Terry Armstrong
Phone-paid Services Authority
40 Bank Street
London
E14 5NR

28 September 2022

Re: Consultation Response - PSMS Virtual Chat

Dear Terry,

We are a service and platform manager for PSMS Chat. Some of the services we manage are affected by the proposed changes/amendment to the new PSA code 15.

We have only recently become aware of the proposed changes to receipting requirement. As a result, our argument against the proposals may come across a little disjointed and may not be in the format you would like it, but we are aware the deadline is the 29th Sept 22.

Our arguments may have already been aired, but we were not aware of any of the previous meetings to discuss potential options.

Ultimately our view is that the PSA should extend the exemption given to voice services by 3.2.15 to include PSMS Virtual Chat, or make other provision to affect the same exemption.

If you would like me to try and break our thought/comments into the boxes on your response form please let me know.

If you would like any further input or clarification please do not hesitate to ask.

Yours sincerely

████████

For and on behalf of xtxt ltd.

Response:

On review of the consolation we wonder why the PSA added 'Receipting – mobile network consumers' (3.2.12 – 3.2.14) to code 15. Especially in light of the exemption in 3.2.15.

Requirement for a receipt:

Accepted general practice for UK retailers is to offer a receipt if requested. The default setting is to not issue a receipt.

We believe retailers have adopted this position because:

1. Sales in the UK are governed by the Sale and Supply of Goods Act 1994 (https://www.legislation.gov.uk/ukpga/1994/35/data.pdf). In the Act there is no mention of receipt provision.

2. HMRC only mention the provision of an invoice. Invoices are only required between VAT registered entities. HMRC states – 'An invoice is not the same as a receipt'.
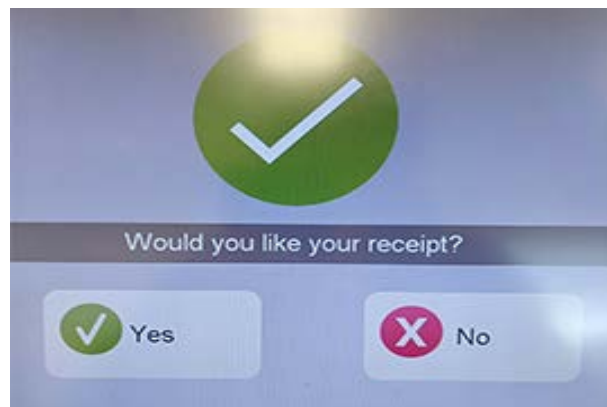
A 'receipt' is defined as 'proof of payment':

For premium rate services the supplier of the product does not receive payment for an average of two months from the point of exchange. As a result, the supplier does not need to issue a receipt until they have received funds (two months later), and then only if they were compelled to do so.

Our understanding is that 'proof of payment' is the listing entered on the user's phone bill.

Existing Spend reminders:

Working with the PSA over numerous years providers of PSMS chat have agreed to include 'spend reminders' at fixed price points in the product flow. The implementation of these was at great financial cost to those involved. We see little reason why these spend reminders, in the format they have already been agreed, are not still sufficient.

Potential consumer harm - financial:

Consumers financial exposure using PSMS has been restricted since the introduction of the network spend caps. These caps were introduced as a result to the EU Payment Services Directive in 2015.

Potential consumer harm – non-financial:

To suggest sending any message about the personal use of a phone X-hours after the event is poorly thought through. The message could land when the user has no control of who might see it. In our opinion the message could potentially initiate irreparable consumer harm.

Customer Opt-out:

Little thought appears to have gone into the customers wants. We have not seen any suggestion in the consolation that the customer should be given the option to control what receipts/spend reminders they want/receive or the way in which they receive them.

Level billing field:

Other payment mechanics do not suffer the imposition of addition receipts on their product delivery. PRS is already struggling to compete in the dynamic app billing landscape.

The addition of receipting will not encourage innovation nor make PRS products competitive with other payment mechanics.

Results orientated regulation:

There is already an agreed solution for notification within PSMS Chat. To suggest that an untested and more prescriptive solution is needed appears to go against the PSA's promoted principles of results orientated, light tough regulation.

Better solution:

Would it not be better/easier/cheaper to add PSMS Chat to the existing exclusions in 3.2.15?