



An Coimisiún um
Rialáil Cumarsáide
Commission for
Communications Regulation

District Court Prosecution

Update from 15 April 2024

Information Notice

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1. On 15 April 2024, the Dublin District Court heard 10 prosecutions brought by ComReg against Eircom Limited (“**Eircom**”) relating to failures by Eircom to comply with obligations concerning its complaints handling processes.
2. The prosecutions spanned a range of matters. In each case there was a failure by Eircom to provide a complaint acknowledgment that included a complaint reference number to customers within 2 working days, and in some cases there were further failures, either to provide a Complaint Response within the maximum timeframe of 10 working days or to communicate to customers an email address to progress their complaint in addition to any other forms of contact if the complaint remained unresolved after 10 working days.
3. The prosecutions were brought under Regulations 27 of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations, 2011 (“**the 2011 Regulations**”).
4. Pursuant to Regulation 27(1), each Service Provider is required to implement a code of practice for settling unresolved disputes including complaints. Regulation 27(1) provides:

“Dispute resolution

27. (1) Without prejudice to any legal rights of action which may apply, an undertaking providing electronic communications networks or services shall implement a code of practice for settling unresolved disputes, including complaints, between end-users and the undertaking arising under these Regulations and relating to the contractual conditions or performance of contracts concerning the supply of electronic communications networks or services and any other issues arising under, or covered by, these Regulations. The code of practice shall make provision for the following matters-

(a) first point of contact for complainants,

(b) a means of recording complaints,

(c) a timeframe within which the undertaking concerned shall respond to complaints,

(d) procedures for resolving complaints, including a timeframe for referring the customer to the Regulator which shall be no more than 10 working days from the day a complaint was first notified,

(e) appropriate cases where reimbursement of payments, payments of compensation and payments in settlement of losses incurred will be made,

and

(f) retention of records of complaints (including copies of the complaint, any response to it, any determination in respect of the complaint and any documentation considered in the course of such determination) for a period of not less than one year following the resolution of the complaint.”

5. Regulation 27(2) of the 2011 Regulations provides that ComReg may specify requirements to be met for the purpose of ensuring compliance with paragraph (1) and the manner of publication of a code of practice referred to in paragraph (1). Regulation 27(2) provides:

“(2) The Regulator may specify requirements to be met for the purpose of ensuring compliance with paragraph (1) and the manner of publication of a code of practice referred to in paragraph (1) including, without limitation, any requirements to ensure that the code of practice and procedures for settling unresolved disputes are fair, prompt, transparent, inexpensive and non-discriminatory.”

6. In June 2017, ComReg published a Decision D04/17 on ‘Electronic Communications Complaints Handling Code of Practice’ (“**ComReg D04/17**”).¹
7. During the periods April 2022 to July 2022, and May 2023, ComReg received a number of contacts from Eircom customers that stated they were unable to make a complaint with Eircom in accordance with Regulation 27(1) of the 2011 Regulations and ComReg D04/17.
8. Following a review of relevant customer contacts, ComReg commenced an investigation. This investigation culminated in ComReg prosecuting Eircom by issuing District Court summonses for breaches of Regulation 27 of the 2011 Regulations and sections 4.3.1(i), (ii) and (iv) of ComReg D04/17, which require that undertakings ensure that:
 - a Complaint Acknowledgement, to include a complaint reference number, is issued to customers within a maximum timeframe of two working days;
 - a Complaint Response is provided to a customer within a maximum timeframe of 10 working days; and,

¹ <https://www.comreg.ie/publication/electronic-communications-complaints-handling-code-practice-response-consultation-decision>

- where a complaint remains unresolved after 10 working days the escalation team communicates to a customer an email address to progress the complaint in addition to any other forms of contact.
9. Eircom pleaded guilty to 12 counts on 10 summonses before the court. Judge Anthony Halpin imposed criminal convictions on 10 counts and took into consideration the other 2 counts in ordering Eircom to pay a total of €7,500 in fines. Eircom also contributed to ComReg's costs, as agreed between the parties.
 10. ComReg will continue to monitor compliance and investigate matters concerning complaints handling arising under Regulation 27 of the 2011 Regulations, the equivalent requirements now contained in Part 5 of the Communications Regulation and Digital Hub Development Agency (Amendment) Act 2023, ComReg D04/17, and other regulatory obligations.