

---

## Table of Contents

<b>Introduction</b>	<b>3</b>
<b>1. The Code of Practice</b>	<b>4</b>
<b>2. Definitions</b>	<b>4-6</b>
<b>3. Service Provider Administrative Responsibilities</b>	<b>7-8</b>
<b>4. Data Protection</b>	<b>9</b>
<b>5. The Code of Practice-General Provisions</b>	<b>10-12</b>
<b>6. Promotion (General Rules)</b>	<b>13-14</b>
<b>7. Pricing Information</b>	<b>15-16</b>
<b>8. Provisions Relating to Specific Categories of Service</b>	<b>17-24</b>
8.1 Children's Services	17-18
8.2 Competition Services	18-20
8.3 Advice and Information Services	20-21
8.4 Services of a Sexual Nature	21
8.5 Virtual Chat Services	22
8.6 Contact and Dating Services	23
8.7 Promotion of Virtual Chat, Contact & Dating Services	24
<b>9. Live Services</b>	<b>25-26</b>
<b>10. Online Premium Rate Services</b>	<b>27</b>
<b>11. Premium SMS Services</b>	<b>28-33</b>
<b>12. Funding of the Regulator</b>	<b>33</b>
<b>13. Procedures and Sanctions</b>	<b>34-36</b>
<b>14. Operative Date</b>	<b>37</b>
<b>15. Annex A</b>	<b>37-38</b>

## INTRODUCTION

### (A) The Regulator

- (i) The Regulator means the Regulator appointed by the Regulator of Premium Rate Telecommunications Services Limited, a company registered in Ireland, No: 234027 (trading as “Regtel”).
- (ii) Regtel, a not-for-profit company, is the supervisory body for the Premium Rate Telecommunications industry in Ireland and is financed by the industry.
- (iii) The Regulator may sub-delegate some or all its powers and functions to other persons or to committees.

### (B) Terms of Reference

The role of the Regulator is to supervise the content and promotion of Premium Rate Telecommunications Services and to enforce this Code of Practice.

The Regulator has the following tasks:

- (i) to set the standards both as to content and promotion with which Premium Rate Telecommunications Services must comply and to supervise these standards,
- (ii) to publish such standards in Codes of Practice and make these Codes available in print and electronic formats,
- (iii) to review the Codes of Practice from time to time in consultation with the industry and when necessary to reflect changes in public opinion and technological developments,
- (iv) to receive and investigate complaints made by any person or organisation concerning the content and promotion of any Premium Rate Telecommunications Service or any other matter covered by the Code of Practice,
- (v) to monitor Premium Rate Telecommunications Services to confirm that they comply with Codes of Practice in respect of their content and promotion,
- (vi) to endeavour to ensure that the Code of Practice is complied with and to investigate any apparent failure to do so,
- (vii) where breaches of the Code of Practice are found, to advise the relevant Service Provider of the breach and to take action designed to achieve compliance with the Code of Practice and where appropriate to impose sanctions,
- (viii) to publicise its existence, function and powers.

## 1. THE CODE OF PRACTICE

- 1.1 This Code of Practice has been produced by the Regulator. It covers the provision of Premium Rate Telecommunications Services by means of public telecommunications or other electronic networks.
- 1.2 This Code of Practice applies to all Premium Rate Telecommunications Services accessed by Consumers in Ireland, whether these Services originate in Ireland or abroad, and whether the Service Provider is situated in Ireland or abroad.
- 1.3 Where a Network Operator itself utilises Premium Rate Numbers for the provision of Services or permits a third party other than a Service Provider to utilise Premium Rate Numbers for the provision of Services, the Network Operator will be deemed to be a Service Provider and the obligations and liabilities of Service Providers under the Code will be imposed on the Network Operator.

## 2. DEFINITIONS

The following definitions shall apply throughout this Code of Practice;

- 2.1 **Call** means any communication through an electronic communications network, whether initiated by a Consumer or Service Provider.
- 2.2 **Child** means any person below the age of 18 years.
- 2.3 **ComReg** means the Commission for Communications Regulation.
- 2.4 **Consumer** means a person who initiates a call to or triggers a call from a Premium Rate Service.
- 2.5 **Information Providers** means individuals, organisations and companies who supply information to Service Providers for use in Premium Rate Services.
- 2.6 **Interactive Service** means a Premium Rate Service involving the exchange of information or content between a Service Provider and a Consumer in circumstances where one responds to a message transmitted by the other.
- 2.7 **Live Services/Conversation** and Interactive Services are Premium Rate Services involving two-way live speech/communication.
- 2.8 **Multimedia Message Service or MMS** enables the sending and receiving of messages comprising a combination of media (including text, sounds, images and/or videos) to MMS compliant equipment.
- 2.9 **Network Operator** and **Mobile Network Operator** means any person or company holding an appropriate authorisation issued by ComReg. The Regulator may recognise as a Network Operator or Mobile Network Operator (a) any company

which operates or uses a public telecommunications network over which Premium Rate Services are conveyed, or (b) any company associated with a company which operates or uses such a network. The Regulator shall publish, as it sees fit, a list of Network Operators recognised by the Regulator for the purpose of this Code of Practice. The Regulator may amend this list from time to time, and shall publish any such amended list.

- 2.10 **Online Service** means a Premium Rate Service which allows data to be transferred to and/or from Consumers and which may or may not have a visual element, and to which the Consumer is connected through a computer, mobile phone, television or similar device.
- 2.11 **Opt-in** or **Subscribe** are the terms given to an arrangement whereby a Consumer agrees in advance with a Service Provider to receive information or content through the means of a Premium Rate Service. Consumer data may be used only if the Consumer has opted-in.
- 2.12 **Opt-out** or **Unsubscribe** are the terms given to an arrangement which enables a Consumer to inform the originating Service Provider that he or she no longer wishes to receive information or content by means of a Premium Rate Service.
- 2.13 **Premium Rate Telecommunications Services** (also referred to as Premium Rate Services or Services) are services where part of the overall charge payable by the Consumer to the originating Network Operator for the Service (whether being payment for the content of the call, or products or services, including PSMS delivered in the course of, or as a direct consequence of the call), is passed on by the operator of the terminating network, directly or indirectly, to the Service Provider or to an individual, organisation or company which participates in the provision of the Service. PSMS sent over a Network Operator's telecommunications network making use of short codes allocated by ComReg (namely 50xxx to 59xxx) shall be deemed to constitute a Premium Rate Telecommunications Service.
- 2.14 **Premium SMS (PSMS)** means the use of SMS (Short Message Service) to provide a content service or product to a Consumer, whether or not a premium rate charge is imposed.
- 2.15 **Promotion** means any act or activity where the intent or effect is, either directly or indirectly, to encourage the use of Premium Rate Services and the term **Promotional Material** shall be construed accordingly.
- 2.16 **PSMS Subscription Service** means a service that repeatedly charges Consumers automatically, treating a single Consumer request as an authorisation for repeated transmissions and associated charges.
- 2.17 **Reverse Billed PSMS** delivers information or content to mobile equipment for a charge. Consumers subscribe to services and are charged for the messages they receive.
- 2.18 **Service Providers** are individuals, organisations or companies that have been allocated a Premium Rate number by a Network Operator and/or ComReg.

- 2.19 **Short Code Number** means a five digit number within the range of 50xxx to 59xxx used specifically for PSMS.
- 2.20 **Unsolicited Call** means a call sent by telephone or any other means over a telecommunications or electronic network that is not requested by the called party, and where no prior contractual relationship exists between the sender and the recipient of the call.
- 2.21 In this Code of Practice all Euro amounts specified are inclusive of VAT.

### 3. SERVICE PROVIDER ADMINISTRATIVE RESPONSIBILITIES

#### 3.1 Responsibility

Service Providers are responsible for ensuring that the content and promotion of all their Premium Rate Services (whether produced by themselves or by their Information Providers) comply with both the general and specific conditions of this Code of Practice.

Service Providers must ensure that the promotion of any Premium Rate Service does not bring the industry into disrepute.

#### 3.2 Setting Up a Premium Rate Service

3.2.1 Before providing Services, a Service Provider must notify the Regulator of the following:

- (i) the name of the Network Operator(s) or Mobile Network Operator(s) who will carry the Service;
- (ii) the telephone number ranges (including the prefixes or in the case of SMS Short Codes, the range as indicated by the first two digits of the Short Code) allocated to the Service;
- (iii) the name, address, telephone/fax number and e-mail address of the person representing the Service Provider who is nominated to receive all communications in connection with the application of the Code of Practice;
- (iv) where different from (iii) above, the name and contact details of the person responsible for handling enquiries;
- (v) whether the Service is to be associated with, or promoted on a Web Site, and if so, the address (URL) of the site;
- (vi) details of the type or category of the Service which the Service Provider intends to provide, whether itself or by Information Providers;
- (vii) in the case of PSMS Services, whether the Service involves a charge being applied on sending to the short code or receiving from the Short Code Number;
- (viii) whether the Service is a Subscription Service.

**Note:** Any changes or additions, including change of Network Operator, or the porting of numbers to another Network Operator, must be notified to the

*Regulator immediately. In the case of PSMS services, any changes in billing structure from billed on sending to reverse billed and vice versa must be notified to the Regulator immediately.*

- 3.2.2 Where certain codes, prefixes or number ranges have been designated by ComReg and/or by a Network Operator for the provision of particular Service categories, Services within these categories must use only those codes, prefixes or number ranges.
- 3.2.3 Before promoting or providing Services, the Service Provider must have readily available all documentary and other evidence necessary to substantiate any factual claims made. This material, together with a statement outlining its relevance, must be provided without delay if requested by the Regulator.
- 3.2.4 Service Providers must ensure that all Services are of a technical quality acceptable to the Regulator.
- 3.2.5 Except where otherwise provided for in this Code, the maximum duration of connection to a Premium Rate Service may be specified at the discretion of the Regulator and in any event must not exceed 60 minutes and must be terminated by forced release.

### **3.3 Prior Permission**

- 3.3.1 The Regulator may require that particular categories of Service must not be provided unless the Regulator has given prior written permission for any Service within that category. The Regulator will give reasonable notice of such a requirement and the categories of Service to which it applies. A list of such categories will be published from time to time and in such a manner as the Regulator sees fit. Prior permission may be granted subject to the imposition of additional requirements. Such permission may be withdrawn or varied by notice in writing given by the Regulator.
- 3.3.2 Where a Service Provider can satisfy the Regulator in respect of a particular Service that any requirement of the Code of Practice can be adequately met by alternative means, the Regulator may give prior written permission for the use of such alternative means. Such permission may be withdrawn or varied by notice in the event that the Regulator determines that the alternative means have proved inadequate.
- 3.3.3 All Live Services require the prior written permission of the Regulator and such Services must not commence until prior written permission has been received.
- 3.3.4 PSMS falling within the number range 50xxx to 59xxx requires the prior written permission of the Regulator.

## 4. DATA PROTECTION

- 4.1 Service providers must not send, or have others send on their behalf, unsolicited, random, or untargeted telecommunications messages, and the use of Premium Rate Services must not be promoted by the use of such messages. Premium Services may be promoted by outgoing telecommunication messages only where it can be shown to the reasonable satisfaction of the Regulator that the Consumer has 'opted-in' to the receipt of such messages.
- 4.2 Without prejudice to paragraph 4.1, Service Providers must comply fully with all legislation relating to data protection in force at any time with regard to the collection, processing, keeping, use and disposal of personal data and the promotion and content of Premium Rate Telecommunications Services.
- 4.3 If registering with the Data Protection Commissioner, all Service Providers must in their application:
- (i) disclose that Regtel may be a potential data user/disclosee;
  - (ii) state that the data may be used by Regtel for regulatory purposes.
- 4.4 Service Providers and Network Operators must not give any undertaking to Consumers, suppliers, Information Providers, Network Operators or others which could preclude any information being given to the Regulator in confidence.
- 4.5 Services which involve the collection of personal information, such as names, addresses and telephone numbers (including calling line identification or caller display information), must make clear to Consumers the purpose for which the information is required. The Service must also identify the data user (if different from the Service Provider or Information Provider) and any different use to which the personal information might be put and provide the Consumer with an opportunity to prevent such usage.
- 4.6 All information supplied to the Regulator will be treated as confidential and will only be liable to be disclosed in accordance with the law.



## 5. THE CODE OF PRACTICE – GENERAL PROVISIONS

### 5.1 Legality

5.1.1 Services and Promotional Material must comply with the law and must not contain or promote anything which is in breach of the law, nor omit anything which the law requires to be included. Services and Promotional Material must not facilitate or encourage anything which is in any way unlawful.

5.1.2 Service Providers must ensure that Premium Rate Services do not infringe Section 13 (1) Post Office (Amendment) Act, 1951 (as amended). Section 13 (1) provides as follows:

‘A person who;

(a) *sends, by means of the telecommunications system operated by a licensed operator, any message or other matter which is grossly offensive or of an indecent, obscene or menacing character, whether addressed to an operator or to any other person; or*

(b) *sends by those means, for the purpose of causing annoyance, inconvenience or needless anxiety to another, a message which he knows to be false, or persistently makes use of those means for that purpose*

shall be guilty of an offence’.

### 5.2 Decency

5.2.1 Services and Promotional Material must not:

(i) contain material indicating violence, sadism or cruelty, or be of a repulsive or horrible nature; or

(ii) involve the use of foul or obscene language or sexually explicit language or images.

5.2.2 Services and Promotional Material must not be of a kind that are likely to:

(i) result in any unreasonable invasion of privacy;

(ii) induce fear or anxiety;

(iii) encourage or incite any person to engage in harmful or dangerous practices or to use dangerous substances;

(iv) induce or promote disharmony on the basis of gender, marital status,

family status, sexual orientation, race, national origin, religion, age, disability or membership of the travelling community;

- (v) cause grave or widespread offence; or
- (vi) debase, degrade or demean; or
- (vii) use subliminal messaging as a form of promotion or content delivery.

5.2.3 Service Providers must ensure that Services and Promotional Material are not used in any way to promote or facilitate prostitution.

### 5.3 Honesty

Services and Promotional Material must not:

- (i) seek to take unfair advantage of any characteristic or circumstance which may make Consumers vulnerable or otherwise encourage Consumers to make calls which are in quantum or duration considered by the Regulator to be unreasonable or excessive;
- (ii) infer that future events may be predicted other than as a matter of opinion or as accepted scientific practice;
- (iii) be of a kind which is likely to mislead by inaccuracy, ambiguity, exaggeration, omission or otherwise; or
- (iv) purport to make contact with deceased persons.

### 5.4 Content

5.4.1 Services must not contain incorrect information and it must be made clear to Consumers when time-sensitive information was last updated.

5.4.2 Fax-Back Services must contain correct information and ensure that time-sensitive information is updated. The normal transmission speed must be acceptable to the Regulator (i.e. operate at a minimum baud rate of 9600). The maximum cost of the Fax-Back Service which must not exceed €12 per transaction must be stated in all Promotional Material.

5.4.3 Services must not be unreasonably prolonged or delayed.

5.4.4 Services must not be of a nature which encourages unauthorised calls.

5.4.5 Where there is a determination by the Regulator that a Service is to terminate at the expiration of a fixed period of time or charge, the Service Provider must effect termination within the time or monetary limit so fixed.

5.4.6 The Regulator reserves the right in respect of any category or description of Premium Rate Service to vary the monetary threshold or limit specified in this Code, upwards or downwards, in order to protect the interest of Consumers.

5.4.7 When transmitting a Premium Rate Service by PSMS, the originating number of the sender must be displayed.

### **5.5 Amusement Services**

Service Providers must provide an introductory message advising the caller when a Service is for amusement purposes only (e.g. joke, 'windup' and hoax Services) and such Services must not infringe the statutory provision cited at paragraph 5.1.2.

### **5.6 Unavailable Services**

Consumers must not be charged at a Premium Rate in respect of Services that deliver a "busy tone" or "silence" prior to connection to the Service or in respect of a Service which is unavailable to them.

### **5.7 Promotion by non-Premium Rate Service**

Whenever a Premium Rate Service may be accessed or is promoted by a non-Premium Rate Service, both Services will be considered as one and will be subject to this Code of Practice.

### **5.8 Service Provider Responsibilities**

Responsibility for Compliance with this Code of Practice rests with the Service Provider regardless of the origin or the content of the Service.

### **5.9 Monitoring**

Service Providers must ensure that adequate monitoring arrangements are in place to prevent unauthorised access by those under 18 years of age and must also ensure that inappropriate text messages are not transmitted. Service Providers must ensure that staff are appropriately trained to carry out such monitoring.

## 6. PROMOTION (General Rules)

### 6.1 Scope

- 6.1.1 In all Promotional Material, the prefix or code must be presented in such a way that it can clearly be identified as a Premium Rate Service.
- 6.1.2 Service Providers must take all reasonable steps to ensure that Promotional Material does not reach those for whom the Service concerned might be regarded as inappropriate.
- 6.1.3 Promotions transmitted by radio, television, teletext, telephone, mobile phone, facsimile, the Internet, or any other form of electronic communication, or any other medium, must observe the provisions of this Code of Practice in the manner most reasonable and appropriate to the technology employed, and to the satisfaction of the Regulator.
- 6.1.4 In the case of promotions that appear in editorial material, Service Providers must use their best endeavours to ensure compliance with these provisions.
- 6.1.5 Promotional Material must not be misleading in relation to the Service supplied, including any applicable limitations.
- 6.1.6 Promotional Material must not seek to take advantage of lack of Consumer knowledge by use of technical jargon or other methods.
- 6.1.7 All promotions must comply with legislation covering misleading advertising, including the Consumer Information Act, 1978, and any Order made under Section 11 of that Act and the European Communities (Misleading Advertising) Regulations, 1988 (S.I. No 134 of 1988).
- 6.1.8 Service Providers must not, whether by themselves or by persons acting on their behalf, send unsolicited, random, or untargeted telecommunications messages (referred to as SPAM), and the use of Premium Rate Services must not be promoted by the use of such messages.
- 6.1.9 In the case of PSMS short codes, Service Providers must specify in all Promotional material whether the service is billed on sending to the short code or reversed billed. PSMS Service Providers must specify in all Promotional material whether the service is a subscription service or involves multiple charges.
- 6.1.10 Promotional/informational messages sent to Consumers must not attract a premium rate charge.
- 6.1.11 The Regulator reserves the right to issue directions to Service Providers with regard to the text or content of Promotional Material with a view to

protecting the interests of Consumers (including the interests of children) and Service Providers must comply with such directions.

- 6.2 No Premium Rate Service may be promoted as being “free” if it involves any charge whatsoever to a Consumer. No product or service may be described as “free” if it is obtainable only by the use of a Premium Rate Service involving a charge to a Consumer.
- 6.3 Service Provider details used in Promotional Material must be the same as those which have already been provided to the Regulator.
- 6.4 The contact details for the Information Provider, if desired, may also appear in the promotion or advertisement but should be clearly distinct from those of the Service Provider.
- 6.5 An adequately staffed and resourced live operator helpline service must be provided during normal office hours by Service Providers (or by an Information Provider on their behalf).

---

## 7. PRICING INFORMATION

### 7.1 General

- 7.1.1 Service Providers must ensure that charges for calls from fixed telephone lines to each Service are clearly stated in all promotions. Prices must be noted in the form of numerical price per minute, (inclusive of VAT) or the total maximum cost to the Consumer (inclusive of VAT) of the completed message or Service. The Regulator may, in respect of any service or category of service, require the numerical price per minute to be accompanied by notification of the maximum duration of the call required to complete the transaction in order to accurately state the cost to the Consumer. Promotional material must state that calls from mobile phones normally cost more. Reference to values in Euro must use the Euro symbol (€) where possible and otherwise must use the word Euro.
- 7.1.2 Textual pricing information must be easily legible, prominent, horizontal and presented in a way that does not require close examination. The minimum font size permissible for pricing information is 9 point. Pricing must be displayed directly in relation to the Premium Rate number.
- 7.1.3 In cases where it is unlikely that a Consumer will have seen or heard any promotion containing pricing information, the Service Provider must place a short, distinct pricing message at the beginning of the Service.
- 7.1.4 Pricing information must be associated with the Premium Rate Number concerned and not be inserted into the terms and conditions or the footer of the Service being promoted.
- 7.1.5 In the case of promotions transmitted by radio, the pricing information must be spoken.
- 7.1.6 In the case of promotions transmitted by television (other than teletext services) the pricing information must be spoken as well as visually displayed. The price per minute/call must be displayed wherever the Premium Rate number is displayed. On-screen display must be stationary and clearly visible with a minimum font size of 28 pixels, with a shadow clearly distinguished from the font colour.
- 7.1.7 In the case of promotions transmitted by television and where the Calls or Service costs €2 or less, the pricing information need not be spoken.
- 7.1.8 Voting/Competition Services which are subsequently promoted or aired must carry the word “Rec” to denote that the programme is recorded and clearly state that the voting/entry mechanism is not open to use by Consumers.

## **7.2 Identity of Service Provider**

The identity and contact details of the Service Provider must be clearly stated in all promotions so that Consumers can contact them directly. Identity details must consist of the following:

- (i) company name;
- (ii) full postal address or P.O. Box number, and usual telephone number (excluding international free phone) or non-premium local access rate helpline number;
- (iii) in the case of PSMS, the usual mobile number may be used as a helpline contact number; and
- (iv) the minimum font size for this information is 9 point.

## **7.3 Other Regulations and Codes of Practice**

All Promotions must comply with the Children's Advertising Code published by the Broadcasting Commission of Ireland (where applicable). Promotions in print media must comply with the Codes of Advertising Standards and of Sales Promotion Practice issued by the Advertising Standards Authority for Ireland (and, where applicable, those of the Irish Direct Marketing Association) in addition to specific conditions laid down by the relevant professional bodies. Promotions on television and radio are also subject to such codes and policies as are issued by the appropriate regulatory authorities, including the Code of Standards, Practice and Prohibition in Advertising, Sponsorship and other forms of Commercial Promotions in Broadcasting Services published by the Broadcasting Commission of Ireland.

## 8. PROVISIONS RELATING TO SPECIFIC CATEGORIES OF SERVICE

### 8.1 CHILDREN'S SERVICES

- 8.1.1 Children's Services are those which, either wholly or in part, are aimed at or would reasonably be expected to be attractive to persons under 18 years of age.
- 8.1.2 Promotional Material for Children's Services must clearly state:
- (i) the maximum possible cost of the Service;
  - (ii) that the Service should only be used with the agreement of the person responsible for paying the bill; and
  - (iii) where PSMS Subscription Services are concerned, Promotional Material must be clear and not rely on close scrutiny and the attention of Service Providers is drawn to Section 11.3.1 of this Code.
- 8.1.3 Children's Services and any associated Promotional Material must not:
- (i) contain anything which is likely to result in harm to children or which exploits their credulity, lack of experience or sense of loyalty;
  - (ii) involve an invasion of privacy of any child;
  - (iii) make direct appeals to children to buy, unless the product or Service is one likely to be of interest to them and one which they could reasonably be expected to afford for themselves;
  - (iv) encourage excessive use of Premium Rate Services.
- 8.1.4 Service Providers must comply with the Broadcasting Commission of Ireland Code of Advertising for Children as per Section 7.3.
- 8.1.5 Children's Services must:
- (i) cost no more than €5 total per single call or PSMS transaction or €10 per month in the case of PSMS Subscription Services, or such other amount as may be specified by the Regulator;
  - (ii) be terminated by forced release;
  - (iii) not encourage children to ring or text other Premium Rate Telecommunications Services or the same Service again; and



(iv) not involve the use of diallers.

8.1.6 Promotional material and associated editorial material which is aimed at or reasonably expected to be of interest to children must not in any publication or medium include or be placed proximate to or in association with copy or artwork that is of a sexually explicit or sexually suggestive nature.

## 8.2 COMPETITION AND PROMOTION SERVICES

***All Competition Services must be notified in advance, in writing, to the Regulator.***

8.2.1 Services in this sector include but are not limited to the following:

- Lotteries,
- Competitions,
- Promotions,
- Scratch Cards or “Letter” type promotions,
- Other games or promotions with prizes,
- An entry mechanism into a draw,
- Information about prizes and how to claim them including details of the claim line number.

*Certain Competition and Promotion Services may be the subject of legal or regulatory restrictions and the Regulator reserves the right to require Service Providers to secure legal or regulatory clearance before permitting the Service Provider to provide or promote such services.*

8.2.2 Promotional Material must clearly state and prominently display any information which is likely to affect a decision to participate, and in particular:

- (i) any closing date indicating specific time of entry closure;
- (ii) any material terms and conditions, including any restriction on the number of entries or prizes to be won, in total and per individual;
- (iii) an accurate and clear description of prizes, including the number of major prizes;
- (iv) any material age, geographical or other eligibility restrictions;
- (v) any material costs which a Consumer would not normally expect to pay in conjunction with or so as to be eligible to receive a prize;
- (vi) on the front of all Promotional Material the following information must appear:
  - (a) the closing date,
  - (b) the Call/PSMS cost,

- (c) the maximum call duration,
  - (d) an age warning,
  - (e) a mobile cost warning; and
- (vii) any requirement that the Consumer participate in any market research (e.g. questionnaire or surveys) or promotional activity.
- 8.2.3 Competition Services must not cost more than €10 per Call/PSMS or such other amount as may be specified by the Regulator, and the Service Provider must provide an alternative route of entry (e.g. postal entry) to claim prizes.
- 8.2.4 The closing date of any competition must not be altered without the prior written authorisation of the Regulator.
- 8.2.5 Where there is not automatic call termination, the likely playing time or full cost of the call must be clearly stated.
- 8.2.6 The following information must also be made readily available to the Regulator and Consumer, free of charge on request and, if not contained in the original Promotional Material, details as to where it can be obtained must be stated:
  - (i) how and when prize winners will be notified;
  - (ii) how prize winner information may be obtained;
  - (iii) any criteria for judging entries;
  - (iv) any alternative prize that is available;
  - (v) details of any intended post-event publicity;
  - (vi) a full set of rules; and
  - (vii) any supplementary rule which may apply.
- 8.2.7 Competition Services must have a closing date, except where there are instant prizes. An insufficient number of entries or entries of inadequate quality are not acceptable reasons for changing the closing date of a competition or withholding prizes.
- 8.2.8 Competition Services which are aimed at or would reasonably be expected to prove attractive to persons under 18 years of age must not:
  - (i) offer cash, or anything which can be readily exchanged for cash, as a prize; or
  - (ii) feature long or complex rules.

- 8.2.9 Competition Services and Promotional Material must not:
- (i) use words such as “win” or “prize” to describe items offered to all or a substantial majority of participants;
  - (ii) exaggerate the chance of winning a prize;
  - (iii) suggest that winning a prize is a certainty; or
  - (iv) suggest that Consumers must dial a Premium Rate number in order to participate, if an alternative postal or other entry route is available.
- 8.2.10 Service Providers must ensure that:
- (i) prizes are awarded within 28 days of the closing date, unless a longer period is clearly stated in the Promotional Material;
  - (ii) all entries have the same chance of winning as telephone entries; and
  - (iii) if there is any subjective assessment in the selection of the winning entries (e.g. tie-breakers) in a competition open to the general public, either the competition should be judged by a person or persons independent of the Service Provider and any intermediaries involved, or by a judging panel including at least one independent member.
- 8.2.11 No Competition Service shall enable the Consumer to receive an award or benefit the value of which relates only or predominantly to the cost of the call.
- 8.2.12 Promotional Material for Competition Services must make clear if participants or prize-winners may be required to become involved in further publicity or advertising, whether connected with the competition or not. Written permission must first be obtained from participants if their names and/or addresses are to be used in further publicity or for other purposes.
- 8.2.13 Post-event publicity in which prize winners participate must be taken out of circulation within 6 months of the award of the prize.

### **8.3 ADVICE AND INFORMATION SERVICES**

- 8.3.1 Certain Advice and Information Services may be the subject of legal or regulatory restrictions and the Regulator reserves the right to require Service Providers to secure legal or regulatory clearance before permitting the Service Provider to provide or promote such a service.
- 8.3.2 All Advice and Information Services must be conveyed in a responsible manner. Services giving medical, financial, legal or other similar professional advice must indicate clearly in all/any Promotional Material and at the beginning of the Service, the identity, the current status and any relevant

qualifications and experience of the person(s) or the organisation supplying the information or advice. If the advice is given by a person with no relevant qualifications, the Service should explain how the information has been compiled.

- 8.3.3 All Advice and Information Services must be prefaced with a statement that the Consumer should not act upon advice which needs individual interpretation without first consulting a suitably qualified practitioner.
- 8.3.4 To avoid being classified as a Service of a Sexual Nature, (Code of Practice Section 8.4) Advice and Information Services and associated Promotional Material must not contain anything of a sexually suggestive or sexually explicit nature, must not contain or offer explicit sexual advice and must not be promoted by advertisements which are proximate to or associated with advertisements or copy of a sexually suggestive or explicit nature.

#### **8.4 SERVICES OF A SEXUAL NATURE**

- 8.4.1 Services of a sexual nature are:
  - (i) services of a sexually suggestive nature;
  - (ii) services of a sexually explicit nature;
  - (iii) services offering explicit sexual advice.

Such Services must be designated by a specific prefix (currently 1559) and must be accessible only by the use of a Personal Identification Number (PIN). This PIN may only be issued by a licensed Network Operator. Service Providers may not circumvent this condition by substituting a PIN access control system or number of their own choosing.

- 8.4.2 Service Providers must take all reasonable steps, in respect of services of a sexual nature, to ensure that all Consumers are 18 years or over.
- 8.4.3 Services of a sexual nature must not contain references which suggest or imply in any way the involvement of children.
- 8.4.4 Service Providers must ensure that Premium Rate Services are not used for the transmission of any message or other matter which is grossly offensive or of an indecent or obscene character.
- 8.4.5 Promotions for Services of a sexual nature must not appear in publications intended for children or young persons, national publications or in publications which are unsolicited, e.g., free-distribution newspapers, referred to as “free sheets”.

## 8.5 VIRTUAL CHAT SERVICES

*Virtual Chat Services enable two or more Consumers to exchange separate recorded messages while connected to the Service. These Services do not involve live telephone conversation. Virtual Chat Services may also enable contact details to be exchanged between Consumers in the course of exchanging messages.*

- 8.5.1 Service Providers must take all reasonable steps to ensure that Consumers under 18 years of age are not allowed to use these Services. Virtual Chat Services must be monitored by Service Providers at appropriate times determined by the Regulator, to prevent access to such services by children. Voice recognition training must be provided for monitoring staff.
- 8.5.2 Service Providers must ensure that all Virtual Chat Services carry a warning that obscene or sexually explicit messages will be removed. This warning must be given on accessing the Service.
- 8.5.3 Silent (i.e. non-verbal) access to Virtual Chat Services is not permitted.
- 8.5.4 Service Providers which operate Virtual Chat Services which enable contact details to be exchanged must:
  - (i) ensure all Consumers are given clear advice on sensible precautions to be observed when meeting people through Virtual Chat Services;
  - (ii) ensure that publicly available elements of the Service do not contain information, such as telephone numbers or addresses, which could provide a means of direct contact; and
  - (iii) where it is not obvious, make clear how long an individual message will remain on the Service.
- 8.5.5 Callers to Virtual Chat Services must be notified as soon as possible on incurring charges of €20, or other such amount as may be specified by the Regulator, and be required to confirm if they wish to continue the call. This warning must be repeated on incurring each additional charge of €20, and followed by forced release when a total charge of €60 has been incurred.
- 8.5.6 Service Providers must retain audio recordings of Calls to Virtual Chat Services for a period of 6 months from the date of the call.

See Sections 8.6 (Contact/Dating Services) and 8.7 (Special Rules-Promotion of Virtual Chat and Dating Services).

## 8.6 CONTACT AND DATING SERVICES

*Contact and Dating Services enable people previously unacquainted to make initial contact and arrange to meet in person. They must not enable Consumers to exchange separate recorded messages while connected to the Service. In the context of these Services the term “advertiser” refers to the person who initiates the message.*

- 8.6.1 Service Providers who operate Contact and Dating services which enable contact details to be exchanged must:
- (i) ensure that all users are given clear advice on sensible precautions to be observed when meeting people through Contact and Dating Services, and a warning to this effect must be included in the introductory message;
  - (ii) ensure that any publicly available elements of the Services do not contain information, such as telephone numbers or addresses, which could provide a means of direct contact;
  - (iii) ensure that, where telephone numbers or other personal information is given out to respondents, advertisers are warned of the risks involved; and
  - (iv) take all reasonable steps to ensure that children are not allowed to use these Services.
- 8.6.2 The use of indecent or obscene language is forbidden. Recordings where such language is used must be removed without delay and the Consumer informed that such language is unacceptable.
- 8.6.3 No advertisement for a Dating Service may be included unless there is a clear agreement between the Service Provider and the “advertiser” as to where, when, and for how long the advertisement will be used. No advertisement shall be used for a period in excess of one month except by specific arrangement.
- 8.6.4 Callers to Contact and Dating Services must be notified as soon as possible on spending €20, or such other amount as may be specified by the Regulator, and be required to confirm if they wish to continue the call. This warning must be repeated on incurring each additional charge of €20, and followed by forced release when a total charge of €60 has been incurred.
- 8.6.5 Service Providers must retain audio recordings of Calls to Contact and Dating Services for a period of 6 months from the date of the call.

## **8.7 PROMOTION OF VIRTUAL CHAT, CONTACT AND DATING SERVICES**

*In the context of these Services, the term “promotion” means anything where the intent or effect is, either directly or indirectly, to encourage the use of Premium Rate Services and the term “Promotional Material” shall be construed accordingly. The following specific provisions are in addition to the general rules governing promotion which are detailed in Section 6 of the Code of Practice.*

- 8.7.1 Advertisements and other Promotional Material must not mislead. Misleading advertising means any advertising which may in any way, including its presentation, deceive or be likely to deceive the persons it reaches or to whom it is addressed.
- 8.7.2 The implication that “people are live on line” or that “instant contacts” can be made is not permissible. Use of the term ‘live’ is not permitted in the promotion of Virtual Chat Services.
- 8.7.3 Advertisements or other Promotional Material for Virtual Chat, Contact and Dating Services must not contain copy or illustrations of a sexually suggestive or explicit nature and must not appear in publications of a sexually suggestive or explicit nature, in unsolicited publications (for example ‘free’ distribution newspapers) or websites.
- 8.7.4 All claims relating to numbers of participants in the Service must be capable of being substantiated.
- 8.7.5 Call costs and Service Provider details must be displayed in font size 9 point or larger and be separated from other printed matter.

## 9. LIVE SERVICES – (Including Live ‘Advice’ Services)

### 9.1 Authorisation

- 9.1.1 Live Services involve two-way live speech and Service Providers must not provide any Live Service unless such Service has been submitted to and authorised in advance by the Regulator.
- 9.1.2 Service Providers must not commence operating a Live Service or continue to do so in the event that authorisation has not been granted by the Regulator or that such authorisation has expired or been withdrawn.
- 9.1.3 Such authorisation may be subject to any conditions that the Regulator may consider appropriate. Such authorisation may be withdrawn at its discretion.

### 9.2 Monitoring

*The purpose of this part of the Code is to ensure that Service Providers and their employees act in accordance with the Code of Practice and to facilitate monitoring and effective complaint investigation.*

- 9.2.1 The Regulator may require:
- (i) that all conversations are listened to by a Monitor (who is the person acting on behalf of the Service Provider to whom the Consumer speaks when accessing the Live Service); and
  - (ii) that all calls are continuously recorded by the Service Provider to allow investigation of complaints. Such recordings must be retained by the Service Provider for a period of not less than six months from the date of the call and must be made available to the Regulator on demand. Exemptions from this requirement may be granted only by the Regulator.
- 9.2.2 Where recording of conversations is required by the Regulator, Service Providers must ensure that such recordings are compatible with the Regulator’s replay facilities.
- 9.2.3 Individual telephone numbers allocated by the Network Operator to the Service Provider for Live Services must be notified to the Regulator.
- 9.2.4 The type and nature of the Live Service (and any changes made thereafter) associated with each telephone number, must also be notified to the Regulator.

### 9.3 General Provisions

- 9.3.1 In addition to the requirements set out elsewhere in this Code of Practice,



Service Providers who operate Live Services must actively discourage Consumers from seeking or giving out surnames, places of work, addresses or telephone numbers except where such information is required for business purposes and is a necessary part of the Service.

9.3.2 Where there is a determination by the Regulator that a Live Service is to be terminated at the expiration of a fixed period of time, the Service Provider must effect termination of calls within the period so fixed.

9.3.3 Callers to Live Services must be notified as soon as possible on spending €30, or such other amount as may be fixed by the Regulator and be required to confirm if they wish to continue the call. This warning must be repeated on incurring each additional charge of €30, followed by forced release when a total charge of €90 has been incurred.

#### **9.4 Introductory Messages**

9.4.1 All providers of Live Services must ensure that, on connection, each Consumer receives a brief introductory message, giving details of call costs and the name of the Service Provider providing the Live Service.

9.4.2 Consumers using Live Services in respect of which recording of calls has been required by the Regulator must be warned that rules apply governing disallowable conversation. They must be informed that a recording of the conversation by the Service Provider may be made available to the Regulator.

#### **9.5 Promotional Material and Advertising**

In addition to 'Promotion General Rules' (see Section 6.1.1-6.1.11) the following special provisions will apply to Live Services:

- (i) where there is a requirement for recording conversations, this should clearly be stated in the Promotional Material; and
- (ii) specialist or expert Services must indicate the current status and professional experience of those providing the relevant Live Services. There is a particular obligation on Service Providers to ensure that Consumers are aware of the cost of the Service.

## 10. ONLINE PREMIUM RATE SERVICES

- 10.1 Service Providers must not provide an Online Premium Rate Service unless such Service has been submitted to and authorised in advance by the Regulator.
- 10.2 Such authorisation may be subject to such conditions as the Regulator may consider appropriate and may be withdrawn or amended at its discretion.
- 10.3 Online Premium Rate Services must;
- (i) not cost more than €25 per call, or such other amount as may be specified by the Regulator and must terminate by forced release once the cost has been incurred;
  - (ii) not allow any further access via the Service to the World Wide Web until the Consumer has disconnected from the Premium Rate Service; and
  - (iii) disconnect by forced release if the Service is left idle by the Consumer for five (5) minutes.
- 10.4 Service Providers must ensure that:
- (i) pricing information and the Premium Rate number being called, are displayed prominently on screen when the Service is accessed;
  - (ii) there are security measures in place with a view to ensuring that the Consumer is the bill-payer or otherwise authorised to make the call;
  - (iii) charging for the Service must not commence until the Consumer has actively indicated a wish to proceed.
- 10.5 Any service aimed at 18 year olds and over must carry an age warning and active Consumer age confirmation.
- 10.6 When a dialler is connected to a Premium Rate Service, the Consumer must be alerted by a visual display of dialler utilisation on screen requesting the Consumer to actively confirm that they wish to use the Premium Rate Service.
- 10.7 All services using a dialler must be authorised in advance by the Regulator. Such services must not be linked to any other service or linked to other websites. Any variation to an authorised service must be submitted in advance to the Regulator before being implemented.

## 11. PREMIUM SMS SERVICES (PSMS)

**A condition for the allocation of a Short Code Number by ComReg (ODTR 02/14) is that Network Operators and Service Providers agree to abide by this Code of Practice.**

### 11.1 General

- 11.1.1 Only PSMS services authorised by the Regulator may be operated by a Service Provider.
- 11.1.2 Short Code Numbers must be used only for the Service authorised by the Regulator.
- 11.1.3 Service Providers must not send, or have others send on their behalf, unsolicited, random, or untargeted telecommunications messages (referred to as SPAM), and the use of PSMS must not be promoted by the use of such messages.
- 11.1.4 The Consumer must have the right to 'opt-in' or 'opt-out' of any promotion or Service, whether subscription based service or otherwise.
- 11.1.5 No PSMS Service may be promoted as being "free" if it involves any charge whatsoever to a Consumer. No product or service may be described as "free" if it is obtainable only by the use of a Premium Rate Service involving a charge to a Consumer.
- 11.1.6 Service Providers are permitted to charge Consumers, whether on a subscription basis or otherwise, only for specific PSMS services and content which the Service Provider can demonstrate to the satisfaction of the Regulator the Consumer in question has agreed to receive and pay for.
- 11.1.7 All PSMS Promotions must carry the mobile number and the Short Code Number of the originating Service Provider.
- 11.1.8 Text messages sent and received by Consumers must be stored by the Service Provider for a period of six months from the date of the message.

**Service Provider Administrative Responsibility is set out in Section 3 of this Code of Practice.**

## 11.2 Pricing Notification

**In addition to the rules laid down in Section 7 of this Code (Pricing) the following special conditions apply to PSMS.**

- 11.2.1 Any Promotional Material for PSMS must include full pricing information inclusive of VAT and any other cost associated with the Service.
- 11.2.2 Consumers must be notified on incurring charges of €20 and be required to confirm in text format if they wish to continue the Service. The maximum spend per transaction shall not exceed €40 or other such amount as may be specified by the Regulator. Any transaction exceeding that sum is not permitted.
- 11.2.3 Pricing information requested by the Consumer must not be charged at a Premium Rate price and in any event must not be more than the standard network charge. The Regulator considers it best practice that such information be free of charge.
- 11.2.4 The maximum per diem rate for interactive services is €10 or such other sum as may be fixed by the Regulator from time to time, whether generally or in respect of any specific category of service.
- 11.2.5 Service Providers must ensure that the maximum charge for each PSMS is clearly stated in all promotions. Prices per PSMS must be noted in the form of numerical price per message (inclusive of VAT), the total number of PSMS and/or the total maximum cost of the Service to the Consumer (inclusive of VAT). In respect of any PSMS service or category of PSMS service, the price per message and number of messages required to complete the transaction must be stated in all Promotional Material.
- 11.2.6 The price per PSMS message for the Service must be associated directly with the Short Code Number and be clearly legible to the Consumer in all Promotions. Each reverse billed PSMS message must show the short code from which the PSMS originates to make it clear that a charge applies.
- 11.2.7 The Regulator reserves the right in the case of a PSMS Subscription Service, or any particular category of such Service, to require that Consumers be informed of the maximum number of messages before they enter the Service and be informed that a Premium Rate Charge is applied per message received.
- 11.2.8 In relation to Subscription Services the words “daily Subscription Service”, “weekly Subscription Service” or “monthly Subscription Service” must be displayed visually, and not requiring close scrutiny, in all Promotional Material. In relation to television promotions, this information must be displayed clearly at the top of the screen in a stationary manner and not requiring close scrutiny.

### 11.3 PSMS Subscription Services

11.3.1 All Promotional Material for PSMS Subscription Services must contain the following information in a clear and legible font:

- (i) a description of PSMS Subscription Service and the frequency of charging, including the initial charge;
- (ii) confirmation to the Consumer that the PSMS Subscription Service incurs a recurring/repeat charge to the Consumer;
- (iii) information on how to “opt-out” or “unsubscribe” using only the words “STOP” or “STOP ALL”; and
- (iv) the identity and contact details of the Service Provider.

11.3.2 On subscribing to a PSMS Subscription Service, the Consumer must be sent a free information message containing the following:

- (i) that Consumer has entered a Subscription Service together with details of charging period (daily, weekly, monthly);
- (ii) the cost in euro;
- (iii) the fact that the Consumer can “opt-out” of or “unsubscribe” from the Service by texting the words “STOP” or “STOP ALL” to a designated short code number; and
- (iv) contact details for the Service Provider.

11.3.3 Service Providers must provide Consumer ‘opt-in’ (subscribe) and ‘opt-out’ (unsubscribe) facilities for all Subscription Services, to enable Consumers to “subscribe” and “unsubscribe”. Consumers must be allowed to unsubscribe by texting the word “STOP” or “STOP ALL” to the Service Provider. The Regulator reserves the right to designate other standard words which may be used by Consumers for this purpose. The word “STOP” and other designated words to unsubscribe must be effective without being case sensitive. Where a Consumer texts the word “STOP” to unsubscribe from a PSMS Subscription Service, the Service Provider must cease the charging and the provision of the service to the Consumer with immediate effect.

Where the Consumer has subscribed to more than one PSMS Subscription Service offered by the same Service Provider and texts the word “STOP”, the Service Provider must cease forthwith to provide the PSMS Subscription Service of which the PSMS message most recently forwarded to the Consumer formed part. If, in such cases, the Consumer texts the word “STOP ALL” to the designated number, the Service Provider must cease the provision and charges to the Consumer for all PSMS Subscription Services.

- 11.3.4 When a consumer has spent €20 (or such other amounts as may be specified by the Regulator), the Service Provider must send a free reminder message containing details of the subscription service, charges, frequency of charges and the opt-out facility using the words “STOP” or “STOP ALL”.
- 11.3.5 Service Providers must not raise a Premium Rate charge to provide information about a PSMS Subscription Service or its availability. A Premium Rate charge must only be raised when the PSMS Subscription Service itself has been delivered to a Consumer.
- 11.3.6 Where a Consumer has subscribed to a PSMS Subscription Service and fails to respond to a sent message within 40 days, the Consumer must be opted-out or unsubscribed automatically from that and/or related PSMS Subscription Services and must be removed from the database. The charge for unsubscribing/opting out be no more than the standard text charge.

#### **11.4 Promotion/Marketing**

- 11.4.1 All Promotional Material for PSMS must contain detailed pricing information, inclusive of VAT and any other cost associated with the Service.
- 11.4.2 All Promotional Material must contain contact details for the Service Provider and ‘opt-out’ options.
- 11.4.3 Promotional Material must relate only to Services authorised by the Regulator.
- 11.4.4 For the period that a consumer remains on a direct marketing database, Service Providers must retain records of:
  - (i) the Consumer opting into the direct marketing database;
  - (ii) the Consumer subscribing to a Subscription Service; and
  - (iii) the sending and receiving number and the date, time and content of direct marketing promotions.
- 11.4.5 In the case of advertising and promotions other than direct marketing, Service Providers must retain records of the Promotional Material for a minimum of 6 months. This must include:
  - (i) the content of the promotion; and
  - (ii) the date and time that the promotion was sent/published.

## **11.5 Text ‘Chat’ and Group ‘Chat’ Services**

11.5.1 For ‘Text Chat’ Services, Service Providers must receive confirmation from the Consumer that they are over 18 years before initiating the Service. All Promotional Material must contain a communication to the effect that this service is available only to those over eighteen years of age.

11.5.2 For ‘Group Chat Services’, Consumers must be informed of the maximum number of messages before they enter the Service and must be informed that the Premium charge is applied per message received. This must be stated in all Promotional Material.

### **11.5.3 Forced Release**

A Consumer once connected to a Text Chat Service, who has not participated for a period of 45 minutes after connection and has not reached the spend limit, must be informed by a cost-free message that the Service is being disconnected, and the Service must then be disconnected. Any continuation of the Service is prohibited.

### **11.5.4 Security Measures**

Service Providers must build in safeguards to the satisfaction of the Regulator to ensure that no sexually suggestive or explicit material is transmitted in the course of the Service.

## **11.6 Personal Messaging Services (Text ‘flirt’ Services)**

Where an individual has passed on a mobile number to a Service Provider providing the above Service, the Service Provider must provide an ‘opt-out’ facility for the recipient. If requested by the recipient of the message, the Service Provider must also pass on the number of the caller who prompted the sending of the original message. Service Providers must receive confirmation the Consumers are over eighteen years before the initiation of the Service.

**Provisions relating to Contact and Dating Services are set out in Section 8.6 of this Code.**

## **11.7 Services of a Sexual Nature Operating on 59xxx Short Code**

11.7.1 In addition to the provisions set out in Section 8.4 of this Code, Service Providers must provide security measures to ensure that only Consumers over eighteen years of age have access to such services. Services of a sexual nature as defined in this Code of Practice must be designated by a specific Short Code Number (currently 59xxx), and accessible only by the use of a Personal Identification Number (PIN). This PIN is issued by the Service Provider to the Consumer seeking to avail of this type of Service and must be unique to each individual Consumer.

11.7.2 Appropriate security measures must be in place to the satisfaction of the Regulator before such Services are authorised.

- 11.7.3 PSMS of a sexual nature must not contain references which suggest or imply the involvement of children.
- 11.7.4 Promotion of PSMS of a sexual nature must not appear in publications intended for children or young persons, national publications or in publications which are unsolicited, e.g. free distribution newspapers (referred to as “free sheets”).

## **12. FUNDING OF THE REGULATOR**

- 12.1 The Regulator is funded by a levy on Network Operators and on Service Providers.
- 12.2 The levies are fixed from time to time by the Regulator in consultation with the industry.
- 12.3 The combined Service Provider and Network Operator contribution to the levy in respect of any Premium Rate call or PSMS shall not exceed four per cent of the cost of the call or PSMS to the Consumer.
- 12.4 Service Providers’ contributions to the funding of the Regulator shall be deducted at source by the Network Operator and paid over to the Regulator and the Service Provider shall permit such deduction.



## 13. PROCEDURES AND SANCTIONS

### 13.1 Complaint Initiation

The Regulator will investigate complaints relating to alleged breaches of the Code of Practice which are received within a three month period from the date the Call complained of was made or the publication of the Promotional Material concerned. This period may be extended by the Regulator at the Regulator's absolute discretion should the Regulator be satisfied that exceptional circumstances prevented the making of the complaint within the three month period.

Complaints relating to telephone bills and/or the amount charged in respect of calls (including PSMS) will not be dealt with by the Regulator unless and until the complainant can demonstrate to the satisfaction of the Regulator that:

- (i) he or she has raised the matter by way of a written complaint to the Network Operator and Service Provider concerned; and
- (ii) the dispute remains unresolved on the expiration of 60 days from the date of the complaint referred to at (i) above.

The Regulator monitors Premium Rate Telecommunications Services and Promotional Material and may initiate a complaint where there appears to be a breach of the Code of Practice.

### 13.2 Disclosure of Information

The Regulator may require the Service Provider and the Network Operator to disclose to the Regulator, within a period of time specified by the Regulator, any relevant information or documents required for the completion of the investigation. This may include, but is not limited to, information about call volumes, patterns and revenues, details of the numbers allocated to an Information Provider, details of Services operating on particular Premium Rate numbers and such other matters as the Regulator may specify.

### 13.3 Standard Procedure

Where the Regulator receives or initiates a complaint, the Regulator may invoke the following procedure:

- (i) the Service Provider will be given in writing all the necessary information on the complaint, including details of the Service or Promotional Material which is alleged to have been in breach of this Code of Practice, and the Service Provider will be referred to the relevant provisions of the Code of Practice;
- (ii) the Service Provider will be given a specified reasonable time in which to respond and to provide any information requested. In the absence of any special circumstances, this response will be required within five working days. In special

circumstances a shorter time limit may be set, this time limit will not be less than 24 hours;

- (iii) if the Service Provider fails to respond and/or to supply the information requested within the required period, then the Regulator will proceed on the assumption that the Service Provider does not intend to co-operate in the investigation; and
- (iv) the Regulator, having investigated the complaint, will adjudicate on the complaint and advise the Service Provider and the complainant of the adjudication.

### **13.4 Emergency Procedure**

Where it appears to the Regulator that a breach of the Code of Practice may have taken place which is serious and requires urgent remedy, the emergency procedure may be invoked as follows:

- (i) the Regulator will attempt to contact the Service Provider to advise that the Service appears to be in breach of the Code of Practice; that the emergency procedure has been invoked; and that unless the Service is immediately removed the Network Operator will be advised of the breach and requested to bar access to the relevant Service forthwith;
- (ii) if the Regulator is unable to make contact with the Service Provider, the Regulator will advise the Network Operator of the apparent breach of the Code of Practice and request that access to the numbers should be barred forthwith; and
- (iii) once the Service has been removed, the Standard Procedure will be invoked.

### **13.5 Withholding Payment**

Where an investigation has been initiated, the Regulator may direct the Network Operator to withhold some or all outstanding payments from the Service Provider, Information Provider or other third party, pending adjudication by the Regulator.

### **13.6 Adjudication**

At the completion of the investigation, the Regulator will decide if there has been a breach of the Code of Practice. Each case will be considered and decided on its own merits. The Regulator shall have absolute discretion to consult with lay assessors appointed by Regtel on any matter arising in the course of the examination of a complaint or an adjudication.

### **13.7 Reviews**

The Regulator may review adjudications in the light of new information.

### **13.8 Sanctions**

Having taken all relevant circumstances into account and where a complaint is upheld and the Regulator adjudicates that there has been a breach of the Code of Practice, the Regulator may impose all or any of the following sanctions:

- (i) to require the Service Provider to remedy the breach by taking such steps as the Regulator deems appropriate;
- (ii) to require assurances from the Service Provider, or any associated individual, relating to future behaviour, in terms determined by the Regulator;
- (iii) to require the Service Provider to submit certain or all categories of Service and/or Promotional Material to the Regulator for prior approval for a defined period;
- (iv) to require the Service Provider to refund to the complainant and all other callers to the Service an amount to be determined by the Regulator and, in default of payment of that amount within 14 days, to request the relevant Network Operator to pay that amount to the complainant and all such callers out of monies held by the Network Operator for the account of the Service Provider. Where callers cannot be identified, the Regulator may, on or after the expiration of 60 days from the date of the adjudication, stipulate a charity to which the call revenue must be paid by the Service Provider or the Network Operator as aforesaid;
- (v) to require the relevant Network Operator to bar access to some or all of the numbers allocated to the Service Provider for a defined period;
- (vi) to recommend to the relevant Network Operator that the Service Provider should be prohibited from providing a particular type or category of Service for a defined period; and
- (vii) to recommend to the relevant Network Operator that the Service Provider should no longer be permitted to provide Premium Rate Services.

### **13.9 Administrative Charge**

Service Providers found to be in breach of the Code of Practice may be invoiced for the administrative and legal costs of the work undertaken by the Regulator in investigating the complaint and making the adjudication. Non-payment will be considered to be a breach of the Code of Practice and may result in further sanctions being imposed. In addition the Regulator may request the Network Operator to pay over to the Regulator the amount due by the Service Provider out of Service Provider funds held by the Network Operator.

## 14. OPERATIVE DATE

This Code of Practice will come into force on 1 November 2005 and replaces all existing Codes of Practice, in respect of calls and Promotional Material published thereafter.

## 15. Annex

### **Complaints procedures**

All complaints must be submitted in writing or by e-mail in connection with the promotion and content of Premium Rate Telecommunications Services. Such complaints will be investigated by the Regulator.

It should be noted that the functions of the Regulator do not extend to matters concerning the payment of bills or related issues.

Only complaints dealing with the promotion and content will be considered by the Regulator.

The only bills with which the Regulator can be concerned are those for Premium Rate Telecommunications Services. Complaints relating to telephone bills and/or the amount charged in respect of calls will not be dealt with by the Regulator unless and until the complainant can demonstrate to the satisfaction of the Regulator that:

- (i) he or she has raised the matter by way of written complaints to the Network Operator and Service Provider concerned; and
- (ii) the dispute remains unresolved on the expiration of 60 days from the date of the complaints referred to at (i) above.

To facilitate the speedy investigation of a complaint the following information should be provided:

- Details of the Premium Rate Number or the SMS Short Code Number (50xxx-59xxx), and description of the Service
- dates and times when Service was used
- dates and time when PSMS were received or sent
- copies, if available, of the advertisement or other Promotional Material
- a copy of the relevant section of the telephone bill
- Address and telephone number from which the calls were made.

In making a complaint it would be helpful to supply as much detail as possible including:

- Was the content misleading or offensive?
- Was the information supplied accurate and up-to-date?
- Were you made aware of the cost of the Service?
- Did you complain to the Service Provider concerned?
- Did you complain to the Service Provider in relation to receiving unsolicited text promoting Premium Rate Telecommunication Services?
- Have you complained to any other authority in relation to this matter?

**All complaints are dealt with in strict confidence. However, the processing of a complaint may, at the discretion of the Regulator, involve the disclosure of the complaint to the Service Provider.**

### Contact Regtel

Written complaints to:

Regtel,  
Crescent Hall,  
Mount Street Crescent,  
Dublin 2.

E-mail complaints to: [info@regtel.ie](mailto:info@regtel.ie)

Telephone (Callsave) 1850 741 741

Fax (Callsave) 1850 741 747

Telephone (Int) 353 1 6767025

Fax (Int) 353 1 6767035

Web Site [www.regtel.ie](http://www.regtel.ie)



