



Commission for  
**Communications Regulation**

## **Three provides undertakings and pays €51,000 penalty for failing to provide customer contracts on a durable medium**

Information Notice

**Reference:** ComReg 20/20

**Date:** 30/03/2020

1. Three Ireland Services (Hutchison) Limited (“Three”) has paid the Commission for Communications Regulation (“ComReg”) a penalty of €51,000 after an investigation found that between July 2017 and November 2019, Three had failed to provide 57,147 of its “affinity plan” customers who signed up via sales agent, JV Facility Limited (“JV Facility”),<sup>1</sup> with a contract on a durable medium, contrary to Regulation 12 of the Consumer Information, Cancellation and Other Rights Regulations, 2013 (“the 2013 Regulations”).
2. ComReg has imposed this penalty in the form of Fixed Payment Notices, pursuant to Section 85 of the Consumer Protection Act, 2007.
3. ComReg found that Three did not provide confirmation of the contracts, outlining the main characteristics of the plan on a durable medium, to the above “affinity plan” customers. ComReg considered that this made it difficult for the affected Three customers to recognise and identify the main characteristics of their plan, for example, the amount of call, text, data and roaming allowances included.
4. ComReg was also concerned that the absence of a contract on a durable medium including all the main characteristics, could hinder a customer’s consideration of their right to cancel the contract within the statutory cooling off period. Under the 2013 Regulations, a right to cancel within 14 days applies to many consumer contracts concluded at a distance (e.g. by phone or online) or concluded off-premises.
5. Three has paid the penalty in full. ComReg also required Three to take a number of remedial measures to comply with Regulations 10<sup>2</sup> and 12 of the 2013 Regulations and pursuant to section 73 of the Consumer Protection Act, 2007, ComReg has accepted from Three the Undertakings contained at **Appendix 1** of this Information Notice.
6. Amongst the Undertakings, Three has committed to the following:
  - a. Three will communicate with its affected consumer customers under contract entered into via JV Facility during the period 30 April 2019 to 30 April 2020, and will provide them with confirmation of their contract on a durable medium, including the 14 day cooling off period.
  - b. Three will re-issue to all consumer customers under contract entered into via JV Facility from 1 April 2018 to 1 June 2018 a contract on a durable medium, which will include the 14 day cooling off period.

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<sup>1</sup> JV Facility carries out telesales activities for Three.

<sup>2</sup> Regulation 10 of the 2013 Regulations specifies the type of information that a trader must provide to a consumer prior to concluding a distance contract, including information on the right to cancel.

- c. Three will provide a direct link, in the contract on a durable medium, to the price guide for the Three affinity plans and the terms and conditions of the Three affinity plans.
  - d. Three will publish a corrective statement on its website explaining how it has contravened the 2013 Regulations. The corrective statement will remain published on Three's website for 60 days.
  - e. Three will provide an individual corrective statement to each of the affected customers.
  - f. Three will demonstrate to ComReg's satisfaction, with independently verified (and verifiable) and audited documentary proof, that it has fully performed the above remedial actions; and
  - g. Three will confirm to ComReg that it has put in place the necessary measures to ensure no repetition of what has occurred.
7. The Undertakings contain the commitments and the dates by which Three's actions are to be carried out. See **Appendix 1** for more details.
8. ComReg will continue to monitor compliance with consumer rights legislation, including Regulations 10 and 12 of the 2013 Regulations, and where necessary will investigate any matters arising with Three or other undertakings providing electronic communications services.

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## **Appendix 1 - Undertakings**

Undertakings Provided by Three Ireland Services (Hutchison) Limited to the Commission for Communications Regulation (ComReg) in respect of ComReg's Compliance Case 1383

Three Ireland Services (Hutchison) Limited ("Three") notes ComReg's position as set out in ComReg's letter of 10 February 2020 and the terms of the attached 170 Fixed Payment Notices. Three reserves its position in relation to ComReg's view of Three's compliance with the European Union (Consumer Information, Cancellation, and Other Rights) Regulations, 2013 (the "2013 Regulations"), notwithstanding that, Three undertakes as follows:

- (i) To pay 170 Fixed Payment Notices in the sum of €300, giving rise to a total sum in the amount of €51,000. This will be paid by Three to ComReg by electronic funds transfer before 13 March 2020. Three will provide ComReg with proof of this;
- (ii) Three will re-issue to all consumer customers who are under contracts entered into via JV Facility within the last 12 months (from 30 April 2019 – 30 April 2020) an individual confirmation of their contract which confirmation of the contract will include the 14 day cooling off period setting out the additional information in a format to be agreed with ComReg, on a durable medium, by 24 April 2020 or within 4 weeks after agreeing the format with ComReg, whichever is later;
- (iii) Three will re-issue to all consumer customers who are under contracts entered into via JV Facility from 1 April 2018 – 1 June 2018, an individual confirmation of their contract which confirmation of the contract will include the 14 day cooling off period, setting out the additional information referred to in (ii) above, on a durable medium, within 4 weeks of completion of the re-issue of the confirmation of contract to the customer cohort under (ii) above;
- (iv) Three shall provide to any consumer customers who contracted via JV Facility who are not in the consumer cohorts covered by (ii) and (iii) above, confirmation of their contract on a durable medium upon such customer's request;
- (v) Three will demonstrate, with independently verified (and verifiable) and audited documentary proof, that it has fully performed the above remedial action by 31 July 2020 (where possible within the timeline or, as soon as possible thereafter);
- (vi) To provide confirmation that Three will take all necessary measures to avoid a repetition of what has occurred in relation to JV Facility;
- (vii) To provide a corrective statement to each of the consumers identified in (ii), in the format as set out at Annex 1;
- (viii) To publish and maintain on Three's website a corrective statement in the format set out in Annex 2 for a period of 60 days; and

- (ix) Three will provide a direct link in the contract on a durable medium to both the price guide for the affinity plans and the Terms and Conditions of the affinity plans.