



Commission for
Communications Regulation

Tesco Mobile Ireland Limited provides undertakings and pays a €21,000 penalty for failing to provide customer contracts on a durable medium

Information Notice

Reference: ComReg 21/81

Date: 11/08/2021

1. Tesco Mobile Ireland Limited (“Tesco Mobile”) has paid the Commission for Communications Regulation (“ComReg”) a penalty of €21,000 after an investigation found Tesco Mobile had failed to provide its “Simply Prepay” customers with a contract on a durable medium, contrary to Regulation 12 of the European Union (Consumer Information, Cancellation and Other Rights) Regulations 2013 (“the Consumer Information Regulations”), and failed to provide its existing customers who migrated onto the “Simply Prepay” plan with information on their right to cancel and the relevant cancellation form contrary to Regulation 10 of the Consumer Information Regulations.
2. ComReg has imposed this penalty in the form of Fixed Payment Notices, pursuant to Section 85 of the Consumer Protection Act 2007.
3. ComReg found that Tesco Mobile did not provide confirmation of the contracts, outlining the main characteristics of the plan on a durable medium, to its “Simply Prepay” customers. ComReg considered that this made it difficult for the affected Tesco Mobile customers to recognise and identify the main characteristics of their plan, specifically, their SMS allowances and what the consequences of “topping-up” early were (i.e., re-activating the plan, causing the customer to lose any remaining allowances). ComReg considered that without a contract on a durable medium, the affected customers may not know what their contractual rights, obligations and liabilities are.
4. ComReg was also concerned that Tesco Mobile did not advise its existing customers who migrated onto the “Simply Prepay” plan of their right to cancel the contract within the statutory cooling off period. Under the Consumer Information Regulations, a right to cancel (without giving any reason for the cancellation) within 14 days applies to any consumer contracts concluded at a distance (e.g., by phone or online) or off-premises.
5. Tesco Mobile has paid the penalty in full. ComReg also required Tesco Mobile to undertake in writing to perform a number of remedial measures (together “the remedies”) to remedy its non-compliance with Regulations 10¹ and 12 of the Consumer Information Regulations. Pursuant to Section 73 of the Consumer Protection Act, 2007, ComReg has accepted from Tesco Mobile a written undertaking to perform the remedies set out in paragraph 6 below.

¹ Regulation 10 of the Consumer Information Regulations specifies the type of information that a trader must provide to a consumer prior to concluding a distance contract, including information on the right to cancel.

6. Tesco Mobile has undertaken:
 - a. To send to all of its currently active customers on the “Simply Prepay” offer an individual confirmation of their contract on a durable medium within 28 days of this Information Notice. This remedy is intended to afford such consumers their legal entitlements and bring to an end Tesco Mobile’s contravention of Regulation 12(2) of the Consumer Information Regulations;
 - b. To take all necessary measures to ensure full compliance with Regulations 10(1) and 12 of the Consumer Information Regulations;
 - c. To refund the estimated lost revenue to the most egregiously affected customers, namely, 12,773 customers who had unintentionally re-activated the offer prior to the 28-day expiration period. ComReg estimated the total lost revenue for these customers to be €83,894.46. This figure has been accepted by Tesco Mobile; and
 - d. To confirm to ComReg that it has put in place the necessary measures to ensure no repetition going forward of what has occurred.
7. The remedies specify the dates by which Tesco Mobile’s undertakings are to be performed. ComReg would request that customers with any queries relating to these issues contact Tesco Mobile’s customer care line on 1903 in the first instance.
8. ComReg will continue to monitor compliance with consumer rights legislation, including Regulations 10 and 12 of the Consumer Information Regulations, and where necessary will investigate any matters arising with Tesco Mobile or other undertakings providing electronic communications services.