

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	Self
Organisation name	n/a
Email address	██████████

If you wish to send your response with your company logo, please paste it here:

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](#).

Your details: We will keep your contact number and email address confidential. Is there anything	Yes, my name.
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else you want to keep confidential?	
Your response: Please indicate how much of your response you want to keep confidential.	The Consultation and The Addendum with my annotations.
For confidential responses, can the PSA refer to the contents of your response in any statement or other publication? Your identity will remain confidential.	Yes

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 I do not agree. The PSA states that that risk of “harm” is not related to weekly pricing bracket and as such is looking to extend Special Conditions across all subscription services. However, the PSA also states that there are services, regardless of price, which do not generate many “complaints” or cause much consumer “harm”. Thus, applying Special Conditions designed to reduce harm in the problematic services, to others that are demonstrably low risk, is inappropriate and disproportionate regulation. Especially given that the PSA also states that revenues could be immediately affected, then makes unfounded assumptions that they will recover in time.</p> <p>A fairer approach would be for the PSA to provide proper data sets, enabling better comparisons, analysis that is more detailed and an updated definition of “high risk”. Then, Special Conditions could be applied appropriately to the service types most likely to cause an issue with consumers. Pricing could be a factor but as the PSA have stated it is not the <i>main</i> factor anymore. Such an approach would also be consistent with the PSA’s goal in “minimum intervention” and “not inadvertently impacting on those services that are already operating effectively.”</p> <p>The PSA recognises the differences in subscription services and the differences in risk, any implementation of new regulation should reflect the PSA’s observations and avoid a blanket approach.</p> <p>References: 5, 107, 117, 214, 232, 254.</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>The approach of not duplicating requirements is fine. I am not sure what else is being asked here. I still do not agree with the blanket approach of applying Special Conditions to all subscription services.</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>Yes to a degree, I agree that the consumer feedback supports action on certain issues. If many consumers have the same complaint then that is a cause for concern. It is the approach that I do not agree with.</p> <p>The data that the PSA is supplying (in particular the repeated quote of “95% of our complaints are relating to subscription services”) is woefully inadequate and lacking in detail. In addition, there are myriad PSA statements in the consultation that are being used as justification, without any data provided to back them up.</p> <p>Firstly, definitions of “complaint” and “harm” need to be stated, then the basis on which they are measured. This data needs to be compared to a range of industry measurements and segmented accordingly. Examples: breakdown that 95% by service price point, billing frequency, look at service type as a share of industry revenue, etc.</p> <p>Drilling down to conduct a detailed and relative analysis might go some way to explaining some of the contradictions between PSA statements in the consultation.</p> <p>References: 16, 32, 33, 34, 35, 41, 75, 84, 122, 134, 137, 211, 262, 293, 295.</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>No, I do not agree with the analysis that Special Conditions represent a proportionate regulatory response to the risk of harm.</p> <p>Firstly, to address “Unauthorised Consent”, this should not be included. Malware and such like, charging consumers where there is clearly no effort or intention to gain consent, amounts to fraud. Such activity will occur regardless of regulatory changes.</p> <p>It is the consumer’s responsibility to check their own bills and it is the network’s responsibility to provide clear, informative information on the consumer’s bills. These factors should not be used as a basis to apply regulation to third parties who have no control over the consumer’s habits or the network’s billing systems. Rather, more needs to be</p>

	<p>done by the networks to better inform the consumer via their bill and responsibility needs to be placed on the consumer to check their own bills and read their own messages. There is little that can be done for a consumer that does neither of these things!</p> <p>The PSA confirms here that it “does not consider that ALL subscriptions are at risk of creating financial harm, indeed many subscriptions operate effectively and do not generate complaints to the PSA”. This in itself indicates that applying the same Special Conditions (currently only applied to “high risk” services) across the board to all subscription services is disproportionate. It would categorise all subscription services as “high risk” despite the PSA confirming several times in the consultation that they are not all high risk.</p> <p>The notion that the kind of friction that the PSA is suggesting in these Special Conditions cannot be easily circumvented by a modern day child is laughable. Todays children are tech savvy at a shockingly young age, a pin loop or MO loop is unlikley to prevent them from participating.</p> <p>References: 253, 254, 255, 260, 281, 288.</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>Confidential? 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>Confidential? No</p> <p>My views are, “free trial periods” are just that, periods in a subscription where the consumer has signed up, but is not charged. I experience them often in my personal life and they are all consistent. When the consumer signs up / registers, they enter their billing information but are not charged until the free period is over. There is no additional opt in required as the terms of the service have been shown at the point of purchase or sign up, even if it is free for a while. The free trial or free period is a clear incentive to register/subscribe and when it ends payments start automatically.</p> <p>I have not ever experienced one that has been any different to the above and I do not see why the PSA should treat them any differently for phone-paid services. So long as the terms are clear and the consumer has been informed - we already have rules for that - then whether the merchant wishes to offer a period of no charge or not, is up to them.</p> <p>The entire point of the free trial is that the merchant sacrifices revenue in order to incentivise the consumer to subscribe. To make this less attractive to the consumer (or</p>

	<p>the merchant for that matter) by way of a second opt in, or time delays, goes against the principle of promoting growth and makes the whole thing pointless.</p> <p>References: 57, 123 – 141.</p>
Q7. Do you have any additional comments?	<p>Confidential? No</p> <p>Yes, please see separate sheet “Additional Comments” with more of my thoughts.</p>
1 Addendum questions	Your response
Q1. 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)?	<p>Confidential? No</p> <p>Yes.</p>
Q2. 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.	<p>Confidential? No</p> <p>Much of that does not apply to me, so I cannot comment on most of it.</p> <p>A 60 second PIN loop response is simply unworkable A) it time pressures the consumer, something that the PSA is against I believe. B) it’s not enough time for some people to get up off their chair and walk over to their phone, and, C) technically it’s almost impossible given how slow delivery reporting can be sometimes. 10 minutes, fine, or you could offer flexibility (within a range) to the merchant to allow them to adapt it to their model.</p> <p>References: RDS11, ONLC8, SOL8.</p>
Q3. Do you agree with our approach as outlined at paragraphs 20 – 24 of the addendum? If not, please provide evidence that would support an alternative approach, and/or on any potential impacts of the approach currently being proposed.	<p>Confidential? No</p> <p>It is hard for me to comment on this, as most do not apply to me. My views remain the same as stated previously.</p> <p>Namely if you group all services, high and low risk, into the same categories e.g. “subscriptions” there is the very real probability that there will be an adverse impact on “good” services which are not the ones causing the issues in the first place.</p>
Q4. The PSA welcomes feedback on the new receipting-based proposals set out in the proposed Special conditions.	<p>Confidential? No</p> <p>Regarding the payment receipts, in the case where a service runs on PSMS the charged message should also be permitted</p>

	to be the receipt, to avoid doubling up on messages unnecessarily. Like in cases where people are using the phone to pay for access to something but they do not actually need any content via SMS. It would make sense to send the billed message as the receipt, if the user does not receive it, they will not be charged anyway. This used to be the case many years ago and it worked well.
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If you have any supporting imagery for your responses, you can paste them in your responses in the table above or here:

Submit your response

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