
Code of Practice

Issued 1st October 2008

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Chairman's Foreword

I am pleased to introduce the revised RegTel Code of Practice. For the first time the Code has been developed following an advertised public consultation, which I hope will help to make it more relevant and appropriate.

The primary purpose of RegTel is to protect the consumer. RegTel aims to provide a simple service that ensures consumers do not have to go to court or take any legal steps to get redress. We hold the view that consumers are entitled to have their grievances dealt with fairly, and as effectively as possible.

Although the existence and overall function of RegTel is set down in a statutory instrument, it operates what is primarily a non-statutory code.

While our primary purpose is to protect consumers, the industry also benefits from the maintenance of high standards. Where consumers have confidence in the industry they are more likely to use its services. Poor standards and the operation of unfair practices will in the end be detrimental to the industry. The support and commitment of those who work in the premium telecommunications sector is crucial to the success of regulation but it is also important to the long-term success of the industry.

Finally, to consumers: the key to your own protection is in your own hands. Know what you are signing up to, keep an eye on your bills and complain if you are treated unfairly. The advice *caveat emptor*, buyer beware, is as important in a modern technological sector as it is in more traditional purchasing.

Fred Hayden
Chairman

INTRODUCTION

(A) The Regulator

- (i) The Regulator means 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.
- (iii) RegTel may sub-delegate some or all its powers and functions to other persons or to committees.

(B) Terms of Reference

The role of RegTel is to protect the consumer by supervising the content, promotion and operation of Premium Rate Telecommunications Services and enforcing this Code of Practice.

RegTel has the following tasks:

- (i) to set the standards as to content, promotion and operation 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 following consultation with Network Operators, Service Providers, other relevant interested parties and the public 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, promotion and operation 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;
- (vi) to investigate any apparent failure to comply with the Code of Practice;

- (vii) where breaches of the Code of Practice are found, to advise the relevant Service Provider of the breach and to take action to achieve compliance with the Code of Practice and where appropriate to impose sanctions;
- (viii) to take action so as to ensure that Consumers are aware of its existence, function and powers;
- (ix) to publish Guidance Notes, consistent with the Code, so as to assist in the implementation and interpretation of this Code and to take account of changes in a dynamic industry or to serve as an interim guide for good practice in relation to new Services in advance of Code revision to cover these Services or practices;
- (x) to publish decisions and adjudications made under this Code in such manner and in such form as it thinks fit and to publish reports on its work at regular intervals.

The actions of RegTel will be consistent with the Code.

1. THE CODE OF PRACTICE

- 1.1 This Code of Practice has been produced by RegTel. 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 uses Premium Rate Numbers for the provision of Services or permits a third party other than a Service Provider to use 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.
- 1.4 Where RegTel makes a decision or determination under this Code, RegTel will set out in writing the reasons for that decision or determination and RegTel will publish same to interested parties and others in such manner as RegTel considers reasonable and appropriate, including publishing such decisions on www.RegTel.ie where appropriate.
- 1.5 If in the interpretation of the Code there is a doubt regarding the meaning of any provision, a construction that would promote the protection of Consumers shall be preferred to a construction that would not so promote.
- 1.6 RegTel may, from time to time, issue Guidance Notes so as to assist in the implementation and interpretation of this Code of Practice and to take account of changes in a dynamic industry and, where necessary or appropriate, RegTel will consult with interested parties in advance.

2. DEFINITIONS

The following definitions shall apply throughout this Code of Practice:

- 2.1 **Call** means any communication (whether voice, data, text or otherwise) which passes through an electronic communications network, whether initiated by a Consumer or initiated by or facilitated by a Service Provider, and a “caller” shall be construed accordingly.
- 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 **Group Chat** services are SMS services whereby a Consumer may send an SMS message which is received by all other members of a group and may receive an SMS message response from more than one other member of the group.
- 2.6 **Information/Content Providers** means individuals, organisations and companies who supply information or content to Service Providers for use in Premium Rate Services.
- 2.7 **Interactive Service** means a Premium Rate Service where the Consumer is actively involved in the exchange of information or content .
- 2.8 **Live Services/Conversation** means a Premium Rate Service involving two-way live speech/communication.
- 2.9 **Mobile Web Site** means an Internet-based site designed for use by means of a mobile device, using various communication protocols such as WAP, xHML, iMode, etc.
- 2.10 **Multimedia Message Service (MMS)** means a service that enables the sending and receiving of messages involving a combination of media (including text, sounds, images and/or videos) to MMS-compatible equipment.
- 2.11 **Network Operator and Mobile Network Operator** means a fixed or mobile telecommunications service provider that has been authorised by ComReg to perform this role.

- 2.12 **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 including through the use of Mobile Web and voice over internet protocol (VOIP).
- 2.13 **Opt-in** means an arrangement whereby a Consumer agrees in advance to receive information by means of a Premium Rate Service.
- 2.14 **Opt-out** means an arrangement enabling a Consumer to inform the relevant Service Provider that he or she no longer wishes to receive information with regard to a product or service.
- 2.15 **Premium MMS (PMMS)** means the use of MMS (Multimedia Message Service) to provide a content service or product to a Consumer, whether or not a premium rate charge is imposed.
- 2.16 **Premium Mobile Services** include PSMS, PMMS, Shortcode Voice and Shortcode Video Services.
- 2.17 **Premium Rate Number** means a telephone number (including a Short Code Number) allocated by ComReg for use for Premium Rate Services.
- 2.18 **Premium Rate Telecommunications Services** (also referred to as Premium Rate Services or Services) are services run on an Premium Rate Number 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. A Mobile 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.
- 2.19 **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.
- 2.20 **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.
- 2.21 **Services** means any Premium Rate Service run on a Premium Rate Number or Short Code Number.

- 2.22 **Service Provider** means a person to whom there has been allocated a Premium Rate number by a Network Operator and/or ComReg whether that number is used by that person or used by a third party.
- 2.23 **Short Code Number** means a five-digit number within the range of 50xxx to 59xxx used for Premium Mobile Services.
- 2.24 **Shortcode Voice** means a premium rate audio service that is accessible by dialling a Short Code Number on a mobile phone.
- 2.25 **Shortcode Video** means a premium rate audio-visual service that is accessible by dialling a Short Code Number on a third generation (3G) mobile phone.
- 2.26 **Subscribe** means an arrangement whereby a Consumer agrees in advance to receive and pay for content by means of a Premium Rate Service.
- 2.27 **Subscription Service** means a service for which a recurring charge is imposed on a Consumer who has subscribed and thereby agreed to receive and pay for such service.
- 2.28 **Text Chat** services are one-to-one SMS services whereby a Consumer communicates by SMS with another Consumer.
- 2.29 **Unsolicited Communication** means a communication to a Consumer by electronic means that is not requested by the Consumer.
- 2.30 **Unsubscribe** means an arrangement whereby a Consumer informs the relevant Service Provider that he or she no longer wishes to subscribe for or receive content and participate in a Premium Rate Service.
- 2.31 **WAP Push** means a specially formatted SMS message that alerts a user of a mobile handset and gives an option to connect to a Mobile Web services via a URL.
- 2.32 In this Code of Practice all Euro amounts specified are inclusive of VAT.

3. GENERAL RESPONSIBILITIES OF THE SERVICE PROVIDER

3.1 Responsibility

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

Any infringement of this Code on the part of an Information/Content Provider will be the responsibility of the Service Provider to which the Premium Rate Number has been allocated.

3.2 Setting Up a Premium Rate Service

3.2.1 Before providing any Service, a Service Provider must complete the application process by notifying RegTel of the following:

- (i) the name of the Network Operator(s) or Mobile Network Operator(s) who will carry the Service;
- (ii) the Premium Rate Number ranges and/or the Short Codes allocated to the Service Provider for the purpose of providing that 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 or Mobile 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/Content Providers;

- (vii) in the case of Premium Mobile Services, details of the charges applied on sending to or receiving from the Short Code Number;
 - (viii) whether the Service is a Subscription Service, together with a description of the service being provided and the applicable charges including any initial charges;
 - (ix) in the case of other billing systems, details of call charges must be clearly specified.
- 3.2.2 Any changes or additions, including change of Network Operator, or the porting of numbers to another Network Operator, must be notified to RegTel immediately.
- 3.2.3 In the case of Premium Mobile Services, any changes in billing structure from billed on sending to reverse billed and vice versa must be notified to RegTel immediately.
- 3.2.4 All Premium Rate Services must be compliant with the requirements of the Numbering Convention(s) issued by ComReg. Service Providers must use only premium rate numbers to deliver Premium Rate Services to Consumers.
- 3.2.5 Before a Service can be offered, the Service Provider must provide to RegTel in the form specified by RegTel all documentary and other evidence necessary to substantiate any factual claims made.
- 3.2.6 Service Providers must ensure that all Services are of a technical quality acceptable to RegTel.
- 3.2.7 Except where otherwise provided for in this Code, the maximum duration of connection to a time based/charged Premium Rate Service may be specified at the discretion of RegTel and in any event must not exceed 60 minutes and must be terminated by forced release.
- 3.2.8 Service Providers must provide on the landing page of their websites, and to Consumers on demand, their full email, telephone, postal and fax contact details.
- 3.2.9 Service Providers must provide, or arrange for the provision of, an adequately staffed and resourced live operator helpline service during normal office hours and it must be available on a telephone number priced at national rate or below. Calls received outside normal office hours must be recorded and processed the next working day.

3.3 Prior Permission

- 3.3.1 RegTel may require that particular categories of Service must not be provided unless RegTel has given prior written permission for any Service within that category. RegTel 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 on the RegTel website from time to time and in such a manner as RegTel sees fit. Prior permission may be granted subject to the imposition of additional requirements. Such permission may be withdrawn or varied, for reasonable cause, by notice in writing given by RegTel.
- 3.3.2 Where a Service Provider can satisfy RegTel in respect of a particular Service that any requirement of the Code of Practice can be adequately met by alternative means, RegTel 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 RegTel determines that the alternative means have proved inadequate or are causing unanticipated difficulties of a serious nature.
- 3.3.3 All Live Services require the prior written permission of RegTel and such Services must not commence until prior written permission has been received.
- 3.3.4 Any Premium Mobile service falling within the number range 50xxx to 59xxx requires the prior written permission of RegTel.

4. DATA PROTECTION

- 4.1 The Data Protection Acts 1988 and 2003 and regulations made thereunder provide the legislative framework for the prevention of unsolicited communications for direct marketing purposes. The Data Protection Commissioner enforces this legislation and has power to prosecute offences. To ensure compliance with the data protection legislation and regulations, persons engaged in direct marketing activities should observe the guidance notes published by the Data Protection Commissioner.
- 4.2 Service Providers must not send, or have others send on their behalf, unsolicited, random, or untargeted telecommunications messages (commonly known as SPAM), and the use of Premium Rate Services must not be promoted by the use of such messages. Premium Rate Services may be promoted by outgoing telecommunication messages only where it can be shown to the reasonable satisfaction of RegTel that the Consumer has “opted-in” to the receipt of such messages.
- 4.3 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.
- 4.4 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.
- 4.5 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 RegTel or the relevant Network Operator in confidence.
- 4.6 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 to be used and must provide information to Consumers as to how to opt-out of such use. 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. Consumer data may be used for promotional purposes only if the Consumer has opted-in to the promotion and the Service being promoted is one that the Consumer would reasonably have

expected to receive based on information available at the time of the opt-in. At each promotion to a Consumer using electronic means, a low cost (no more than cost of carriage) means of opting-out must be provided to the Consumer, using same or similar communication methods to that employed by the promotion.

- 4.7 In the course of an investigation RegTel may require from the Service Provider complete details of a Consumer's premium rate telephone record including the date the Consumer Subscribed for a Service or "Opted-In" for information or Promotional Material. This information must be provided in a non-binary format within three working days to RegTel on request.
- 4.8 All information supplied to RegTel in confidence will, save as otherwise provided in this Code, be treated as confidential and will only 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:

“Any person who;

- (a) sends, by telephone, any message that is grossly offensive or is indecent, obscene or menacing; or
- (b) for the purpose of causing annoyance, inconvenience or needless anxiety to another person –
 - (i) sends by telephone any message that the sender knows to be false, or
 - (ii) persistently makes telephone calls to another person without reasonable cause,

commits an offence”.

Note: 13(5) of the 1951 Act establishes that “message” includes a text message sent by means of a short message service (SMS) facility.

5.1.3 It is also a criminal offence to harass another person (under Section 10 of the Non Fatal Offences Against the Person Act 1997) or to engage in aggressive commercial practices (under Section 54 of the Consumer Protection Act 2007). Service Providers must ensure that any communications that they engage in to promote their services do not constitute harassment and aggressive commercial practice as defined therein.

5.1.4 If at any time RegTel becomes concerned with regard to the legality of a Service or a proposed Service or its promotion RegTel may require

the Service Provider to obtain a legal opinion with regard to the matter at issue or clearance from a relevant regulator. If, on receipt of such legal opinion, RegTel remains concerned about the legality of the matter at issue, RegTel will advise the Service Provider of the grounds for RegTel's continuing concern and furnish to the Service Provider copies of any documents relevant to the matter.

5.2 Decency

5.2.1 Services and Promotional Material must not:

- (i) contain material indicating or depicting violence, sadism or cruelty, or be of a repulsive or horrible nature,
- (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 or discrimination 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,
- (vi) debase, degrade or demean,
- (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.

5.2.4 Service Providers must, where relevant, comply with the Video Recordings Act 1989.

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 RegTel to be unreasonable or excessive,
- (ii) infer that future events may be predicted other than as a matter of opinion or as widely accepted scientific practice,
- (iii) be of a kind which is likely to mislead by inaccuracy, ambiguity, exaggeration, omission or otherwise or which obscures or conceals the real nature and cost of the service to the Consumer,
- (iv) be promoted or presented in such a way as to obscure relevant terms of the Service by abbreviated or concatenated wording,
- (v) purport to make contact with deceased persons.

5.4 Content

- 5.4.1 Services must contain only information which is given in good faith and which is reasonably believed by the Service Provider at the time it is delivered to the Consumer to be correct and up to date 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 RegTel. 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 calls not authorised by the person who is liable to pay the bill.
- 5.4.5 Where there is a determination by RegTel 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 RegTel reserves the right in respect of any category or description of Premium Rate Service, if there is reasonable cause to do so, 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 or a promotion for same by PSMS or PMMS, the Short Code of the service must be displayed and if this is not possible then the originating number of the sender must be displayed on every message sent to the Consumer in either case so as to allow for an immediate reply using the STOP command.
- 5.4.8 Any Service aimed at 18 year olds and over must carry an age warning and require the Consumer to confirm his or her age.
- 5.4.9 Mobile Web Sites must operate with sufficient technical quality to ensure that a Consumer is not charged for digital content services that are not compatible with the handset that is accessing the Mobile Web Site.

5.5 Entertainment Services

- 5.5.1 Service Providers must provide an introductory message advising the caller when a Service is for entertainment purposes (e.g. joke, “windup” and hoax Services) and such Services must not infringe the statutory provision cited at paragraph 5.1.2.
- 5.5.2 For the purpose of this Code, Services designated as Psychic, Tarot, Horoscope or other similar Services are deemed to be entertainment services. All Promotional Material must clearly indicate that these Services are classified as entertainment services. Consumers on accessing these services must be informed that they are entertainment services.

5.6 Unavailable or Short Duration Services

Consumers must not be charged at a Premium Rate in respect of Services or parts thereof that deliver a “busy tone” or “silence” prior to connection to the requested Service or in respect of a Service which is unavailable to them. Consumers must not be charged for the receipt of error messages.

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

- (i) company trade or business name,
- (ii) an Irish telephone number priced at national rate or below.

The full postal address or PO box number must be supplied to Consumers on request.

6.2. In all Promotional Material, the prefix number or Short Code must be presented in such a way that it can clearly be identified as a Premium Rate Service to the reasonable satisfaction of RegTel. Promotional material must, to the reasonable satisfaction of RegTel, provide details of all costs associated with the Service including premium rate charges, whether data download charges apply and where applicable the size of the download and any network charges. For the avoidance of doubt, the amount of the data download charge need not be specified.

6.3 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.

6.4 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 RegTel.

6.5 In the case of promotions that appear in editorial material, Service Providers must use their best endeavours to ensure compliance with these provisions.

6.6 Promotional Material must not be misleading in relation to the Service supplied or to be supplied, including any applicable limitations and must explicitly bring any major conditions to the attention of Consumers such as the linking of Consumer consent to the use of personal data for marketing purposes with the Consumer's use of the Service.

6.7 Promotional Material must not seek to take advantage of lack of Consumer knowledge by use of technical jargon, abbreviated or concatenated text or other methods.

- 6.8 All promotions must comply with:
- (i) legislation covering misleading advertising, (including the Consumer Protection Act 2007 and the European Communities (Misleading Advertising) Regulations, 1988 (S.I. No 134 of 1988));
 - (ii) any sector specific regulation;
 - (iii) the Codes relating to Advertising, Promotion and Direct Marketing (published by the Advertising Standards Authority for Ireland) and the Irish Direct Marketing Association;
 - (iv) the Children's Advertising Code published by the Broadcasting Commission of Ireland;
 - (v) specific conditions laid down by the relevant professional bodies;
 - (vi) codes and policies issued by the appropriate regulatory authorities, including the General Advertising Code of the Broadcasting Commission of Ireland.
- 6.9 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.
- 6.10 Promotional Material for Premium Mobile Services must:
- (i) indicate clearly when that Service is a Subscription Service (as to which see Section 11 of this Code),
 - (ii) indicate clearly without abbreviations or concatenations that would obscure the clarity of the information, the initial cost, the minimum cost and the recurring cost of the Service along with the frequency of recurring charges,
 - (iii) indicate whether it is a Chat or Group Chat Service.
- 6.11 Promotional messages must not attract a premium rate charge or any further charge. In addition the sending of such messages should clearly indicate that it is a "Free Message" or "FreeMsg".
- 6.12 RegTel 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 in particular but without limitation the interests of children) and Service Providers must comply with such directions. Any such directions will be consistent with this Code and will specify the relevant provision of the Code.

- 6.13 No Premium Rate Service may be promoted as being “free” if it involves any charge whatsoever to a Consumer other than a reasonable delivery charge (not being a premium rate charge) which is adequately disclosed to the Consumer to the reasonable satisfaction of RegTel. 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.
- 6.14 Service Provider details used in Promotional Material must be the same as those which have already been provided to RegTel.
- 6.15 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.
- 6.16 Promotions delivered via WAP Push must adhere to the following:
- (i) Consumers must be allowed to opt out, free of charge, on receipt of the first free text message by texting “STOP” to the originating Short Code Number.
 - (ii) Following receipt of a text or multimedia promotional message, a further free to recipient text message or WAP push message containing the link (URL) to the service must follow. If the Consumer clicks on the link, the information specified at paragraph 11.13.1 of this Code must be repeated on the landing page of the Service. The landing page must also be free to the user (apart from any network data charges). The Consumer at this stage must be permitted to “opt-out” of the promotional database by responding to an option within the landing page.
 - (iii) The Service Provider must not raise any premium rate charge until the Consumer responds to an option within the landing page to accept the charges detailed.
 - (iv) Consumers must give a positive acceptance of subscription charges by clicking on the designated option once the frequency of charging and pricing information has been disclosed along with any relevant terms and conditions related to the Service. On subscribing to the Service a free-to-recipient text message must be sent within a short time

detailing the subscription in the manner specified in paragraph 11.13.2 of the Code.

7. PRICING INFORMATION

7.1 General

7.1.1 Service Providers must ensure that in the case of all Services:

- (i) users of Premium Rate Services are fully informed in a transparent and clear manner of the cost of using the Services prior to incurring any charge and have the ability to exit from the Service at that point without incurring any charges;
- (ii) call charges (inclusive of VAT) are clearly stated in all promotions, to the reasonable satisfaction of RegTel;
- (iii) any initial charges, joining fees, recurring charges and frequency of recurring charges are clearly stated in all promotions;
- (iv) prices are noted in the form of numerical price per minute (inclusive of VAT) for time based/charged services or the total maximum cost to the Consumer (inclusive of VAT);
- (v) in relation to competitions (other than Premium Mobile Services), the price per minute is accompanied in all promotions by the notification of the maximum duration of the Call;
- (vi) promotional material for non-mobile services states that calls from mobiles normally cost more or equivalent wording to the reasonable satisfaction of RegTel;
- (vii) values in Euro must include the Euro symbol (€) where possible and where that is not possible must use the word “EUR” or “Euro”;
- (viii) in relation to Subscription Services, messages advising the Consumer of the call charges must only contain pricing information for the Service being billed and must not contain promotional material relating to other Services, whether Subscription Services or otherwise.

7.1.2 Written and textual pricing information must be legible, prominent, horizontal and presented in a way that does not require close scrutiny. Spoken pricing information must be easily audible, discernible and

easily understood. Pricing information, whether written, textual or spoken, must be communicated to the reasonable satisfaction of RegTel.

7.1.3 In the case of recorded messages 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 requirements are as follows:

- (i) pricing information must be provided without charge for subscription services;
- (ii) in the case of promotions transmitted by radio, the pricing information must be spoken clearly;
- (iii) in the case of promotions transmitted on television, on websites, or in other audio-visual-format, the pricing information must be spoken as well as visually displayed if the total cost of the service is €2 or more. The price per minute/call must be displayed whenever a Premium Rate Number is displayed. On-screen pricing information must be clearly legible and not require close scrutiny;
- (iv) all informational or instructional messages necessary to obtain access to a Service and provided separately to the Service must be available free of charge to a Consumer;
- (v) the raising of a Premium Rate Charge or any other charge to unsubscribe is prohibited.

RegTel may issue a determination as to how pricing information must be set out in advertisements of different types or categories.

7.1.5 Voting/Competition Services which are likely to be repeated or rebroadcast after the voting/competition is closed must clearly state that this is the case and that the voting/entry mechanism is not open to use by Consumers or must clearly state the opening and closing date and time of the competition or vote.

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,
- (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 11.13 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 Premium Mobile Services transaction (or such other amount as may be specified by RegTel) and must be terminated by forced release,

- (ii) in the case of Subscription Services cost no more than €10 per month (or such other amount as may be specified by RegTel),
- (iii) not encourage children to ring or text other Premium Rate Telecommunications Services or the same Service again,
- (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 Services

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

- (i) lotteries;
- (ii) competitions;
- (iii) scratch cards or “Letter” type promotions;
- (iv) other games or promotions with prizes;
- (v) an entry mechanism into a draw;
- (vi) information about prizes and how to claim them including details of the claim line number.

8.2.2 All Competition Services must be authorised in advance, in writing, by RegTel.

8.2.3 Competition Services may be the subject of legal or regulatory restrictions and RegTel reserves the right to require Service Providers to secure legal or regulatory clearance reasonably acceptable to RegTel before permitting the Service Provider to provide or promote such services.

8.2.4 Promotional Material (other than promotional mobile text messages) must clearly state and prominently display any information which is likely to affect a decision to participate, and in particular:

- (i) the closing date, indicating any 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/PMMS cost,
 - (c) the maximum call duration,
 - (d) an age warning,
 - (e) a mobile cost warning,
 - (vii) any requirement that the Consumer participate in any market research (e.g. questionnaire or surveys) or promotional activity;
 - (viii) the fact, if it is the case, that the Consumer data collected from participants may be used for the purpose of promoting or providing another Service and that the Consumer is entitled to opt out in respect of the use of any such data.
- 8.2.5 Competition Services must not cost more than €12 per Call/PSMS/PMMS (or such other amount as may be specified by RegTel).
- 8.2.6 The closing date of any competition must not be altered without the prior written authorisation of RegTel.
- 8.2.7 Where there is not automatic call termination, the likely playing time or full cost of the call must be clearly stated.
- 8.2.8 The following information must also be made readily available to RegTel 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,
- (vii) any supplementary rule which may apply.

8.2.9 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.

8.2.10 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,
- (ii) feature long or complex rules.

8.2.11 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;
- (iv) suggest that Consumers can participate, only through the use of a Premium Rate Service, if an alternative postal or other entry route is available.

8.2.12 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,

- (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,
 - (iv) there shall be no charges (other than reasonable delivery charges) sought from the winners of prizes.
- 8.2.13 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.
- 8.2.14 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.
- 8.2.15 Post-event publicity in which prize winners participate must be taken out of circulation within six months of the award of the prize except where the Service Provider has obtained the prior written authorisation of RegTel and the prize-winner.
- 8.2.16 Service Providers must provide to RegTel on demand a full list of the names, addresses and contact details of all prize-winners in respect of competitions conducted by them or on their behalf.
- 8.2.17 RegTel, having adjudicated on an infringement of the Code relating to a Competition Subscription Service may, by notice in writing to the Service Provider concerned, require that thereafter Competition Services may not be offered as Subscription Services by the Service Provider concerned unless each Consumer, having been advised, to the reasonable satisfaction of RegTel, of the costs and the main terms and having subscribed, is requested forthwith to reconfirm that he or she wishes to subscribe and he or she so confirms.

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 attention of Service Providers is drawn to section 5.1.4 of this Code.
- 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 use a Premium Rate Number 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

- 8.5.1 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.
- 8.5.2 Service Providers must take all reasonable steps to ensure that Consumers under 18 years of age are not allowed to use these Services. These Services must be monitored by Service Providers, at appropriate times determined by RegTel, to prevent access to such services by children. Voice recognition training must be provided for monitoring staff.
- 8.5.3 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.
- 8.5.4 Silent (i.e. non-verbal) access to Virtual Chat Services is not permitted.
- 8.5.5 Service Providers providing Virtual Chat Services enabling 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;
- (iii) make clear how long an individual message will remain on the Service.

8.5.6 Callers to Virtual Chat Services must be notified as soon as possible on incurring charges of €30, or other such amount as may be specified by RegTel, and be required to confirm if they wish to continue the Call and the Call must be terminated by forced release when a total charge of €60 has been incurred.

8.5.7 Service Providers must retain audio recordings of Calls to Virtual Chat Services for a period of six months from the date of the call.

8.6 Contact and Dating Services

8.6.1 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.

8.6.2 Service Providers must take all reasonable steps to ensure that Consumers under 18 years of age are not allowed to use these Services. These Services must be monitored by Service Providers, at appropriate times determined by RegTel, to prevent access to such services by children. Voice recognition training must be provided for monitoring staff.

8.6.3 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,

- (iv) take all reasonable steps to ensure that children are not allowed to use these Services.
- 8.6.4 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.
- 8.6.5 No message may be included unless there is a clear agreement between the Service Provider and the relevant Consumer as to where, when, and for how long the message will be used. No advertisement shall be used for a period in excess of one month except by specific arrangement.
- 8.6.6 Callers to time based/charged Contact and Dating Services must be notified as soon as possible on spending €30, or other such amount as may be specified by RegTel, and be required to confirm if they wish to continue the Call and the call must be terminated by forced release when a total charge of €60 has been incurred.
- 8.6.7 Service Providers must retain audio recordings of Calls to Contact and Dating Services for a period of six months from the date of the call.

8.7 Promotion of Virtual Chat, Contact and Dating Services

- 8.7.1 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.
- 8.7.2 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.
- 8.7.3 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.
- 8.7.4 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.

- 8.7.5 All claims relating to numbers of participants in the Service must be capable of being substantiated.
- 8.7.6 Call costs and Service Provider details must be displayed in font size nine point or larger and be separated from other printed matter.

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

- 9.1 Live Services involve two-way live speech.
- 9.2 Service Providers must not provide or change any Live Service unless such Service or change has been submitted to and authorised in advance by RegTel and the Service may not continue if authorisation has expired or if authorisation has been withdrawn by RegTel consequent upon an adjudication under section 13 of the Code on an infringement of the Code.
- 9.3 Authorisation may be subject to any conditions that RegTel may consider appropriate, may be time limited, and may be withdrawn consequent upon an adjudication under section 13 of the Code on an infringement of the Code.
- 9.4 RegTel may require:
- (i) that some 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);
 - (ii) that some or 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 RegTel in an accessible format on demand. Exemptions from this requirement may be granted only by RegTel.
- 9.5 Service Providers must notify to RegTel telephone numbers allocated by a Network Operator to the Service Provider for Live Services.
- 9.6 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.
- 9.7 Where there is a determination by RegTel 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.
- 9.8 Callers to Live Services must be notified as soon as possible on spending €30 (or such other amount as may be fixed by RegTel) and be required to confirm if they wish to continue the call, and the call must be terminated by forced release when a total charge of €60 has been incurred.

- 9.9 All providers of Live Services must ensure that, immediately on connection, each Consumer receives a brief (not more than 45 seconds) introductory message, spoken in a clearly audible and discernable manner, giving:
- (i) clear details of Call costs;
 - (ii) the name of the Service Provider providing the Live Service.
- 9.10 In the case of Tarot, Horoscope and similar services, the introductory message must describe the service as an “entertainment service”.
- 9.11 Consumers using Live Services for which recording of Calls has been required by RegTel must be warned that certain conversation is not permissible (see section 5.2 of this Code). They must be informed that a recording of the conversation by the Service Provider may be made available to RegTel.
- 9.12 Service Providers must take reasonable steps to ensure that Live Services are not promoted to or used by persons under 18 years of age.
- 9.13 In addition to “Promotion General Rules” (see Section 6.1.1-6.1.11) the following provisions will apply to Live Services:
- (i) where there is a requirement for recording conversations, this must clearly be stated in the Promotional Material,
 - (ii) specialist or expert Services must indicate the current status and professional experience of those providing the relevant Live Services.

10. ONLINE/MOBILE WEB 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 RegTel.
- 10.2 Such authorisation may be subject to such conditions as RegTel may consider appropriate and may be withdrawn or amended at its discretion because of infringement of the Code.
- 10.3 Online Premium Rate Services must:
- (i) not cost more than €30 per call or session, or such other amount as may be specified by RegTel 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,
 - (iii) disconnect by forced release if the Service is left idle by the Consumer for five 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) charging for the Service must not commence until the Consumer has actively indicated a wish to proceed.
- 10.5 When a dialler is connected to a Premium Rate Service, the Consumer must be alerted by a visual display of dialler utilisation requesting the Consumer to confirm that they wish to use the Premium Rate Service.
- 10.6 All services using a dialler must be authorised in advance by RegTel. 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 RegTel before being implemented.

11. PREMIUM MOBILE SHORTCODE VOICE AND VIDEO SHORTCODE SERVICES

- 11.1 Premium Mobile Services may not be provided unless first authorised by RegTel.
- 11.2 Premium Mobile Short Code Numbers must be used only for the Service authorised by RegTel.
- 11.3 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 Premium Mobile Services must not be promoted by the use of such messages.
- 11.4 Service Providers must ensure to the reasonable satisfaction of RegTel that every effort has been made to ensure that a Consumer who is treated as having subscribed for a PSMS/PMMS Subscription Service has done so
- (i) knowingly;
 - (ii) with knowledge of the fact that the service is a Subscription Service;
 - (iii) with knowledge of all applicable charges;
 - (iv) with knowledge of their right at any time to unsubscribe from the Service or from the utilisation of their personal data for any other purpose.
- 11.5 No Premium Mobile Service may be promoted as being “free” if it involves any charge whatsoever to a Consumer other than a delivery charge (not being a Premium Rate Charge) which is adequately disclosed to the Consumer to the reasonable satisfaction of RegTel. 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.
- 11.6 Service Providers may charge Consumers only for specific Premium Mobile Services and content which the Service Provider can demonstrate to the reasonable satisfaction of RegTel that the Consumer in question has agreed to receive and pay for, by a text message sent from the mobile phone being charged by the Service Provider, by a positive opt-in to a Mobile Web service where the phone number of the user has been verified by the Service Provider using a non-repudiatable process, by written contract between the Service

Provider and the Consumer, or any other means that has the prior written approval of RegTel.

- 11.7 All Premium Mobile Service Promotions must include the contact number and the Short Code Number of the originating Service Provider.
- 11.8 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 and must be made available to RegTel on request.
- 11.9 RegTel considers it best practice that pricing information requested by a Consumer be supplied free of charge and in any event must not cost more than the standard network charge.
- 11.10 The maximum per diem rate for a Premium Mobile Service may be fixed by RegTel from time to time, whether generally or in respect of any specific category of service.
- 11.11 In respect of any Premium Mobile Service or category of Premium Mobile Service, the price per message and number of messages required to complete the transaction must be stated in all Promotional Material.
- 11.12 RegTel reserves the right in the case of a Premium Mobile Subscription Service, or any particular category of such Service, to require that Consumers be informed of the maximum number of messages per period specified by RegTel before they enter the Service and be informed that a Premium Rate Charge is applied per message received.

11.13 Premium Mobile Subscription Services

11.13.1 All Promotional Material for Premium Mobile Subscription Services must contain the following information in a clear and legible font and in the following order:

- (i) a description of Premium Mobile Subscription Service and the frequency of charging, including the initial charge;
- (ii) confirmation to the Consumer that the Premium Mobile Subscription Service incurs a recurring/repeat charge to the Consumer;
- (iii) age warning, as appropriate;
- (iv) the identity and contact details of the Service Provider;

- (v) information on how to unsubscribe using only the word “STOP”.

11.13.2 On subscribing to a Premium Mobile Subscription Service and before the Premium Mobile Subscription Service commences, the Consumer must be sent a free stand-alone initial information message setting out the following in clear terms and in the following order:

- (i) the name of the Service;
- (ii) confirmation that the Service is subscription based;
- (iii) what the billing period is e.g. per day, per week, per month and, if there is no billing period, the frequency of the messages being sent;
- (iv) the cost in euro per message;
- (v) an age warning where appropriate;
- (vi) Service Provider name and contact details;
- (vii) the fact that the Consumer can unsubscribe from the Service by sending the word “STOP” to a designated Short Code Number.

11.13.3 Service Providers must provide Consumer Subscribe and Unsubscribe facilities for all Subscription Services, to enable Consumers to Subscribe and Unsubscribe with immediate effect. Consumers must be allowed to unsubscribe by replying to the Short Code being used with the word “STOP” to the Service Provider. RegTel may designate other standard words which may be used by Consumers for this purpose.

11.13.4 The word “STOP” and other key words designated solely by RegTel to unsubscribe must be effective without being case sensitive. Where a Consumer texts the word “STOP” to unsubscribe from a Premium Mobile Subscription Service, the Service Provider must cease the charging and the provision of the service to the Consumer with immediate effect. The Service Provider, on receipt of an unsubscribe message, must forthwith send a free information message to the Consumer acknowledging receipt of the unsubscribe message and the fact that it has been

acted on. The cost of unsubscribing from the Service must be no more than a standard text message charge.

- 11.13.5 When a Consumer has spent €20 (or such other amounts as may be specified by RegTel) on a PSMS Subscription Service, the Service Provider must send a free reminder text message containing in clear terms details of the subscription service, charges, frequency of charges and the unsubscribe facility using the word “STOP”. This message must be repeated at €20 intervals, must be stand-alone and not be associated with any other information or promotional material.
- 11.13.6 Service Providers must not raise a premium rate charge to provide information about a Premium Mobile Subscription Service or its availability. A Premium Rate charge may only be raised when the Premium Mobile Subscription Service itself has been requested by and delivered to a Consumer.
- 11.13.7 Where a Consumer has subscribed to a Premium Mobile Subscription Service and there are no successfully delivered Premium Mobile messages for 40 days, the Consumer must be unsubscribed automatically from that Premium Mobile Subscription Service and must be removed from the database.
- 11.13.8 Service Providers must provide to Consumers details of date, time, method of subscription and the date and time on which the confirmation message was sent to the Consumer if the Consumer requests validation of his/her subscription.
- 11.13.9 In relation to the promotion of Subscription Services, the billing period and any other such billing period as may be specified by RegTel must be displayed clearly, and not require close scrutiny, in all Promotional Material. In relation to promotions on television and websites, this information must be displayed clearly at the top of the screen in a stationary manner and not require close scrutiny.
- 11.13.10 Each Subscription Service must be a stand-alone service. Consumers who subscribe to a particular Subscription Service on a Short Code number must not be concurrently subscribed to the same service, whether on the same Short Code number or other number. The following practices are not permissible:
- (i) allowing a Consumer to subscribe to multiple instances of the same subscription service;

- (ii) causing a Consumer to be subscribed to multiple subscription services when they respond to a single keyword.

11.14 Promotion/Marketing

- 11.14.1 The provisions set out below are in addition to those set out at Sections 6 and 11.13.1 of the Code.
- 11.14.2 All Promotional Material for Premium Mobile Services must contain, in clear terms, detailed pricing information, inclusive of VAT and any other cost associated with the Service.
- 11.14.3 All Promotional Material must contain in clear terms contact details for the Service Provider and information as to how to “opt-out” of receiving future Promotional Material and “opt-out” of the underlying database by sending the word “STOP” to the Short Code and the Service Provider must act on any such instruction.
- 11.14.4 Promotional Material must relate only to Services authorised by RegTel.
- 11.14.5 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;
 - (iii) the sending and receiving number and the date, time and content of direct marketing promotions.
- 11.14.6 In the case of advertising and promotions including direct marketing promotions, Service Providers must retain records of the Promotional Material for a minimum of 12 months and make them available to RegTel on request. The records retained must include:
 - (i) the content of the promotion;
 - (ii) the date and time that the promotion was sent/published.

- 11.14.7 Promotional Material sent to a Consumer's mobile phone must indicate that it is a "free message" by the use of the wording "Free Message" or "FreeMsg" in the message body or in the sender address. In the case of the latter, the Short Code to opt out of promotional messages must be in the message body.
- 11.14.8 Details of and the source of the direct marketing database used for the sending of Promotional Material must be made available to RegTel on request, along with evidence of the method of obtaining the Consumer's "opt-in" to the database.

11.15 Text Chat and Group Chat Services

- 11.15.1 Group Chat services are deemed to be Subscription Services for the purposes of the Code.
- 11.15.2 Before providing Text Chat services or Group Chat services to a Consumer, Service Providers must receive confirmation from the Consumer that the Consumer is over 18 years. All Promotional Material must contain a communication to the effect that the service is available only to those over 18 years of age.
- 11.15.3 Consumers must be informed before they are admitted to a Group Chat service of the maximum number of responses they will receive and must be informed that the Premium charge is applied per message received. This must be stated in all Promotional Material.
- 11.15.4 Service Providers must build in safeguards to the satisfaction of RegTel to ensure that no sexually suggestive or explicit material is transmitted in the course of the Services.

11.16 Personal Messaging Services (Text "flirt" Services)

- 11.16.1 Where an individual has joined a "text flirt" Service and has passed on a mobile number to the Service Provider providing the text "flirt" Service, the Service Provider must provide an opt-out or unsubscribe 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.
- 11.16.2 Service Providers must receive confirmation the Consumers are over 18 years before the initiation of the Service.

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

11.17 Services of a Sexual Nature Operating on 59xxx Short Code

- 11.17.1 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 18 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.
- 11.17.2 Appropriate security measures must be in place to the satisfaction of RegTel before such Services are authorised.
- 11.17.3 PSMS of a sexual nature must not contain references which suggest or imply the involvement of children.
- 11.17.4 Promotion of PSMS of a sexual nature must not appear in publications intended for children or young persons, or in publications which are unsolicited, e.g. free distribution newspapers (referred to as “free sheets”).

12. FUNDING OF REGTEL

- 12.1 RegTel is funded by a levy on Premium Rate revenue.
- 12.2 The levy is fixed from time to time by RegTel 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 RegTel shall be deducted at source by the Network Operator and paid over to RegTel and the Service Provider shall permit such deduction.

13. PROCEDURES AND SANCTIONS

13.1 Complaint Initiation

- 13.1.1 RegTel 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 up to six months by RegTel for reasonable cause.
- 13.1.2 RegTel monitors Premium Rate Telecommunications Services and Promotional Material and may initiate the Standard Procedure or the Emergency Procedure where there appears to be a breach of the Code of Practice within the previous three months. This period may be extended up to six months by RegTel for reasonable cause.
- 13.1.3 Complaints relating to telephone bills and/or the amount charged in respect of Calls (including PSMS) will not be dealt with by RegTel unless the complainant can demonstrate to the satisfaction of RegTel that:
- (i) he or she has raised the matter by way of a written complaint to the Network Operator and Service Provider concerned;
 - (ii) the dispute remains unresolved on the expiration of 60 days from the date of the complaint referred to at (i) above.
- 13.1.4 RegTel may at its absolute discretion endeavour to resolve issues or complaints informally. Where RegTel considers that informal resolution is inappropriate or where an informal approach has not resolved the matter to the satisfaction of RegTel, RegTel may invoke the Standard Procedure or the Emergency Procedure as appropriate.

13.2 Disclosure of Information

RegTel may require the Service Provider and the Network Operator to disclose to RegTel, within a period of time specified by RegTel, 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 (including contact and promotional messages) operating on particular Premium Rate numbers and such other matters as RegTel may specify.

13.3 Standard Procedure

Where RegTel receives or initiates a complaint or broadens the scope of an ongoing investigation, RegTel may invoke the following procedure:

- (i) the Service Provider will be given in writing all and any information on the complaint so as to enable the Service Provider to respond to RegTel, including:
 - (a) details of the Service or Promotional Material which may be in breach of this Code of Practice (and the Service Provider will be referred to the relevant provisions of the Code of Practice),
 - (b) details of any complaint received (including the name of the complainant, unless the complainant requests that his/her identity is withheld) sufficient so as to enable the Service Provider to respond to RegTel in respect of the complaint;
- (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 a period of not less than five working days. In special circumstances a shorter time limit of not less than 24 hours may be set;
- (iii) if the Service Provider fails to respond and/or to supply the information requested within the required period, then RegTel will proceed on the assumption that the Service Provider does not intend to co-operate with the investigation; and RegTel may request suspension of the Service by the Service Provider or the Network Operator to prevent Consumer harm and may revoke the permission granted to operate the particular service thereby requiring a resubmission of the application for the Premium Rate Service;

- (iv) RegTel, 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 RegTel that a breach of the Code of Practice may have taken place which may have significant implications for Consumers and requires urgent remedy, the emergency procedure may be invoked as follows:

- (i) RegTel 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 RegTel is unable to make contact with the Service Provider, RegTel 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;
- (iii) once the Service has been removed, the Standard Procedure will be invoked.

13.5 Withholding Payment

Where an investigation has been initiated, RegTel may direct the Network Operator to withhold, pending adjudication by RegTel, from the Service Provider, Information Provider or other third party some or all payments due in respect of the Service being investigated.

13.6 Adjudication

At the completion of the investigation, RegTel will decide if there has been a breach of the Code of Practice. Each case will be considered and decided on its own merits.

13.7 Reviews

RegTel 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 or as a result of an own-initiative investigation, RegTel adjudicates that there has been a breach of the Code of Practice, RegTel may impose one or more of the following sanctions:

- (i) require the Service Provider to remedy the breach by taking such steps as RegTel deems appropriate,
- (ii) require assurances from the Service Provider, or any associated individual, relating to future behaviour, in terms determined by RegTel,
- (iii) require the Service Provider to submit certain or all categories of Service and/or Promotional Material to RegTel for prior approval for a defined period,
- (iv) require the Service Provider to refund to the complainant, and to all other Consumers who were affected by the same breach of the Code an amount to be determined by RegTel 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, RegTel 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) 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) 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,
- (vii) recommend to the relevant Network Operator that the Service Provider should no longer be permitted to provide Premium Rate Services.

In deciding on sanctions in any case, RegTel shall have regard to the principles of proportionality and reasonableness.

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 RegTel 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 RegTel may request the Network Operator to pay over to RegTel the amount due by the Service Provider out of Service Provider funds held by the Network Operator.

13.10 Case Reports

RegTel may at its discretion release to the media for publication and/or post on the RegTel website, with or without the names of the complainant (if any) and the Service Provider, decisions of RegTel on applications and/or adjudications under the Code.

14. OPERATIVE DATE

This Code of Practice will come into force on 1 October 2008 and replaces all existing Codes of Practice, in respect of calls and Promotional Material published thereafter.

USEFUL WEBSITES:

RegTel	www.RegTel.ie
Data Protection Commissioner	www.dataprotection.ie
Natural Consumer Agency	www.nca.ie
ComReg	www.ComReg.ie
The Irish Phone Paid Services Association (representative of some Service Providers)	www.phonepaid.org

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