

BT Response to PSA Consultation on a variation to ICSS 11 for providers who operate with per call tariffs

Executive summary

We are grateful for the opportunity to respond to the PSA Consultation on a variation to ICSS11. We welcome the requirement included in the 29 April 2019 consultation at Condition ICSS 11 for ICSS services to provide an up-front alert regardless of the tariff type. However we do not agree with the proposal in Annex B of the 9 October 2019 Statement to offer ICSS providers which operate with a per call tariff an alternative to an alert upon connection, in the form of a free to receive SMS receipt. We are of the view that an upfront alert does more to inform consumers and protect from financial and emotional harm than a retrospective text message.

Proposed Amendments to ICSS 11

In their response to the initial consultation, providers of per call ICSS services argued that stating the cost at the start of the call could prompt callers to hang up without realising that they have already been charged. This is a clear acknowledgement by part of the ICSS industry that, firstly, the price of the call is either so high or so surprising to customers that it can prompt them to hang up immediately. And secondly, that there is a lack of transparency about the fact that customers will be charged for the full cost of the call as soon as it connects. This is a powerful argument for more rather than less pricing information being given to the customer.

The revised proposal would allow providers of per call tariff ICSS to send the customer a free SMS receipt stating the call cost (including access charge), rather than giving this information at the start of the call. This would reduce the amount of pricing information customers are given. A retrospective pricing statement is by definition less prominent than one given up front. In addition, customers using a landline to call ICSS services will receive even less clear and prominent information about call cost.¹ The overall effect of a retrospective SMS would be to decrease customers' ability to make informed choices about ICSS calls by reducing the amount of pricing information available to them.

It is true that the up-front call cost statement for per call ICSS services will not prevent a customer being charged for any initial call they make, since they will have already been charged by the time they hear the statement. But retaining this statement at the start of the call, rather than relegating it to an SMS message, ensures that customer will definitely hear and understand the cost of making an ICSS call, meaning they will be better informed about the price of future ICSS calls they may consider making.

Industry incentives

Exempting per call ICSS services from the obligation to provide up-front information about the cost of the call could encourage ICSS providers to move towards a per call business model, to avoid having to provide up-front pricing information. Although a per call tariff may reduce potential financial harm to customers by setting a maximum charge for the call, we are concerned by the creation of a loophole in the Special Conditions that would allow providers to avoid ICSS 11.

¹ Landline telephones, though capable of receiving SMS messages, do not typically retain them on the device in the way mobile phones do, so there would be no durable record of the 'receipt'. Many landline customers are also unused to receiving SMS messages in this fashion and will not routinely check whether they have received an SMS.

ICSS 11 and the Special Conditions more broadly do not address the issue of current network configurations charging of per call tariffs upon connection

A key issue with regard to per call tariffs remains the charge for the call upon connection under current network configurations – the “drop charge” which fails to mitigate the existing risk of uninformed consent. This also creates a known disparity between the information provided to a customer for per minute tariffs Vs per call tariffs, which should be resolved.

The PSA has stated in their response to ICSS 7 that it does not intend to propose any free pre-call statement at this time, citing network limitations. We would ask the PSA to reconsider exploring the feasibility of introducing a free pre-call statement with industry as network capabilities do exist for this feature.

Point of clarification

We would appreciate if the PSA could also clarify the following points when publishing the updated ICSS Special Conditions. For call alerts ICSS 11 includes additional information requirements in relation to the names of the ICSS provider and the end-organisation when compared to ICSS 7. Can the PSA confirm it intends for the level of information requested at ICSS 11 to apply to all call alerts? With regard to ICSS 7 could the PSA also confirm its intention to extend this to include per call tariffs. We note page 22 of the PSA statement refers to an updated ICSS 7 which solely refers to the cost per minute.

Additional comments

As we explained in our response to the April 2019 consultation, it is unclear that the changes to the ICSS regulatory framework and the proposed changes to ICSS 11 outlined in the PSA’s October 2019 Statement will be sufficient in protecting consumers from unnecessary harm. We note that the PSA’s Annual Market Review 2018-19 details how ICSS user numbers have more than tripled to 1.7M (568K in 2017-18 AMR), and consequently the population of those consumers which might experience harm has significantly increased. If amendments to the regulatory framework are not successful in quickly reducing harm Ofcom should investigate the industry and consider whether ICSS should be subject to strict price caps or outlawed altogether on more costly number ranges like 09.

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