



Commission for  
**Communications Regulation**

# **District Court Cases**

## Update from 27 July 2015

### **Information Notice**

**Reference:** ComReg 15/88r

**Version:** Final

**Date:** 05/08/2015

# 1: Section 45 of Communications Regulation Acts 2002 - 2011

1. On 27 July 2015, the Dublin District Court heard a number of cases against the service providers Eircom Limited (“Eircom”), Three Ireland Services (Hutchison) Limited & Three Ireland (Hutchison) Limited (collectively “Three”) and Vodafone Ireland Limited (“Vodafone”) in relation to incorrect charging of customers for electronic communications services.
2. The cases were brought under Section 45 of the Communications Regulation Acts 2002-2011 (“the Act”). Sections 45(a),(b) and (c) of the Act recognise three categories of overcharging offences:
  - (a) imposing or purporting to impose a charge for supplying a product or service that exceeds the amount for that product or service specified in the undertaking’s published tariffs or exceeds the amount published in a written statement previously made or given to the consumer by the undertaking for that supply;
  - (b) imposing or purporting to impose a charge for an electronic communications service or product to a consumer that was not requested by the consumer; and
  - (c) imposing or purporting to impose a charge for an electronic communications service or product to a consumer that was requested by a consumer but not supplied by the undertaking.
3. Eircom, Three and Vodafone are all “undertakings” for the purposes of prosecutions pursuant to Section 45 of the Act.
4. In all cases, the customers' issues were not resolved by the service provider until the customer contacted ComReg, at which point appropriate refunds were applied by the relevant service provider.
5. Following a review of relevant customer complaints, ComReg commenced an investigation. This investigation culminated in ComReg taking legal proceedings by issuing summonses to Eircom, Three and Vodafone.
6. The outcome of the cases brought by ComReg against these undertakings are detailed below:

- a. Eircom pleaded guilty to seven charges brought by ComReg. Judge John O'Neill imposed a criminal conviction in respect of each of the seven charges and fined Eircom €3,000 per offence (a total fine of €21,000). Eircom committed to putting remediation plans in place to prevent such issues arising in the future and to pay reasonable costs to ComReg.
  - b. Three pleaded guilty to three charges brought by ComReg. The Probation Act will be applied to Three on condition that it donates €15,000 to charity by 28 September 2015 (€5,000 to each of three charities nominated by the Judge). Three also committed to putting remediation plans in place to prevent such issues arising in the future and to pay reasonable costs to ComReg.
  - c. Vodafone pleaded guilty to seven charges brought by ComReg. The Judge imposed criminal convictions in respect of four of these charges and fined Vodafone €2,500 per offence (a total fine of €10,000). Vodafone committed to putting remediation plans in place to prevent such issues arising in the future and to pay reasonable costs to ComReg.
7. ComReg will continue to monitor the consumer complaints it receives and will continue to investigate matters arising in respect of Section 45 of the Act and other relevant regulatory obligations, whether under the Act or otherwise imposed.

## 2: Section 13D(1) of Communications Regulations Acts 2002 to 2011

8. ComReg brought a case against Yourtel Limited (“Yourtel”) alleging that Yourtel had failed to comply with a statutory request for information issued to Yourtel by ComReg on 20 April 2015 under Section 13D(1) of the Communications Regulation Acts 2002 to 2011 (“the Act”).
9. Section 13D( 1) of the Act provides that ComReg may, at any time, by notice in writing, require an undertaking to provide it with such written information as it considers necessary to enable it to carry out ComReg’s functions. Yourtel is an “undertaking” for the purposes of the Act.
10. Pursuant to Section 13D(1), ComReg required Yourtel to provide it with written information in order to determine whether Yourtel had fully complied with commitments given to ComReg pursuant to ComReg’s powers under the Consumer Information, Cancellation and Other Rights Regulations (2013).<sup>1</sup>
11. Yourtel pleaded guilty to the charge. The Probation Act will be applied if Yourtel donates the sum of €2,500 to charity by 28 September 2015.
12. ComReg is continuing to investigate matters to which this information request and prosecution relate.

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<sup>1</sup> See ComReg Document 15/08 – “Yourtel Limited: Undertaking pursuant to Section 73 of the Consumer Protection Acts”