



Commission for
Communications Regulation

Non-Compliance with the Premium Rate Services Licence Conditions

Dragonfly Mobile Ltd

Information Notice

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An Coimisiún um Rialáil Cumarsáide

Commission for Communications Regulation

Abbey Court Irish Life Centre Lower Abbey Street Dublin 1 Ireland

Telephone +353 1 804 9600 Fax +353 1 804 9680 Email info@comreg.ie Web www.comreg.ie

Context and Background

1. Premium Rate Services (“PRS”) are typically goods and services that a consumer can buy by charging the cost to their fixed line or mobile telephone account, whether pre-paid or bill-paid. At present most PRS are provided via premium rate telephone numbers (starting with the prefix 15XX) and short-codes (in the form 5XXXX) but technological developments now result in some PRS being charged to consumer mobile phone accounts without recourse to premium rate shortcodes. PRS usually offer information and entertainment services, some examples of which are digital content such as games and videos delivered to mobile handsets, quiz television services, chat-line services, ringtones, sports alerts, weather alerts, television voting and competitions.
2. Dragonfly Mobile Limited (“Dragonfly”) was a licensed PRS provider in Ireland, in accordance with Section 6(1) of the Act of 2010 and Regulation 4 of the Communications Regulation (Licensing of Premium Rate Services) Regulations, 2012.
3. Dragonfly’s Prize Club PRS was a subscription service whereby end users could access mobile content and enter competitions. The service cost €12 per week, through six reverse-billed SMS at €2 per message on the 57741 and 57080 short code numbers and €12.50 per week through five reverse billed SMS at €2.50 per message on the 57575 short code number.
4. In July 2013, following a number of consumer complaints received by ComReg and a review of information gathered during compliance monitoring and, in accordance with its statutory powers¹, ComReg commenced an investigation into the Prize Club premium rate service (“PRS”), operated by Dragonfly.
5. In addition, on 1 August 2013 ComReg made a finding that there had been misuse of Irish premium rate short code numbers 57080, 57575 and 57741 by Dragonfly within the meaning of Regulation 23(2) of the European Communities (Electronic Communications Networks and Services) (Universal Service and Users’ Rights) Regulations, 2011². As a result ComReg required Mobile Network Operators (“MNOs”) and other PRS providers involved in the provision of the Prize Club PRS to:
 - a. block access by Dragonfly to the short code numbers, 57080, 57575 and 57741, and
 - b. to withhold all interconnection payments and other service revenues related to the Prize Club PRS associated with these short code numbers.

¹ Set out in Section 9 of the Communications Regulations (Premium Rate Services and Electronic Communications Infrastructure) Act, 2010 (“the Act of 2010”) and Sections 10(1)(d)(ii) and 12(1)(d) of the Communications Regulation Act, 2002

² S.I. No. 337 of 2011

Investigation

6. Following the investigation, on 16 May 2014, ComReg found³ that Dragonfly had not complied with various provisions of the PRS Code of Practice to be followed by licensed PRS providers and, therefore, was in breach of a condition of its PRS licence⁴;
 - a. ComReg found that Dragonfly had sent unsolicited and misleading text messages to end users, which resulted in those end users who responded being inadvertently subscribed to the Prize Club PRS. ComReg found that end users of the Prize Club PRS did not receive the required subscription request and confirmation messages, which should contain the general terms of the service, such as the cost and the fact that this is a subscription service. ComReg also found that Dragonfly could not provide valid substantiating evidence that end users had, in fact, subscribed to the Prize Club PRS.
 - b. ComReg found that some subscribers to the Prize Club PRS were charged for a service that was not provided. End users received blank billing and content messages and were therefore not able to avail of the service they had already paid for.
 - c. ComReg found that some subscribers to the Prize Club PRS on the 57575 short code number did not receive the regulatory update messages at the correct interval, which should contain information on how to unsubscribe from the PRS.
 - d. ComReg found that during the course of its investigation Dragonfly had not provided true and accurate information to ComReg.
 - e. ComReg found that Dragonfly failed to provide appropriate customer service and information to consumers and ComReg.
7. As such, Dragonfly was required, by 23 May 2014, to make a commitment to ComReg to remedy the non-compliance and make refunds to end users connected to the non-compliance⁵. Dragonfly failed to make this commitment within the specified timeframe and so ComReg revoked the Dragonfly Prize Club PRS licences⁶. Following ComReg's decision to revoke Dragonfly's Prize Club PRS licences, ComReg has also withdrawn the 57741 and 57575 short code numbers allocated to Dragonfly.

³ In accordance with the process set out in Section 9 of the Act of 2010.

⁴ http://www.phonesmart.ie/Code_of_Practice/133
http://www.phonesmart.ie/uploads/files/14_002.pdf

⁵ In accordance with the process set out in Section 9 of the Act of 2010.

⁶ In accordance with the process set out in Section 10 of the Act of 2010.

Refunds

8. In light of the withheld interconnection payments and other service revenues, required by ComReg, ComReg agreed with all the mobile network operators (MNOs), and associated PRS providers that a refund for all charges incurred on the Prize Club PRS would be issued to all affected subscribers.
9. Following this, a total of over €390,000 has now been refunded to more than 12,000 end users, who were connected to Dragonfly's non-compliance.

Conclusion

10. In this case, it was necessary for ComReg to exercise all relevant enforcement powers available to it to ensure the protection of the interests of end users and achieve this outcome for consumers affected by Dragonfly's non-compliance.
11. And finally, ComReg wishes to acknowledge the MNOs (Meteor Mobile Communications, Tesco Mobile Ireland Ltd, Three Ireland (Hutchison) Limited and Vodafone Ireland Ltd) and the aggregator providers (Oxygen8 Communications Ireland and Zamano Solutions Ltd) for their cooperation in this matter.