



Commission for
Communications Regulation

Information Notice

Document No:	10/75
Date:	27 September 2010

An Coimisiún um Rialáil Cumarsáide
Commission for Communications Regulation

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The Commission for Communications Regulation (“ComReg”) Quarterly Key Data Report relies on data provided by companies operating in the electronic communications sector in Ireland. This data is provided under section 13D of the Communications Regulations Acts 2002-10 (“the Acts”) which makes it an offence for an undertaking not to comply with an information requirement issued under this section.

In August 2010, Hutchison 3G Ireland Limited (“H3GI”) informed ComReg that, since 2006, it had incorrectly stated the number of active pre-pay subscribers in its submission to ComReg for inclusion in the Quarterly Key Data Report¹.

ComReg’s investigation into H3GI’s inaccurate reporting of data has now concluded. As a result of this investigation, ComReg has issued H3GI with a Notice, under Section 44 of the Acts, stating that it has reasonable grounds to believe that an offence has been committed under section 13D of the Acts.

In conformance with the provisions of section 44 of the Acts, H3GI has made the statutorily prescribed payment to ComReg. H3GI has also given an undertaking to ComReg that it will provide corrected data, in respect of the Quarterly Key Data Report of Q2/2010 within 21 days.

H3GI has initiated an overhaul of its process for calculating and reporting on active pre-pay subscriber data, and appointed independent auditors to assure the correctness of this data submission.

In order to further assure the quality and reliability of future data submissions by H3GI, H3GI has separately committed to adopt corporate governance measures in relation to Quarterly Key Data Report submissions to ComReg for the next 12 months. These include independent verification of data in advance of H3GI senior management review and sign-off and advance engagement with ComReg prior to formal submission of the Quarterly Key Data Report. ComReg welcomes these additional steps.

¹ As reported in ComReg Information Notice 10/65



Supplementary Information:

ComReg expects to publish the ComReg Quarterly Key Data Report for Q2 2010, incorporating corrected data from H3GI for pre-pay subscribers, in October.

Section 13D.—(1) The Commission 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 its functions or to comply with a requirement made to it by the Minister under section 13B.

(2) An undertaking commits an offence if it—

(a) fails to comply with a requirement made under subsection (1) within the period specified in the notice or within such extended period as the Commission allows, or

(b) in purporting to comply with such a requirement, provides to the Commission information that the undertaking knows to be false or misleading.

(3) In proceedings for an offence involving a failure by an undertaking to comply with a requirement made under subsection (1), it is a defence if the undertaking establishes—

(a) that it did not know and could not be reasonably expected to know or ascertain the required information, or

(b) that the disclosure of the information was prohibited by a law of the State.

(4) An undertaking that commits an offence under subsection (2) is liable on summary conviction to a fine not exceeding €5,000.

(5) If, after being convicted of an offence under this section, an undertaking continues to fail to do the relevant act, the undertaking commits a further offence on each day or part of a day during which the failure continues and is liable on summary conviction to a fine not exceeding €1,000 for each such further offence. However, if an undertaking is tried for 6 or more such further



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offences that are alleged to have been committed on successive days, the maximum fine that can be imposed for those offences at the trial is €5,000.

Section 44.—(1) If the Commission believes on reasonable grounds that a person has committed a summary offence under this Act or under a related enactment, the Commission may give to the person (or, if the person believed to have committed the offence is a body corporate, to an officer of the body) a notice stating that—

- (a) the person is alleged to have committed the offence, and
- (b) if, within 21 days from the date on which the notice was given, the person, as far as is practicable, remedies to the satisfaction of the Commission the matter giving rise to the offence and pays to the Commission €1,500, accompanied by the notice, the person or body will not be prosecuted for the offence.

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