

Code 15 Guidance note – Transparency Standard

The Transparency Standard aims to ensure that the entire phone-paid service from service promotion to service exit, including service proposition and cost, is clear and transparent, so that consumers can make fully informed decisions before any charge is incurred.

This guidance note sets out the PSA's expectations and provides more detail on how phone-paid services providers (network operators, intermediary providers and merchant providers) can comply with the Transparency Standard and Requirements. This guidance provides more detail on:

- promotion
- point of purchase
- use of service
- receipting for mobile network customers
- method of exit.

If you have any queries about the guidance set out in this note or want to discuss your approach to compliance with the Transparency Standard please email us at compliance@psauthority.org.uk.

Promotion

Pricing information (Code Requirement 3.2.1) must be provided before any purchase of a service is made and must be **prominent, clear, legible, visible and proximate**.

What do we mean by prominent and proximate?

Pricing information should be very easy to locate within a promotion, it should be presented in such a way that it stands out and cannot easily be missed. It should also be displayed close to the phone number, shortcode, button, or other means by which a charge may be triggered.

Pricing information needs to be put where consumers will easily see it. It is likely to be judged as prominent if the information is clearly visible when a consumer makes their purchase and triggers the payment. Both the font size and use of colour are important to establishing pricing prominence (see below for further guidance on fonts and colour).

Proximate can be defined as being next to, or very near, the means of consumer access to a service. The most common example of pricing information being proximate is when it is provided immediately before or above the call to action.

The PSA recommends displaying the price directly above the means of access to the service. For both web and mobile web, if ordering a service entails activating a button (or similar

function), the labelling of the button should make the obligation to pay absolutely clear, for instance by using phrases such as "pay now" or "buy now". The wording on the button should be easily legible. A failure to label the button in this way may result in the provider not complying with the law (Regulation 14 (4) of the Consumer Contracts (Information Cancellation and Additional Charges) Regulations 2013. Note that consumers are not bound by orders for services which do not comply with this legal requirement and may be entitled to a full refund.

Pricing information should be:

- standalone rather than hidden within terms and conditions or a bulk of text
- above the fold on a web-based promotion, in other words consumers should not have to scroll down a page to see it.

What do we mean by clear, legible and visible?

Pricing information should be clear and easy to understand and not presented in a way that is likely to cause confusion. The price of a service should be expressed in clear conventional and unambiguous terms such as:

- £1 per minute ✓
- 50p per minute ✓
- £6 per call ✓
- £1.50 per text ✓
- £3 a week ✓
- £4.50 a month ✓

Examples of unclear pricing information include:

- premium rate charges apply ✗
- 100ppm ✗
- 1.50GBP ✗
- 50p/m ✗
- £3/wk ✗
- £4/mnth ✗

The actual cost of calling a voice-based phone-paid service to consumers is comprised of the service charge and the phone company's access charge. This means the overall charge to a consumer for calling a voice-based service can often exceed the charge for the service (service charge) as advertised in monetary value in the service promotion.

Where an access charge applies this should also be clearly and unambiguously stated, for example "plus your phone company's access charge".

Examples of how pricing information can be worded include:

<i>Cost type</i>	<i>Example wording</i>
Standard per minute phone-paid service	Calls cost £[x]p per minute plus your phone company's access charge
Standard per minute phone-paid service where the duration is known	Calls cost £[x]p per minute and should last no longer than [x] minutes plus your phone company's access charge
Per call tariffs	Calls cost £[x]p plus your phone company's access charge
Per call plus per minute hybrid tariffs	Calls cost £[x]p per call plus £[x]p per minute plus your phone company's access charge
Premium rate texts	Texts cost £[x] or, £[x] per text – if more than one chargeable text is sent to complete the purchase state the full cost and how many texts will be received, include "plus standard network charge" where applicable
Operator billing	State the cost clearly in "£", if the service is a subscription state the billing frequency for example £[x] per week, include "plus standard network charge" where applicable
Subscription services	State the cost in "£" clearly plus the billing frequency for example £[x] per week; £[x] per month, include "plus standard network charge" where applicable
Charitable donation services	State the cost of donations in "£" clearly for example "text GIVE to 70XXX to donate £5" (include billing frequency if recurring donation), include "standard network charges apply"
Calls to voice shortcodes	State the cost clearly in "£"

Presentation of pricing information

How pricing information is presented is also key. Providers should carefully consider their use of colour and font within marketing material. Pricing information should be presented in a horizontal format and be easily legible in context with the media used. It should be presented in a font size that does not require close examination by a reader with average eyesight. In this context, "close examination" will differ for the medium, for example a static webpage, a fleeting TV promotion, in a print publication, or on a billboard where you may be at a distance or travelling past at speed.

The prominence of pricing information also needs to be considered in comparison to the prominence of the call to action. For example, the appearance and prominence of the call to action should not decrease the prominence of, or detract from, the pricing information.

The use of colour also needs to be considered as this could affect the need for close examination, regardless of font size and/or prominence. There should be sufficient contrast

levels between background and text, for example grey text on grey background should not be used and text should not appear on top of busy, patterned backgrounds.

Some combinations of colours used in promotional material reduce the clarity of the information, and make it harder for it to be seen, particularly for people with colour blindness or dyslexia. Providers should take care to ensure that the colour combinations (including black on white) used for the presentation of the price do not adversely affect its clarity. Providers should in general consider the accessibility of their services when designing promotional material.

Informing consumers that charges will be added to their phone account (mobile or otherwise)

Code Requirement 3.2.2(c) requires consumers to be informed that charges will be added to their phone account. In order to meet this Requirement:

- for **online services** – a statement that confirms that the charge(s) will be added to the consumers phone account should be included within promotional material, pricing information alone would not be sufficient for these services as consumers are less familiar with operator billing as a charging mechanic
- for **voice-based services** and **text message-based services** – full pricing information should be provided which is prominent, clear, legible, visible and proximate as required by 3.2.1 of the Code (which necessitates inclusion of the reference to the phone company's/network's access/standard charge as shown in the examples provided above). This will be sufficient to inform consumers that charges will be added to their phone account.

Other information that needs to be provided

Before making a purchase and incurring charges consumers must be provided with all information that would reasonably be likely to influence their decision to purchase (Code Requirement 3.2.2). In addition to pricing information, frequency of charges, confirmation that charges are added to the bill, provider details and service name this should include the following:

- a clear description of what the service is and does, for example:
 - if the service is an ICSS the promotion should clearly explain that the service is a connection service, that it is not associated in any way with the company in which it connects to. It is not acceptable to use terms such as “customer service” or “helpline” within promotions, including search engine marketing or URLs to describe the ICSS. Such terms do not accurately reflect the true nature of the service and could mislead consumers into believing they are directly contacting the organisation they are seeking. This may also fall foul of Fairness Requirements 3.3.2 and 3.3.3.
 - if the service is a virtual chat service where a consumer has an SMS conversation with a chat operator or a voice-based chat service the promotion

should clearly explain that the service is an entertainment service or fantasy service, that it is not peer-to-peer and that users are not able to meet the operators in person

- if the service is an advice service, the promotion should clearly explain the nature of the advice that will be provided, the source of information in which the advice is based on, and/or what qualifications or training the operator has enabling them to provide the advice
- any other key information including a full and clear description of any prizes or awards (where relevant), for example:
 - for **ICSS**, the promotion should:
 - clearly explain that the company in which the service connects to can be contacted directly for no, or lower, cost and provide a link to the homepage of the company it connects to, to assist consumers in contacting them directly
 - advise consumers that calls to the service will be terminated once £40 service charge is reached (for a per minute tariff ICSS)
 - only provide correct information about the opening times of the organisations they connect to
 - for **competition services**, a clear description of the prize on offer would be to include details like product specifications, or if the prize is a holiday when the holiday should be taken and whether travel is included with accommodation. If the prize is money, how the payment will be made, e.g. a cheque or bank transfer.

Some services may be promoted via a non-phone-paid electronic communications service (where a consumer has opted into such marketing) for example via non-phone-paid SMS or during a non-phone-paid voice call. Where this is the case, Code Requirement 3.2.6 confirms that that both services will be considered as one where the PSA considers it appropriate to do so. Therefore, providers who intend to promote in this way should make it clear to consumers that the non-phone-paid service involves promotion of a phone-paid service from the outset.

Point of purchase

The point of purchase must be separate and distinct from promotional material so that consumers are aware that they are about to make a purchase (Code Requirement 3.2.7 and 3.2.8). This can be achieved in various ways depending on the nature of the service. Here are some examples:

- for voice calls, the point of purchase would be separate and distinct from the promotion as the consumer is required to make a phone call by either actively entering and dialling a number on a landline phone or mobile handset. If "click to call" functionality is used, this removes the need to enter a phone number, however, the consumer still needs to confirm through their calling app/facility that they wish to

make the call. This would be considered a separate function and therefore not part of the web promotion.

- for SMS-based services, consumers are required to actively send a text to a shortcode through their SMS function. Again, this would be considered a separate and distinct function because the action the consumer needs to take to make the purchase is separate from the promotion even where the text may be pre-populated.
- for online services, the point of purchase could be a web page that is clearly labelled as a payment page in a way that the consumer will be familiar with from making other types of digital purchases or online shopping. For example, having a separate checkout page that clearly notifies consumers of the obligation to pay, the cost and confirmation that charges will be added to the phone bill.

Information that must be provided and actions required before onward connection for voice-based services

ICSS and directory enquiry services are the two service types that offer onward connection. Code Requirement 3.2.10 specifies that the cost for continuing the call, including information about access charges and any additional chargeable elements such as a premium SMS, must be provided before onward connection occurs.

For directory enquiry services, the cost announcement can happen after the number the consumer is looking for has been provided for example “if you wish to be connected, this call will cost £2 per minute plus your phone company’s access charge”. The consumer can then choose whether to be connected or not.

In addition, 3.2.10 requires ICSS to obtain positive opt-in from consumers to continue with the call and be connected to the sought-after organisation. Additionally ICSS must provide further key information within the alert upon connection including:

- the cost of the call per minute and/or per call
- that the organisation being connected to can be contacted directly for no or lower cost and provide the direct contact number
- the maximum service charge for the call (note that for per call tariff ICSS this is already achieved by stating the cost of the call)
- that calls will be disconnected once the maximum service charge is reached.

Here are some examples of how this can be achieved:

- for an ICSS that charges the service charge on a per minute basis the alert should say, “thanks for calling [XYZ ICSS]. Calls cost £1.50 per minute plus your phone company’s access charge, [ABC organisation] can be contacted directly for no or lower cost on [02031231234]. The maximum service charge for this call is £40. You will be disconnected once £40 service charge is reached” or similar.

- for an ICSS that charges the service charge on a per call basis the alert should say, “thanks for calling [XYZ ICSS]. Calls cost £6 plus your phone company’s access charge, [ABC organisation] can be contacted directly for no or lower cost on [02031231234]” or similar.

Positive opt-in to continue with the call and be connected, and positive opt-in to receive an SMS

Once the information listed above has been provided within the alert, positive opt-in to continue the call and be connected must be obtained from the consumer. If the ICSS also offers an SMS, separate positive opt-in must be obtained from the consumer for that element of the service. This can be achieved through an IVR menu system.

Here are some example messages:

- for ICSS that charge the service charge on a per minute basis “To be connected to [organisation name] at a cost of £1.50 per minute plus your phone company’s access charge, press 1 on your keypad”
- for ICSS that charge the service charge on a per call basis “To be connected to [organisation name], press 1 on your keypad. You will continue to be charged your phone company’s access charge”
- “To receive an SMS at a cost of £3 containing the contact number for [organisation name], press 2 on your keypad”

Following the separate opt-in options, the consumer can be presented with a third option to be connected and receive an SMS, for example:

- “to be connected to [organisation name] and receive an SMS containing the contact number press option 3, you will be charged £3 plus £1.50 per minute plus your phone company’s access charge” or,
- “to be connected to [organisation name] and receive an SMS containing the contact number press option 3, you will be charged £3 plus your phone company’s access charge”

There are potentially other wordings that meet the Requirement. Compliance advice is available free of charge from PSA to assist providers.

Receiving for mobile network consumers

Receipts must be sent to consumers following initial sign-up to a service and after each subsequent transaction where the service is recurring. The Code Requirements (3.2.13 and 3.2.14) set out clearly the form receipts can take and what details must be included. It will be possible for a premium SMS (PSMS) confirmation or service message to act as the receipt where it is capable of doing so by containing all the information listed in Code Requirement 3.2.14.

Where an ICSS provides a chargeable follow-up SMS, providers must ensure that a receipt is provided to consumers for each and every chargeable SMS sent.

Method of exit

There may be many ways for a consumer to exit a service – these include terminating a phone call by replacing a receiver, selecting a relevant on-screen button, sending an SMS instruction, closing a webpage or uninstalling a mobile application. Whatever method is used, it must be simple to perform and include the method used by the customer to sign up to or access the service unless it is not technically possible to do so, or if the sign-up and access method involves multi-factor authentication (MFA) as this would not constitute a simple method of exit. For example, sending an SMS to a shortcode or logging into an online account and requesting to cancel through that account in a way that the consumer may be familiar with through other digital services and is similar to how the phone-paid service is used.

The "STOP" command may be the most common, familiar and easily implemented system for consumers to exit a mobile-based service. This command should be recognised by the provider through both the capitals variation of "STOP" and the lowercase variation of "stop", and any combination thereof. We would always expect the consumer to be able to text "STOP" to the same shortcode from which they are being billed or receiving receipts from for ease.

Where a consumer has legitimately tried to cancel a service and failed (either because they have mis-typed "STOP", or because they have sent in another variation such as "please stop", "stop texting me"), then once this becomes clear to the provider, consumers should be retrospectively refunded for any charges subsequent to their first clear attempt to opt out, and immediately removed from the service.

Where a consumer is subscribed to more than one service on a single shortcode, the following actions would be acceptable, where the consumer sends a single "STOP" command:

- to unsubscribe the consumer from all services they are subscribed to on that shortcode
- to send the consumer a text which clearly states that they are subscribed to multiple services and informs them that they have been unsubscribed from the last service they opted into, and that they can unsubscribe from all services by replying with the words "STOP ALL".

As soon as the consumer replies with "STOP ALL", they should be unsubscribed from all services on that shortcode.

Where we discover that separate shortcodes for requesting a service and opting out from it are being used, then consideration will be given to a provider's motive or reasons for doing so. Any actions which are likely to confuse consumers may potentially fail to meet both Transparency and Fairness Requirements.

For app-based services involving phone-paid billing options, the STOP command may not be the most appropriate means of exit. Any app using phone-paid billing (whether as the sole payment option or one of a number of payment options) should have a clear and unambiguous

method of stopping any phone-paid payment, and a clear and simple method of removing the application from the device, if desired by the user. This information should be clearly detailed within the app, and must be easily accessible, simple to understand and to implement.

For recurring donation services where the SKIP command is available to users, the STOP command must also be available and effective when used.