

## **15/003 Findings of Non-Compliance with the Premium Rate Services (“PRS”) Licence Conditions**

### **Context and Background**

1. Following a review of information gathered during compliance monitoring and following a review of consumer complaints received by ComReg in relation to Zamano Solutions Ltd. (“Zamano”) WinClub (“WinClub”) single charge premium rate service (PRS), ComReg commenced an investigation into the provision of the WinClub PRS in accordance with Section 9 of the Communications Regulations (Premium Rate Services and Electronic Communications Infrastructure) Act, 2010<sup>1</sup> (“the Act of 2010”) and Sections 10(1)(d)(ii) and 12(1)(d) of the Communications Regulation Act, 2002, as amended<sup>2</sup> (“the Act of 2002”).
2. Zamano’s WinClub PRS is a single charge (i.e. non-subscription) service whereby an end user can enter a competition to win a prize. End users who engage with the PRS have the opportunity to win a prize for example, an Apple Ipad or iPhone 5. The total cost of the service is €15 per entry. The price of the service is charged by way of six reverse-billed SMS or WAP messages at €2.50 per message on the 57030 short code number.

### **Findings of non-compliance**

3. Following the investigation, ComReg found that the WinClub PRS was not compliant with certain requirement of the Code as detailed below.
4. Accordingly, on 24 June 2015<sup>3</sup>, ComReg notified Zamano of the findings<sup>4</sup> that it had not complied with the Code for PRS providers and, therefore, was in breach of a condition of its PRS licence<sup>5</sup>.

#### **Sections 3.12(b), 3.19, 3.22, 4.1, 4.2 and 4.28 (b, c & d) of the Code of Practice**

5. ComReg found that Zamano’s WinClub PRS was promoted and operated in a manner which may have encouraged end users into making a transactional decision they may not have otherwise taken. ComReg found the WinClub PRS

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<sup>1</sup> <http://www.oireachtas.ie/documents/bills28/acts/2010/a0210.pdf>

<sup>2</sup> <http://www.irishstatutebook.ie/pdf/2002/en.act.2002.0020.pdf>

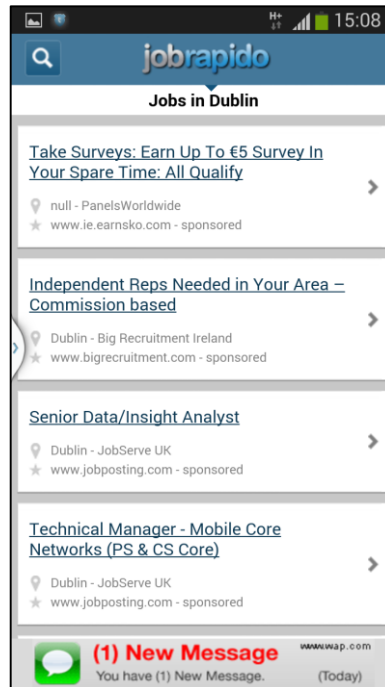
<sup>3</sup> In accordance with Section 17(1) of the Act of 2010

<sup>4</sup> In accordance with its powers at Section 9 of the Act of 2010

<sup>5</sup> Zamano is a licensed PRS provider in Ireland, in accordance with Section 6(1) of the Act of 2010 and Regulation 4 of the Communications Regulation (Licensing of Premium Rate Services) Regulations, 2012

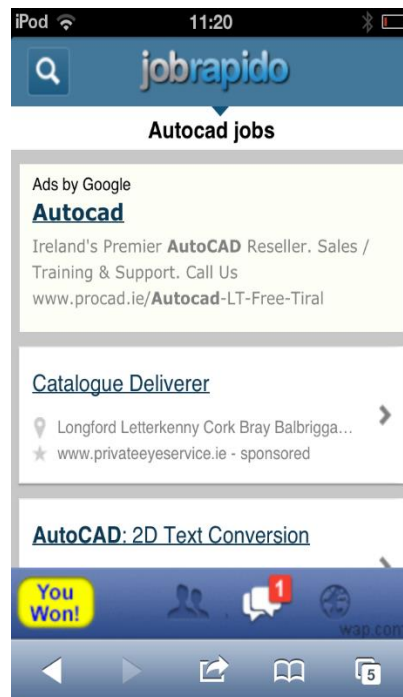
was promoted in a misleading manner by influencing end users into believing that they had won a prize, though this was not the case, through the use of:

- a. the inclusion of well-known company logo's and/or icon (i.e. Apple, Facebook) on promotions;



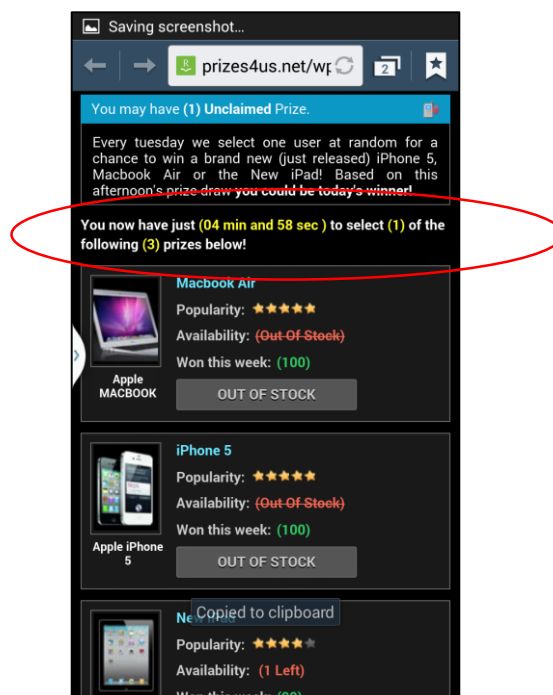
**Figure a: Example of promotion which includes the use of an Apple iMessage notification**

- b. the use of misleading phrases/statements such as “You Won” indicating a prize has already been won;



**Figure b: Example of promotion with the statement “You Won”**

- c. the inclusion of a countdown clock in promotions, inferring that a selection must quickly be made; and



**Figure c: Example of promotion with a countdown clock**

- d. false testimonials and photographs of previous winners.

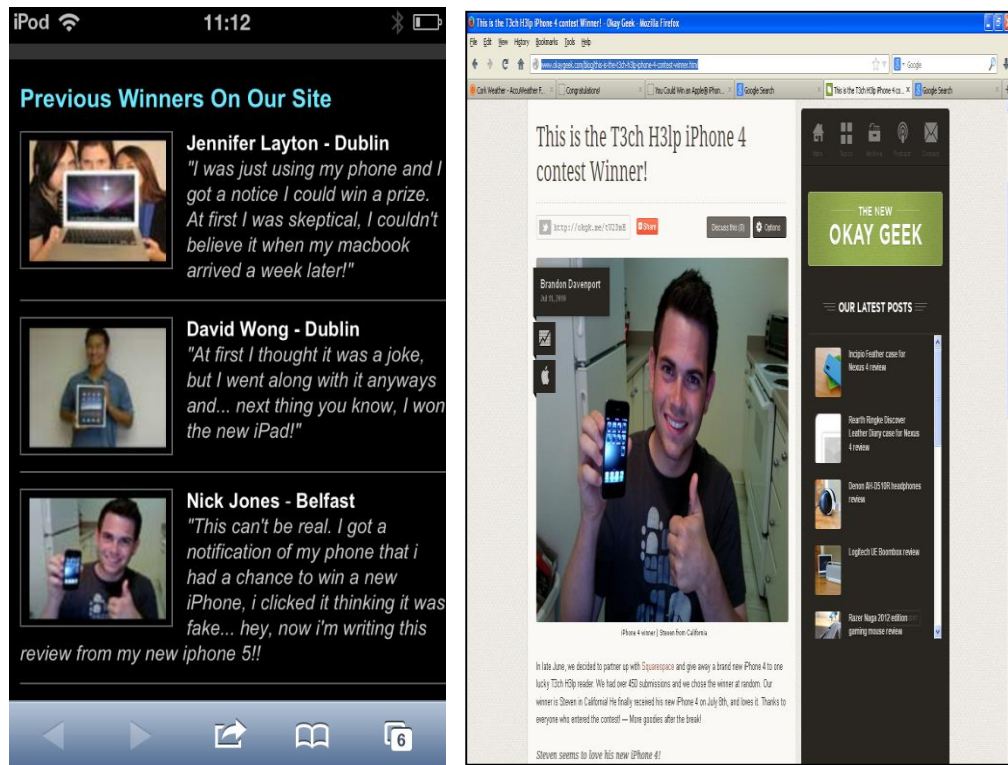


Figure d: Example of false testimonials from previous 'winners'

## Conclusion

- e. Zamano is required to remedy the non-compliance in respect of the breaches of the Code by 24 July 2015 and to make refunds to end users connected to the non-compliance by a date to be specified by ComReg.