

GENERAL GUIDANCE NOTE

Enabling consumer spend control

1. Excessive use

1.1. Excessive use of a premium rate service (PRS) can result in uncontrolled spending or over-spending and lead to a number of adverse user reactions, including 'bill shock'.

1.2. Rule 2.3.6 of the Code requires that:

Level 2 providers must take reasonable and prompt steps to identify excessive use of its service or services by any consumer and to inform the relevant consumer of that usage.

1.3. Excessive use, excessive spending and 'bill shock' are closely linked, and will often result in a negative reaction from a consumer upon receipt or acknowledgment of unexpected, unusual or excessively high charges applied to their mobile or fixed-line account.

1.4. Such examples often result in significant distress for the user; financial detriment; possible dissatisfaction with the PRS; and subsequent reputational damage to the industry¹.

2. What constitutes 'excessive use'?

2.1. Given excessive use can lead to bill shock, steps should be taken to mitigate the risks associated with those PRS being operated, in order that providers fully comply with Rule 2.3.6 of [the Phone-paid Services Authority's Code of Practice](#).

2.2. 'Excessive use' refers to any potential incident(s) of high, sustained repetitive usage over a short period of time in excess of the range of usual behaviour and is often closely linked to, or results in, significant consumer spend. Attention may be drawn to incidents of excessive use through irregular spikes in traffic, or a cumulative spend which through comparison with a user within the standard range, may appear excessive. It should be noted that what may be deemed excessive use can vary depending on context and the characteristics of the service in question².

2.3. Providers should monitor average user engagement across a defined period or billing cycle (daily, monthly, etc., as appropriate) to understand the average range of user activity, engagement and experience. Providers should also be observant of user patterns and any irregular activity, which may include sustained, repetitive use in a short period, or in short bursts – for example if using 'Question and Answer' style services³, and a user sends repetitive and/or other message requests persistently and within a short space of time – this may be considered a trigger to enquire further about a potential example of excessive use.

¹ Please refer to [Annual Market Reviews for 2014/15 and 2015/16](#) for further information on consumer engagement with PRS.

² Examples can be found below, at paragraph 2.7 of this guidance.

³ These can be defined as services operating on a mobile shortcode to which the consumer texts a question, and then receives a message in response which contains the answer. These questions can be about trivia, or sometimes for entertainment purposes – e.g. the compatibility of two individuals named in the consumer's text.

- 2.4 When setting flags to highlight potential examples of excessive use, the Phone-paid Services Authority recommends that the modal⁴ average may be suitable to gauge average user spend for many service types – this will give an indication of what spend level may be considered acceptable to the average service user, and give an indication to the provider as to when may be appropriate to contact a consumer in relation to any potential excessive spend or possibly compulsive, problematic use of a PRS, in line with the requirements of Rule 2.3.6 of the Phone-paid Services Authority’s Code of Practice.
- 2.5 Once the average spend and/or other service usage level is established, the Phone-paid Services Authority suggests that a daily/monthly/etc. usage level or spend which is 100%, 150%, or 200% higher than the modal average may be considered potentially excessive. The level at which excessive use is determined will often be informed by what is appropriate to the service context and/or any incremental service charge or the average cost incurred by a consumer, and can serve as a flag or indication that it is an appropriate time to contact the consumer. In such cases, the Phone-paid Services Authority recommends that the provider contacts the consumer directly to inform them of their current spend and usage level so that they may take action, or continue using the service as is appropriate to their own situation⁵.
- 2.6 It should be noted that the recommendation at paragraph 2.5 is flexible, and is intended as an initial pragmatic guide for L2 providers to assist in highlighting examples of excessive use, or potentially problematic usage patterns in comparison to the average user. From a practical perspective, some regular service users may frequently use and spend in excess of an established average and may not view this as excessive or potentially problematic. In such cases, the Phone-paid Services Authority acknowledges that it would offer no benefit to contact such users within each billing cycle, and would suggest that such users, who acknowledge and are in control of their usage, can be added to a separate list of recognised high-use individuals, albeit with a degree of observation of their spend and usage levels if appropriate.
- 2.7 As noted above, what may constitute excessive or problematic levels of service use may vary depending on the service type and context in which the service operates. Providers are expected to establish consumer spend levels that are appropriate to the context and service type. To assist, some examples are included below:
- a. Competition services and other games with prizes will also be likely to have different average user interaction and experience. The context in which this category of service operates will have a defined period of operation, and may potentially have a greater risk of consumer detriment, or examples of problematic patterns of usage. In this case, a provider should be able to quickly and easily identify examples of potentially problematic, repetitive usage which may amount to excessive use. The provider should have systems and processes in place to monitor incidents of excessive use, and methods to address these with the consumer.
 - b. Question and Answer style services are likely to operate in way where significant spikes in service usage may not be foreseeable and could be considered irregular in the context

⁴ The mode is the value that appears most often in a set of data. Using the modal average highlights the most common average usage, not taking account of extreme usage. the Phone-paid Services Authority recognises that there may be cases where the Mode is not the most suitable method of establishing average consumer spend, e.g. services with a high volume of unique users but a relatively low level of average engagements per user. In these cases we would suggest that providers contact the Phone-paid Services Authority to discuss alternatives.

⁵ See paragraph 3.4 of this guidance for further information about contacting relevant consumers.

of the service type. In this example, the threshold at which a provider may implement checks, or contact a consumer will be substantially different, as the average consumer behaviour will also be different in this context. For example, an average user may ask between 1 and 5 questions over the course of an evening and receive the relevant answers; a potentially problematic user experience may be where the same amount and/or more was generated over the course of a number of minutes.

All things considered, the provider of the service should still have significant, robust checks and processes in place to mitigate the harm associated with any potential example of excessive use.

- c. In contrast, live interactive broadcast PRS (BPRS) may involve significant spikes in traffic / service use at critical times within or around broadcasts – during a live event, for example. While there are risks associated, these can be carefully managed within the operation and functionality of the BPRS.

Where the average user engagement may only be one or two votes, it is unlikely that a usage level or spend which is 100%, 150% or 200% higher than this average would be considered excessive within the context of these services, or to the average, reasonable consumer.

In this example, the Level 2 provider may have alternative, higher levels of user interaction thresholds which may constitute excessive use – this will likely be determined using data held by the provider. Nonetheless, the provider of the service should still have systems in place to monitor usage and processes to manage incidents of potential harm⁶ or other irregular behaviour.

3. How to mitigate the risks associated with excessive use

3.1 The Phone-paid Services Authority expects providers to take certain steps in order to mitigate the risks associated with excessive use. This expectation is in support of the Fairness Outcome at Section 2.3 of the Code, and specifically in relation to Rule 2.3.6 noted above.

3.2 The Phone-paid Services Authority would suggest that providers put in place measures to enable consumer awareness and control of their usage – this supports Code outcomes and promotes confidence and trust in the PRS market. Some steps which providers could implement include the following examples:

- a. Issue spend reminders directly to the service user, as required in relation to virtual chat services and live entertainment services under special conditions⁷.
- b. Implement account purchase/deposit history access, as required in relation to the provision of remote gambling services by Special conditions⁸ – this practice could be adopted for in-app purchases, for example.
- c. The inclusion of ‘shield’ pages within services consumed via the mobile internet, in the device’s browser. These ‘shield’ pages can be inserted at specified points (at

⁶ This may include the provision of information before consumers engage with the service, such as warnings that callers should get the bill payer’s permission before calling.

⁷ Details on our website: <http://www.psauthority.org.uk/for-business/special-conditions>.

⁸ As at same website.

every £10 spend, for example) and detail current cumulative spend and ongoing service costs.

- 3.3** This is not an exhaustive list, and providers may develop new methods to keep consumers informed of current usage and ongoing spend levels. Furthermore, whilst some of the examples noted above are mandatory for certain service types due to the aforementioned Special conditions notices, the Phone-paid Services Authority would recommend that a similar approach is taken to all services, with the aim of keeping consumers fully informed of all aspects relating to their purchases and service use.
- 3.4** Providers can also contact users directly in order to make them aware of current usage levels, where the provider's internal systems and monitoring has flagged the account as exhibiting characteristics of excessive use:
- a. Rule 2.3.6 requires that providers must take reasonable and prompt steps to identify excessive use and make users aware of that usage and their associated spend.
 - b. This can be done through phone calls for example; via email, where the address is known through a linked-account; or other methods of communication appropriate to the means of access to the PRS
 - c. Whichever ways are used to measure excessive use – whether it is based on an average user over a set period of time; or frequency of purchasing products or services; or the observance of a noticeable, irregular incident; or other notable scenario – the Phone-paid Services Authority recommends that the provider of the PRS should not continue to bill the user, or offer access to the service until the user has acknowledged their usage and associated spend level to the provider directly. The purpose of this recommendation is to mitigate against any financial harm resulting from the excessive use. It is recognised that where such steps would create unfair circumstances for the users of, or participants in, the relevant service then it may be more appropriate to rely on alternative safeguards and if relevant provide redress at a later point.
 - d. The Phone-paid Services Authority would suggest that such a response can be obtained via phone call, SMS, email, or acknowledgement through an active field within the service/website, etc. A record of any acknowledgement should be kept by the provider in a secure and tamper proof environment (for a recommended period of 6 to 12 months depending on the nature of the service and the level of ongoing engagement by consumers) in order that it can respond effectively to any potential investigation in due course. It may be appropriate for such records to be recorded and maintained by an independent third party.

4. Managing examples of excessive use

- 4.1** Rule 2.3.6 has as its objective the achievement of fairness for the consumer by informing them of their usage – how much they have spent on the service. While there may be circumstances in which a claim for redress is made, this is a separate matter. Nothing in Rule 2.3.6 changes the requirements found under the outcome of complaint handling (i.e. rules under 2.6 of the Code).
- 4.2** Providers may contact some users who use a PRS a great deal more and spend significantly higher amounts than the average in that user group, but who are still satisfied with the service. Such consumers are aware of the associated charges and are in control of their usage. In instances such as these, the provider need take no action as noted at paragraph 2.5 above, but a failure to contact such users may still constitute a breach of Rule 2.3.6. Evidence of successful

communication should be collected and stored for a reasonable period⁹ for future reference in the event of an investigation.

- 4.3** Some users, having been contacted by a provider of a service may not have been fully aware of the costs associated with the service, or there may be examples of unauthorised use. The Phone-paid Services Authority expects that the provider will endeavour to resolve the issue with the consumer directly. Where a resolution cannot be achieved, the provider should give the consumer the Phone-paid Services Authority's contact details, as per the requirements of Rule 2.6.5, along with any requisite information on Alternative Dispute Resolution (ADR) schemes to which the provider is associated.

⁹ A reasonable period is likely to be 6 to 12 months depending on the nature of the service and whether there is ongoing consumer engagement.