

15th October 2018

Ref: Review of Phone-paid Subscriptions

With regards to the above consultation, we would like to raise the following points for your consideration.

Q1: What are your views on the review objectives set out on page 4? Has the PSA got the right scope or are there areas the PSA should include or exclude?

With regards to the types of subscriptions, paragraph 4 does not refer to alert-based subscriptions. Services include, for example, goal alerts whereby a consumer is charged every time a goal is scored. This concept has also been extended into publishing, allowing a chargeable event to occur when a magazine becomes available which might not necessarily fit a calendar based cycle.

It is worth pointing out that repeat-based payments are a significant advantage of carrier billing. For the purpose of this exercise, it is advantageous to limit the various billing frequencies and subscription concepts however this would only serve to constrain the future potential of premium rate services and should not be viewed as part of the solution.

Q2: Some subscriptions generate high levels of complaints, whereas others with similar numbers of subscribers generate very few. Do you have any views on the regulatory measures that would better support growth and innovation across the subscriptions, whilst ensuring consumers are protected from harm?

The fundamental premise of this question is incorrect – “subscriptions” do not generate high levels of complaints, the people operating them do. This has been demonstrated over the recent years with services such as ringtones, chat services, TV voting services, adult pay-per-page and Premium SMS competitions all causing complaints and becoming the issue of the day to tackle.

Furthermore, when addressing consumer harm there can be inadvertent capture of companies not causing consumer harm. For example, the £4.50 per 7 days spend cap originally targeted at ringtone providers now impacts on charity donations operating at £20+ per month. This demonstrates the necessity of any resolutions to address the root cause, i.e. the people operating services causing harm.

By way of guidance, ImpulsePay recently obtained an e-money licence from the FCA. This application was two-fold, a cursory review of the service we intended to launch and an in-depth background check on the company directors and core management. An example of this is attached (fca-emd-individual-form.pdf), from which you can see the level of knowledge gained about our competency to operate FCA registered services, which is additionally checked and independently verified.

This information is fed into the FCA’s authorized personnel register. An equivalent PSA register would provide an audit trail for MNOs and level 1 providers to reference in their DDRC checks.

Such checks would root out rogue individuals before launch and help ascertain the long term operating practices of people providing premium rate services. This approach can be further complemented by barring individuals that cause consumer harm or restricting individuals whose service appear compliant but continue to receive significant complaint volumes.

Q3: Do you agree that different subscription services may require different regulatory responses? Do you have any thoughts on what this variation could look like?

In view of Q2 above, we do not believe different services should have different rules applied to them. However, attention should be paid to the ability of L1s to manage problems generated by subscriptions.

In the past, ImpulsePay has imposed restrictions on services we considered to be poorly advertised or the product offering to be inadequate. In these cases, we have alerted the MNOs and exercised the contractual options available to us.

We have repeatedly seen companies then proceed to launch an identical service with other L1s. In one case, we were threatened with legal action for not assisting a launch with a competitor, consuming significant resources to defend and generating a conflict of interest with the network operators.

Our view is that a level 1 provider should be able to effectively suspend an active service, without fear of service migration to bypass restrictions.

This scenario causes a double whammy for a level 1 provider as initially there is wasted time preventing the migration. Once migrated, they are then able to advertise against remaining clients who are not causing consumer harm; effectively further impeding the level 1 provider financially.

Q4: Is there any other information or evidence that you would like to provide to PSA to assist it to undertake more detailed analysis of the existing framework, including around where you see subscriptions heading?

We feel this is a good opportunity to remove the "FreeMSG" wording from all subscription messages. Individually, the PSA and MNOs agree this phrase inadvertently misleads a consumer, however collectively we have been unable to agree a plan to remove it.

Secondly, an anomaly has emerged with charity donations, allowing the subscription reminder messages for charities to be sent 24 hours before billing. This would appear to be a more intuitive experience, logically allowing a person to cancel a subscription before they are billed again.

This anomaly shows that a principle based approach, underpinned by robust checks of the service providers can lead to better user experiences when not hampered by prescriptive best-of-intentions rules that have not evolved with the times.

Q5: Do you have any experience or evidence to share about effective regulatory approaches in the other jurisdictions or methods of digital payment in which you may be operating, that have successfully balanced adequately protecting consumers from harm, as well as supporting innovation and growth?

Google operates a complex ad platform called Google DoubleClick. A requirement for access is to be supported by a training provider to ensure users are able to comprehend and use the service effectively.

Premium rate services are equally complicated, but within our industry we put little emphasis on training or sharing of knowledge. Training has repeatedly demonstrated a continual improvement of standards, and with better awareness, problematic behavior can be removed.

It is clearly not the regulators' job to train people; however, this should be identified as an area of weakness and the appropriate stakeholders brought together to devise a program of improvement.

This response may be republished as required.

Yours Sincerely,



 ImpulsePay