



**Response to PSA consultation on
Revised Guidance on Consent to Charge**

The **fair telecoms campaign** is pleased to provide this response to the PSA [Consultation on revised guidance on Consent to Charge](#).

This partly addresses issues covered by the consultation on **“The regulatory framework for phone-paid subscriptions”** and other requests for submissions. Our responses to these requests - see [The regulatory framework for phone-paid subscriptions - response to PSA consultation](#) - raise points which may warrant consideration alongside those made below.

Comments on points of general concern precede our formal responses to the stated questions.

We are unable to address any of the specific technical issues around security and process in any detail. We trust that other respondents will be competent to provide the analysis, from a professional perspective, that is sought. This must cover both the necessity and adequacy of the proposed provisions and the ability of those subject to the provisions to comply.

Note: Portions *in italics* remain open to adjustment through a possible later release of this document.

Confidentiality

We are content for the full content of this response to be published, and for comments to be referenced in the following statement or any other PSA publication.

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The issue of 'Consent to Charge'

This issue is fundamental to all procurement of phone-paid services, which raises the important issue of how an aggregated payment made to a telecoms provider is divided into those to the service provider and to the telecoms provider.

Measures are now in place covering calls to 084/087/09/118 numbers, so that the charge must always be expressed "unbundled". These measures provide us with the useful terms "**Access Charge**" and "**Service Charge**", to describe the elements of the aggregated charge that is billed.

Whilst many of the charges covered by the subject of this consultation are exclusively made to the service provider (albeit collected by the telecoms provider) there is also the issue of the charging for a sent text message. The term "MO" is used in connection with such messages, but generally as it relates to the means by which a premium charge is levied by the service provider.

We are concerned that the issue of the "**Access Charge**" equivalent, in the case of text messages, is not as transparent as it should be.

There is an assumption that the charge imposed by the telecoms provider, for a sent text message, will be either zero or the "standard message rate" appropriate to the user's tariff. It is also generally assumed that text messages sent to shortcodes will never be treated as inclusive, within the terms of the user's bundle, whereas messages sent to 07x numbers will be so treated.

Absolute clarity on this point is however absent. Furthermore, there is a serious absence of clarity over which shortcodes are associated with a zero charge and which incur the standard charge.

To ensure that consumers consent to all charges, it is imperative that clarity exists on these points. It is also important that consumers are invariably aware of the relevant charging regime, so that their implicit "consent to charge" may be fairly assumed. This is a baseline for the advanced mechanisms referred to in the consultation.

We recognise that, in general terms, this must be an issue for **Ofcom**, as it also covers cases where no phone-paid service is being provided. It does however relate to cases where a phone-paid service is being provided and is relevant to "**Consent to Charge for Phone-paid Services**".

As a side issue, we have come across a major telecoms provider publishing a table of charges which denies the assumption that the only "Access Charge" may be the relevant 'standard message rate'. We see this as pressing the need for absolute clarification as suggested above.

"The key relationships"

In our [response to the consultation on the regulatory framework for phone-paid subscriptions](#) we highlighted concern, under this same heading, about the role of the network provider in relation to queries (and potentially disputes) about the services covered by this consultation.

Consumers are initially likely to raise a query about a charge with the company that presents the bill and collects the payment - the mobile network operator.

With a formal (auditable) procedure for the collection of explicit consents in place, one might expect that the network operator would be able to refer to the relevant record, so as to provide a prompt resolution to an enquiry.

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It is not clear, in the consultation document, that such records will be readily available for this purpose. *(Please forgive any possible misunderstanding.)*

If this is not the case, then it would seem that an ideal opportunity to improve the consumer experience has been missed.

A further development could be for the mobile network operator to provide a channel for the resolution of disputes. One must however hope that the proposed approach (given that the Guidance is followed) will drastically reduce the number of disputes. Forgetful consumers, who may not retain records, will undoubtedly continue to make enquiries about unrecognised charges.

Consultation Questions and Responses

Q1 – Do you agree with our definition of informed consent at paragraph 1.4? If not, why not?

The “key information” in respect of recurring subscriptions could be required to include the following:

- The date / day of the month on which the first and subsequent payments will be taken.
- The number of recurring payments that will be taken at the stated rate; or
- Reference to the mechanism used to halt continuously recurring payments.

With consideration of these additions, we agree.

Q2 – Do you agree with the changes to Section 2 of the Guidance at paragraphs 2.9 to 2.13? If not, why not?

We would urge consideration of the additions to the “key information” as stated in the response to Q2.

Whilst unable to address the technical aspects of the security issues, we agree.

Q3 – Do you agree with the proposed Technical Expectations? If not, why not?

From our limited perspective, but with confidence in the work undertaken and the expressed potential for review, we agree.

Q4 – Do you agree with the proposed Staffing and Training Expectations? If not, why not?

We can only trust that these expectations meet the necessary standard and have been found to be attainable. On that basis, we agree.

Q5 – Do you agree with the proposed Risk Control and Incident Response expectations? If not, why not?

With no detailed understanding of the standard approaches generally accepted for such processes, we must again trust that the expectations are necessary and have been found to be attainable. On that basis, we agree.