

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	[REDACTED]
Contact phone number	[REDACTED]
Representing	Organisation
Organisation name	Open Mobile Global
Email address	[REDACTED]

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](#).

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

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>We do not agree with the PSA's assessment that Special conditions for all subscription services is appropriate or proportionate.</p> <p>As PSA is aware, we work with most of the 50 largest charities in the UK as well as working in the US and Canadian markets. Conversations with a wide range of charities has helped to inform our response to this consultation.</p> <p>We are pleased to see that the PSA are looking to put measures in place to address the rise in public complaints about subscription services. We fully support the PSA taking measures to increase consumer trust in phone paid services and are supportive of the introduction of Special Conditions that can be an effective method for developing positive regulation to support the development of services.</p> <p>We believe the proposal to require a double opt-in at sign-up and enforcing a clear cancellation and</p>

	<p>receipting process will address the issues that are currently being seen in the market from certain sectors/companies. This will act as a deterrent to those who are ignoring or abusing current regulations.</p> <p>However, we believe these special conditions should be aimed at market sectors or companies that are causing complaints. We do not believe that these measures should be introduced and implemented for all providers and markets. Requiring the changes to be implemented for providers that are not causing complaints will unfairly damage services by adding friction to the sign-up process and will have a particularly negative impact on some markets.</p> <p>Forcing markets and sectors to adopt rules that will negatively affect their business model may force well behaved sectors out of the PSMS market altogether, leaving behind only those companies who will break the rules regardless. A market only populated by bad actors will significantly damage consumer confidence.</p> <p>We believe the new conditions should be targeted. This would provide a measured and flexible response to the issue that would facilitate incentive for good behaviour and controlling measures for bad behaviour.</p> <p>We do not believe that charity exemption will encourage any companies to move into the charity sector as registration with the charity commission is a requirement of using the service. Service providers carrying out due diligence correctly would remove this risk.</p> <p>The charity sector should be exempted from the changes for the following reasons</p> <ol style="list-style-type: none">1. Charities are using subscriptions in a sensible way and are generating very low complaint levels.2. Charities currently have their own special conditions so amending these and operating to a different set of rules would be consistent with the current regulatory approach.3. Having a different approach for charities with a special condition has not resulted in consumer confusion as the sign-up process and messaging delivered by charities is
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	<p>clear and its acceptance is evidenced in the low complaint rates.</p> <ol style="list-style-type: none"> 4. Charities already provide supporters with choice in how to manage their donation, including skipping and ending their regular gift. 5. We believe that moving recurring donation services to a double opt-in model will have unintended consequences for the charity sector's use of PSMS. <p>Our concern is that adding the additional friction to the opt-in will reduce the number of regular donations to charity. What we see from the current double opt-in methods where they are used in telemarketing and online and from other countries where a double opt-in model is in place, is that there is a 40% drop off rate of supporters who don't then complete the donation. Evidence from other markets (USA and Canada) suggest supporters are confused by the double opt-in process and do not realise that additional steps are required.</p> <p>An example of the flows for charity recruitment under the proposed conditions affecting keyword response is outlined below :</p> <p>Broadcast</p> <ol style="list-style-type: none"> 1. Charity sends SMS - 'Can you give £X per month to <charity> to support our work? If so, reply YES to set up your regular gift' 2. Supporter replies YES. 3. Charity sends SMS - 'Please reply YES again to confirm your £X per month gift to <charity>?.. 4. Supporter replies YES. 5. Supporter receives welcome message and first donation is taken. <p>SMS with keyword bounceback</p> <ol style="list-style-type: none"> 1. Supporter makes single donation. 2. Charity sends immediate SMS to supporters who gave consent. - 'Can you give £X per month to <charity> to support our work? If so, reply YES to set up your regular gift' 3. Supporter replies YES 4. Charity sends SMS 'Please reply YES again to confirm your £X per month gift to <charity>?.. 5. Supporter replies YES
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	<p>6. Supporter receives welcome message and first donation is taken.</p> <p>We believe these examples demonstrate why the additional steps cause confusion for supporters resulting in drop-off in the sign-up rate. In North America where this model already exists, providers, charities and carriers are discussing removing the requirement as the confusion and low sign-up rate has resulted in charity subscriptions failing to establish as a successful model in this market. The example above and the experience in America illustrates why multiple messages in close proximity and seemingly requiring the same action causes confusion amongst donors. In the UK hundreds of thousands of donors give regular donations by PSMS with no consumer issues. In North America the numbers giving a a regular donation are in the low thousands despite being a much larger market.</p> <p>We would urge the PSA to consider allowing the charity sector to be exempted from this change specifically for keyword response. We believe the current proposal applied to charities using keyword response will :</p> <ol style="list-style-type: none"> 1. cause considerable damage to a market sector which is not currently causing complaints. Reduced sign-up rates will cut-off an important income stream for charities. 2. introduce confusion to consumers in keyword sign-up, where message flows will be repetitive and confusing, 3. force good actors out of the PSMS market altogether, because of the reduced sign-ups. This would leave only bad actors - a situation that would potentially cause irretrievable damage to consumer confidence.
<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</p>	<p>Confidential? No</p> <p>We do not agree that the proposed Special conditions should be applied to all phone-paid subscription services. The regulation should be targeted at the sectors/services which are generating complaints and eroding consumer trust.</p>

<p>replicated in the proposed conditions?</p>	<p>Charity donations generally are initiated by sending a keyword to a shortcode, rather than online. As detailed above, we have seen tha multiple messages in close proximity in the same channel and seemingly requiring the same action causes confusion amongst donors.</p> <p>The charity sector should be exempted from the changes for the following reasons</p> <ol style="list-style-type: none"> 1. Charities are using subscriptions in a sensible way and are generating very low complaint levels. 2. Charities currently have their own special conditions so amending these and operating to a different set of rules would be consistent with the current regulatory approach. 3. Having a different approach for charities with a special condition has not resulted in consumer confusion as the sign-up process and messaging delivered by charities is clear and its acceptance is evidenced in the low complaint rates. 4. Charities already provide supporters with choice in how to manage their donation, including skipping and ending their regular gift. 5. We believe that moving recurring donation services to a double opt-in model will have unintended consequences for the charity sector’s use of PSMS.
<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 we agree the issue needs to be addressed and there is evidence that specific sectors/services, particularly online are generating complaints and eroding consumer trust. We do believe that action is required to mitigate the identified issues specifically for these problematic services.</p> <p>However, we have seen no evidence to support changes to recurring donation services and believe a target approach would be better for the overall health of the premium market.</p> <p>According to the Fundraising Regulator, the charity sector reported 166 compaints from text message in 2017/2018 and these complaints related to single PSMS, subscriptions and marketing messages. We estimate that the subscription market is the</p>

	<p>smallest of these three channels and there are approximately 500,000 regular donations to charities, which send 12 million messages annually but generating a small subset of those 166 complaints.</p> <p>This demonstrates that there are no problems with the existing mechanism of giving a regular donation via PSMS.</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>We do not believe this is a proportionate regulatory response, as the response will be damaging to areas of the market where there is no problem.</p> <p>By damaging areas of the market where there is no problem and altering their commercial model, the changes lead to a real risk that those sectors will exit the market, causing long term damage to the market.</p> <p>We believe it is far safer to have a targeted approach to the specific problem and that exemptions from the double opt-in should exist for services which are already operating clearly, robustly and not generating high levels of complaints.</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? No</p> <p>We have not identified any other issues at this time.</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>These do not apply to charitable donations.</p>
<p>Q7. Do you have any additional comments?</p>	<p>Confidential? No</p> <p>No</p>

Addendum questions	Your response
<p>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>	<p>Confidential? No</p> <p>MO SMS is a very established and commonly used mechanic for both single and regular donations. It must absolutely remain as an option for fulfilling either the first or second phase of consent to charge.</p>
<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>	<p>Confidential? No</p> <p>We do not agree that charitable recurring donations should require a double opt-in, for the reasons outlined earlier in our response.</p> <p>Additionally, we are also aware that it was discussed at the roundtable that it would not be necessary to capture a double opt-in for supporters who make a single donation and wish to immediately convert it to regular. Should the PSA decide to apply a double opt-in approach to recurring donations, we would like to see clarity on the situations surrounding a small temporal gap.</p> <p>As outlined earlier in our response, multiple messages in close proximity and seemingly requiring the same action causes confusion amongst donors.</p> <p>Additionally, the clarification call which we had with PSA when the proposed special conditions were first announced, there was discussion around how the receipt wording could be spread between the SKIP message (sent 24 hours prior to the donation) and the actual receipt message. We would ask that RDS11 be amended to allow all of the currently required details to be included in one or both of these messages.</p> <p>We also welcome PSA's offer from our call dated March 11th to agree the exact wording for the receipt message to ensure it's not damaging for charitable donations.</p>

<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>	<p>Confidential? No</p> <p>We agree with the approach and would like to see further exemptions added to the Special Condition for Recurring Donation services for the reasons outlined earlier in our response.</p>
<p>Q4. The PSA welcomes feedback on the new receipting-based proposals set out in the proposed Special conditions.</p>	<p>Confidential? No</p> <p>We are happy with the receipting-based proposal but would like further clarity on RDS11 as mentioned above.</p>

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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