

**From:** Ray O'Connor [rayoconnor@eircom.net]  
**Sent:** Thursday, March 31, 2011 12:52 PM  
**To:** Maurice Stack; info Cer  
**Subject:** cer11044

Dear Maurice,

In relation to the above consultation I wish to object to the proposals being put forward by the CER in every way shape and form, this I believe answers question 1.

This decision was made by the CER in 2005, the reasons the industry put forward these proposals are the same as they put forward in 09, which were the same as 05, when no decision was made, and the reasons have not changed, and the CER has not put forward any evidence to show the reasons have changed. The reasons the CER rejected the proposals in 2005, still exist nothing has changed, so why should the CER be revisiting this decision, other than to accommodate it's industry partners appeals, at their request. This shows the bias the regulator has towards it's "Industry Partners" when compared to the average consumer who is not allowed to appeal decisions. In a letter to the Dail Committee on Economic Regulatory Affairs the Chairman of the CER states "The Commission does not however believe that there should be an appeals process other than through the courts for customers who do not accept the decision that has been made in relation to their complaint. To introduce this would undermine the complaint resolution function, of the commission and add an additional unnecessary layer to the process" To revisit this decision while not allowing consumers the same rights to challenge the previous decisions of the Commission smacks of bias towards a reckless and abusive industry, or maybe the CER is fearful of legal action being instigated by an unhappy industry, while it knows it can abuse the consumer, who lacks the same financial clout.

The motivation given by the CER for this proposal is that these costs will ultimately be borne by the consumer. This shows the CER's lack of understanding of fundamental market economics, it is akin to saying "High rents cause high prices" as any school boy doing economics will tell you this is a totally false assumption. Costs can only be passed on if the market accepts them, many retailers are currently going out of business because the consumer has refused to accept their need to charge high prices to cover their high costs like rent. The real driver of cost for the consumer is the market price set by the market leader / dominant player, if competitors of the market leader set the price higher than the market leaders price they will not get custom, so the only way a competitor can compete in a homogenous market like energy is cost control to enable it to sell at a lower price. Would the fact that the ESB is about to force prices down and thereby forcing it's competitors to deal with bad debts incurred through reckless customer acquisition practices be the main motivator?

Bad debt is a common business cost, that companies have to manage, some do it better than others and so are able to have lower costs, what the CER is proposing will penalise those efficient market players that have taken steps to ensure proper customer selection, the first defence in bad debt management. If you look at your weekly change of supplier update report e.g. CER11056 it is clear that some suppliers are clearly more selective than others. This point has been made by others in the 09 consultation. Evidence from the telecoms industry, would show that companies that engaged in reckless and costly consumer acquisition, such as Switchcom, Interoute, and Smart, went bust, allowing other competitors to intervene and acquire that part of their business that was profitable at a much lower cost, so we have ended up with a more efficient and cost effective telecoms industry.

With the ESB about to introduce lower prices, I fear the real motivation for this consultation is support those energy companies that have engaged in reckless customer acquisition and record keeping, by keeping what should be debt collection court cases out of the courts. The motivation for this, is that the courts place a higher burden of responsibility on the supplier than the CER. For example, an account can be switched over the phone, or on line. Where is the documentation to support that the person moving account is actually the person on the bill and not person using the details of a former tenant. On opening the account a meter reading is required, what steps has a supplier taken to ensure that the meter reading

is correct, and not a mistake, how can a supplier take a customer to court, when they can't say how much of the debt belongs to the previous supplier and how much to the new one, due to their failure to take a meter read. Further more the CER permits energy companies not to employ meter readers (please see Customer Care Team report 2008), in a court of law the supplier would have to show that they kept proper books of account, how can they do that when they don't employ meter readers, and from correspondence with the CER the CER has no intention of changing this fact. However if the proposals are introduced, these issues can be over looked because the supplier will be able to force the consumer to pay from fear of being cut off, regardless of any contributory negligence or justification on issues of customer care, for the consumer wanting to move.

The industry lobby has put forward very questionable reasons for seeking these proposals, the legal costs (as dealt with above), and lack of industry credit vetting facilities. What a load of rubbish, every company has the capability to vet a potential customer, it's called the last bill, if the bill has several amounts outstanding, more questions should be asked, and there is also access to documents in the companies office regarding solvency and there are credit agencies who will perform checks on potential clients. These are the costs and risks that have to be balanced by every company and most companies can manage the process in a fairly cost effective manner, if not very few companies providing credit would be in business in Ireland today. They also plead the poor mouth as regards cash flow in that they are unique in that they have to pay up front for supplies and then have to wait to be paid, just ask any country hardware store, grocer, vet etc that has to deal with the farming community and they'll have a good laugh at that one.

There are legal complications associated with this, the DPA for example, the CER is proposing a tick box to allow data sharing, so what happens if a new customer does not want their details shared as is their right?, no supplier will take them on? Also how many people actually keep their copies of the agreements, if it's just a tick would it not be very easy for a supplier to falsify the document, if the document is a carbon copy will all the details come through? Further more, the CER is under the impression that the DPA does not apply to businesses. What about sole traders operating under a trading name?, very often the bills will be made out to the trading name to distinguish domestic from business use, but it's still subject to the same protection. What the CER is proposing is so open to abuse and human error that I can only see it giving rise to political, legal and financial embarrassment for the CER.

In 09 one submission questioned the accuracy of the details being put forward by the CER, and requested evidence to support the statements being made, again many of the statements being made are second hand from talking to suppliers and others like MABS, yet when you read the MABS submission in 09 it is completely against debt blocking, yet the CER says MABS says it should be considered. I don't believe for one minute that MABS is proposing debt blocking without controls that actually protect the consumer from being cut off. The presentation of this I believe is completely misleading. Before making a decision I would have thought that some independent numeric analysis would have been carried out to justify the proposal. The CER has also come up with arbitrary amounts such as limits. This fails to take into account individual circumstances, local tourism based businesses here in Kinsale for example might be run 24/7 in summer and only a few hours a week in winter, these arbitrary limits could have serious detrimental effects if issues arose depending on the time of year, most businesses will operate limits to suit their customers needs, it is completely wrong for the CER to impose these arbitrary amounts and limits. I would use my own energy consumption and experience as an example but that would probably be deemed irrelevant and censored like in the past.

The real issue that should be addressed here is peoples ability to pay, the CER is saying that the motivation for debt hopping is to avoid paying bills, I would have to reject this statement, I would rather say that the motivation for moving is avoiding being cut off, and lack of prepayment and smart meters, many comparisons are being made to the six counties, but as a consumer when I watch UK channels on the TV, I see suppliers offering prepay meters as a selling point, why not here? Given a choice of a prepayment meter or being cut off I know what one I'd choose. The reason is well documented as the CERs reluctance to supply prepaid meters. The CER has over several years now been talking about smart meters, yet when you compare it's progress to the water meter program currently underway it's going at a snails pace, smart meters would allow for more frequent and accurate billing, this in turn would

give suppliers greater control over their debts and reduce working capital costs. Instead of wasting time trying to cover up failures of the past with more error prone proposals already rejected, would it not be better to concentrate on those areas that really will be mutually beneficial to efficient suppliers and the consumer alike.

Regards

Ray O'Connor