



Minister
Noel Dempsey
Department of Communications, Marine and
Natural Resources
Dublin

Date 6/4/2005

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Dear Minister Noel Dempsey,

I'll bring an instance of deliberate consumer misinformation with regards to telephony, the incumbent and ComReg to your attention and ask for your Department's assistance to put an end to these practices which are illegal under the current advertising laws, damaging for the Irish consumer, unhealthy for fair competition and disastrous for the reputation of the Communications Regulator.

My previous attempts to stop similar incidents in the past have failed with both the incumbent, ComReg, the ODCA and ASAI "reluctant" to engage, to put it mildly.

See the next pages for documentation of the case.

Regards

Peter Weigl

Eircom's misleading advertising about telephony prices in Ireland, based on misused and skewed ComReg data.

eircom customers' telephone bills are cheaper than the EU average.

(BUT DON'T JUST TAKE OUR WORD FOR IT.)

Country	Line Rental Charges (US\$/PPP)	Call Charges (US\$/PPP)	Total Average Cost (US\$/PPP)
DENMARK	~150	~200	~350
SWEDEN	~150	~200	~350
UK	~150	~200	~350
AUSTRIA	~150	~200	~350
LUXEMBOURG	~150	~200	~350
FINLAND	~150	~200	~350
IRELAND	~150	~200	~350
EU AVERAGE	~150	~200	~350
GERMANY	~150	~200	~350
ITALY	~150	~200	~350
NETHERLANDS	~150	~200	~350
FRANCE	~150	~200	~350
GREECE	~150	~200	~350
SPAIN	~150	~200	~350

Source: OECD National Residential Basket February 2005, as quoted in ComReg Quarterly Market Key Data Report - Published 18/03/05

As you can see from the table, *eircom's* combined national call and line rental residential charges are cheaper than the EU average. This is also true of our combined business national call and line rental charges and our national leased lines. And when it comes to international leased lines, we're the cheapest in Europe. A position we've held for the past 18 months.

In big Sunday papers adverts (this is a scan from the Sunday Times, main part) Eircom misinforms the Irish consumer, that **“eircom customers’ telephone bills are cheaper than the EU average”**.

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The advert says (“Don’t just take our word for it.”) those claims would be substantiated by official OECD data published by the Irish Communications Regulator ComReg, which are published in the ad. (See left).

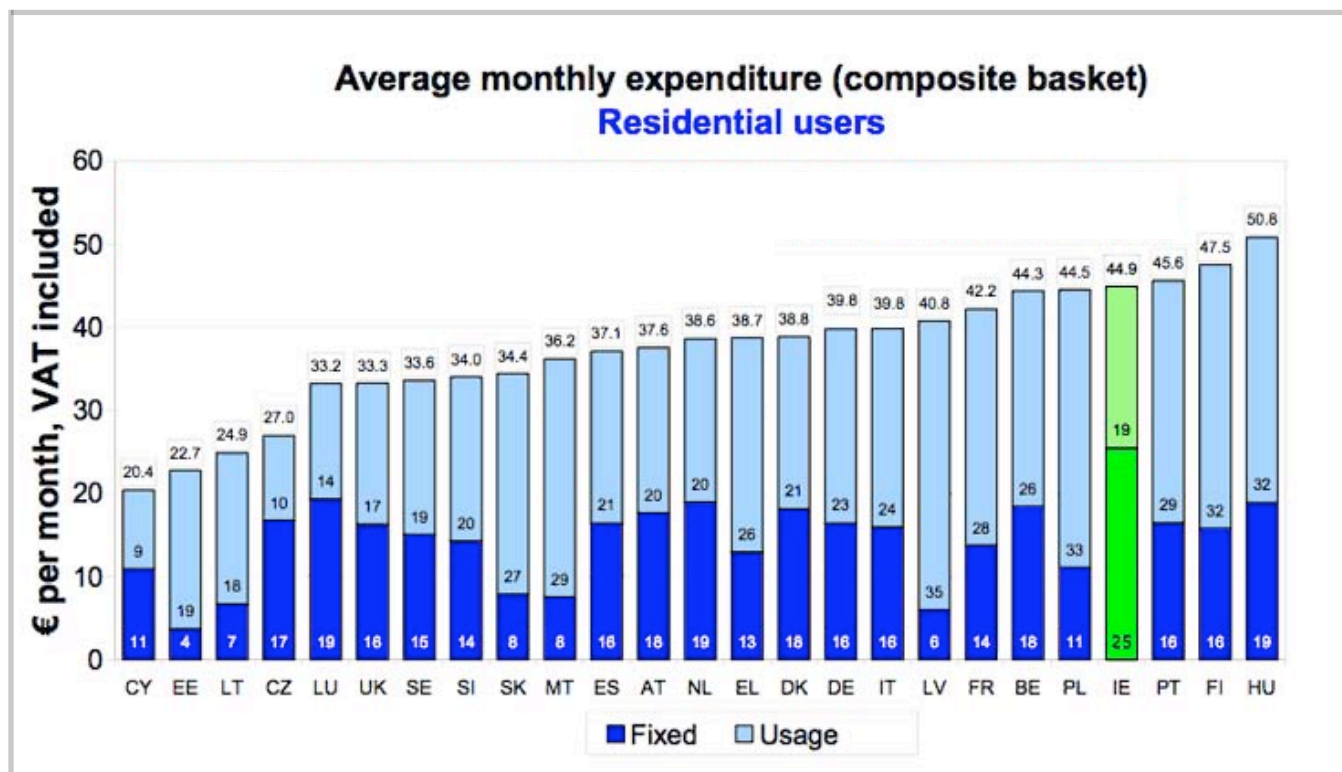
What a normal consumer, journalist or minister cannot gather from the published data: these data, comparing the “combined residential national call and line rental charges” do not in any way justify or underpin the claim of the ad. The data referred to in the ad are only one segment of a consumer’s phone bill.

There is official OECD data available, published by the EC, which directly compares the consumers’ average phone costs.

And this comparison shows a truly different reality: *eircom* customers’ (the OECD study compares all the EU incumbents’ pricing) telephone bills are not only not cheaper than the EU average, they are the fourth dearest in the EU-25.

See next page:

Data from the official OECD graph comparing Europe's incumbents' residential customer's telephony costs.



- Irish residential customers of the incumbent pay the EU's fourth highest monthly phone bill with €44.90 per month.
- This is 11 places dearer than the EU average.
- Only Portugal, Finland and Hungary have higher pricing.
- This is €7.70 more than the EU-25 average of €37.20.
- This is €11.60 more than the UK user is paying.
- This is €24.40 more than the monthly bill in the cheapest EU country (Cyprus).

While it is deeply regrettable that the Irish Communications Regulator ComReg did not publish this comparative table in its Quarterly Report, but instead chose to publish some selective unimportant sectorial comparisons, ComReg did not claim that its graphs were reflecting the average residential phone bills of the Irish consumer. Serious questions have to be asked why our regulator did not show the important new OECD composite basket figures.

Eircom is intentionally misinforming the Irish public with its repulsively wrong claim, which is not in any way backed up by reality or the OECD/ComReg data referred to in the ad. This is an obvious breach of the "Misleading Advertising Regulations, 1988" and should be stamped out by the Office of the Director of Consumer Affairs as a matter of urgency.

Furthermore, ComReg should publicly refute Eircom's claims and Eircom's misuse of OECD/ComReg data.

ComReg should finally be stopped publicising misleading selective data which give a skewed picture about Ireland's situation. While ComReg would never put out a direct "black lie" like in the Eircom advertising ("eircom customers' telephone bills are cheaper than the EU average"), it is putting out selective information which gives a similar impression and wittingly supplies Eircom with the ammunition for its consumer misinformation campaign.

In short:

Our Communications Regulator ComReg has deliberately kept the Irish public in the dark about the crucial fact that Ireland's residential (and also the business telephone users) face the fourth highest average monthly expenditure of all 25 EU countries. Eircom has further skewed the data and used it for outright untrue and unsubstantiated claims, using ComReg's name and reputation for its absurd claims.

There is no justification for ComReg to solely publish selective comparative telephony pricing information (national call charges) that seem to put Ireland's pricing at the EU average, when the comprehensive data of the new OECD "composite basket" about "Average monthly expenditure" for residential and business users is available and promoted by the EC. (See Annex)

ComReg's misinformation policy to hide Ireland's failed telecoms development and regulation has to stop.

Regards

Peter Weigl

ANNEX

1.

From the “European Electronic Communications Regulation and Markets 2004 (10th report) Annex 3 - 82” (highlights through bold font by me)

8.3. AVERAGE MONTHLY EXPENDITURE (COMPOSITE CALL BASKET)

Figure 87

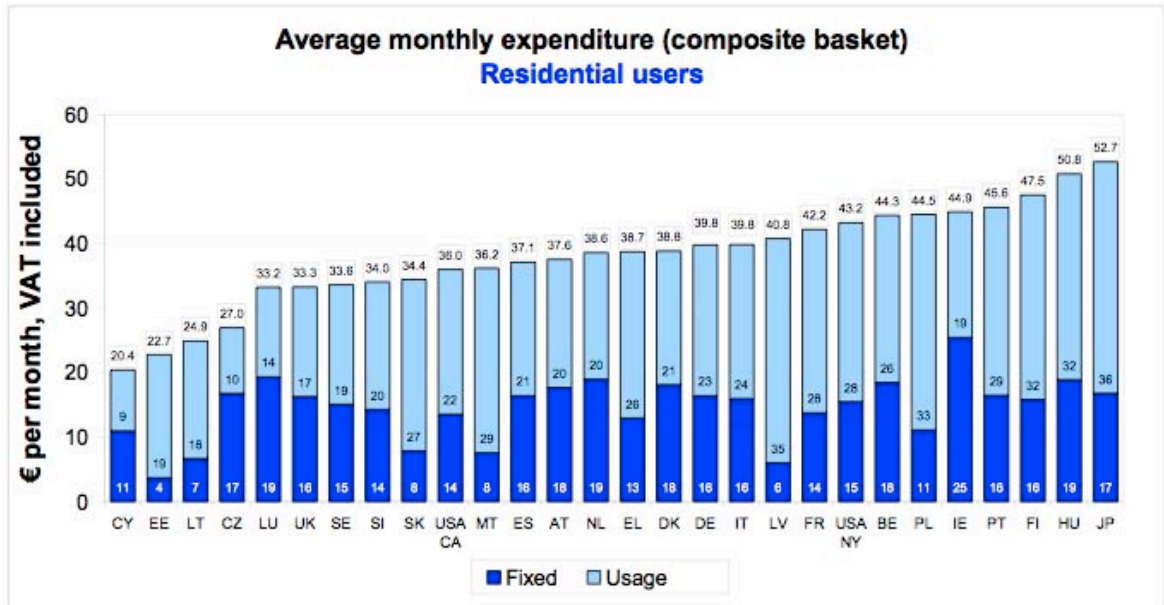
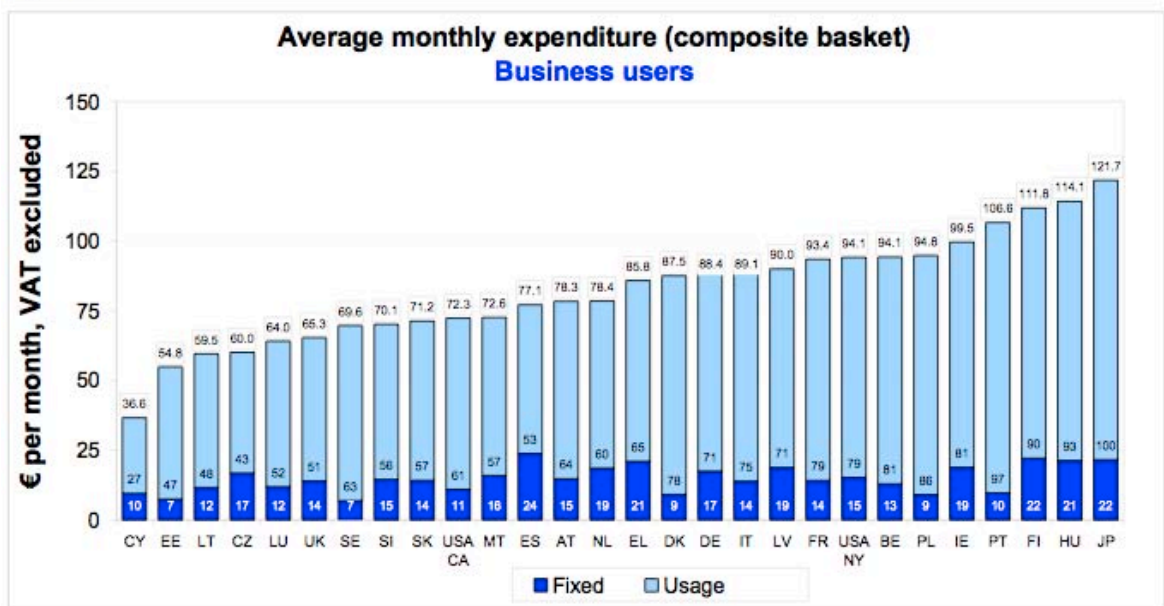


Figure 88



The figures presented in this section are intended to provide an estimate of the average monthly expenditure of a “standard” European consumer (business and residential). The Basket Methodology for Telecommunications Cost Comparison has been devised by the OECD and accepted in most countries as the most stable and neutral method of comparison.

A full description of the methodology can be found in “Performance indicators for public telecommunications operators”, ICCP Series No.2.2, OECD 1990.

The user is assumed to have a contract for the provision of voice telephony services with the incumbent operator, and to use only this operator for all types of calls (local, long-distance, international, calls to mobile). Since consumers are making increasing use of call-by-call carrier selection, in particular for specific highly discounted types of calls (i.e. international and long-distance), the figures given below are purely indicative, and do not necessarily reflect the cheapest solution available.

The charts below show the average monthly expenditure for standard residential and business users as of August 2004, expressed in €, based on the standard tariffs charged by the incumbent operators (i.e. excluding any discount packages). This means that lower costs can be achieved if the user subscribes to one or more discounted packages.

The basket of calls used to estimate average monthly expenditure is the new “composite OECD basket” which includes not only fixed national calls (as did the old basket), but also fixed international calls and calls to mobile networks. The revised OECD baskets were adopted in May 2000.

The OECD residential/business baskets are defined as follows (on an annual basis):

The fixed (i.e. non-recurring) charges include the annual line rental charge plus the charge for the installation of a new line (depreciated over 5 years). Fixed charges for residential users include VAT, while for business users VAT is excluded.

The usage charge for residential users refers to a basket of 1,200 national calls to fixed lines, plus 120 calls (with an average duration of 2 minutes) to mobile networks (Representing 10% of the number of calls to fixed lines), plus 72 international calls (Representing 6% of the number of calls to fixed lines). The usage charges for national calls to fixed lines are calculated with a weighted distribution over 14 distances from 3 to 490 km, at representative times of day (4 calls during the week and 2 during the weekend). The call duration varies from 2.5 to 7 minutes, depending on time and distance. The usage for residential users is weighted towards off-peak hours, and with typically long calls. Only 36% of the calls are within normal business hours; 64% are for distances below 10 km; 9% are for distances above 100 km.

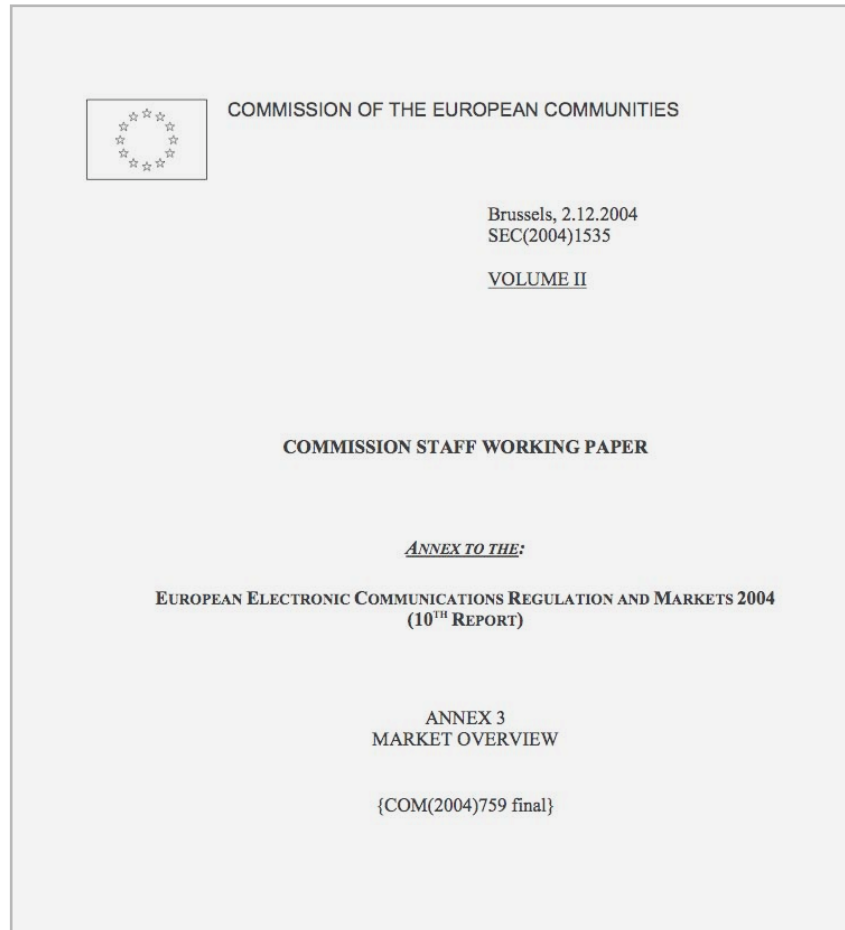
The usage charge for business users refers to a basket of 3,600 national calls to fixed lines plus 360 calls (with an average call duration of 2 minutes) to mobile networks, plus 216 international calls. The usage charges for national calls to fixed lines are calculated with a weighted distribution over 14 distances from 3 to 490 km, at representative times of day (4 calls during the week and 2 during the weekend), and with a call duration of 3.5 minutes regardless of time of day and distance. The usage for business users is weighted towards business hours, and with typically short calls. Over 86% of the calls are within normal business hours; 64% are for distances below 10km; 12.5% are for distances above 100 km.

A full description of the methodology can be found at the end of this report.

[Note: To simplify the chart in our main article, we've taken out the columns of USA/CA, USA/NY and Japan, which the EC/OECD includes to get some additional comparisons, and colour marked the Irish pricing column.]

The full EC report can be downloaded from the European Commission website as a pdf document here:http://europa.eu.int/information_society/topics/ecom/comm/doc/all_about/implementation_enforcement/annualreports/10threport/sec20041535VOL2en.pdf

Title page of the EC document:



2.

Role of the Office of the Director of Consumer Affairs

From the ODCA website (highlight by me)

http://www.odca.ie/cfmdocs/c_query/ad_documents2.cfm

Advertising and the Consumer Misleading Advertising

What is an Advertisement?

The purpose of an advertisement is to influence your opinions and behavior. An advertisement gives information about a product or service to you, the consumer.

All advertisements should be legal, decent, honest and truthful.

Advertisements may take many forms such as:

Press Advertisements (e.g. in Newspapers, Magazines)
for example: to inform you about job opportunities.

Television Advertisements
for example: to advise you of a new product on the market.

Radio Advertisements
for example: which may instruct you how to claim an entitlement.

Posters
for example: which tell you about a concert which may be planned.

Shop Signs
for example: giving information which may be unique to a particular shop.

Sales/Direct Mail Letters
for example: letters sent to your home to inform you about a special offer on a product or service.

Faxes
for example: more and more people own or have access to a Fax machine. Promotional letters and information may now be sent to you through these faxes, and many others.

What should I do if it appears an Advertisement maybe misleading?

You should contact ODCA. Under Irish law (The Consumer Information Act 1978) you can make a complaint to the Director of Consumer Affairs about possible misleading advertisements. **The Director keeps a watchful eye on advertising and marketing practices. The Director is the statutory authority for misleading advertising.** Complaints about possible breaches of the Consumer Information Act 1978 will be examined by the Director of Consumer Affairs.

Her main concern is with the truth of advertisements and descriptions of goods and services. The Director may take legal action herself or recommend action by the appropriate authority where such practices are undesirable or misleading.”