

Consultation response form

Consultation on the regulatory framework for phone-paid subscriptions

Please complete this form in full and return by email to consultations@psauthority.org.uk or by post to Emma Bailey, Phone-paid Services Authority, 40 Bank Street, London, E14 5NR.

Full name	██████████
Contact phone number	██████████
Representing	Organisation
Organisation name	ActionAid UK
Email address	████████████████████

We plan to publish the outcome of this consultation and to make available all responses received. If you want all or part of your submission to remain confidential, please clearly identify where this applies along with your reasons for doing so.

Personal data, such as your name and contact details, that you give/have given to the PSA is used, stored and otherwise processed, so that the PSA can obtain opinions of members of the public and representatives of organisations or companies about the PSA's subscriptions review and publish the findings.

Further information about the personal data you give to the PSA, including who to complain to, can be found at psauthority.org.uk/privacy-policy.

Confidentiality

We ask for your contact details along with your response so that we can engage with you on this consultation. For further information about how the PSA handles your personal information and your corresponding rights, please see our [privacy policy](#).

<p>Your details: We will keep your contact number and email address confidential. Is there anything else you want to keep confidential?</p>	Nothing
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Your response: Please indicate how much of your response you want to keep confidential.	None
For confidential responses, can the PSA refer to the contents of your response in any statement or other publication? Your identity will remain confidential.	N/A

Your response

Please enter your response to each of the consultation questions in the appropriate box below.

Consultation questions	Your response
<p>Q1. Do you agree with the PSA's assessment that the evidence gathered from the research and other information, data and inputs considered support implementation of Special conditions for all subscriptions as an appropriate and proportionate response? If not, please set out your alternative approach and the supporting evidence.</p>	<p>Confidential? No</p> <p>No.</p> <p>We believe that there should be a distinction between digital services and those limited to telephone and SMS interaction. The commentary of the research findings is particularly focussed on customer interactions via the web / an app and appears to presume that these occur in all cases – this is not the case for our donation service where contact is only by either telephone or SMS. Whilst there are greater capabilities with smart phones, it does not necessarily follow that all phone-paid subscription services make use of this functionality and yet this appears to be a key assumption in the proposals.</p> <p>The consultation paper makes multiple references to services with low or no risk or complaint. Although the research does not make this clear, we believe charity subscription services such as ours to fall within this category: this is reinforced by our own data where we do not see complaints of the type that drive this consultation (in 5years we have only seen a single complaint where a donor felt that they were unaware that they were signing up to a subscription service – and we believe that this is a fair indicator as complaints would most likely come to us in the first instance). Given that the PSA so readily acknowledges that there are</p>

	<p>services falling outside of the scope of concern, we would also argue that these services should fall outside of the scope of changes in regulation. We cannot assert that the evidence deems the proposed response proportionate where we do not have a breakdown of that evidence by sector.</p> <p>We also feel that there is confusion on assumptions made of how users interact with service messaging. For example, if there is a concern that users do not read what is sent, then we are unclear as to why they would read a double opt-in message – we do not believe that this addresses the issue of lack of transparency.</p> <p>Conversely, if the assumption is that the donor will read the opt-in message post sign-up (which the majority will believe they have already done by sending the initial message), then we can also rely on them reading the SMS reply which is currently sent to them in our case. This reply clearly states the terms of the agreement, and how to opt out. They have a whole month to opt out before the second payment is taken. For charity subscriptions in particular the small number who might not have realised it was a monthly gift, at least did intend to give the initial gift, which is the only payment taken at the same time as receiving the terms.</p> <p>We have a concern on our current double opt in activity – a phone conversation at stage 1 that triggers us to send the message at stage 2 doesn't seem to fit in the compliance model. This might be alleviated because the original method of contact is PSMS.</p>
<p>Q2. Do you agree with our proposed approach that the proposed Special conditions be applied to all phone-paid subscription services to create clarity and certainty for providers of subscription services, with any additional requirements under other Special conditions not being replicated in the proposed conditions?</p>	<p>Confidential? No</p> <p>No. We would reiterate our above comment that sign up method is crucial here and that the variety of methods has not been considered.</p> <p>For example:</p> <ul style="list-style-type: none"> Regular giving by mobile at ActionAid is entered into by response to a TV advert inviting the donor to send an SMS using the shortcode and keyword provided. This is very explicitly about it being a monthly gift - "£3 a month" is part of the call to action, at the same size font, and the bounceback message reiterates the commitment. <p>Or</p>

	<ul style="list-style-type: none"> • A telephone conversation with one of our agents, who makes it clear that this is a regular monthly commitment, with an activation text then sent which requires an affirmative response from the donor. <p>These are very different circumstances to a free trial period progressing to payment for example.</p>
<p>Q3. Do you agree that the research and other information, data and inputs we considered support action on each of the identified issues outlined in this document? If not, please provide supporting evidence?</p>	<p>Confidential? No</p> <p>No. We cannot agree this whilst the inputs are not split by either sector or (more pertinently) sign up mechanism.</p> <p>In particular, it is difficult to contextualise the figure of 95% of complaints coming from the >£4.50 subscriptions without understanding which proportion of subscriptions themselves are below this value – we cannot determine proportions from the information given.</p>
<p>Q4. Do you agree with our analysis using the risk taxonomy (outlined from paragraph 249 of this document) that Special conditions represent a proportionate regulatory response to the risk of harm posed by phone-paid subscription services? If not, please provide supporting evidence.</p>	<p>Confidential? No</p> <p>Yes in principle but would again refer to the variety of types of subscriptions (and sign up mechanisms) in understanding how this should be applied.</p>
<p>Q5. Are there any other issues not addressed through our proposed response that you consider warrant regulatory action in light of the research and other information, data and inputs considered? If yes, please provide supporting evidence.</p>	<p>N/A</p>
<p>Q6. Do you have any views or evidence on the use and effectiveness of free trial periods of varying durations to support the PSA in considering what might be appropriate in the context of phone-paid subscription services?</p>	<p>N/A</p>
<p>Q7. Do you have any additional comments?</p>	<p>As per notes on Q2, the first action in subscribing to our products may be an affirmative conversation with one of our telephone agents with the second</p>

	action by SMS. The proposals (even with the addendum) do not permit this as a valid double opt in method – although we would argue that it is one of the most robust methods in terms of ensuring that a donor fully understands the commitment to which they enter.
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Additional questions from the Addendum

1. Do you agree with our proposal to include use of a secure, consumer controlled, mobile originating short message service (MO SMS) as a method that providers could utilise to fulfil the proposed first or second phase consent to charge requirements (and as proposed at Annex A)? 7	Yes. We fully support this – within the context of our answer to Q7 as above.
2. Does the addendum provide clarity on the proposed consequential amendments to the service-type specific sets of Special conditions and Notice of Specified Charges and Duration of Calls, required as part of the subscriptions review? Do you agree with the consequential amendments proposed within Annexes B to F? If not, please explain.	Yes, again within the context of our notes in Q7.
3. Do you agree with our approach as outlined at paragraphs 20 – 24 above? If not, please provide evidence that would support an alternative approach, and/or on any potential impacts of the approach currently being proposed.	If these very stringent special conditions are imposed for regular giving (RGPSMS) then it would not be appropriate to apply these to PSMS single donations (for example, requiring a double opt-in to make a single £3 PSMS donation).
4. The PSA welcomes feedback on the new receipting-based proposals set out in the proposed Special conditions.	N/A - we already fulfil these conditions.

Submit your response

To send your responses to the PSA please email this completed form to consultations@psauthority.org.uk or by post to Mark Collins, Phone-paid Services Authority, 40 Bank Street, London, E14 5NR.