[IE] Communications Regulation (Amendment) Bill 2007

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On 2 February 2007, a new Communications Regulation (Amendment) Bill, along with an Explanatory and Financial Memorandum, was published. The Bill is intended to amend the Communications Regulation Act 2002, so as to confer additional functions on the Commission for Communications Regulation (ComReg) and to make further provision for the enforcement of the 2002 Act.

The primary purpose of the Bill is to increase the enforcement powers of ComReg in order to promote competition in the Irish telecommunications market. The Bill provides ComReg with powers similar to those of the Competition Authority, which will allow ComReg to investigate (s.31) and take action to address issues such as restrictive agreements and practices, and abuse of dominance.

Section 6 of the Bill amends the 2002 Act by inserting new sections to provide information gathering powers for the Minister and ComReg. The Minister is given information gathering powers in relation to the technical operation and performance of telecommunications networks and infrastructure in the state, while ComReg is given power to gather information from undertakings. Provision is also made for a summary offence for failure to provide information or for providing false information. Section 11 confers on ComReg special powers to require persons to give evidence or produce documents. A new section is also inserted to provide protection for whistleblowers who disclose appropriate information to ComReg (s.7).

The Bill also introduces indictable offences for breaches of enforcement measures imposed by ComReg (s.15). This provision will allow for substantial penalties to be imposed on undertakings for serious offences, with fines of up to EUR 4 million or 10% of turnover (s.15 - 46A (6)). It also provides for additional daily fines of up to EUR 5,000 for offences of a continuing nature (s.15 - 46A (7)). The Bill, as drafted, does not specify particular summary or indictable offences, but rather provides an enabling mechanism whereby the Minister can, via Regulations made under the European Communities Act of 1972, provide for offences to be tried either on indictment or summarily.

It is envisaged that greater competition powers, along with civil and criminal remedies, will give ComReg a strong suite of powers to enforce regulatory decisions and to support the development of competition in the market.

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The Bill further provides for the establishment and operation of an Emergency Call Answering Service (s.17). It inserts a new section that provides for the Minister to enter into a contract with an undertaking for the provision of an emergency call answering service. The section also provides for ComReg to regulate the price that the undertaking shall charge for handling emergency calls.

The Bill also contains an amendment to the Electronic Commerce Act 2000, which will transfer responsibility for the oversight and management of the Irish Internet domain name to ComReg (s. 21 & 22).

Communications Regulation (Amendment) Bill, no 8 of 2007

http://www.oireachtas.ie/viewdoc.asp?DocID=6862

Government press release

http://www.dcmnr.gov.ie/Press+Releases/Dempsey+Announces+Publication+of+New+Bill+to+Increase+powers+of+ComReg.htm

Regulatory Impact Analysis of the Bill

http://www.dcmnr.gov.ie/Communications/Regulation+and+Postal+Division/Bill2007.htm

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