

Consultation on general permission for SMS virtual chat services

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About the PSA	2
1. Background.....	2
The process.....	3
Responding to this consultation	3
2. Virtual Chat & Receipts – Considerations and proposal for General Permission.....	5
Pre-consultation feedback	5
Preferred option	6
Impact	7
Questions	9
Annex 1.....	10

About the PSA

We are the UK regulator for content, goods and services charged to a phone bill. We act in the interests of consumers.

Phone-paid services are the goods and services that can be bought by charging the cost to the phone bill or pre-pay account. They include charity donations by text, music streaming, broadcast competitions, directory enquiries, voting on TV talent shows and in-app purchases. In law, phone-paid services are referred to as premium rate services (PRS).

We build consumer trust in phone-paid services and ensure they are well-served by supporting a healthy, innovative, competitive, and competitive market. We do this by:

- establishing standards for the phone-paid services industry
- verifying and supervising organisations and services operating in the market
- gathering intelligence about the market and individual services
- engaging closely with all stakeholders
- enforcing our Code of Practice
- delivering organisational excellence.

1. Background

1. Earlier this year, during the implementation period of the 15th edition of the Code (“Code 15”), some stakeholders asked how Requirement 3.2.12 was intended to apply to the SMS virtual chat service mechanic. SMS virtual chat services generally operate on a ‘one in, one out’ basis – where a single SMS is sent by the consumer and a reply is sent by the service provider. However, it is also possible for multiple replies to be sent per message sent in, for example, one message sent into the service and three replies sent out. Stakeholders told us that Requirement 3.2.12 would be problematic to implement as the frequency of receipting would impact the flow of the service, disrupt the consumer experience, and have potentially significant cost implications for providers.
2. Requirement 3.2.12 specifies that a receipt should also be sent to consumers after each transaction which means every time a charge is added to a consumer’s phone account. In the case of virtual chat services, this would mean that a receipt is sent after every chargeable message by a consumer engaging in a chat receives, resulting in many messages being sent to the consumer in quick succession. Stakeholders suggested that sending many messages in this way could result in a bad experience for consumers using SMS virtual chat services as they may feel they are being bombarded with messages. It was also suggested that sending many receipt messages in between service messages may confuse consumers and ultimately result in key information being missed. It was also suggested that sending receipts after every chargeable message would be likely to have significant cost implications for providers by potentially more than doubling the amount of bulk ‘free to user’ SMS they would need to send.

3. The PSA has considered the concerns raised and is proposing to introduce a general permission under 2.6.4 of Code 15 for virtual chat providers to provide the service without the need to send receipts after each transaction, while ensuring that consumers are provided with receipts with sufficient frequency to help them monitor and control their spend.

The process

4. Having received views from several stakeholders, we considered a range of options that retain the established benefit of receipting for consumers while reducing the frequency of receipts virtual chat providers must send.
5. We are committed to working with the industry to assist them in operating services in compliance with the new Code. As such, we held an informal workshop to gain additional insight and receive feedback on a number of options for general permission. These options focused on ensuring consumer awareness of accumulated spend including details as required by Requirement 3.2.14, without negatively impacting the consumer experience and the existing processes of those providing virtual chat services.
6. We understand that while not impossible to implement, Requirement 3.2.12 of Code 15 is less convenient for the SMS virtual chat service model and the experience of consumers who use those services.
7. This document serves as the formal consultation required under paragraph 2.6.4 of Code 15 for the purpose of granting general permission to SMS virtual chat service providers to operate without strict adherence to Requirement 3.2.12 and to achieve the outcome of the requirement by alternative means. This document and the feedback we receive will inform our final decision on any general permission granted in this respect.

Responding to this consultation

8. We would welcome feedback on the matters raised in this consultation document until 29 September 2022. We believe that a consultation period of this length provides sufficient time for respondents to come back to us on the matters raised in this document as the issues are limited in scope and affect only a small number of companies, many of which we have consulted informally before the publication of this document.
9. We plan to make available all responses received. If you want all, or part, of your submission to remain confidential and/or anonymous, please clearly identify where this applies, along with your reasons for doing so.
10. Personal data, such as your name and contact details, that you give or have given to the PSA is used, stored, and otherwise processed so that the PSA can obtain your views on the matters raised and publish them along with other views.
11. Further information about the personal data you give to the PSA can be found on our [privacy policy page](#).

12. Comments should be submitted in writing using [this response form](#) and sent by email to consultations@psauthority.org.uk. If you have any queries about this consultation, please email them to consultations@psauthority.org.uk.
13. Following the consultation period, we will publish our statement on General Permission for Virtual Chat Services and finalised amendments as soon as possible with the intention that merchant providers would be able to benefit from the General Permission immediately - i.e. as soon as it is published. We expect to be able to publish late in 2022.

2. Virtual Chat & Receipts – Considerations and proposal for General Permission

14. We have considered various options, including ‘doing nothing’ and applying receipting requirements as stated in the Code. The overriding factor in determining that a general permission would be the most appropriate option was the risk that strictly applying Requirement 3.2.12, as we have already set out, could prove detrimental to both consumers of SMS virtual chat and providers of SMS virtual chat services alike.
15. In considering early options, we quickly observed that many receipting alternatives were minor tweaks to a general theme of time-based or spend amount-based actions while easing the burden of the frequency of receipting. We felt that further discussion with relevant providers would be required to establish the ability/feasibility of implementing time-based or amount-based actions.
16. In May 2022, we proposed an informal workshop with interested parties to discuss receipting options for virtual chat services. Known providers of virtual chat services were notified, and the workshop was conducted online on 15 June 2022.

Pre-consultation feedback

17. The basis for proposed general permission was discussed and the early considerations were presented along with our indication of a preferred option.
18. We offered the following options as a basis for discussion:
 - require a receipt that details the full amount spent at the end of the chat session or every 24 hours, whichever comes first
 - receipts to be sent at £10 spend intervals (along with the spend reminder already in place) and a final receipt with total spend at the end of each day
 - send a receipt on an hourly basis or at the end of a chat session, whichever comes first.

Along with our preferred option (at that stage):

- cap chat sessions at £40 at which point the consumer receives a receipt. Users who do not reach £40 within 24 hours receive a receipt 24 hours after the initiation of that session.
19. During the discussion, it was noted that virtual chat services are required under the Code to send spend reminders after the consumer has spent £10 (Annex 1 para 1.7). The question was raised as to whether a single message could serve as both a receipt and spend reminder for each £10 spent. The PSA confirmed that we considered it would be possible to provide all relevant information pertaining to receipts and reminders clearly within a single message. Participants suggested that this could be a further option – i.e. where the consumer is sent a receipt after every £10 spent.

20. Participants in the workshop said that defining a 'chat session' was difficult and specifically defining the end point of a virtual conversation. They reported that individual chats between a consumer and the service agent could range from infrequent messages across a week to sustained daily conversations lasting months, with no indication of whether a conversation has ended or if the consumer has chosen to take a break before returning days later.
21. Where defining the end of the chat session could be problematic, the concept of defining £40 aggregate spend as the trigger point to send a receipt was accepted as a more workable basis for proposed general permission based on our preferred option at that time.
22. Other issues considered at the workshop included:
- whether a receipt at £40 could replace or be sent in conjunction with the fourth reminder message
 - whether a consumer would receive any form of reminder or receipt if they did not meet either the £10 threshold for reminders or the £40 threshold for a receipt. It was proposed that this could be addressed through a receipt received 24 hours after the initiation of a conversation.
23. Following the workshop, we received further feedback from attendees. The main concern was that if the frequency of receipts to be sent were set at every £10 spent (or at the end of the day if the consumer ceases interaction on or before a £10 increment), it could be confusing for the consumer if receipts and spend reminders are out of sync, more so if consumers do not fully understand the difference between a spend reminder and receipt to the degree that they may combine the information and believe they are spending far more than they are.
24. It was suggested instead that receipts could replace £10 spend reminders rather than supplement them. It was also suggested that a receipt following 24 hours of inactivity on the consumers' part ensures that those who have either not reached a £10 spend or have ceased conversation between £10 increments are adequately informed of their total spend.

Preferred option

25. Considering both our assessment and industry feedback, we are consulting on our preferred option for a general permission which allows SMS virtual chat service providers (limited to SMS virtual chat services only) to operate without strict adherence to Transparency Requirement 3.2.12.
26. We propose instead that providers of SMS virtual chat services provide consumers using SMS virtual chat services with a total spend receipt at every £10 (including VAT) spent,

such receipt to be sent in accordance with Requirement 3.2.13 and containing the relevant information set out in Requirement 3.2.14.

27. We also propose that a receipt is sent after 24 hours of consumer inaction, notifying the consumer of the total spend since last using the service. This final receipt at 24 hours after the last consumer interaction provides the consumer with notification of their total spend regardless of whether they have met the initial receipting threshold or have ceased interaction between incremental £10 thresholds. Where a consumer incurs no additional charges having received a receipt at a £10 threshold, no further receipt is necessary at 24 hours.
28. If a consumer re-initiates a conversation more than 24 hours after their last interaction, the receipting process will start again.

Impact

29. We considered three options:

- a 'do nothing' option where virtual chat providers would not be required to send receipts in compliance with Requirement 3.2.12
- strict adherence to Requirement 3.2.12, whereby providers would be required to send a receipt after every transaction – i.e. after every chargeable message was sent to the consumer
- receipts to be sent to the consumer after they had spent £10 in aggregate or after 24 hours of consumer inactivity.

'Do nothing' option

30. We consider that providing consumers with receipts is an important means of providing them with information to help them monitor and control their spend. The information specified in Requirement 3.2.14 that has to be included in the receipt is important in helping consumers understand what they have spent money on and who the merchant provider is. These broad benefits were considered when we introduced Special Conditions for subscription services under Code 14 and when we consulted on Code 15.
31. We consider that receipting requirements have been instrumental in preventing consumer harm and contributed to the steep decline in consumer complaints to us. We consider therefore that a "do nothing" option would be a backwards step in terms of consumer protection.
32. It has been pointed out that unlike for most other service types, virtual chat services must send spend reminders to consumers in accordance with the requirements of Annex 1 of Code 15. While this is helpful, spend reminders are not required to include all of the information in Requirement 3.2.14 and so, in our view, do not meet the objectives of the receipting requirement of Code 15.

Strict adherence to Requirement 3.2.12

33. In the absence of an alternative, merchant providers would be required to comply with Requirement 3.2.12 – meaning that a receipt would need to be provided to consumers after every chargeable message has been sent to them.
34. It has been suggested to us by the industry that this would be a poor experience for consumers with their chat sessions interrupted by receipts. We are inclined to agree with this view. It is also arguable that providing a receipt after every message in a virtual chat is not necessary to meet the objective of Requirement 3.2.12 for this service type. Receipts provided after every message, or every charge would contain the same contact information. Other than providing a record of spend, there would be little additional benefit to consumers in receiving the same information about the service several times in quick succession. It has been argued that there is a risk that consumers might consider a high volume of similar messages as spam.
35. There would also be a compliance cost to merchant providers as they would need to send more messages to consumers at cost to the provider but free of charge to the consumer. We understood when we introduced Code 15 that there would be some additional cost to providers in having to comply with receipting requirements but considered this to be proportionate in view of the benefits to consumers which are outlined above. However, we understand that the compliance costs for virtual chat services would be higher than for other service types and in view of the limited additional benefit, we consider that this may be disproportionate.

Preferred option - Receipts to be sent to consumers after £10 spend

36. As noted above, we consider that receipts give consumers important information to help them monitor and control their spend. We considered what frequency would be optimal in terms of providing benefit to consumers without overloading them with messages and also in terms of cost to providers.
37. Virtual chat providers are required to inform consumers when £10 has been spent ([Annex 1: Specified service charges and duration of calls](#)). During informal consultation, industry asked if it would be possible to combine the receipt requirement and the spend reminder. We consider that this provides a practical and pragmatic solution. Regular users of virtual chat services should be used to receiving spend reminders and changing the content to include receipt information should be useful to them. In terms of cost to industry, we consider that this option should involve minimal additional cost. The content of spend reminder messages will need to be changed to provide the information required for a receipt, but the volume of messages to be sent to consumers would not change significantly.
38. We want to ensure that consumers who do not spend £10 in aggregate also benefit from receipts. Following discussions with industry, we propose that a receipt should be sent to a consumer 24 hours after their last interaction with the service if the threshold of £10 aggregate spend has not been reached. We consider that this should impose minimal additional cost to providers in terms of having to send additional messages and also strikes

the balance of providing consumers with timely information about their spend without sending them too many messages.

39. We consider the potential impact of our proposed general permission will be minimal for providers of SMS virtual chat services, as the proposed option is similar to processes that SMS virtual chat providers already have in place. We also consider that the proposed general permission is proportionate as it serves to reduce the additional cost implications of sending free-to-receive bulk messages in the form of receipts following each charge.

Questions

Q1. Do you agree with our analysis of the costs and benefits associated with the different options? Are there any other factors that need to be considered?

Q2. Do you agree that the preferred option provides consumers with the ability to monitor and control their spend at least equivalent to the option of strict adherence to Requirement 3.2.12?

Q3. Are there any other options that we should consider as an alternative to the preferred option?

Q4. We intend that providers should be able to benefit from the General Permission as soon as it is published. Is there any reason to specify a later date for the General Permission to come into effect?

Annex 1

Notification of intention to grant general permission under paragraph 2.6.4 of the PSA Code of Practice to providers operating SMS Virtual Chat Services enabling the provision of SMS Virtual Chat Services without strict adherence to Requirement 3.2.12 of the Code

Background

Paragraph 2.6.4 of the PSA Code of Practice (15th edition) (“the Code”) allows the PSA to determine, following consultation, that any Requirement set out in Section 3 or obligation in any other part of the Code can be met by means other than strict adherence to such Requirement or obligation. General permission for relevant PRS providers to operate services by means other than strict adherence to the Code provisions may be given subject to conditions. Such permission can be withdrawn or varied by the PSA subject to the giving of reasonable notice.

This Notice sets out the details of the general permission and the criteria that providers must meet to be allowed to operate under the general permission.

Details of the permission

Providers of SMS Virtual Chat Services are able to operate SMS Virtual Chat Services by means other than strict adherence to Requirement 3.2.12 of the Code.

For this general permission to apply, the following conditions must be adhered to:

1. Service users must be provided with a receipt at £10 increments (inclusive of VAT) detailing their total accrued spend
2. The receipt must set out:
 - the name of the service as registered with the PSA
 - the name and contact details of the intermediary provider or merchant provider responsible for customer care and complaints
 - the total amount that has been charged as each £10 (including VAT) threshold is reached; and
 - where the service is peer to peer, clear instructions on how to exit the service.
3. After 24 hours of inactivity, service users must receive a final receipt detailing the total accrued spend¹
4. Where a service user reinitiates use of the service after more than 24 hours of inactivity, the receipting requirements set out at conditions 1 – 3 above will apply.

¹ This final receipt ensures that those users who do not reach the initial £10 threshold or cease interaction between receipts are adequately informed of their total spend. This final receipt is not required when a user ends interaction immediately after receiving a receipt.

For the avoidance of doubt, the sending of receipts by providers of SMS Virtual Chat services in accordance with this general permission will achieve both the requirement set out in Requirement 3.2.14 and Annex 1, paragraph 1.7(a) of the Code. In relation to the latter, this means that where receipts are sent in accordance with this permission, additional spend reminders at £10 intervals (inclusive of VAT) are not required.

This permission is applicable only to providers of SMS Virtual Chat Services for the provision of SMS Virtual Chat Services.

Providers should note that a breach of any condition imposed in relation to permission granted by the PSA under paragraph 2.6.4 shall be treated as a breach of the Code. The seriousness of any such breach shall be determined by reference to any relevant procedures published by the PSA from time to time.

The PSA reserves the right following reasonable notice to withdraw or vary the operation of this permission.