

GENERAL GUIDANCE NOTE

The avoidance of undue delay

Who should read this?

All Networks operators and providers involved in the provision of premium rate services to consumers.

What is the purpose of the Guidance?

To assist Network operators and providers by clarifying the Phone-paid Services Authority's expectations by way of the following:

- Clearly explaining the factors that might constitute undue delay once a consumer has chosen to engage with a premium rate service (including what undue delay might look like with regard to the different service types); and
- Offering advice on how undue delay can be best avoided.
- Web/instant messaging (with messages being exchanged via the web or a form of instant messaging service, but charged via premium rate).

The obligation on providers to avoid undue delay is set out in paragraph 2.3 of [the Phone-paid Services Authority's Code of Practice](#), which states:

2.3.4

Premium rate services must be provided without undue delay after the consumer has done what is necessary to connect with the service and must not be unreasonably prolonged.

What are the key points?

The main issues for providers to consider are:

- Except in exceptional circumstances (see section 4 below), service introductory messages should not exceed 30 seconds in length for any type of service. Providers should contact the Phone-paid Services Authority where they believe they have a valid reason for a longer message.
- Generally, queuing is not permitted on any type of service (exceptions are made for the use of the 'eavesdrop' facility and for 'lower-cost services', as well as for 'emergency situations' – all of which are set out in the document).
- 'Holding' or delaying consumers from reaching key information is not permitted on any service.
- Any products purchased through a premium rate service must be delivered in a timely fashion, where it is possible to do so.

1. What constitutes undue delay

- 1.1 Once a consumer has chosen to engage with any type of premium rate service, the service should either offer prompt engagement with the service itself, or the service goods purchased should be promptly delivered (pay-for-product services), where this is possible.

The following (a-e) is a list of the different ways that services might find themselves operating under undue delay:

(a) Queuing (applicable to all live services)

- 1.2 A live service that employs any variation of a queuing system that prevents (either with intention, or otherwise) a consumer from immediately engaging with that service is likely to be considered to be operating under undue delay.
- 1.3 While providers may argue that the employment of a call queuing system is of benefit to consumers – if it spares the consumer the frustration or expense of having to redial a service, for example – compliance with the Phone-paid Services Authority’s Code of Practice requires that no premium rate service be designed specifically to operate in this way. This includes services that may have been programmed to inform callers of their position in a queue.
- 1.4 If a temporary queuing system must be employed by a service (i.e. it can be proven by a provider that there was no other option available at that time), then the queuing should be:
- Kept to an absolute minimum; and, critically,
 - It should not be the ‘norm’ – meaning that the service must not have been designed in such a way as to allow call queuing as normal practice, but rather, there were circumstances at a particular point in time that made it absolutely unavoidable (refer to section 4 below for an explanation and example).
- 1.5 There are some instances of call-queuing systems being permanently acceptable. The ‘eavesdrop’ facility (see section 3 below) that is sometimes employed by live 1-2-1 chat and live psychic/tarot services is one, typically promoted on TV and/or on a live inter-net stream. Please also refer to the section ‘Services operating on lower-cost numbers’ (section 5 below), as live services operating on these number ranges also permit call-queuing.

(b) Problems with pre-recorded services

- 1.6 We are aware of some pre-recorded services that have been designed with the intention of keeping the consumer engaged with a service for either as long as possible, or for an ‘unreasonable’ length of time.

- 1.7 For example, a consumer might call a premium rate number in order to gain a key piece of information as per the service's promotion, only to be held back (i.e. kept 'on hold') from hearing it for several minutes. During this time, the consumer might hear either vaguely relevant, or perhaps completely irrelevant, information, before eventually reaching the key piece of information they had been waiting for, and expecting to hear, much earlier in the call.
- 1.8 Some pre-recorded services are also known to include lengthy promotions for other services, before the key service information is heard by the caller.
- 1.9 Providers should note that, if there is no valid reason to hold back a consumer from gaining the key service information on a premium rate service, whether intentionally or by design, then any such service is likely to be considered to be operating under undue delay. Callers should be able to reach the promoted service, or its key service information, simply and without delay, once they have chosen to engage with it.

(c) Overly long service introductory messages (applicable to all service types)

- 1.10 Introductory messages are those that are heard by callers immediately upon connection to a premium rate service. They give information, such as the cost of the service per minute and the name of the provider providing that service. It should be noted that introductory messages do not include service 'menus', which are covered separately in 'd) Problems with live and pre-recorded services using a 'menu' facility', below.
- 1.11 Long introductory messages can often lead to consumers being unduly delayed in reaching the service they have chosen to engage with. Examples of this type of delay include:
 - Introductory messages that contain more information than that which is required under the Phone-paid Services Authority's Code of Practice – for example, service introductory messages that give out postal addresses and/or customer service telephone numbers, or perhaps services that choose to give over- complicated service instructions that consumers cannot skip through.
 - The recorded human voice within the introductory message, taking long pauses in between sentences, resulting in the message becoming overly long and purposely drawn-out (well over a minute long in many instances).
 - The use of recorded ringing tones on connection (i.e. excessive recorded ringing that charges the caller).
 - The promotion of other services within the introductory message, either relevant or otherwise, which consumers are not given the option to skip through.
- 1.12 Except in 'Unavoidable, exceptional and emergency circumstances' (see section 4 below), we do not believe that any service introductory messages should need to last longer than 30 seconds in length for any type of service. Any services currently in operation that

have introductory messages lasting longer than 30 seconds should therefore consider altering them so as to fit within this guidance.

- 1.13 Providers who believe they have a valid reason for using introductory messages that are longer than 30 seconds – for example, providers operating pay-for-product services or PIN entry services – should contact the Phone-paid Services Authority to discuss the services on their individual merits.
- 1.14 Generally, when a consumer dials a service, they should hear the relevant regulatory messages required for that service category upon connection, directly followed by either immediate connection to the service itself (for example, connection to an operator), or connection to a service menu (where a service employs such a facility).

(d) Problems with live and pre-recorded services using a 'menu' facility

- 1.15 Service menus are often heard by callers after they have heard the service introductory message. They typically offer the caller a variety of options within the one service, which can be selected and engaged with – for example, “press ‘1’ for ‘weather updates’, press ‘2’ for ‘local news updates’, press ‘3’ for ‘sports updates’”, etc.
- 1.16 Services that use a menu facility should ensure that the information and descriptions contained within each option are kept as brief and relevant as possible. We are aware of instances where some services offer very long and drawn-out descriptions at the beginning of each separate menu option selected by a caller, with the apparent intention of holding the caller on the line for much longer than is required. Providers are advised that this should be avoided, and that any service menus currently operating in this way should be altered / shortened in length. We believe that all menu options should be concise and relevant. Any providers of the opinion that the menu options within their services that are currently in operation cannot be shortened, for whatever reason, or are unsure of exactly what is being asked of them, should contact the Phone-paid Services Authority to discuss.

(e) Products not being delivered in a timely fashion (pay-for-product, including SMS)

- 1.17 Services that sell goods or products through the use of premium rate services as their payment mechanism must ensure that those products are delivered promptly where it is possible to do so, once a consumer has chosen to engage with the service. An example of where this may not be possible might be a situation where tickets have been purchased for an event and those tickets were not due to be printed until several months afterwards. We would expect consumers to be clearly informed within the service promotional material of the expected timeframe for delivery.
- 1.18 Where digital services are concerned, we would expect ‘products’ to be delivered promptly, unless there is a staggered delivery system being used. Providers should note that, in the event of an investigation, we may ask for evidence of delivery dates and times, as well as any other relevant information.

2. Calls made outside of service hours or to services that may have expired

- 2.1 This scenario applies either to services that are only available at certain hours of the day, or to services that have a shelf-life – examples include services that perhaps employ live operators who are unavailable 24 hours a day, competition services that have reached their expiry date or services that are no longer available.
- 2.2 Although not compulsory to do so, providers may wish to add a short message to their service for callers that call ‘out of hours’, which contains the hours of operation or the reason for the service’s unavailability, where any of the above scenarios are relevant. It may be preferable for consumers to be given a reason for their call not being connected, so as to avoid any potential for confusion.

3. Use of an ‘eavesdrop’ facility

- 3.1 An ‘eavesdrop’ facility is that which allows the consumer the opportunity to listen in on the live call taking place between an operator and another consumer, while waiting to speak live with the same operator (i.e. listening in on the call(s) taking place in front of them, while they are effectively waiting in a queue).
- 3.2 Eavesdrop’ is typically used in conjunction with live 1-2-1 chat and psychic/tarot services that operate on TV, the internet via a live stream or via a 3G mobile handset (i.e. services that are operator-based and allow for the live visuals to be viewed in conjunction with live audio of the conversation between operator and consumer).
- 3.3 This is something that is permitted, provided that consumers are informed in advance (i.e. a consumer must not be advised that they are being put through to speak with a live operator, only to be put through to the ‘eavesdrop’ facility). Instead, it should be made abundantly clear to the consumer that the on-screen operator is already on a call. The consumer is then able to make the choice of either staying on the line listening in, until such time as the on-screen operator is free to take their call, choosing another menu option (where there is such a facility on the service), or choosing to hang up and try again later.
- 3.4 We are also aware of some ‘eavesdrop’ services that only allow the caller to listen in on the operator’s side of the conversation, meaning that the caller’s side of the conversation cannot be heard. This is not permitted – providers should note that callers selecting an ‘eavesdrop’ facility must be able to hear both sides of a conversation talking place between an operator and a caller at all times.
- 3.5 Services using an ‘eavesdrop’ facility should also ensure that callers are aware that their live conversations may be ‘eavesdropped’ on by other callers.

4. Unavoidable, exceptional and emergency circumstances

- 4.1 The Phone-paid Services Authority may allow some flexibility to the consideration of undue delay in circumstances that might be deemed as being either 'unavoidable', or 'exceptional', in nature (i.e. an emergency, which had the effect of causing undue delay to consumers). An example might be the first day of an occurrence of a natural disaster, which has caused an airport and various helplines operating on live premium rate numbers to receive hundreds, or thousands, more calls than would have normally been accounted for. In a circumstance such as this, it is clear that a service is unlikely to have been able to function as normal on that day.
- 4.2 Any separate instance of an 'unavoidable', or 'exceptional', circumstance which a provider claims caused their service to operate with a delay to consumers, would be judged on its own merits, where brought to the attention of the Phone-paid Services Authority.

5. Services operating on lower-cost numbers

- 5.1 Many of the requirements are different for lower-cost numbers (including 0870/1/2/3) – providers should refer to the General Guidance Note on '[Lower-cost services](#)' for full advice.
- 5.2 If consumers are held in a queue while they wait for an operator to become available, they must be given a suitable indication of the likely delay. They will then be in a position to make an informed decision as to whether to remain on the call, or to try again another time. Where providers believe that a delay is likely to occur, they should consider implementing necessary processes to ensure that consumers will understand right from the outset how long the delay is likely to be. This could be done in a number of ways, for example:
- Stating an estimation of the length of the delay (in minutes).
 - Telling the caller they are placed in a queue and where they are in relation to others in the queue.
- 5.3 Alternatively, providers could offer to call the consumer back at the company's expense when an operator becomes available. We understand that, in unique circumstances (for example, an extreme weather event, or other emergency), providers may experience delays to a service and will not have had time to prepare a response. In these cases, it may be sufficient to include a general pre-call announcement, explaining the delay, but without an accurate estimate of the wait.
- 5.4 However, we would expect this to be the exception to a service's operation, not the rule. While we do not intend to specify the exact extent to which the estimate is accurate (e.g. to the nearest minute), we will certainly expect providers to ensure that consumers are able to make an informed decision as to whether to stay on the line.

5.5 We understand that a number of factors affect the delivery of a service, and that consumers' expectations of different services may vary. Where a service is investigated, it is likely that we would seek answers to the following questions:

- Might consumers reasonably expect a high level of demand from other callers and, therefore, be prepared to accept a more lengthy delay? For example, when tickets to a major concert become available for the first time;
- Were there extraordinary events that precipitated a sudden surge in demand? For example, a flood that prompted a high volume of calls to an insurance claims line;
- How important is that call to the consumer, and how long would they reasonably be expected to wait? For example, a local health service providing information and support to patients;
- Is there choice in the market? Could consumers choose to look to other providers to provide a better service?;
- Was there an extraordinary internal event that affected call wait times? For example, was there a higher than average number of staff away sick at the time of the call in question?