



Three makes penalty payment of €575,000 to ComReg following breaches of contract change and switching rules

Information Notice

Reference: ComReg 17/112

Date: 19/12/2017

1. Three Ireland (Hutchison) Limited ("Three") has made a payment of €575,000 to ComReg following investigations into the manner in which Three implemented contract changes in March and April 2017 and into conditions and procedures put in place by Three in respect of proposed contract changes that had the effect of disincentivising customers from changing service provider.
2. On 3 March 2017, Three notified all Pay As You Go ("PAYG") and Bill Pay customers of changes to Three's terms and conditions that would come into effect on 3 April 2017. The notification issued by Three stated that if customers wished to cancel or required further information they were to call an 1800 number.
3. Shortly thereafter, ComReg Consumer Care received a significant volume of consumer complaints. The nature of the complaints varied, but the majority of complainants were unhappy that they were unable to gain access to the notified 1800 number. ComReg also reviewed copies of contract change notifications that were issued by Three that purported to notify consumers of the upcoming contract changes.
4. On 14 and 15 March 2017 ComReg conducted an Authorised Officer visit at Three's Head Office at 28/29 Sir John Rogerson's Quay, Dublin 2.
5. On 27 March 2017 ComReg issued Notifications of Non-Compliance to Three in respect of Three's non-compliance with its obligations under Regulations 14 and 25 of the Universal Service Regulations¹ and ComReg Decision D13/12.
6. Three engaged with ComReg and Three committed to implement a series of measures aimed at remediating the breaches that were the subject matter of the Notifications of Non-Compliance.
7. Three's payment of €575,000 was made following ComReg having formed the Opinion that:

¹ European Communities (Electronic Communications Networks and Services) (Universal Service and Users' Rights) Regulations 2011

- i) There was a failure by Three to properly advise its customers of the nature of the contract changes proposed; and to adequately facilitate their right to exit their contracts without penalty, after being notified of the proposed contractual changes (“the Regulation 14 Window”) pursuant to obligations imposed on Three by Regulations 14(4) and 14(6) of the Universal Service Regulations and ComReg Decision D13/12;
 - ii) There was a failure by Three to ensure that its conditions and procedures for contract termination did not act as a disincentive to consumers changing service provider in breach of Regulation 25(6)(b) of the Universal Service Regulations.
8. In light of the findings made by ComReg, Three committed to refund any customer that was charged an early termination fee or any other penalty as a result of withdrawal from their contract within the Regulation 14 Window.
 9. Also, Three committed to re-notify certain customers of their contract changes that came into effect on 3 April 2017 and advised the customers of their right to withdraw without penalty if they did not wish to accept the changes.
 10. Three further committed to contact all customers that it could identify that tried and were unable to contact Three on the 1800 number provided in their contract change notification. In these cases, Three committed to remedy the situation to their customers’ satisfaction, including offering them 30 days to exit their contract without penalty.
 11. Three has confirmed that it has fulfilled these commitments and will engage a third party auditor to affirm this.
 12. For any future contract changes:-
 - Three will not apply an early termination fee or other penalty if a customer exercises their right to cancel within the Regulation 14 Window.
 - Three will promptly process a customer’s request to withdraw from their contract.
 - Three will not engage in “Save” activity with a customer (whereby efforts are made to retain the customer) who is attempting to notify Three about switching service provider without first seeking confirmation from the customer that they wish to have such a conversation with Three.

- Three customers will be able to notify Three of their cancellation request by phone, post, online chat, or by visiting a retail store and Three will promptly confirm such cancellation requests using the same channel of communication.
- Three has confirmed that call centres will be fully resourced to deal with all expected call volumes on foot of any contract change notifications issued by Three.
- Three will ensure that new contract terms and conditions will be available to customers at the point of contract change notifications in order that the customer may fully consider the proposed changes.
- Three will comply with Regulation 14 and ComReg Decision D13/12.

13. ComReg will continue to monitor compliance with consumer rights legislation and to investigate as appropriate consumer complaints whether arising in respect of Regulation 14(4) and 25 of the Universal Service Regulations, ComReg Decision D13/12 or otherwise.