

July 2013

eircom welcomes the opportunity to respond to this important consultation. We make every effort to ensure that our customers' rights and interests are protected and we are proud of the service we provide as Ireland's leading communications provider. While we agree with the principles of this consultation, we are very concerned about the possibility of a requirement for traders to obtain 'written consent on a durable medium for distance contracts concluded by telephone'. We believe that any such requirement would have significant negative effects across a variety of industries which rely on outbound sales channels. In our response to question 5 we have explained why this intervention would be unnecessary and we have demonstrated the potential consumer detriment and commercial harm that could arise. We would be very happy to meet with Department officials to explain our position further should such information be necessary.

Please note that, for the sake of clarity, we have only answered those questions which are directly relevant to our business. eircom would be happy to provide any supplemental evidence or information should the Department require it. With regards the content of this submission, we ask the Department not to share any commercially sensitive information which we have included (this would include our estimate of financial impacts set out in our response to question 5 below) with a third party in order to protect our commercial position.

- 1. Should the implementing Regulations avail of the option to exempt off-premises contracts with a value of less than €50 from the Directive's provisions on consumer information and the right to of the consumer to withdraw from the contract. If not, should there be (a) no threshold or (b) threshold set at an amount less than €50. If the latter, please state the threshold that should apply in your view.**

Yes. eircom agrees with the proposal to exempt off-premises contracts with a value of less than €50 from the Directive's provisions on consumer information. From our perspective, this is an appropriate threshold and any intervention below this level would likely inconvenience customers and potentially increase costs for both customers and businesses.

- 2. Should the implementing Regulations exempt on-premises contracts of a day-to-day kind that are performed immediately from the information requirements of Article 5 of the Directive? If not, why not?**

Yes. eircom agrees with the proposal to exempt on-premises contracts.

- 3. Should the implementing Regulations avail of the option to provide for a lighter information regime for off-premises contracts for immediate repair and maintenance work costing less than €200? If not, why not?**

Yes. eircom agrees with the proposal to implement a lighter information regime for off-premises contracts for immediate repair and maintenance work costing less than 200 euro.

- 4. Should the implementing Regulations require the consumer's written consent to the trader's offer and/or the trader's confirmation of that offer on a durable medium?**

- 1) In all distance contracts to be concluded by telephone, or**
- 2) In distance contracts to be concluded by telephone where the telephone contact leading to the contract was made by the trader, or**
- 3) In no distance contracts to be concluded by telephone.**

eircom strongly imposes the introduction of a requirement for consumer's written consent to the trader's offer and/or trader's confirmation of that offer on a durable medium in relation to any distance contracts to be

concluded by telephone. In our view, it is imperative that there should be no requirement for the trader to obtain the consumer's written consent to the trader offer on a durable medium where contracts have been concluded by telephone. We believe that the introduction of this requirement would lead to increased costs for consumers and commercial operators and is wholly unnecessary in order to safeguard consumer interests.

No evidence of consumer harm:

In our view, there is no evidence to suggest that consumers are being harmed under the existing framework. In eircom, we vigilantly ensure that consumers' rights are protected in relation to off distance contracts concluded by telephone and we have a rigid process in place to ensure that standards are maintained.

It is standard practice in eircom to record all calls during which a contract is entered into and a customer has the right to query and dispute whether or not their consent was received in relation to any contract. In the event that a customer wishes to dispute their contract, it is our policy to review the relevant phone call and if the sales agent has not followed a strict script explaining the terms of the contract to the customer, and if the customer's agreement to the terms of the contract was not explicitly given, then we automatically release the customer from their contract with no charge and offer our apologies to the customer.

Customers are further protected by the mandatory 7 day cooling off period during which they may cancel their contract with no charge. And within the cooling off period all customers receive both email (where possible) & written confirmation of the contract they have entered into, and details of the product/service purchased. This process ensures that customers have a written document in their possession outlining the contract they have entered into (including period of contract length) thereby offering them the opportunity to cancel their order before the cooling off period has expired. We understand that this cooling off period will now increase to 14 days thereby offering customers even further protection.

It is our understanding that other companies across the full range of industries have introduced similar protection measures thereby ensuring that consumers are adequately protected.

Negatively affect the customer experience and increase costs

We believe that a requirement for written consent in relation to distance contracts concluded by telephone will negatively affect the customer experience. Currently eircom customers (once they have agreed to the terms of the contract) can (depending on their location) avail of broadband services within the next working day. However, this new requirement would introduce a delay of at least 5 working days to allow the customer to receive the necessary documentation, sign it and then post it back to us. In our view, this delay would significantly affect the customer experience.

This requirement for written consent would also place an unnecessary burden on customers to fill in and post documentation to us. In our experience, customers typically do not return forms to us and it is likely that, in many instances, customers will simply forget to send us this written consent. For example, we have calculated that of all the customers who call us to request a Direct Debit payment form to be sent to them only 12% of customers return the signed form. We estimate that if this requirement for written consent were introduced, less than 10% of customers would send through their written consent. On this basis, we believe that the proposed requirement would dramatically affect our ability to carry out our business, generate sales and offer a satisfactory customer experience.

This requirement will also increase costs for eircom and customers. We estimate that this requirement would increase our operating costs by €470,000 per year with a corresponding cost increase for customers of €199,400 (split among all new customers within a 12 month period).

Difficulty in classifying 'outbound sales calls' for the purpose of the requirement

We note that there is a possibility that this requirement could be introduced in relation to contracts reached “where the telephone contact leading to the contract was made by the trader”. In our view, it would be very difficult to implement a requirement in relation to outbound sales calls as it would be difficult to distinguish between unsolicited outbound sales calls and calls where the agent was simply calling a customer back. It is possible, therefore, that all outbound calls regardless of whether they were solicited or not would require the provision of written consent from a consumer. As stated above, we disagree entirely with the introduction of the requirement in relation to any contracts concluded by telephone and we believe that the outbound sales option would be unworkable.