

Notification of intention to grant permission under paragraph 3.10.4(a)¹ of the Phone-paid Services Authority Code of Practice to Level 2 providers operating services through an app store, enabling them to provide those services without the need to register with the Phone-paid Services Authority.

This Notification should be read by all app stores and Level 2 providers operating within app stores who are involved, or intend to be involved, in the provision of services through app stores using a premium rate payment facility, and who wish to apply for an exemption from provision 3.4.1 of the 14th edition of the Phone-paid Services Authority Code of Practice ('the Code') – the requirement to register with the Phone-paid Services Authority before providing any premium rate service.

App stores

Operator billing is available through several app stores in the UK. This payment mechanism, which falls within the definition of a premium rate service under the Communications Act 2003, is a controlled premium rate service under the PRS Condition set by Ofcom and therefore falls within the Phone-paid Services Authority regulatory remit.

App stores are defined as:

An online marketplace where consumers (having registered and created an account with the provider of the online marketplace) can browse, purchase, and download applications on to their smartphone or other connected device.

The exemption below applies only in relation to Level 2 providers who operate, or are in control of, or responsible for, services operating through a participating app store.

In continuing to offer this exemption to app stores we have been mindful of the need to ensure that:

- robust regulations are in place to protect consumers and achieve the outcomes set out in our Code of Practice
- there is fair treatment between app stores and traditional PRS providers
- at the same time, we demonstrate appropriate flexibility, recognising that there are differences between the app store model and traditional PRS models.

¹ Paragraph 3.10.4(a) of the Code allows registered providers to apply for written permission from the Phone-paid Services Authority (which may be given subject to conditions) for their service to be provided by means other than strict adherence to the Code provisions. Such provisions can be withdrawn or varied by the Phone-paid Services Authority subject to the giving of reasonable notice.

The PSA is satisfied that the approach set out in this notice, which offers a targeted exemption from a provision of the Code subject to app stores signing up to robust conditions, meets the above tests.

All app stores and contracted Network operators, Level 1 providers and/or Level 2 providers should note that **participation in the exemption is not automatic**. App stores will need to apply to the Phone-paid Services Authority on behalf of their Level 2 clients. In accordance with paragraph 3.10.5 of the Code, a record of all providers granted permission for one or both exemptions will be placed on the Phone-paid Services Authority website.

In accordance with paragraph 3.10.4(b) the Phone-paid Services Authority may withdraw or vary permissions subject to the giving of reasonable notice.

App Store Exemption

Registration Exemption – paragraph 3.4.1

App stores will be able to obtain permission for their Level 2 clients – i.e. app developers and merchants who offer products for sale only via that app store – to operate without the need to register where the Phone-paid Services Authority is satisfied that the app store:

- holds a valid registration with the Phone-paid Services Authority
- maintains a good compliance record with the Phone-paid Services Authority
- operates its own registration and screening process for app developers (as part of its due diligence obligations)
- incorporates the Phone-paid Services Authority’s list of banned individuals into its registration and fraud screening processes
- requires app developers to publish a website or email address within the store for consumer contact purposes
- has a direct relationship with the consumer, who are required to pre-register before initiating a purchase
- requires their app developers to provide the user with an email receipt for purchase including a contact email address for the app developer
- cooperates fully in responding to all requests from the Phone-paid Services Authority that are made in accordance with the Phone-paid Services Authority Code of Practice, for example in providing information on app developers
- commits to providing an escalation path for PRS consumers with unresolved complaints, either through the app store or by clear and explicit agreement with each contracted UK Mobile Network Operator.

App stores and Level 2 clients should note that this permission applies to the requirement to register only. Level 2 providers who provide apps via an app store with permission to not

register, will continue to be responsible for compliance with all other provisions set out in the Code (unless permission has been granted in respect of those other provisions).

Applying for an exemption

App stores who are involved, or intend to be involved, in the provision of services with a premium rate payment option are able to apply the exemption listed below by setting out their request in writing, to: compliance@psauthority.org.uk

Applicants may be asked for further evidence which demonstrates how they will comply with the conditions set out in the exemption.