



Commission for
Communications Regulation

Information Notice

New Code of Practice and New Regulations for Premium Rate Services

Information Notice

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An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

Abbey Court Irish Life Centre Lower Abbey Street Dublin 1 Ireland
Telephone +353 1 804 9600 Fax +353 1 804 9680 Email info@comreg.ie Web www.comreg.ie

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1 Introduction

1. Premium Rate Services (“PRS”) are typically goods and services that a consumer can buy by charging the cost to their fixed line or mobile telephone bill. PRS usually offer information and entertainment services and some examples of PRS include television voting, entering competitions, quiz television services, chat-line services, horoscopes, ringtones, sports alerts and weather alerts. At present PRS are mostly provided via premium rate telephone numbers (starting with the prefix 15XX) and short-codes (in the form 5XXXX), but may also be charged direct to a person’s phone account without using premium rate numbers or shortcodes to access the service provided.
2. In accordance with the requirements of Section 15 of the Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act, 2010 (“the Act”), licensed PRS providers are required to comply with the provisions of the Code of Practice (“Code”), which was published in October 2008 by RegTel, the previous regulator of PRS. The Act also requires the Commission for Communications Regulation (“ComReg”) to consult on the provisions of a new Code.
3. In light of the submissions made during the consultation process which ComReg held on the draft Code¹, and having regard to ComReg’s experience of regulating the PRS industry since this function was assigned to it in July 2010, ComReg commenced a further consultation² on a revised draft Code so that industry and other interested parties could make further submissions in respect of same. ComReg also signalled³ that it was going to introduce new regulations which will repeal and replace the Communications Regulation (Licensing of Premium Rate Services) Regulations 2010, (SI no. 338 of 2010).
4. Following careful consideration of the submissions received during the consultation process, ComReg has finalised its position and has today published the following suite of documents;
 - a. The Response to Consultation 11/51 and Decision, which, sets out the rationale for the provisions in the new Code,
 - b. The new Code, which licensed PRS providers must comply with, and

¹ ComReg Document 10/92a - Consultation Paper – Premium Rate Service Code of Practice, dated 1 December 2010

² ComReg Document 11/51 (with Annexes A,B,C,D) - Response to Consultation Document No. 10/92a and further consultation on the Code of Practice for Premium Rate Service Providers, dated 22 July 2011

³ ComReg Document 11/41 Information Notice dated 30 May 2011

- c. New Regulations, that set out which PRS are required to be licensed and the conditions which attach to such licences.
5. Although ComReg does not believe it is necessary to do so, ComReg has, as a matter of caution, completed the notification process with respect to the new Code and the new Regulations, to the European Commission pursuant to Directive 98/34/EC (as amended).

2 The Code of Practice

6. The new Code will replace the current Code, published by RegTel in October 2008.
7. ComReg has included a number of new provisions in the new Code, which it believes, will enhance consumer protection. These new provisions include;
 - a. The requirement for end users to provide a positive confirmation (or “double opt-in”) for subscription services,
 - b. Enhanced pricing transparency in promotional material,
 - c. Provisions for the precise text of regulatory information messages, and
 - d. Provisions relating to purchase confirmation receipts, where a PRS includes the user of a facility to pay for goods and services that do not involve the delivery of any content to the end-user’s handset.
8. ComReg is firmly of the opinion that increased end-user protection will lead to increased confidence in PRS and this will ultimately benefit the PRS industry as it innovates and brings new services to the market. It is likely that the new Code may need to be amended over time to deal with the advent of new PRS and ComReg remains committed to keeping all relevant developments in the PRS industry under review and the Code of Practice up to date as the market evolves.

3 Regulations

9. ComReg has published new Regulations⁴ that set out the class, or type, of PRS that are required to be licensed and the conditions that attach to such licenses.
10. The Regulations replace and revoke those that were published in July 2010 and will be accompanied by a new “eLicensing” facility, which will allow PRS providers to apply for their PRS licence to ComReg online. ComReg will engage directly with PRS providers to provide information and instruction on how the new eLicensing scheme will operate and, in this regard, ComReg will publish, in the coming weeks, a date for an Industry Forum meeting.
11. ComReg has also set out in the revised Regulations;
 - a. The provisions relating to refunding end-users as a result of the actions of a non-compliant PRS provider, and
 - b. The information that PRS providers must make available to ComReg in respect of each specified premium rate service provided by it, to enable ComReg to carry out its statutory functions regarding the provision, content and promotion of PRS.

⁴ Communications Regulation (Licensing of Premium Rate Services) Regulations, 2012 (SI 111 of 2012)

4 Transition Period

12. ComReg appreciates that PRS providers may require a period of time to make technical adjustments to align their PRS with the provisions of the new Code and the new Regulations. For that reason the new Code and the Regulations will not come into effect until Tuesday 5 June 2012.

Appendix: 1 Legal Basis

A 1.1 Following the enactment of the Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act, 2010 (“the Act”), which came into force on 12 July, 2010, regulatory responsibility for the sector transferred from the previous Regulator of Premium Rate Telecommunications (“RegTel”) to the Commission for Communications Regulation (“ComReg”).

A 1.2 The Act amended ComReg’s functions as set out in Section 10 the Communications Regulation Act, 2002 (“the Act of 2002”) by requiring ComReg;

to ensure compliance by premium rate service providers with their obligations in relation to the provision, content and promotion of premium rate services

and

to carry out investigations into matters relating to—

the provision, content and promotion of premium rate services.

A 1.3 The Act also amended ComReg’s objectives as set out in Section 12 of the Act of 2002 by the inclusion of the objective,

“to protect the interests of end users of premium rate services.”

A 1.4 Section 6(1) of the Act provides;

6.— (1) A person who intends to provide a specified premium rate service shall, before doing so, submit an application to the Commission for a licence to provide that service.

A 1.5 Section 7(1) of the Act provides;

7.— (1) The Commission shall make regulations specifying—

(a) the class or type of premium rate services which require to be licensed under section 6 ,

(b) conditions (including the basis and circumstances upon which refunds may be made to end users) to be attached to licences to be observed by the holders of licences,

(c) that certain conditions do not apply to certain classes or types of premium rate services or premium rate service providers, and

(d) the information that licensed premium rate service providers shall, upon request, provide to the Commission.

A 1.6 Section 15 of the Act provides

15.— (1) The Commission shall, following consultations with premium rate service providers, other interested persons and, as it considers relevant, other regulatory bodies in the State, prepare and publish, as soon as is practicable after the appointed day, a code of practice to be followed by premium rate service providers with respect to—

(a) the provision, content and promotion of specified premium rate services, and

(b) the conditions set for specified premium rate services under regulations under section 7 .

(2) Before publishing a code of practice or any part of a code of practice, the Commission—

(a) shall publish in such manner as it considers appropriate a draft of the code of practice or the part of the draft code of practice and shall give premium rate service providers, other interested persons and, as it considers relevant, other regulatory bodies in the State one month from the date of publication of the draft code or the part of the draft code within which to make written representations to the Commission in relation to the draft code or the part of the draft code, or for such further period, not exceeding 2 months, as the Commission in its absolute discretion thinks fit,

(b) shall, having considered the representations, if any, publish the code or the part of the code with or without modification as the Commission in its absolute discretion thinks fit, and

(c) where the Commission publishes a code of practice or any part of a code of practice, it shall publish a notice of such publication in the Iris Oifigiúil and that notice shall—

(i) identify the code,

(ii) specify the matters concerned in respect of which the code is published, and

(iii) specify the date on which the code comes into operation.

(3) The Commission may, following consultation with premium rate service providers, other interested persons and, as it considers relevant, other regulatory bodies in the State amend or revoke any code of practice or part of any code of practice prepared and published by it under this section.

(4) Where the Commission amends or revokes a code of practice or any part of a code of practice published under this section, it shall publish notice of the amendment or revocation in the Iris Oifigiúil.

(5) The Commission shall make available for public inspection, without charge, on the Commission's website on the internet and at its principal office, during normal working hours—

(a) a copy of each code of practice, and

(b) where a code of practice has been amended, a copy of the code as so amended.

(6) It is a condition of a premium rate service licence that any code of practice is complied with.

(7) The code of practice in relation to the matters referred to in subsection (1) prepared and published by Regtel on 1 October 2008 continues and is the code of practice until a code of practice replacing it is prepared and published by the Commission under this section.