



Commission for  
**Communications Regulation**

# Information Notice

**ComReg notifies Telefónica Ireland Limited and Lycamobile Ireland Limited of closure of investigation under the Competition Act 2002**

## **Information Notice**

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**An Coimisiún um Rialáil Cumarsáide**

**Commission for Communications Regulation**

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# Information Notice

1. On 14 August, 2012 ComReg notified Telefónica Ireland Limited ('O2') and Lycamobile Ireland Limited ('Lycamobile') (together the 'Parties') that it had closed its investigation concerning the compatibility of the National Roaming Agreement<sup>1</sup> (the 'Roaming Agreement') entered into between the Parties with national and EU competition law.
2. On 14 February, 2012 ComReg notified O2 and Lycamobile that it had opened an own initiative investigation arising out of potential concerns it had that a particular clause in the Roaming Agreement (the 'Relevant Clause') appeared to suggest an agreement between competitors not to compete/to share customers at the retail level, contrary to Section 4(1) of the Competition Act 2002 (as amended) (the 'Act') and/or Article 101 of the Treaty on the Functioning of the European Union (TFEU).
3. ComReg had previously obtained a copy of the Roaming Agreement from the Parties (on foot of a formal statutory request for information) in the context of separate work being conducted by ComReg concerning its ongoing analysis of the Mobile Voice Call Termination ('MVCT') market(s). It was through this separate work that ComReg became aware of the Relevant Clause in the Roaming Agreement.
4. During its investigation, ComReg invited representations and requested information from the Parties using its statutory information gathering powers<sup>2</sup>. It also invited the Parties to propose specific measures that would definitively address its concerns regarding the Relevant Clause, including whether the Relevant Clause could be amended or clarified.
5. Correspondence ensued between ComReg and the Parties over the period March to August 2012 which ultimately resulted in the Parties providing ComReg with a number of contractual and operational confirmations.
6. It is noteworthy that throughout ComReg's investigation of this matter, the Parties have co-operated with ComReg in responding to information requests (both statutory and non-statutory) and in seeking to address ComReg's queries/clarifications in a timely manner.
7. Given the contractual and operational confirmations provided by the Parties to ComReg during the investigation and, ComReg being satisfied that these sufficiently address its concerns, the investigation has been closed with it being unnecessary for ComReg to form an opinion as to whether there has been a breach of Section 4(1) of the Act and/or Article 101 of the TFEU.

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<sup>1</sup> National Roaming Agreement (the 'Roaming Agreement') entered into between O2 and Lycamobile on 14 February 2011.

<sup>2</sup> Under Section 13D(1) of the Communications Regulation Acts 2002 to 2011.