

Q 2.1 Is there a demand for single billing of CPS customers? If so, what benefits/disadvantages would such an additional service bring and how should it be implemented?

2.2.1 Views of Respondents

The responses indicate a demand for single billing, but there were clear indications that further investigation is required into the approach. Customers would prefer to receive a single bill, as it would be simpler, clearer and more convenient to use, and this would facilitate competition among Operators. Single

billing could also help by simplifying fault resolution for the customer (i.e. in event of fault, the customer only needs to contact a single entity). However one Respondent noted that single billing – whether by *eircom* or the CPSO - would be extremely complex. *eircom* shared this concern, even feeling that the costs and resulting customer and operator problems of introducing single bills would far outweigh any potential advantages. Another potential disadvantage cited was the risk of increased bad debt for the CPS Service Provider.

One respondent does not see demand for single billing, stating that its introduction could reduce customers' knowledge of alternative services.

2.2.2 Analysis and Director's Position

Respondents' comments demonstrated widespread support for the concept of single billing, which agrees with independent market research carried out on behalf of the ODTR that indicated that the disincentive of multiple bills was a major factor in influencing a significant proportion of residential customers to revert back to *eircom*. Indeed, one respondent noted that almost half of the win-back customer testimonials on the *eircom* website at one time centred on the single bill issue. This clearly indicates a high level of customer dissatisfaction with multiple billing.

The Director believes that the residential sector would benefit most from a single bill and should therefore be given priority as multiple billing is less of an issue for customers in the SME/Corporate sectors. In addition, while providing a single billing solution for residential customers would undoubtedly be complex, it would nevertheless be more straightforward than for the SME/Corporate sector, where customers may have complex service set-ups and multiple providers, and may actually prefer separated billing in some cases.

Nevertheless, the Director recognises the complexities of practical implementation³ of any form of single billing solution which, as one respondent commented, would require a level of co-operation and understanding not achieved in Ireland to date. The ODTR also notes (though does not necessarily accept) the *eircom* initial viewpoint that a wholesale line rental offering seems to incur at least the same level of complexity as unbundling of the local loop in respect of pricing, wholesaler/retailer obligations and operational issues.

Set against these complications are the manifest benefits to the consumer of ease of payment, simplicity, and clarity of operation.

Overall, the Director is encouraged that reaction from the respondents is largely positive towards this product. Therefore she believes that there is sufficient interest in this product to progress with its introduction in Ireland.

³ *eircom* and CPSOs would probably have to undertake significant OSS development and a certain degree of integration of their retail and wholesale systems to make single bills a reality

2.3 Single Billing by OLOs

Q2.2 If single billing of CPS customers is to be implemented, is single billing by OLOs a desirable option?

2.3.1 Views of Respondents

Respondents indicated that single billing via the OLO is a desirable option, though several counselled caution, indicating that further investigation is required. *eircom* and another respondent also urged caution and suggested that significant investigation was required before implementation, with a possibility that the practical difficulties of implementation of single billing by the OLO would outweigh any gains.

2.3.2 Analysis and Director's Position

Responses to Question 2.1 established that there is a desire, in principle, to see the introduction of CPS Single Billing in principle, as discussed and analysed in section 2.2 above. Responses to this question (Q2.2) show there is a clear demand for this option, which should be met. The development of single billing products will ensure that *eircom* is providing similar facilities and information to CPSOs, under similar conditions and of the same quality, as it provides for its own retail operations. However, the concerns expressed by a range of respondents show that considerable care is needed if the outcome is to be sufficiently beneficial.

To assist *eircom* in the development of product proposals for the various new products and services required by the Directions contained in this document the ODTR will set out its expectations of the essential features of these products, and present these to an industry workshop for comment. A revised list of essential features, incorporating the views of participants, will be provided to *eircom* within one month of the date of this document.

Direction 2.1:

eircom is directed to provide a range of 'Single Billing for CPS by CPSOs' (CPS Single Billing) products. The details of these offerings, which are to be proposed by eircom by end of September 2002, and implemented by the end of January 2003, will be subject to agreement by the Director. An industry forum will help develop the detailed product description and agree the technical and operational aspects necessary for implementation. This decision is made under Regulation 7, Regulation 10 and Regulation 13 of the European Communities (Interconnection In Telecommunications) Regulations, 1998. SI No. 15 of 1998, as amended.

2.4 Single Billing by OLOs through wholesale line rental

Q2.3 Is single billing of CPS customers by OLOs in conjunction with a wholesale line rental offering a desirable option?

2.4.1 Views of Respondents

Respondents generally agree with the implementation of single billing by OLOs in conjunction with a wholesale line rental offering. They raised concerns about the need for commercially sensible charges, previous bad experience of difficult projects that take too long to introduce and the need for a detailed preliminary investigation.

One respondent disagrees with the introduction of this service, citing that it applies undesirable new levels of regulation on the market. *eircom* indicate that if the CPSOs wish to offer their customers a service with PSTN access and calls, Wholesale Line Rental (WLR) may have a role to play.

2.4.2 Analysis and Director's Position

Responses to Question 2.1 established that there is a desire, in principle, to see the introduction of CPS Single Billing, as discussed and analysed in section 2.2 above. Responses to Question Q2.2 showed there is a clear demand for CPS Single Billing by OLOs, as set out in section 2.3. Responses to Question 2.3 indicated that there is good support for single billing through WLR and the ODTR will therefore focus further on this approach, which it considers to be a viable option. The development of this variant in particular will directly address the issue of ensuring that *eircom* is providing to CPSOs similar facilities and information under similar conditions and of the same quality as it provides for its own retail operations.

The ODTR will take account of respondents' suggestions to look at other products (e.g. such as BT's 'Calls and Access' product and analogous offerings elsewhere). Responses to a previous consultation (on *eircom*'s Reference Interconnect Offer) indicate a good degree of support for wholesale line rental as a concept; the main advantage cited for this product was the further opening of the market to competition.

Single billing through Wholesale Line Rental is broadly supported by respondents. The Director can see a clear role for Wholesale Line Rental as an element of CPS Single Billing. Initial implementation should be constrained to soft copy output from *eircom*'s existing computer systems with the minimum of software development.

Direction 2.2:

eircom is directed to provide a 'Single Billing through Wholesale Line Rental' product for OLOs, as an element of the range of products required for CPS Single Billing that will be developed in line with Direction 2.1. This decision is made under Regulation 7, Regulation 10 and Regulation 13 of the European Communities (Interconnection In Telecommunications) Regulations, 1998. SI No. 15 of 1998, as amended.

2.5 Single Billing by OLOs through line rental rebilling

Q2.4 Is single billing of CPS customers by OLOs in conjunction with line rental rebilling a desirable option?

2.5.1 Views of Respondents

The majority of respondents view single billing by OLOs in conjunction with line rental rebilling as a desirable option, at least as an interim solution in advance of the deployment of wholesale line rental.

Those who do not support it, consider it is too complex to implement and that it causes difficulties in relation to debt collection, hampers the Access Provider's ability to introduce new products and would require significant investment. *eircom's* position is that an agency billing solution is fraught with legal, commercial and regulatory difficulties (including customer contract issues, data protection, customer contact, branding, applying discounts, etc).

2.5.2 Analysis and Director's Position

Responses to Question 2.1 established that there is a desire, in principle, to see the introduction of CPS Single Billing, as discussed and analysed in section 2.2 above. Responses to Question Q2.2 showed there is a clear demand for CPS Single Billing by OLOs, as set out in section 2.3. In responding to Question 2.4 the majority indicated support for single billing through agency rebilling, at least in the initial phase of establishing Single Billing for CPS.

The Director notes *eircom's* view that the wholesale route is an easier solution to the issues of customer service, data protection, branding and customer communication and recognises that the industry preference is for the Single Billing through Wholesale Line Rental option. Nevertheless, there is a clear indication of demand for this 'Single Billing through Agency Billing' product

This variant of CPS Single Billing will provide a stepping stone between the existing CPS service and the 'CPS Single Billing through Wholesale Line Rental' version discussed above. As such it will add valuable flexibility for both consumers and OLOs. From the customers' viewpoint it retains the contractual relationships of the existing service with the added convenience of a single bill. From the OLO's position it sets limits to its responsibilities, retaining the shared

responsibility for delivery of service to the customer, as at present, but with a single initial point of contact for the customer.

This form of Single Billing will be the simplest to implement in software terms, being simply the provision of existing itemised retail bills in soft copy format to the customer's CPS service provider. The development of this variant in particular will directly address the issue of ensuring that *eircom* is providing similar facilities and information to CPSOs under similar conditions and of the same quality as it provides for its own retail operations.

The Director therefore considers that 'Single Billing through Agency Billing' will provide an important option amongst the range of CPS Single Billing products. Initial implementation should be constrained to soft copy output from *eircom's* existing computer systems with the absolute minimum of software development.

Direction 2.3:

eircom is directed to provide a 'Single Billing through Agency Rebilling' product as an element of the range of Single Billing products for CPS services it will be developing. The product will be developed in line with Direction 2.1. This decision is made under Regulation 10 and Regulation 13 of the European Communities (Interconnection In Telecommunications) Regulations, 1998. SI No. 15 of 1998, as amended.

2.6 Demand for Single Billing by the CPS Access Provider

Q2.5 Is single billing of CPS customers by eircom a desirable option?

2.6.1 Views of Respondents

Almost all respondents agreed that single billing of CPS customers by *eircom* would not be a desirable option. *eircom* indicated that this solution would not be easy to implement and would require significant investment.

2.6.2 Analysis and Director's Position

The Director accepts that generally this service is not desired by the majority of respondents at this time and will focus on the possibilities of the CPSO or reseller providing the single bill. In view of the comments received, the access provider is not required to provide for 'Single Billing for CPS by Access Provider', amongst the products it will be developing. However, if it wishes to do so, it may include this option in its product portfolio.

3 Excluded Calls

3.1 Summary of the Consultation Topic

At present, certain types of calls are carried by *eircom* under all circumstances. Individual OLOs have expressed interest in including some or all of these excluded call types within their CPS product offerings.

Currently, all included CPS call types are routed to the CPSO for switching and excluded call types are being switched by *eircom*. Two options were suggested in this consultation to allow CPSOs to manage the provision of currently excluded calls, Commercial Inclusion and Network Inclusion.

Commercial Inclusion of excluded call types is where any or all excluded call types could be purchased by the OLO at wholesale rates from *eircom*. Network Inclusion of call types would require a reduction in the current excluded calls list. To achieve the latter, a further level of analysis on an operator specific basis would be required in *eircom*'s exchanges prior to routing calls.

3.2 Demand for changes to the list of excluded calls

Q3.1 Does demand exist for a reduction in the number of calls excluded from the CPS 'All Calls' service? If so, what benefits/disadvantages would such an additional service bring and how would it be implemented?

3.2.1 Views of Respondents

The consensus among respondents is that there is a demand for a reduction of calls excluded from the CPS 'All Calls' service, with one indicating that while there was a demand, it required further investigation. Two respondents did not accept any implication that the level of analysis required by *eircom* should lead to an increase in costs to OLOs.

eircom and another respondent considered there was no demand for such a reduction.

Stated benefits included an increase in competition, increased flexibility, plus reduced customer confusion in the residential market.

The risk of inefficient routing was noted by one respondent. *eircom* indicated that Operators would have to take increases in Internet traffic into account when route dimensioning. *eircom* also suggested there is a lack of consensus at industry level as to which currently excluded calls should be included in the 'All Calls' service. Overall, *eircom* feels that CPS customers would not benefit from having different flavours of CPS 'All Calls' and that such a situation would give rise to customer confusion.

Some respondents indicated a preference for Network Inclusion, while others preferred Commercial Inclusion, and yet a further grouping of respondents indicated that further discussion between customers, industry and ODTR was required before deciding on an implementation.

3.2.2 Analysis and Director's Position

The present list of call types excluded from CPS does not represent industry consensus, as evidenced by the support from CPSOs and *Resellers* for a reduction in the exclusions list.

Exclusions currently consist of 999/112 emergency access codes, carrier access/selection/pre-selection codes – which by definition cannot be included in CPS, network specific short codes (14XX, 17X, and 199), and 1891 Internet access. This analysis therefore centres on 1891 Internet access (and by implication the 189X family of Internet access products), since they are the only major revenue-bearing exclusions.

The Director considers that CPS should, in principle, not exclude any call types, a view broadly supported by the European Commission. (Operators will remember that the EC initiated infringement proceedings in 2000 against certain countries that did not include local and/or certain calls to non-geographic numbers in CPS). In principle, Internet access should therefore be available in CPS.

However, *eircom* maintains that inclusion of 189X calls into the 'All Calls' category would be likely to cause a significant increase in loading on CPS routes which would need to be re-dimensioned by both *eircom* and the CPSO to ensure that route congestion would not lead to customer dissatisfaction with CPS for both Internet and non-Internet calls alike. The Director also notes the OFTEL decision for excluding Surftime and FRIACO calls from CPS in the UK, which supports this view. The view was similarly supported by certain respondents.

The industry direction over the last several years has been to uniquely identify Internet access traffic, allowing it to be distinguished from voice traffic and taken off the voice network at the earliest possible opportunity. This avoids a growing volume of long duration traffic being carried inappropriately on the transit layer of the network. In fact, this is at the core of current developments for 1892 'Pay-as-you-go' Internet access services in Ireland.

If 189X traffic is routed over CPS, a CPSO will incur both the cost of call origination on the network connecting the retail customer and the cost of terminating on the network hosting the ISP. Assuming the CPSO must price its 189X services to be competitive with other operators' offerings, the levels of network cost plus out-payments may be prohibitive for some CPSOs. For this and other reasons, the requirement for the inclusion of Internet access calls into CPS is not universally accepted by CPSOs.

However, *eircom* claims that the standard market CPS functionality provided by its switch manufacturers will not allow certain call types to be included by some CPSOs and not by others. The ODTR may investigate this assertion further, since it may have a bearing when considering other exclusions.

With these technical and economic factors in mind, the ODTR had introduced the idea of 'Commercial Inclusion' – the CPSO would purchase excluded call types (specifically 189X) at wholesale rates from *eircom*. The CPSO would set retail rates for these call types and subsequently bill the customer directly, using call data supplied by *eircom*.

In general, the Director acknowledges the varying demands for increasingly inclusive CPS packages and notes the overriding principle that ideally no call

types should be excluded from CPS. She also recognises the practical and economic difficulties around the network inclusion of Internet access calls in CPS - it being a high volume and low margin product.

Given the range of disparate views and opinions, the Director considers that the issue will have to be considered further before making specific alterations to the existing excluded calls list. The ODTR will therefore introduce this as an agenda item for both the CPS Committee and the 1892 Working Group. These groups will produce a jointly agreed position paper, setting out the way forward, by 30 September 2002.

The Director notes that billing by CPSOs for all excluded call types will be possible by adoption of either form of CPS Single Billing described in Section 2, above.

3.3 Freedom for CPSOs to set their own list of exclusions

Q3.2 If a reduction in the number of calls excluded from the CPS 'All Calls' service is desirable should all operators provide services from a restricted range, as at present, or should CPS operators be free to set their own list of exclusions? Please give reasons for your preference.

3.3.1 Views of Respondents

Respondents were divided on this issue with some support for the view that a restricted range is adequate, while others indicated that the CPSOs should be free to set its own individual list of exclusions.

One respondent indicated that the number of calls excluded from the CPS 'All Calls' service should be kept to a minimum, feeling that the introduction of a dedicated 'All Calls' list for each CPSO would involve excessive analysis and give rise to significant overheads. *eircom* stated that the CPS service implementation could be amended so that certain call types presently excluded could be included and, if required, certain call types presently included could be excluded. *eircom* however also indicated that the standard market CPS functionality provided by its switch manufacturers does not allow call types to be included for some CPSOs and excluded for other CPSOs.

3.3.2 Analysis and Director's Position

The Director notes *eircom*'s description of the practical limitations on its switching capability and appreciates that these may well provide overriding constraints on the introduction of complete solutions for individually designed network inclusion, but no such limitation exists for commercial solutions. Therefore provision of a commercial solution is viewed as the best way forward at this point in time.

While mindful of the potential danger of customer confusion, the Director recognises the benefit of enabling product innovation and diversity. As stated above, the ODTR will lead further investigation of this issue through the CPS Committee.

4 Call Barring and Ancillary Services

4.1 Summary of the Consultation Topic

Currently, when an *eircom* customer with Call Barring in place opts for CPS, the barring facility is removed from the line. Previous debate on this issue has drawn attention to the possibility of CPS Operators providing the barring from their own switches, but this may not be practical in all circumstances.

Other ancillary services that are available to *eircom* customers are similarly unavailable to CPS customers. It was suggested that a wholesale version of these services might be beneficial to consumers.

4.2 Demand for Ancillary Services

Q4.1 Does demand exist for the introduction of wholesale versions of eircom's ancillary services (such as Call Barring)? If so, what benefits/disadvantages would such additional services bring and how would they be implemented?

4.2.1 Views of Respondents

Almost all respondents see a strong demand for the introduction of wholesale versions of *eircom*'s ancillary services, with the majority of these groups indicating they would like to see all *eircom* retail services being made available to the CPSOs on a wholesale basis. These CPSOs will benefit from being seen as 'one stop shops' for customers.

One respondent felt there was no demand for these ancillary services and that if a CPSO chooses not to invest in platforms which support the full range of services, this is a commercial decision giving rise to the kind of normal product differentiation one can expect in a competitive market. *eircom* considers that call barring of calls handed over to CPSOs should be handled by those CPSOs.

4.2.2 Analysis and Director's Position

The Director notes strong demand for the introduction of wholesale versions of *eircom*'s ancillary services. The likely demand for these facilities is also partially supported by market research recently undertaken by the ODTR; the research indicates that a lack of availability of these ancillary services influenced residential customers to revert back to their original suppliers.

Innovation in the provision of telecommunications services is a fundamental concern of the industry and of users alike. The Director has previously expressed her concern to ensure an environment exists that promotes such innovation, resulting in the publication of Decision Notice D7/00 (*eircom*'s Reference Interconnect Offer, Decision Notice D7/00, Section 6.1.1, Document Number ODTR 00/31). This decision clearly states *eircom*'s obligation to provide wholesale versions of all retail products, with the development of standard processes for the development and introduction of new interconnection services

and elements, including standard documentation and time scales. CPS is covered in this area. *eircom* is also obliged to offer new interconnection services and elements to other OLOs with such notice that the OLOs can order and have the new service delivered by *eircom* at the time that the associated retail service is launched by either *eircom* or the OLO that initiated the development of the new service.

In addition, some minimum level of functionality and investment is required by CPSOs to support many ancillary services (e.g. Last Dialed Line Identification (LDLI) in signalling for the Call Forwarding service).

The Director recognises that the introduction of such services is complex and not straight-forward; commitment and action on the part of all bodies concerned is the only solution to delivering these services to the market.

The Director re-iterates her earlier position: in order that OLOs can compete on an equal footing with *eircom* retail, *eircom* should provide a full list of ancillary services. The level of these ancillary services should be the same as that offered to its retail division or subsidiaries, i.e. any elements that are offered on a stand-alone basis to an *eircom* subsidiary or retail division should be listed and priced, based on cost of provision. Hence, as set out in Decision 6.2.1 of D7/00⁴, *eircom* shall provide in its RIO a full range of unbundled interconnection products and network elements. The level of unbundling should be the same as that offered at this time to its retail division or subsidiaries. Provision of these wholesale ancillary services to CPSOs will follow the priorities set out in Direction 4.1 below.

4.3 Priorities amongst ancillary services

Q4.2 If demand exists for wholesale versions of eircom's ancillary services, for which of these services should wholesale products be developed, and which of these would be the highest priority? Please give reasons for your views.

4.3.1 Views of Respondents

Demand for Call Barring services was ranked highest amongst all groups, though with some differences of emphasis according to respondent category (e.g. CPSOs favoured Call Forwarding, Call Waiting, Voice Mailbox and CLIP and CLIR functionality, while *Resellers* requested Call Tracking '1471' service, Call Waiting, Call Forwarding in that order). One respondent stated there was no basis for the introduction of these services and *eircom* reiterated its response as in Q4.2, that CPSOs should be in a position to develop similar platforms on their own switches.

⁴ *eircom*'s Reference Interconnect Offer, Decision Notice D7/00 & Report on the Consultation Document No. ODTR 00/31, April 2000.

4.3.2 *Analysis and Director's Position*

In view of the demand for such services, the provision of wholesale versions of retail services appears to be the solution for OLOs that covers all the above options. The development of these products will directly ensure that *eircom* is providing to CPSOs similar facilities and information under similar conditions and of the same quality as it provides for its own retail operations.

The responses received indicate that certain organisations are not fully aware of the industry availability and regulatory requirements for certain services. For example CLIP/ CLIR functionality has been delivered by *eircom* to the market.

Clear demand exists for wholesale versions of *eircom*'s ancillary services. The consultation responses support the establishment of the order of priorities set out below in Direction 4.1.

Direction 4.1:

eircom is directed to provide wholesale ancillary services according to the following priorities:

Highest – call barring, call tracking

Medium – call waiting, 1471

Lower – all other ancillary services

The highest priority offerings will be developed in line with Direction 2.1. This decision is made under Regulation 7, Regulation 10 and Regulation 13 of the European Communities (Interconnection In Telecommunications) Regulations, 1998. SI No. 15 of 1998, as amended.

5 Code of practice issues

5.1 Summary of the Consultation Topic

The CPS Code of Practice (CoP) was developed and agreed by the Irish telecoms operators and it provides a framework within which, to date, the industry has operated the CPS service in Ireland. This document has been reviewed and updated since its original version.

More than two years have passed since the introduction of CPS and the ODTR has received a number of representations relating to issues governed by the CoP. The Director considers that it is now time to instigate a comprehensive review of this document.

The Director believes that some revisions may be necessary to the current code of practice. The areas to consider, among others, should include:

- Complaint handling and enquiries;
- Contact with customer;
- Customer Authorisation Form (CAF) rules.

5.2 Complaint handling and enquiries

Due to the dual billing relationship, the customer may occasionally be confused as to which operator to contact in relation to a particular issue. Dealing with these instances of customer complaints/enquiries is covered in the CoP and the relevant section was written to ensure that such incidents are dealt with in such a manner as to

- not cause further confusion for the customer;
- avoid the use of responses to misdirected complaints or enquiries that denigrate the other service provider; and
- not use such calls as sales opportunities.

Q5.1 Is this part of the CoP working satisfactorily? If not then please provide an explanation and examples of why this is the case, together with proposals for how the CoP could be changed to achieve an improvement in the situation.

5.2.1 Views of Respondents

The majority of respondents indicate that this process is not working satisfactorily, with two requesting a revision of the CoP in this area. Some respondents suggest that *eircom* staff are using this part of the CoP as a sales opportunity and many suggested that *eircom* staff are making false claims about *Resellers* when dealing with complaints or queries, a practice that is against the CoP. They propose that greater clarity is required on how a complaint should be

dealt with and that financial penalties should be imposed for inappropriate methods deployed by operators in this area.

One suggestion for improvement concerned the formation of a system between operators that allows customers to make a complaint/enquiry call once only, that this call is then logged - in combination with a call recording facility adopted by all OLOs - and that this system is regulated by the ODTR, in order to monitor inappropriate activity.

eircom and another respondent feel the CoP is clear and is working satisfactorily. *eircom* states however that its service centre has become the first point of contact for CPS customers, whereas the CPSOs should be the first point of contact. *eircom* also states that its employees do not discriminate against CPSO customers.

5.2.2 *Analysis and Director's Position*

The key issues raised by the respondents signify a significant level of customer confusion and dissatisfaction with the current method of complaint and fault handling for CPS. There is clear evidence to suggest that customers are initially confused over which operator to contact and over the processes that operators follow on receipt of a complaint. An additional cause for concern is the allegation that the fault management process is being abused and inappropriately used as a sales opportunity or to denigrate the service of a competitor.

There is a further need for consolidation of both complaint and fault handling services in relation to CPS and the Director considers that this can be addressed by a separate OLO CPS fault handling desk to be established and maintained by *eircom*. The proposal for a dedicated repair centre was originally identified as an industry requirement at the CPS Committee but this option was not pursued at that time. The mechanism for cost recovery will be addressed in an upcoming ODTR consultation which will additionally examine the costing principles appropriate to the order handling charges for inter-operator products.

As an interim solution, the Office proposes that the complaints and fault management process will continue as currently outlined in the CoP, with the addition of defined scripts which operators must follow when contacted by a customer of a CPSO/Reseller regarding a fault. These scripts should negate any opportunity to use a fault call as a sales opportunity.

Given the clear need of the industry for a more stringent and customer friendly approach to both complaints and fault handling, the Director now charges the CPS Committee to re-examine and implement such a dedicated facility. Until its implementation is complete, the CPS Committee should draft and agree guidelines for suitable scripts which operators must adhere to when contacted by a customer in relation to a complaint / fault handling.

Direction 5.1

eircom is directed to provide a dedicated OLO complaint and fault handling facility for CPS customers. This facility will be developed in line with Direction 2.1. This decision is made under Regulation 10 of the European Communities (Interconnection In Telecommunications) Regulations, 1998. SI No. 15 of 1998, as amended.

5.3 Contact with the Customer and ‘Win-back’ Activities

The section of the Code of Practice covering contact and win-back controls how the ‘Losing Operator’ may contact the customer.

A number of issues have arisen in relation to this section of the CoP, suggesting to the Director that it may need either clarification or change. Issues raised with the ODTR include the question of whether ‘loss notification’ should be communicated at all between operators for the purpose of initiating ‘win-back’ activities. The ODTR’s review of best European practice indicates that an extended period of up to twenty days exists in certain markets during which a Losing Operator should not contact the customer (i.e. no win-back activity for a defined period).

Q5.2 *Please state your view as to whether the ‘loss notification’, currently allowed for the purpose of win-back under the CoP, should be ceased? Please give reasons for your response.*

5.3.1 Views of Respondents

The general consensus among respondents is that the ‘loss notification’ activity should not be ceased, though with *Resellers* less clear than other categories (as it is used to determine customer activity). Many respondents requested a thirty day period for ‘cooling off’ as opposed to five days, as currently there is rapid movement of customers between *eircom* and OLOs. However, a dissenting respondent would like the ‘five day’ opportunity removed completely as customers are unwilling to sign another CAF to return to the losing operator so soon after agreeing to sign with the gaining operator.

One respondent sees loss notification as an essential way of fostering competitive offers and hence benefiting the user. *eircom* would like to see the practice maintained as it is seen as a valuable tool in the areas of customer protection, detecting when a customer has been ‘slammed’ or is a victim of poor selling practices.

5.3.2 Analysis and Director’s Position

The Director agrees with the majority of respondents that loss notification is a valuable tool in the CPS process and, as such, should be maintained. She is also persuaded that the use of loss notification for the purposes of ‘win-back’ activities

should be ceased due to its impact on customers, its disruption of the marketplace and the sensitivities of the customer information. Recent guidance from the Data Protection Commissioner's Office indicates that the unsolicited contact made as a result of the loss notification must be more restricted than at present and that the limited customer contact proposed below is the proper approach. Loss notification should only be used for the purposes of billing arrangements, slamming detection or protection, and fault management. This means that any 'win-back' activity would be incompatible with the constraints placed upon the unsolicited contact and would have to rely on whatever other means are appropriate and compatible with data protection law, which is an existing requirement of the CoP.

Under the CoP, the losing operator is permitted to make one unsolicited contact with the customer within 5 days of receipt of the loss notification. For the purposes of billing arrangements, slamming detection or protection, and fault management, the losing operator may use the loss notification to trigger this contact with the customer, which must be in writing, and in an industry agreed format.

Direction 5.2

All Licensed Operators are directed not to use Loss Notification for the purposes of win-back with effect from the date of this notice.

This decision is made under Regulation 10 of the European Communities (Interconnection In Telecommunications) Regulations, 1998. SI No. 15 of 1998, as amended.

The ODTR will bring this issue to the Agenda of the CPS Committee to agree the wording of the anti-slamming letter and to make the necessary changes to the CPS Code of Practice and the CPS Process Manual.

5.4 Extension of 'No-Contact' Period in Principle

Another matter to be decided was the question of whether the CoP should be amended to provide for an extended period before any win-back activity may take place.

Q5.3 Do you believe that the CoP should be amended to provide for an extended period before any win-back activity can take place? Please give reasons.

5.4.1 Views of Respondents

Most respondents believe the period before win-back activity can start should be extended to one or two months, possibly dependent on the billing period. The reasons listed in support of such an extension were that it allows the customer to

experience the CPSOs service and receive a bill, and that it gives the losing operator time to collect outstanding payments.

However, dissenting resellers indicated that win-back should be achievable at any time, and that the most effective win-back campaigns are during the first five days of a customer moving, while any extension is anti-competitive as it limits the customer.

eircom and one respondent agreed with the dissenting views that win-back should be achievable at any time, suggesting that short win-back periods ensure customers are given maximum information on which to base their decisions as well as playing an essential role in the early detecting of slamming and poor selling practices, thereby avoiding increased customer dissatisfaction with the CPS product.

5.4.2 *Analysis and Director's Position*

Following Decision 5.2, Loss Notification will no longer trigger win-back activities. Customers will be able to experience the CPSOs service and receive a bill while the operators maintain the ability to combat slamming using the written contact with the customer. Customer contact for the purposes of win-back can be undertaken by any methods permitted under Data Protection legislation. The ODTR advises operators who wish to engage in win-back activities to contact the DP Commissioner's Office to ensure such activities comply with Data Protection legislation.

5.5 Length of Extension of 'No-Contact' Period

Q5.4 If you agree with the concept of extending the loss notification period, how long should any extended period be? Please give reasons.

5.5.1 *Views of Respondents*

Almost all respondents agreeing with an extension of the win-back period indicate a thirty day period would be acceptable. Other proposals included a ninety day period of prohibition on the incumbent's win-back activities and a two month period of no contact by OLOs after the thirty day win-back call has been made (suggested by an OLO).

5.5.2 *Analysis and Director's Position*

Please refer to section 5.3 and section 5.4 above.

5.6 Additional Points

Respondents were given the opportunity to provide inputs on any matters not covered elsewhere.

Q5.5 Are there any other changes that you believe are required to this section of the CoP? Please give reasons.

5.6.1 Views of Respondents

One respondent suggested that there should be clear penalties for inappropriate sales activities using misleading information on CPS services and that there should be no sales activity for thirty days following the CPS installation. Another considered that 'loss notification' should be treated only as a warning of a cease, prior to a cease, rather than as a 'confirmed cease'. Yet another considered the disputes process to be too unwieldy and sought a more rapid mechanism to stamp out any breaches and harassment of customers, suggesting the development of an independent resolution mechanism for this.

eircom's view was that publication of prices by all operators and greater control on CPS activities, plus penalties for slamming, would improve the CPS process.

5.6.2 ODTR Analysis and Director's Position

The Director recognises the problems associated with sales activities and the difficulties of dealing with these fairly. She would like to hear further from the industry on ways and means by which slamming, breaches of the CoP, and misleading information to customers can be addressed.

As these important and difficult issues needs support from all sides for satisfactory resolutions to be reached, the Director has decided to refer the CoP to the CPS committee which will investigate and recommend on how best to address them.

5.7 Bad Debt Issues

The ease with which customers can move from one operator to another under CPS has raised the issue of controlling bad debt levels. This appears to be a source of concern. Whilst bad debt is a commercial issue, the question has been raised with the ODTR as to whether procedures can be agreed which would be of general benefit to all operators. Any such mechanism must, of course, comply with Data Protection Law.

Q5.6 Please state, giving reasons, whether procedures could be established at an industry level to deal with issues relating to bad debt. If you believe procedures could be established, please outline what they might be.

5.7.1 Views of Respondents

Bad debt is clearly a cause of serious concern for the majority of respondents. Most are in agreement that certain procedures could be established to deal with the bad debt issue, though the methods suggested to solve this problem are varied; (e.g. many supported the establishment of control procedures or a confidential database for tracking serial defaulters). Some respondents disagreed, however,

with one indicating that no regulation is required, one requesting a separate consultation on this matter and one suggesting that an industry forum on bad debt may be a solution.

A number of respondents proposed that the OLO concerned should be informed by *eircom* of any move and if a customer is not up to date on payments, the OLO should be allowed to block the transfer until the customer has fully paid up.

eircom is willing to engage with OLOs in an effort to improve the overall CPS offering for service provider and consumers, but expressed concern with ODTR intervention into commercial matters. They highlight that the responsibility for bad debt management remains with the service provider and suggest the setting up of an industry forum to address this issue. *eircom* also indicates a number of factors that need to be taken into account in relation to any proposals, such as Data Protection Legislation, the fact that currently acceptable credit bureau facilities do not track credit histories of utility users and that a cost/benefit analysis would be needed.

5.7.2 *Analysis and Director's Position*

The Director notes the concerns of all groups on the issue of bad debt. Any accumulation of bad debt is obviously a serious matter.

The Director is aware that since this Consultation was issued a number of parties have engaged in mutual discussions with a view to finding a solution to this problem. She understands that a proposal involving a possible pilot project, has been identified by the parties. This proposal along with other proposals identified in this paper or at the CPS Committee, may contribute, or form the basis of a solution, to this issue.

The Director is of the opinion that the various options put forward should be explored at the CPS Committee. In addition the proposal referred to above should clearly be factored in and discussed more generally at an appropriate juncture. Any proposals for addressing this issue must be compliant with Data Protection and Competition Law.

5.8 **Customer Authorisation Form (CAF) Rules**

This section of the CoP aims to ensure a transparent process for providing access to the CAFs when a customer or an operator has a bona fide query in relation to that CAF. The ODTR has received representations that occasionally CAFs are requested for which no bona fide reason has been forthcoming, and would like to understand whether this is a significant issue for the industry.

Q5.7 Is this section of the CoP clear and does it need any amendments? Please provide examples and explanations to support the position stated.

5.8.1 Views of Respondents

Respondents are split on this issue; four indicate that the CoP is not clear in this area, three of these indicating that this section of the CoP is not adhered to. Suggestions were for an independent body to be set up to monitor these activities, and/or for movement towards an electronic CAF. Other respondents feel that it is not a significant issue.

Specific examples were given of anomalies:

- Section 9.2 – if a customer complains to a Losing Operator or the Access Network Operator regarding a CAF and either Operator requests a copy of the CAF, then the Gaining Operator must provide a true copy of the CAF to that operator within 2 business days. As the losing operator does not know who the gaining operator is, this rule doesn't work;
- Section 9.5, in which a CPS Operator must nominate a single area, called a Nominated Area, for CAF responsibilities –is not adhered to.

eircom requested changes to Sections 9.2 and 9.3 of the CoP to provide greater clarity of its position for the party requested by the losing operator to provide the CAF. *eircom* believes it is not currently clear to OLOs that *eircom* does not provide a 'CAF retrieval' service.

5.8.2 Analysis and Director's Position

The current process entitles the customer to request a copy of the CAF from either the Losing Operator or the Access Network Operator when an unauthorised change in operator is suspected. This is retrieved on the customer's behalf from the Gaining Operator. However the customer or the Losing Operator may not know the identity of the Gaining Operator without the intervention of the Access Provider. This issue of the identification of the Gaining Operator is currently being addressed within the CPS committee. A technical working group is being convened to implement a facility whereby the customer can dial a specific code which will be routed by its current CPS Operator to a recorded announcement that will clearly state the identity of the operator trafficking the calls for that particular CPS option e.g. *All Calls*. In the event of slamming, this facility will enable the customer to identify the perpetrator and seek re-instatement with its original provider.

The Director also notes there appears to be a lack of clarity on the specific conditions under which a CAF request can be made and the subsequent process for retrieval. She considers that Section 9.2 of the CoP should be amended to fully document the process for CAF retrieval following a customer request; the ODTR will therefore bring to the CPS Committee an agenda item to address this and related issues.

Clarification of the CAF retrieval process and implementation of the operator identification facility should be completed before the end of October 2002.

5.9 General Issues

As mentioned in the introduction to this consultation, the issues and proposals raised in this paper are not meant to be exhaustive and the Director welcomed inputs on any aspect of CPS which can help improve the quality of service to the end user.

Q5.8 *Are there any other aspects of the CPS product which you feel need to be examined in order to help improve the quality of the product? Please provide examples and explanations to support the responses given.*

5.9.1 Views of Respondents

Respondents were most helpful in their inputs to this section and a wide range of issues was raised. Most commonly mentioned was the high level of charges for order handling and conveyance. Some respondents proposed the performance of Stack Tests on CPS calls.

Other issues commented on include:

Sales tactics

- the impartiality of *eircom*'s Customer Service staff;
- Unacceptable sales practices;

Network quality

- A request was made for a quality report indicating the % of calls that fail at the *eircom* exchange level as a result of CPS and reasons as to why these calls failed.

CPS Committee issues

- the number and reasons for rejected orders by *eircom*;
- the automation of *eircom* manual processes, plus the provision of a list of situations where CPS must be removed and the reasoning behind that removal;
- difficulty for customers in obtaining information relating to their *eircom* account;
- the status of switchless *Resellers* is unclear to one CPSO;
- whether the requirement for unanimous consent for decision making at the CPS Committee should be removed;
- publication of prices by all operators;
- penalties for slamming;

Other issues

- Whether mobile operators with SMP should have a CPS interconnection offering.

5.9.2 *Analysis and Director's Position*

eircom's Conveyance charges are being actively reviewed by the ODTR and the methodology of calculating order handling charges will be the subject of a separate consultation exercise in the near future. Taken together these will address the industry's concerns over the level of charges. The ODTR will include CPS calls in its programme of stack testing of retail prices. The Director expects all of the above work to be concluded before the end of October 2002.

eircom's sales practices are the subject of a separate investigation by the ODTR which is currently underway and which will be reported on in the near future.

The technical performance of CPS calls was addressed in the recent study whose findings were published as ODTR Document No: 02/41, CPS Call Quality Summary Report.

The other Committee issues listed are either currently under discussion in the CPS Committee, or will be introduced onto its agenda by the ODTR and the Director has noted the suggestion that Mobile Operators with SMP should provide CPS interconnection services.

The Director welcomes the comments and suggestions on all of these subjects and considers that the wide range of reviews, investigations and other activities being undertaken by the ODTR will be sufficient to address them all.