



ComReg issues an Opinion of non-compliance to Yourtel with respect to provisions of the Privacy Regulations

Information Notice

Reference: ComReg 15/29

Date: 23/03/2015

1. On 19 December 2014, ComReg notified Yourtel of a finding of non-compliance with respect to its obligations under the Privacy Regulations.¹
2. The notification of non-compliance was made in accordance with Regulation 31(1) of the Privacy Regulations.
3. The notification of non-compliance notified Yourtel of a finding that it had not complied with its obligation set out at Regulation 13(5)(b) of the Privacy Regulations as it used or caused to be used a publicly available electronic communications service to make unsolicited telephone calls for the purposes of direct marketing to a subscriber or users, where subject to paragraph (9), the relevant information referred to in Regulation 14(3) is recorded in the National Directory Database.
4. Yourtel had until 23 January 2015 within which to state its views.
5. Regulation 31(4) of the Privacy Regulations provides that if, at the end of the period referred to above, ComReg is of the opinion that an undertaking has not complied with its obligations, ComReg may apply to the High Court for such an order as the Regulator may consider appropriate.
6. Yourtel responded to the Notification. Having considered Yourtel's response, ComReg has formed the opinion that Yourtel has not complied with its obligation set out at Regulation 13(5)(b) of the Privacy Regulations as it used or caused to be used a publicly available electronic communications service to make unsolicited telephone calls for the purposes of direct marketing to a subscriber or users, where subject to paragraph (9), the relevant information referred to in Regulation 14(3) is recorded in the National Directory Database.
7. Having formed this opinion, ComReg is entitled to take appropriate steps pursuant to Regulation 31(4) of the Privacy Regulations and has notified Yourtel that ComReg has decided that an application ought to be made to the High Court seeking Yourtel's compliance and the payment of a financial penalty pursuant to Regulation 31(4) and (8) of the Privacy Regulations.
8. ComReg has cooperated and liaised with the Office of the Data Protection Commission (ODPC) in respect of this action pursuant to Regulation 33 of the Privacy Regulations.
9. As published in a media release of 10 September 2014, and since, ComReg is investigating the practices of Yourtel in the Irish electronic communications market and this investigation is ongoing.

¹ European Communities (Electronic Communications Networks and Services) (Privacy and Electronic Communications) Regulations 2011 ("The Privacy Regulations")

10. The NDD lists over 2 million numbers of which over 1 million are opted out of receiving unsolicited direct marketing calls.²
11. Consumers may contact their service provider to confirm or change their preference regarding opting out of receiving unsolicited direct marketing calls.³ Further details are available on askcomreg.ie.⁴
12. Consumers who have opted out of receiving unsolicited direct marketing calls and who subsequently receive such a call may complain to ComReg or to the ODPC.

² Mobile telephone numbers are automatically protected against unsolicited communications pursuant to certain provisions in the Privacy Regulations.

³ In accordance with Regulation 19(2) of the Universal Service Regulations, undertakings that assign numbers to subscribers must supply the NDD with the relevant subscriber information.

⁴ See

http://www.askcomreg.ie/tell_us/cold_calls_a_quick_guide_to_preventing_unwanted_calls_from_direct_marketing_companies.235.LE.asp