



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

District Court Prosecution

Update from 12 January 2023

Information Notice

Reference: ComReg 23/09

Version: Final

Date: 30/01/2023

1. On 12 January 2023, the Dublin District Court heard cases in respect of eight summonses that ComReg issued against Three Ireland (Hutchison) Limited and Three Ireland Services (Hutchison) Limited (“Three”). Three was charged on eight counts having failed to meet requirements set out in Article 15 of Regulation (EU) No 531/2012 of the European Parliament and of the Council (“the Roaming Regulation”).
2. The Roaming Regulation requires that service providers implement a default financial limit at €50 (excluding VAT) of charges for data roaming in a single billing period and that service providers send notifications as customers reach 80% and 100% of that limit:

. . . the roaming provider shall make available one or more maximum financial limits for specified periods of use, provided that the customer is informed in advance of the corresponding volume amounts. One of those limits (the default financial limit) shall be close to, but not exceed, EUR 50 of outstanding charges per monthly billing period (excluding VAT). . . .

The default limits referred to in the second and third subparagraphs shall be applicable to all customers who have not opted for another limit.

Each roaming provider shall also ensure that an appropriate notification is sent to the roaming customer’s mobile device, for example by an SMS message, an e-mail or a pop-up window on the computer, when the data roaming services have reached 80 % of the agreed financial or volume limit. Each customer shall have the right to require the roaming provider to stop sending such notifications and shall have the right, at any time and free of charge, to require the provider to provide the service again.

When the financial or volume limit would otherwise be exceeded, a notification shall be sent to the roaming customer’s mobile device. That notification shall indicate the procedure to be followed if the customer wishes to continue provision of those services and the cost associated with each additional unit to be consumed. If the roaming customer does not respond as prompted in the notification received, the roaming provider shall immediately cease to provide and to charge the roaming customer for regulated data roaming services, unless and until the roaming customer requests the continued or renewed provision of those services.

3. Around November 2021, ComReg Consumer Care received contacts from customers of Three regarding high roaming charges when they had been in Monaco. It appeared that these customers did not have their data use stopped when they had used €50 of data and that they did not receive notifications as they reached 80% of the limit and when the limit would have otherwise been exceeded.

4. Following a review of relevant customer complaints, ComReg commenced an investigation. This investigation culminated in ComReg commencing District Court prosecutions as Three failed to meet the requirements of Article 15 of the Roaming Regulation in that customers' data use was not stopped at the €50 financial limit and that customers did not receive the required notifications. These issues mostly impacted customers as they used data in countries outside of the European Union.
5. As a result of the investigation, Three identified 1,640 customers who were affected by at least one of the issues. The total value of the improper charges to these customers was approximately €632,000. Three stated that following the ComReg investigation it has credited or refunded the identified customers.
6. Three pleaded guilty to one count on each of the eight summonses before the court. Judge Halpin imposed criminal convictions for each of the counts and ordered Three to pay a total of €2,400 in fines. Three also contributed to ComReg's costs, as agreed between the parties.
7. Service providers are reminded of their consumer protection obligations under the Roaming Regulation. ComReg will continue to monitor compliance by service providers with the Roaming Regulation (as recast in 2022, see for information: [Regulation \(EU\) 2022/612 of the European Parliament and of the Council of 6 April 2022](#)).
8. Current or former Three customers impacted by the issues in this case or who have questions may contact Three at the following numbers: 1913 (for current customers); 1800 944 039 (for former customers).