



STATUTORY INSTRUMENTS.

S.I. No. 339 of 2010



COMMUNICATIONS REGULATION ACTS 2002 TO 2010 (SECTION 30)
PREMIUM RATE SERVICES INTERIM LEVY ORDER 2010

(Prn. A10/0995)

COMMUNICATIONS REGULATION ACTS 2002 TO 2010 (SECTION 30)
PREMIUM RATE SERVICES INTERIM LEVY ORDER 2010

The Commission for Communications Regulation, in exercise of the powers conferred on it by section 30 of the Communications Regulation Acts 2002 to 2010 hereby makes the following order:

Citation and Commencement

1. (1) This Interim Levy Order may be cited as the Communications Regulation Acts 2002 to 2010 (Section 30) Premium Rate Services Interim Levy Order 2010.

(2) These Regulations shall come into operation on 12 July 2010.

Interpretation

2. In this Interim Levy Order except where the context otherwise requires:

“Acts of 2002 to 2010” means the Communications Regulation Act 2002 (No. 20 of 2002) as amended and the Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act 2010 (No. 2 of 2010);

“aggregator service provider” means a person who does any or all of the following for gain:

- (a) packages together the contents of a premium rate service for the purpose of facilitating its provision,
- (b) makes available a facility as part of a premium rate service, and/or
- (c) transfers a premium rate service from a content provider to one or more electronic communications networks;

“applicable provider” means either an Aggregator Provider or a Content Provider to whom has been allocated a Premium Rate Number or Short code Number by an electronic communications network and/or the Commission, whether that number is used by that person or used by a third party;

“applicable services” means specified premium rate services that are provided via a Premium Rate Number or via a Short code Number;

“call” means any communication (whether voice, data, text or otherwise) which passes through an electronic communications network, whether initiated by an end user or initiated by or facilitated by a premium rate service provider, and a “caller” shall be construed accordingly;

*Notice of the making of this Statutory Instrument was published in
“Iris Oifigiúil” of 13th July, 2010.*

“Commission” means the Commission for Communications Regulation;

“content provider” means a person who does any or all of the following for gain:

- (a) provides the contents of a premium rate service, and/or
- (b) exercises editorial control over the contents of a premium rate service;

“electronic communications network” has the meaning assigned to it by the Acts of 2002 to 2010;

“electronic communications services” has the meaning assigned to it by the Acts of 2002 to 2010;

“premium rate number” means a number that is identified by the distinctive 15XX access code as provided for in the National Numbering Conventions (currently v6.0 ComReg document 08/02), as amended by the Commission from time to time;

“premium rate service” has the meaning assigned to it at section 3 of the Communications Regulation (Premium Rate Services and Electronic Communications Infrastructure) Act 2010;

“Regulations” means the Communications Regulation (Licensing of Premium Rate Services) Regulations 2010 (No. 338 of 2010);

“short code number” means a 5-digit number that is identified by the format 5XXXX used for text or multimedia messaging, as provided for in the National Numbering Conventions (currently v6.0 ComReg document 08/02), as amended by the Commission from time to time;

“specified premium rate service” has the meaning assigned to it at Regulation 3 of the Regulations;

“terminating network operator” means a person who does any or all of the following, for gain, by agreement with or on behalf of, a content provider or an aggregator provider:

- (a) provides the electronic communications service over which a premium rate service is provided, or
- (b) provides the electronic communications network over which a premium rate service is transmitted.

2. In this Interim Levy Order except where the context otherwise requires:

(1) a reference to an Article is to an Article of this Interim Levy Order unless it is indicated that reference to some other Order is intended, and

(2) a reference to a paragraph or subparagraph is a reference to a paragraph or subparagraph of the provision in which the reference occurs, unless it is indicated that reference to some other provision is intended.

Application of Interim Levy Order

3. This Interim Levy Order applies to all applicable providers and terminating network operators. For the avoidance of doubt, this Interim Levy Order replicates the levy framework operated by RegTel prior to the commencement date of this Interim Levy Order and shall be in place until such time as the Commission replaces this Interim Levy Order with a new Levy Order.

Payment of Levy

4. Each terminating network operator shall pay to the Commission, monthly in arrears, within 60 days of the end of each calendar month a sum of money amounting to:

- (1) the levy on the applicable providers (withheld by the terminating network operators from payments to the applicable providers in that month): and
- (2) the levy on the terminating network operators in respect of that month.

Calculation of Levy

5. (1) The levy will be applied to the total revenues relating to calls to applicable services.

(2) The levy payable to the Commission will be divided equally between the relevant applicable providers and terminating network operators.

(3) The levies imposed on the terminating network operators and the applicable providers shall be exclusive of VAT, which shall be added by the Commission to the invoices to be issued to terminating network operators and applicable providers at the appropriate rate in force from time to time

- (4) The levy rates to be imposed on each applicable service are as follows;
 - (a) 0.5% in respect of calls to premium rate numbers using the 1520-access code;
 - (b) 0.5% in respect of calls to premium rate numbers using the 1512-access code; or
 - (c) 1.8% in respect of calls to all other premium rate numbers or short codes.

Surplus of Levy Income

6. Any surplus of levy income over the expenses incurred by the Commission in the discharge of its functions relevant to this levy in the levy period will either—

- (1) be retained by the Commission to be offset against levy obligations for the subsequent year, or
- (2) be refunded proportionately to the applicable providers and terminating network operators on whom the levy is imposed.

Form of Payment

7. (1) A levy, or portion thereof, payable in accordance with the terms of this Interim Levy Order, shall be paid in cash or by cheque, money order, postal order or electronic funds transfer, to the Commission.

(2) A payment referred to in paragraph (1) (save in the case of a payment in cash or electronic funds transfer) may be delivered or sent by post to the Commission at Abbey Court, Irish Life Centre, Abbey Street, Dublin 1, or at such other address as may from time to time be notified by the Commission to each applicable provider or terminating network operators.

(3) A request or repayment by the Commission to an applicable provider or terminating network operator under this Interim Levy Order may be delivered or sent by post to the applicable provider at the last address of the applicable provider.

(4) In this Article “last address” in relation to an applicable provider or terminating network operator means the last address notified to the Commission for the purposes of this Interim Levy Order or the Regulations.



GIVEN under the Official Seal of the Commission for
Communications Regulation,
9 July 2010.

ALEX CHISHOLM,
Chairperson,
On behalf of the Commission for Communications Regulation.

EXPLANATORY NOTE

(This note is not part of the Instrument and does not purport to be a legal interpretation.)

This Order makes provision for a levy on providers of premium rate services for the purpose of meeting expenses properly incurred by the Commission in the discharge of its functions in respect of premium rate services.

BAILE ÁTHA CLIATH
ARNA FHOILSIÚ AG OIFIG AN tSOLÁTHAIR
Le ceannach díreach ón
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TEACH SUN ALLIANCE, SRÁID THEACH LAIGHEAN, BAILE ÁTHA CLIATH 2,
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