



Consumer Protection Act 2007

Compliance Notice (Section 75)

Company Secretary
eircom Limited
1 Heuston South Quarter
St. John's Road
Dublin 8

Competition and Consumer
Protection Commission
4 Harcourt Rd
Dublin 2

I, Aonghus O'Cuilinn, an authorised officer of the Competition and Consumer Protection Commission, duly authorised under Section 35 of the Competition and Consumer Protection Act 2014, hereby give you notice, pursuant to Section 75(2) of the Consumer Protection Act 2007, that I am of the opinion that you have contravened an enactment specified in Schedule 5 to the Consumer Protection Act 2007.

The contravention herein relates to the eircom Limited website, www.eircom.net.

Statement of alleged contravention:

That you eircom Limited, a trader, as of 10th March, for the purposes of the European Union (Consumer Information, Cancellation and Other Rights) Regulations 2013 (the relevant enactment specified in Schedule 5 to the Consumer Protection Act 2007, as amended by Regulation 33(f) of S.I. No. 484 of 2013) (hereinafter 'the Regulations'), have failed to give or make available the following information requirements for a consumer before he or she is bound by a distance contract:

1. Information on the right to cancel required by paragraph (l) of Schedule 2 to the Regulations in plain and intelligible language and in a way appropriate to the means of distance communication used. [Regulation 10(1)(a)]
2. The cancellation form set out in Part B of Schedule 3. [Regulation 10(1)(b)]

My opinion

I am of the opinion that by failing to give or make available such information and a cancellation form as required by Regulation 10(1)(a) and Regulation 10(1)(b) you have contravened Regulation 10(1) of S.I. No. 484 of 2013, an enactment specified in Schedule 5 to the Consumer Protection Act 2007. The contravention of Regulation 10(1) is an offence as described by Regulation 10(10).

The reasons for my opinion in this regard are based on the following:

1. Your company, eircom Limited (hereinafter 'eircom'), as a legal person can be described as a 'trader' for the purposes of the Regulations.
2. Your company, eircom has a website which provides a facility for consumers to enter into distance contracts with eircom. A 'distance contract' is described in Regulation 2(1) as meaning 'a contract concluded between a trader and a consumer under an organised distance sales or service provision scheme without the simultaneous physical presence of the trader and the consumer, and with the exclusive use of one or more means of distance communication up to and including the time at which the contract is concluded'.
3. I believe that the contracts you enter into with consumers through the website can be classified as 'distance contracts' to which Part 3 of the Regulations apply. Part 3 provides mandatory information requirements that a trader must provide to a consumer.
4. As this is a distance contract a right of cancellation applies pursuant to Part 4, Regulation 14. How a consumer exercises that right of cancellation is detailed in Regulation 17.
5. The trader is required to provide consumers with information on their right to cancel as specified in paragraph (l) of Schedule 2.
6. I do not believe that the information specified in paragraph (l) of Schedule 2 has been provided by means of the instructions on cancellation set out in Part A of Schedule 3.
7. I believe that eircom's website fails to inform consumers of the statutory right to cancel pursuant to Regulation 14.

8. The eircom website does not give or make available the information specified in Schedule 2 as detailed in Regulation 17 and as required by Regulation 10(1)(a).
9. The trader is required to give or make available to the consumer a cancellation form as set out in Part B of Schedule 3 which can be used by the consumer to exercise this right of cancellation.
10. The eircom website does not give or make available the cancellation form as set out in Part B of Schedule 3 as required by Regulation 10(1)(b).

Compliance direction and requirements

1. eircom Limited, a trader, is hereby directed to comply with the obligations as provided for under Regulation 10(1)(a) of S.I. No. 484 of 2013 by giving or making available to the consumer the information on the right to cancel required by paragraph (I) of Schedule 2 to the Regulations in plain and intelligible language and in a way appropriate to the means of distance communication used.
 2. eircom Limited, a trader, is hereby directed to comply with the obligations as provided for under Regulation 10(1)(b) of S.I. No. 484 of 2013 by giving or making available to the consumer the cancellation form set out in Part B of Schedule 3.
 3. I further consider it appropriate, in order to remedy the contravention, that eircom Limited informs consumers who since the 14th June 2014 have concluded contracts with eircom Limited, such contracts being contracts to which S.I. No. 484 of 2013 applies, of the information on the right to cancel required by paragraph (I) of Schedule 2 to the Regulations in plain and intelligible language and in a way appropriate to the means of distance communication used and to give or make available to those consumers the cancellation form set out in Part B of Schedule 3.
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1. You must comply with this compliance direction and requirements by **20th May 2015**.
 2. You may appeal this Compliance Notice to the District Court in the district court district in which the notice is served **within 14 days after its service**.
 3. The form and manner of such an appeal is that to be found in the District Court Rules, Schedule D, Form No: 100.1. This is available from the registrar at your local District Court office.
 4. In the event that you decide to appeal the Compliance Notice, you must, at the same time, notify the Competition and Consumer Protection Commission at the above address. You must also notify the Competition and Consumer Protection Commission of the grounds for the appeal.
 5. If an appeal is not made in accordance with Section 75 of the Consumer Protection Act 2007 and within 14 days after service of the Compliance Notice, this notice will be

treated as not disputed, you will be deemed to have accepted the notice and have agreed to comply with the compliance direction and requirements and any failure or refusal to so comply is an offence and, on summary conviction, you will be liable to the fine and penalties set out in Part 5, Chapter 4 of the Consumer Protection Act 2007.

Signature: *Aonghus O'Cuilinn*

Aonghus O'Cuilinn

Authorised Officer

Competition and Consumer Protection Commission

Date: *29 April 2015*.

This information is intended for information purposes only and does not constitute part of the Compliance Notice.

Compliance Notice Notes
Consumer Protection Act 2007 (CPA)

1.	Section 75(6) CPA requires a person, when lodging an appeal, to, at the same time, notify the Competition and Consumer Protection Commission of the appeal and the grounds for the appeal. The Commission is entitled to appear, be heard and adduce evidence on the hearing of the appeal.
2.	If on appeal the compliance notice is not cancelled, the notice takes effect on the later of the following: <ul style="list-style-type: none"> a) the day after the day on which the notice is confirmed or varied on appeal, b) if the appeal is withdrawn by the appellant the day after the day it is withdrawn, c) the day specified in the notice.
3.	If there is no appeal under Section 75(5) CPA, the compliance notice takes effect on the later of the following: <ul style="list-style-type: none"> a) 14 days after the notice is served. b) the day specified in the notice.
4.	An Authorised Officer may: <ul style="list-style-type: none"> a) withdraw a compliance notice at any time, or b) if no appeal is made or pending under Section 75(5) CPA, extend the date by which the recipient is to comply with the compliance direction and requirements.
5.	Withdrawal of a compliance notice does not prevent the service of another compliance direction or requirement specified in a compliance notice, whether it relates to the same matter or a different matter.
6.	Under Section 75(13) CPA, if a compliance notice takes effect, the Commission is required to publish the compliance notice, or cause it to be published in any form or manner it considers appropriate.
7.	Section 86 CPA requires the Commission to maintain a "Consumer Protection List" of names and addresses together with a description of their trade, business or profession in respect of any enforcement actions taken by the Commission. This includes persons against whom compliance notices have taken effect.

8.	Any person who, without a reasonable excuse, fails to comply with a direction or requirement specified in a compliance notice commits an offence and, on summary conviction, is liable to the fines and penalties set out in Section 79 CPA.
9.	<p>Section 79(1) CPA provides that a person guilty of an offence under the Consumer Protection Act 2007 is liable on summary conviction to the following fines and penalties:</p> <ul style="list-style-type: none"> a) a fine not exceeding €3000 or up to 6 months imprisonment or both, b) on any subsequent summary conviction a fine not exceeding €5000, or imprisonment for a term not exceeding 12 months or both. <p>If, after being convicted for an offence, a person continues to contravene the requirement or prohibition to which the offence relates, the person is guilty of a further offence on each day the contravention continues and for each such offence is liable on summary conviction to a fine not exceeding €500.</p>
10.	According to section 75(14) the issuing of this notice does not prevent the commencement of proceedings for an offence.