



Office of the Director of
**Telecommunications
Regulation**

**Report on the first Consultation on *eircom*'s Draft
Code of Conduct for Selling Practices with draft
provisions on CPS and Number Portability.**

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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.

The Director published a Consultation Paper on *eircom*’s draft code of conduct concerning selling practices in November 2000¹ and sought comments on the draft from interested parties.

The Director would like to thank the organisations that responded to the consultation paper. The responses received to the consultation paper can be viewed in this Office.

Responses were received from:

- Chorus Communications
- *eircom* plc.
- Esat Group (“Ocean Communications and Esat Telecommunications”)
- Esat Digifone
- Interoute
- Meteor
- NTL

The Director herein sets out her report on the consultation process, summarising the views received from respondents, indicating her proposed position regarding the draft Code. In this paper, the Director, in accordance with Condition 19 of *eircom*’s GTL, is publishing the revised draft code and will consult with *eircom* before issuing her final directions to the draft code. This document includes *eircom*’s draft Codes for CPS and Number Portability and the Director welcomes comments from interested parties on this additional text. Following consultation with *eircom* the Director will issue directions to *eircom* specifying any modifications or additions that she considers should be made to the draft code. *eircom* will then be instructed to publish its amended code in accordance with any directions as to publication made by the Director.

2. Background

In D15/99 the Director designated *eircom* with Significant Market Power (SMP) in the Fixed Telephone Network and Services Market, in the leased line market and in the national market for Interconnection. Condition 19 of the General Telecommunications Licence² states that an operator with SMP in the Fixed

¹ See *eircom*’s Draft Code of Conduct Concerning Selling Practices: A Consultation Paper, Document Number ODTR 00/85 published at the ODTR web site: www.odtr.ie

² See General Telecommunications Licence, Document Number ODTR 98/50R published at the ODTR web site www.odtr.ie

Telephone Network and Services Market shall draw up an appropriate code of conduct for selling practices.

Condition 19 of the General Telecommunications Licence (GLT) states:

“The Licensee shall draw up an appropriate code of practice directed to its and its Affiliates’ employees and agents concerning selling practices for licensed Services within the Relevant Market and designed to avoid unfair or anti-competitive practices, and shall submit the same to the Director in draft form. The Director may initiate a consultative process on the draft code and, after considering the responses received and consulting the Licensee, issue directions to the Licensee specifying any modifications or additions that she considers should be made to the draft code. The Licensee shall then publish the code in the agreed amended form, in accordance with any directions as to publication made by the Director, externally and internally to its and its Affiliates’ employees and agents; and shall forthwith implement the same. The Director may from time to time issue further directions requiring modifications or additions to the code and as to its republication and application.”

The draft code produced by *eircom* is not an exhaustive list of potential anti-competitive behaviour or unfair practices that may ensue, but rather, it is a guideline in the form of a Code of Conduct concerning Selling Practices for employees. *eircom*’s employees, and the employees of *eircom*’s affiliates, are directed within this draft, to contact the *eircom* in-house Regulatory Affairs Department and/or the Group’s lawyers before particular actions are taken. The contact details of the Regulatory Affairs Department for *eircom* are provided within the Code.

The consultation and the subsequent decision of the Director are not substitutes for the relevant national and European telecommunication and competition legislation, rules and/or licences. The draft code, and any subsequent Code resulting from the consultation process, should be read in conjunction with all relevant legislation.

3. Provisions on Carrier Pre-Selection and Number Portability

In its response to the consultation *eircom* proposed that the following texts on Carrier Pre-Selection and Number Portability should be included in its Code of Conduct regarding selling practices:

Carrier Pre-Selection (CPS)

- i. Carrier Pre-Selection has been in operation since 1 January 2000.
- ii. *eircom* is a signatory to an Industry Agreed Code of Practice in relation to CPS. That Code of Practice **must** be observed.
- iii. A customer who chooses to have some or all of his/her calls carried by another operator under CPS continues to be an *eircom* customer and should not be

treated any differently to a customer which has all his/her call traffic carried by *eircom*.

- iv. Copies of the Code of Practice are available from the Regulatory Affairs Department.

Number Portability

- i. *eircom* is a signatory to an Industry Agreed Code of Practice in relation to Number Portability. That Code of Practice **must** be observed.
- ii. Copies of the Code of Practice are available from the Regulatory Affairs Department.

The Director as mentioned earlier, requests *eircom* to include its codes of practice on Carrier Pre-Selection and Number Portability as agreed by the industry, in separate annexes to its final Code of Conduct. However, she is also of the opinion that revised texts on CPS and Number Portability should be included in the main body of the Code.

The Director would like to invite comments from interested parties on the proposed *eircom* texts as outlined above. The Director has included in the attached annex *eircom*'s draft Code including her draft amendments arising from the Consultation. The closing date for receipt of comments is 16th February 2001. Following this second public consultation and the ODTR's meeting with *eircom*, the Director intends to publish her final directions on *eircom*'s Code of Conduct.

4. Responses to this Consultation

The following overall viewpoints have been summarised from the submissions:

Question 1

Does the draft Code meet the objective set out in Condition 19 of *eircom*'s GTL i.e. 'to avoid unfair or anti-competitive practices'? If not, what changes are required? Please give reasons.

One operator raised the point of extending unfair or anti-competitive practices to include the national directory database. Two operators believed that the draft code meets *eircom*'s obligations under its licence. Two other operators did not believe that the draft code was satisfactory, as in one operator's view the code is a set of aspirations rather than objectives, and sought objective measures for treatment of competitors in comparison to subsidiaries. A number of operators called on the ODTR to supervise or participate in *eircom*'s internal disciplinary procedures.

Director's Position

The matter of Directory Enquiries is being dealt with under the Consultation paper on Directory Enquiries³. The Code may be updated, if deemed appropriate or required, following the outcome of the Consultation on Directory Enquiries.

It is not the Director's role to become involved in *eircom*'s internal disciplinary procedures. The licensee is responsible for ensuring compliance with licence conditions and it is the responsibility of the licensee to ensure that employees behave in a manner that does not amount to a breach of licence conditions.

Question 2

Is the draft Code comprehensive i.e. does it adequately address *eircom*'s obligations under its Licence and Competition Law? If not what additional obligations should be reflected?

One operator was concerned that the Code would override *eircom*'s licence obligations. Another operator expressed a clarification on the markets where *eircom* has SMP. *Eircom* stated that the Code adequately addressed its obligations under its licence and competition law. It stated that the code is supplemented by detailed guidelines on competition law, regular briefings, oral and written, by regulatory staff and subject-specific guidance notes. One operator felt that the code should be extended beyond selling practices and should include both accounting practices to prevent cross-subsidisation and engineering practices to ensure equality of access to scarce resources. Another operator supported this view by stating that the code should also address SLAs and industry documentation.

Director's Position

As stated earlier the code of conduct should be read in conjunction with all relevant legislation. This code is not a substitute for the relevant national and European telecommunication and competition legislation, rules and/or licences. For the purposes of this code of conduct concerning selling practices, *eircom* has SMP in the following markets:

- fixed public telecommunications networks and services;
- leased lines;
- national market for interconnection.⁴

The Director believes that it would be beneficial if *eircom* includes its additional guidelines and commitment to staff training within the code, making the code more transparent to the other licensed operators.

In relation to the comments to extend the scope of this Code, the Director is bound by the specific licence condition, which addresses selling practices only. Therefore, the Director does not propose to introduce accounting and engineering practices within

³ See The Market for Directory Information Services and Products in Ireland – Consultation Paper, Document Number ODTR 00/87 available on the ODTR web site www.odtr.ie

⁴ See SMP Decision Notice (D 15/99), ODTR 99/75, published at the ODTR web site: www.odtr.ie

the scope of this Code. However, the Director feels it would be helpful if *eircom* attached in separate annexes its code of practices on Carrier Pre-Selection and Number Portability which were previously agreed with the industry.

Question 3

Do you believe that the guidelines mentioned in Section 3 of *eircom*'s draft Code of Conduct are exhaustive and are explained in sufficient detail? Please give reasons for your answer.

A number of operators stated that the draft code is not an exhaustive list as selling practices evolve over time as new products and services are introduced in the market place. These operators expressed the need for the Code to be revised on a regular basis to ensure consistency with the market place. One operator felt that the status of the Code should be clarified.

Another operator stated that *eircom* staff should not be engaging in any criticism of *eircom*'s competitors' product and service offerings. When discussing competitors with its customers it is essential that *eircom*'s representatives limit their comments to accurate factual statements. In addition, *eircom* is obliged to desist from engaging in any discrimination between its customers and/or competitors. One operator stated that the provision in Section 3 of the draft code which states that the non-discrimination obligation "may extend to *eircom* being required to offer a competitor" access to its network on equal terms is misleading. It states that as an operator with SMP, *eircom* is required to meet reasonable requests for access and on non-discriminatory terms.

One operator felt that the guidelines as they existed were too open to interpretation but that they could be strengthened by specific examples.

Director's Position

Under Condition 19 of the General Telecommunications Licence, the Director has the right to review the Code as required and the draft Code of Conduct, it is agreed, is not an exhaustive list.

The Director concurs that a more positive wording should be used in the non-discriminatory provision. The Director's suggestion for the inclusion of guidelines and commitment to staff training should alleviate the operators' concerns as to the meaning of the provisions of the Code.

Question 4

Do you feel that Section 4 of *eircom*'s draft Code of Conduct dealing with its competitors' behaviour is appropriate? If not, please state your reasons.

Three operators, including *eircom* accepted that *eircom*'s directions to employees were appropriate. The other operators were of the opinion that the Code of Conduct

relates to *eircom* and its employees, and not the behaviour of other operators in the market.

Director's Position

The Director believes that the recommendation that *eircom* employees be alert to other competitors' behaviour in the market place should not be contained within this document. This code and its obligations are directed at *eircom*, the SMP operator in the relevant markets and not other licensed undertakings. The Director hereby proposes to direct *eircom* to remove this section from its Code of Conduct.

Question 5

Eircom proposes to include sections outlining the required employee behaviour in dealing with Carrier Pre-Selection and Number Portability in its revised Code of Conduct. If you have an opinion on what these paragraphs should consist of please give submissions outlining your reasons.

The majority of respondents believed that Carrier Pre-Selection and Number Portability should be included in the main body of the Code of Conduct. One operator believed that *eircom* staff should be trained on CPS and Number Portability and a failure to comply should be a disciplinary offence for employees within *eircom*. Most operators felt they would be in a better position to comment in the next round of consultation which would include *eircom*'s proposed text on employees' conduct dealing with provisions relating to CPS and Number Portability.

Director's Position

As stated earlier the Director's preference is that the codes of practice as agreed by the industry should be annexed to this code of conduct. In addition, the specific sections dealing with Carrier Pre-Selection and Number Portability should be included within this code. In the previous section the Director has outlined *eircom*'s proposed text regarding CPS and Number Portability and has invited comments from interested parties.

Question 6

Are there any other issues which respondents wish to raise relating to the draft Code? Please provide explanations.

One operator expressed the need to make the Code of Conduct available to the public. Other operators reiterated the requirement for the ODTR to monitor adherence to the Code by *eircom* employees and to supervise any internal disciplinary procedures and boards.

Director's Position

eircom's code of conduct is an internal *eircom* document to be made available and known to all its employees, affiliates and agents. *eircom* intends to publish its final code of conduct on its website. This publication will be easily accessible to members of the public. The Director does not intend to enter into internal *eircom* disciplinary

proceedings. The Director does plan to review the Code as required to ensure its compatibility and suitability with the current market environment.

5. Next Steps

As stated above the Director invites comments from interested parties on *eircom*'s proposed texts on CPS and Number Portability. The closing date for receipt of responses is Friday, 16th February 2001.

Comments should be submitted in writing before 5.00 p.m. on 16th February 2001 to:

Ms Louise Power,
The Office of the Director of Telecommunications Regulation,
Abbey Court,
Irish Life Centre,
Lower Abbey Street,
Dublin 1

OR

Comments may be submitted via email before 5pm on Friday, 16th February 2001 to:
powerl@odtr.ie

Respondents are requested to identify confidential material clearly and if possible, to include it in a separate annex to the response.

In accordance with condition 19 of *eircom*'s GTL, the ODTR will consult with *eircom*. Following this second public consultation and the ODTR's meeting with *eircom*, the Director intends to publish her final recommendations on *eircom*'s Code of Conduct. The Director will instruct *eircom* to publish the final code on the *eircom* web site and to make it widely available to its employees, agents and affiliates.

The Director has the right to issue further directions requiring modifications or additions to the Code and as to its republication and application.

Annex 1

Selling Practices - A code of conduct for the *eircom* Group

1. **Introduction**

It is the policy and duty of *eircom* and all of its subsidiaries to comply with all laws applicable to its operations.

The markets in which the Group operates are becoming increasingly competitive. Our position as the leading provider of telecommunications and information services in the country will be sustained by the highest standards of ethical behaviour in the carrying out of our business. Our position in the market leaves us vulnerable to allegations of anti-competitive behaviour. We must ensure that there is no foundation for such allegations.

The *eircom* Group must meet the challenge presented by competitors and in so doing we must be creative and innovative. We must also work within the rules.

This code outlines our legal and regulatory obligations. The code is not exhaustive and any member of staff who is in any doubt as to whether a proposed course of conduct might infringe it must seek the advice of the Regulatory Affairs Department **before** such action is taken. Contact numbers are listed below:

2. The Licence

2.1 *eircom* has significant market power in various segments of the telecommunications market including public telecommunications services and cellular services. This market power imposes certain obligations on how the Company behaves in the market place.

2.2 For example, the General Telecommunications Licence contains of number of provisions which could best be described as "fair trading" provisions. These include

- Condition 6.9 - Dispute Resolution
- Condition 6.10 - Use of Directory Information
- Condition 13 - Price Control
- Condition 14 - Prohibition on Cross-Subsidies
- Condition 19 - Selling Practices
- Condition 20 - Misuse of Data
- Condition 23 - Undue Preference and Unfair Discrimination
- Condition 24 - Linked Sales

2.3 The full text of *eircom*'s General Telecommunications Licence is available on the Regulatory Affairs site on *eircom*'s Intranet, a summary of the Licence provisions is annexed to this Code.

2.4 These conditions, imposed on the *eircom* Group in the context of the Licensing regime, arise generally from provisions set out in

- Competition Law (EU and National)
- Data Protection Legislation (EU and National)
- EU Directives

3. **Selling Practices - The Guidelines**

- 3.1 This section details a set of guidelines to be observed by all staff engaged in selling *eircom* Group products and services. Again the guidelines are **not** exhaustive and any member of staff who needs advice or clarification should contact the Regulatory Affairs Department.
- 3.2 This code is not a substitute for the relevant national Competition Acts and European Competition rules nor is it a substitute for the regulations and orders that are made under them. This code should be read in conjunction with all relevant legislation.
- 3.3 The *eircom* Group is fully committed to operating in a competitive market with the highest standards of integrity and professionalism.
- 3.3 While maintaining these standards of integrity and professionalism the Group will compete aggressively but fairly to maintain its position as Ireland's leading provider of telecommunications and information services.
- 3.4 Definitive regulatory advice can only be given by the Regulatory Affairs Department. Definitive legal advice may only be given by the Groups lawyers (internal and external).
- 3.5 If in any doubt, do not act without Regulatory or Legal advice.
- 3.6 The guidelines to be observed are as follows:
 - **Members of staff must not engage in unfair or inaccurate criticism of competitors' product/service offerings.**
 - **Members of staff must not attempt to mislead customers or potential customers about competitors' product/service offerings.**

- **Discrimination is prohibited. Essentially discrimination means treating differently two customers who are in a similar position. Customers who are in a similar position must be treated equally in terms of price, quality of service and other terms and conditions.**
- ***Eircom*, as a licensee designated as having SMP in specified relevant markets must comply with condition 23 of its Licence entitled “Undue Preference and Unfair Discrimination”. Condition 23.1 of the General Telecommunications Licence stipulates that, in respect of a relevant market where SMP has been designated *eircom* shall not, in respect of the prices charged or other terms or conditions applied or otherwise, show undue preference to, or exercise unfair discrimination against, particular persons or persons of any class or description regarding the provision of any Licensed Service or access to any Telecommunications Network. *Eircom* will be deemed to have shown undue preference or exercised undue discrimination if it favours any business carried on by itself or an Affiliate so as to place persons competing with that business or Affiliate at an unfair disadvantage.**

Condition 23.2 stipulates that *eircom*, in any market where it has been designated as having SMP, shall not show undue preference or exercise unfair discrimination, **...against any Other Licensed Operator in respect of the quality of any Licensed Service provided by *eircom* to such Other Licensed Operator. *Eircom* may be deemed to have shown undue preference or to have exercised unfair discrimination if it favours a business carried on by it or by an Affiliate in relation to the quality of any Licensed Services provided to any Other Licensed Operator, so as to place the Other Licensed Operator at an unfair advantage.**
- **The purchase of a product or service from a Group company by a customer may not be made conditional on the purchase of another product or service from a Group company unless this can be technically justified. Linked sales and bundling of products or services may give rise to regulatory issues and for the avoidance of doubt it is essential**

that you seek regulatory advice before doing any of these things.

- **Predatory and below cost pricing is prohibited.**
- ***eircom* is not entitled to charge whatever it likes for its products and services or to vary its prices at will. *eircom*'s standard prices and details of its discount schemes are published in the Telecommunications Scheme, a copy of which is available at all Telecentres and in the Pricing Division in HQ, St. Stephen's Green.**
- **The *eircom* Group may not use customer data to gain an unfair advantage. Information obtained in operating the *eircom* network cannot be used to benefit those parts of the Group's business which operate in competitive markets. There are strict rules arising from Data Protection Legislation as well as those imposed by EU Directives and Licence obligations and accordingly the flow of information must be strictly controlled. Breach of these controls is a serious matter. If you have any doubt in this regard it is essential that you seek legal or regulatory advice.**
- **Agreements which tie customers to *eircom* Group companies for an unreasonably long time are likely to be anti-competitive. Legal agreements should only be drawn up and finalised by the Group's legal advisors as appropriate.**
- **Agreements cannot include "English Clauses". This means that a Group company should not enter into any agreement with a customer under which it is entitled to meet a competitors price if it is lower and to sell to the customer in place of the competitor.**
- **The *eircom* group may not refuse to supply a product or service unless there is an objective reason for doing so. No refusal should be made**

without obtaining legal or regulatory approval.

- **Contacts with customers and competitors should be clearly recorded and documented.**

The Director hereby proposes that *eircom* removes this section from its Code of Conduct.

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Additional Sections on CPS and Number Portability

Carrier Pre-Selection (CPS)

- i. Carrier Pre-Selection has been in operation since 1 January 2000,
- ii. *eircom* is a signatory to an Industry Agreed Code of Practice in relation to CPS. That Code of Practice **must** be observed.
- iii. A customer who chooses to have some or all of his/her calls carried by another operator under CPS continues to be an *eircom* customer and should not be treated any differently to a customer which has all his/her call traffic carried by *eircom*.
- iv. Copies of the Code of Practice are available from the Regulatory Affairs Department.

Number Portability

- i. *eircom* is a signatory to an Industry Agreed Code of Practice in relation to Number Portability. That Code of Practice **must** be observed.
- ii. Copies of the Code of Practice are available from the Regulatory Affairs Department.

5. General

- 5.1 This code is designed to help the *eircom* Group compete effectively and lawfully in a fast growing and developing market.
- 5.2 We are market leaders and we should compete aggressively but fairly to maintain that position. If we compete unfairly we stand to damage our reputation, be exposed to lengthy and expensive litigation, incur the risk of fines and damage our credibility with the Regulatory Authorities. Valuable time and management resources are also diverted from day to day operations if complaints have to be investigated and responded to.
- 5.3 It is the responsibility of each line manager to ensure that all staff under his/her control receive a copy of this Code of Practice and are fully briefed on its contents.
- 5.4 Failure by the Company to observe its compliance obligations if proven, may lead to significant financial penalties, and may damage the Company's corporate reputation. Accordingly if complaints arising on issues relating to this Code of Conduct involve individual employees, the Company will be obliged to examine these complaints under agreed procedures and take appropriate action.
- 5.5 *Eircom* is responsible for ensuring compliance with its licence conditions and it is *eircom*'s responsibility, as an employer, to ensure that employees behave in a manner that does not amount to a breach of licence conditions on behalf of *eircom*.
- 5.6 Additional guidelines regarding staff training in relation to this code is attached in a separate annex [*to be submitted by eircom*]. In addition, *eircom*'s Codes of Practice on Carrier Pre-Selection and Number Portability, which were previously agreed with the industry, are attached in separate annexes for your information [*to be submitted by eircom*].

eircom Licence – Summary

1. The licence is issued pursuant to Sn 111(2) of the Postal and Telecommunications Service Act 1983 (as amended).
2. The licence commencement date is 30 November 1998.
3. The licence refers to services provided by **eircom plc**, telecommunications services provided by its Affiliates/Subsidiaries are **not** covered by this licence.
4. The Company must provide information requested by the Director which the Director is then free to publish subject to an obligation to preserve business secrets.
5. The Director may arrange for an audit, or require the Company to arrange for an independent audit, of any aspect of the Company's business to ensure compliance with the licence conditions. The Company is responsible for the cost of any such audit.
6. The Director may impose sanctions, including revocation or suspension of the licence, on the Company for failing to comply with licence conditions.
7. The Director may designate the Company as having a USO.
8. The Company must publish the standard terms and conditions under which it provides licensed services. A statement of all applicable terms and conditions must be filed with the Director and made available for inspection at the request of any member of the public.
9. The Company must ensure the accuracy and reliability of its systems used to track the provision of services and the calculation of related charges.
10. Interception capabilities must be maintained.
11. The Company is required to safeguard the privacy and confidentiality of telecommunications messages on its networks.
12. The attachment of unapproved terminal equipment to the PSTN is prohibited.
13. The Company will be required to contribute to the funding of USO as directed by the Director.
14. The Company must comply with any direction issued by the Director regarding the provision of emergency services and the provision of services in times of emergency.
15. The Company must comply with any direction issued by the Director for the purposes of protecting the interests of its customers or users.

16. The Company must implement an appropriate code of practice for the resolution of customer disputes and in relation to non-payment of bills and disconnection.
17. The Company must ensure that users have access to directory information services offered by at least one Directory Information Service Provider.

Subject to data protection legislation, the Company 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 and co-operate with them in the supply and compilation of comprehensive and accurate directory information.

18. If information is disclosed **to** the Company for the purpose of providing directory information services, the Company shall not use that information for any other purpose unless specifically authorised to do so by the person disclosing same.
19. The following services must be available at all the Company's Public Pay Telephones:
 - (a) access to voice and directory information services;
 - (b) access to emergency calling services without the use of any card or coin;
 - and
 - (c) access to freephone services.
20. A notice must be displayed at all the Company's public pay telephones specifying
 - (a) the minimum charge for connection, call charge information and permissible methods of payment;
 - (b) location of the public pay telephone
 - (c) the statement that emergency calls can be made without charge;
 - (d) contact information in the event of service complaints.
21. The Company must ensure that its public pay telephones are equipped with apparatus to enable their use by people with hearing impairments.
22. If the Company wishes to withdraw a public pay telephone from service it shall display a notice to that effect at the telephone not less than 60 days before it is withdrawn.
23. The Company must comply with the European Communities (Interconnection in Telecommunications) Regulation 1998.

24. If the Company proposes to carry out trenching work on a public highway or public place it shall notify the Director of its intention to do so and shall publish a notice of same in at least one national and one local newspaper not less than 21 days in advance of the commencement of such works, **or as otherwise agreed with the Director.**
25. If the Company receives a request from any other licensed operator for permission to lay separate ducts in the trenches opened by the Company and sharing would not result in any material deviation from the Company's timetable for completion of the trenching work or roll-out of its telecommunications networks, the Company shall negotiate in good faith with the other licensed operator with a view to agreeing the terms on which such trench sharing shall take place.
26. The Company must use numbers allocated to it only for the purpose for which they were allocated and in accordance with the conditions of the allocation.
27. The Company shall not acquire any proprietary rights in any number allocated to it or used by its customers.
28. No number or range of numbers may be sold or otherwise transferred by the Company without the prior **written** consent of the Director.
29. The Company will have to maintain a record of the status of all numbers allocated to it, such record to be made available to the Director on request.
30. The Company must allocate numbers to its customers in an objective, transparent, non-discriminatory and timely manner.
31. The Director may change the numbers allocated to the Company at any time.
32. The Director may reclaim any numbers or numbering ranges allocated to the Company if, in her opinion,
 - (a) the numbers are unused and unlikely to be put into use in the foreseeable future;
 - (b) reclamation is necessary as part of a change to the National Numbering Scheme; or
 - (c) the Company is found to be in breach of **any** condition, including specific numbering conditions.
33. The Company cannot charge its customers for allocations of numbers except where authorised by and in accordance with any Direction from the Director.
34. The codes 112 and 999 are designated exclusively as emergency access codes.
35. The Company must comply with any directions issued by the Director from time to time regarding quality of service indicators and measurement methods for basic telephony services and/or digital leased lines.

36. The Company must provide the Director, at her request and in a form specified by her with the results of its own measurements of performance against quality of service targets.
37. The Company must provide licensed services on a non-discriminatory basis to all persons requesting such services, including other licensed operators.
38. The Company must provide equal access in accordance with directions issued by the Director.
39. The Company cannot charge any fee or require the customer to acquire any special equipment as a pre-requisite to obtaining equal access.
40. Insofar as the Company is deemed to have significant market power in a relevant market, the Company must publish its prices for **each** category of licensed services provided by it in that market.
41. The Company can provide such services **only** at the prices and in accordance with all the other terms and conditions for the relevant category of licensed services.
42. Where, the Company intends at any time to introduce:
 - new prices for any licensed services, or prices for any new licensed services to be introduced by the Company;
 - any discounts to published prices for licensed services or for any customers to whom additional services, whether or not licensed services, or goods are provided by the Company or any Affiliate; or
 - special offers to all or any of its customers for particular categories of licensed services.It shall publish notice of same at least **21** days prior to their coming into effect and provide full details of same to the Director.
43. If the Director is satisfied that there is competition sufficient to protect the interests of the users in the relevant market in respect of a licensed service she may terminate the application of the price control condition to that service.
44. If the Director considers that the Company may be in breach of these conditions she may require a written explanation, and a confirmation signed by a director or senior manager that no breach has occurred or that any offer made to a potential customer which was not compliant has been withdrawn.
45. Published prices, discount schemes and special offers must be transparent, non-discriminatory and cost oriented. Discount schemes must be cost justified and all special offers shall be objectively justifiable.
46. Unfair cross subsidisation is prohibited .

47. The Company must record at full cost in its accounting records any material transfer of assets, funds, rights and liabilities between a part and any other part of its business, and between itself and any Affiliate.
48. The Company will have to maintain accounting records for business units specified by the Director. This shall include the preparation, in respect of each calendar quarter, accounting statements setting out and fairly presenting the costs (including capital costs), the revenue and the financial position of each of those business units including a reasonable assessment of the assets employed in and liabilities attributable to them.
49. The Company must give the Director a copy of its annual accounts upon publication of same.
50. The Company will have to notify the Director in advance of any proposed alterations to the network which would require a person to change equipment lawfully connected thereto.
51. The Company must comply with its obligations under the European Communities (Leased Lines) Regulations 1998.
52. In relation to international circuits or half circuits owned or controlled by the Company or an Affiliate the Director may direct the Company to provide IRUs to an OLO where she considers that alternative sources are not available at an economic cost, unless she is satisfied that the Company has or will have insufficient capacity to meet the request.
53. The Company is obliged to provide copies of its standard form contracts to the Director who may publish and consult on same.
54. The Company must also submit to the Director a draft statement setting out minimum service levels for customers, including OLOs, and compensation/refund arrangements. The Director may publish and initiate a consultative process on the draft statement.
55. The Director has the power to direct the Company to alter its standard form contracts and/or compensation or refund schemes offered to customers or prospective customers.
56. The Company will have to submit to the Director a draft code of practice directed to its and its Affiliates' employees and agents concerning selling practices for licensed services and designed to avoid unfair or anti competitive practices. The Director may initiate a consultative process on the draft before agreeing its publication.
57. The Director has the right to review the Code of Conduct on Selling Practices as required.
58. The Company shall not make use of network or traffic data, traffic profiles or any other data of any nature, and which are not otherwise lawfully publicly

available and which become available to the Company directly or indirectly either as a result of entering into interconnection arrangements or otherwise as a result of carrying telecommunications messages, in such a way which, in the reasonable opinion of the Director, would unduly prefer the interests of any business carried on by the Company or an Affiliate or place persons competing with that business at an unfair disadvantage.

59. In the event of a licensee and an OLO failing to reach agreement on access to limited facilities, the Director shall intervene and issue a determination in the matter.
60. The Director will publish details of bodies recognised by her as representing the interests of users. The Company must deal with issues raised by such bodies and report on its dealings with same to the Director.
61. The exercise of undue preference/and or undue discrimination by the Company is prohibited.
62. The Company cannot make it a condition of providing any licensed services that a person require from the Company or any person specified by the Company any service or apparatus other than the one that is specifically requested, unless there are technical reasons for doing so.

