

**BT plc response to the PhonepayPlus Vulnerability Guidance public consultation  
on 23 March 2016 until 18 May 2016**

The 13th PhonepayPlus Code of Practice launched 1 July 2015 amended Rule 2.3.10 under the 12th Code from:

*Premium rate services must not seek to take advantage of any vulnerable group or any vulnerability caused to consumers by their personal circumstances.*

to:

*PRS must not be promoted or provided in such a way that it results in an unfair advantage being taken of any vulnerable group or any vulnerability caused to consumers by their personal circumstances where the risk of such a result could have been identified with reasonable foresight.*

BT absolutely supports PhonepayPlus' goal of protecting customers, particularly those who are vulnerable, from the potential harm and distress that unexpected debt from calling premium rate services can cause. We believe that all parties within the premium rate value chain have the responsibility to help minimise the risk of bill shock, and in particular, the targeted exploitation of vulnerable end-users and bad debt. In our role as a Communications Provider, BT goes to great lengths to protect our customers from the risk of bill shock and bad debt and examples of this are provided at the end of this response at Annex 1.

Targeted promotion of services remains something directly in the control of the Service Provider and we applaud PPP's efforts to produce guidance that tries to ensure that potentially vulnerable end-users are not coerced into making purchases without fully understanding the financial implications these represent. It is right that this focus should be within the confines of the PRS market to ensure that any enforcement action PPP subsequently takes can be lawfully carried through.

However, while Service Providers should not seek to proactively target or take advantage of any potential vulnerability, it is far more difficult for them to try to identify this at point of sale where knowledge of their customer is minimal at best and more likely, non-existent. Any judgements made in relation to a potential vulnerability at this point are likely to be highly speculative, often misguided and therefore, have potential to cause offence.

We believe that vulnerability is therefore best protected by having controls at both ends of the value chain with Service Providers prohibited from targeting and exploiting vulnerable customers and the customer's Communications Provider proactively protecting those customers they have identified as very vulnerable by restricting their access to potentially harmful services. We believe that the higher pence per minute and pence per call Service Charge prices introduced under NGCS, coupled with the additional Access Charge, represent a significant potential debt risk for some customers – particularly those with a poor credit history – yet it is currently impossible to proactively take measures to protect against this risk. PhonepayPlus could be a significant influencer with Ofcom to lobby for change in this area that would allow Communications Providers to proactively supply higher-rate barred telephone service to high risk customers. This would not restrict their access to other important services available on lower-priced 087 non geographic number ranges and if, over time, their credit rating improved, access to higher-rate services might become available to them on request.

We also continue to hold the view that Directory Services are a distinct part of the premium rate industry and should be managed as such. The low levels of repeat calls and customer complaints, the types of customers using the services in addition to primarily short duration calls, and finally, the lack of price cap for the maximum Service Charge they can attract, distinguishes Directory Services from other PRS. This is particularly evident when looking at the vulnerability guidance and we believe that PhonepayPlus should carry out further work in relation to Directory Services to ensure the Code works as well as possible both to protect genuinely vulnerable customers and help support the Directories industry for the future. We would welcome the opportunity to work with PhonepayPlus to help achieve this aim.

***Question 1: Do you consider the proposed vulnerability guidance helpful and effective in supporting providers meet Rule 2.3.10 of the Code? Please provide an explanation to support your response.***

We believe it is probable that the majority of Service Providers have very little knowledge or understanding of their customers at the point of sale. Therefore, while the guidance is helpful in setting out the types of customers who may be vulnerable, without engaging each caller in conversation to ascertain this, it remains the case that the guidance may have little impact on how services are provided until a vulnerable customer complains after the event and at that point, can then be managed as a known individual.

***Question 2: Do you consider the proposed Vulnerability Guidance to be fair and proportionate? Please provide an explanation to support your response.***

To an extent, yes. There is a clear and obvious need to protect potentially vulnerable groups and individuals from intentionally harmful activities and targeted marketing that may lead to detriment and BT fully supports any action that can help protect these customers. This is particularly valuable if the action is proactive and prevents the harm from occurring at all. However, due to the difficulties in identifying potentially vulnerable customers at point of sale, we believe the value the guidance offers may be limited and at best, used after the event to help Service Providers manage complaints and mitigation activities.

***Question 3: Is our definition of a vulnerable consumer clear? Please provide an explanation to support your response.***

The definition of a vulnerable consumer is clear, however it raises concerns about the potential to capture all 118 Directory Services – particularly as customers using Directory Services continue to decline due to the availability and take-up of alternative mechanisms for finding telephone numbers or other contact details. More detail on this issue is provided in response to Question 4.

***Question 4: Does the explanation of unfair advantage and reasonable foresight clarify our expectations of providers? Please provide an explanation to support your response.***

In Section 8 of the consultation paper, titled “Unfair Advantage” PhonepayPlus makes the following statement:

*“In contrast to previous iterations of the Code, unfair advantage focuses on outcome rather than any intention to take advantage.”*

In Section 10 of the consultation paper, titled “Reasonable Foresight” PhonepayPlus makes the following statements:

*“The requirement to exercise “reasonable foresight” is designed to mitigate the risk of a provider unintentionally taking advantage of vulnerable consumers. (PhonepayPlus believes that taking intentional advantage of vulnerable consumers is totally unacceptable regardless of the actions a provider might take to mitigate risk.) In short, providers are expected to take steps to actively identify and monitor risk and take appropriate action if there is a risk that the service may take advantage of vulnerable consumers.”*

Even with risk assessment, ongoing monitoring of people using the service and appropriate response provided to minimise any unfair advantage being made of a vulnerable individual or group, a regime based on outcome of an unknown situation, rather than the intent to cause harm or detriment of a known situation, places a burden on the Service Provider which may be impracticable to discharge. Where the basis of the decision is on the outcome of an event, the odds are stacked against the Service Provider being found innocent in the event of an investigation.

To date there has been no credible evidence of directory services causing harm, or of suppliers exploiting the individuals that use them. Ofcom itself demonstrated this thinking when it chose to exclude directory services provided using 118 numbers from any type of cap on the charges that can apply to end-users.

However, when considered in conjunction with PhonepayPlus' proposed guidance, it is possible that all directory services, by default, fall foul of the risk assessment and risk monitoring criteria.

People using directory services are likely to be doing so because they do not have the option to try to find the telephone number they want via alternative methods. This may be because they do not have access to the internet or are uncomfortable or unfamiliar with technology allowing them to access the internet. So while not the target audience, the intended audience, or the audience who might find the promotion of a 118 service particularly attractive; the very nature of the service means it will attract calls from individuals who fall within genres identified as vulnerable.

This can be best demonstrated by Looking at the areas of PhonepayPlus' Risk Assessment within the guidance and applying responses a Directory Service Provider might make, as follows:

<i>What is my target audience? Is it likely to include vulnerable consumers or a particular type of vulnerable consumer?</i>	My target audience is anyone who may need a telephone number – but because my service is used as a last resort when no alternative mechanism to gain the information is available, quite a lot of those people are likely, to fall into a variety of types that might be considered vulnerable; <ul style="list-style-type: none"> <li>• the elderly,</li> <li>• people without broadband</li> <li>• people not comfortable or familiar with technology</li> <li>• people who cannot afford broadband/internet connected devices</li> <li>• people who find themselves in an emergency situation without access to their usual resources (no phone credit/in an accident/stranded etc.)</li> </ul>
<i>Who do I intend to market to and how? Is this likely to attract vulnerable consumers?</i>	Anyone who needs a telephone number; via the radio, the television, printed media. But people without access to the internet are potentially more likely to use these methods and therefore see my advert – even though I am not targeting them
<i>Am I advertising in ways which will attract vulnerable consumers?</i>	No, but given the 'unfair advantage' assessment is based on outcome rather than intent, this question appears largely irrelevant. I've already identified I'm more likely, by the very nature of my service, to get calls from vulnerable customers. So I'm more likely to be found guilty if a customer has a negative outcome even though I haven't targeted those customers or advertised in a way that will attract them.
<i>Is my proposed service and consumer journey clear and unambiguous?</i>	Yes. The price is given out before connection – but what do I do if the customer doesn't understand what I've told them? My journey and messaging is clear but my customer experience tells me that customers are ambivalent to the price of the service at the point of purchase. Some will complain when they are billed while others (the vast majority) will not. Without making judgements at the point of sale about what my caller does or doesn't understand, how do I mitigate against misunderstanding or confusion by a small and unknown proportion of customers?

We trust that PhonepayPlus will take these concerns into account when considering complaints. We would be happy to meet with PhonepayPlus to discuss our concerns in more detail and work with the directories industry to try to identify any issues we may have missed. We would also welcome the opportunity to work with PhonepayPlus, industry and Ofcom to help progress the wider issue in relation to controlled customer call barring, and any other areas of customer protection, which overall can only help improve customer confidence with PRS services and grow the industry as a whole.

## ANNEX 1

### Examples of BT's work to protect customers from unmanageable debt and bill shock

#### **BT Basic**

We provide a subsidised social telephony scheme (available to around 4m people) to help customers on low incomes afford a fixed line telephone service. BT Basic helps customers budget; with low line rental, an Inclusive Call Allowance and provides transparency with call costs that are clearly priced.

The service is open to people across the UK who receive specific means-tested Government benefits such as Income Support and Income-based Job Seekers Allowance. BT is the only company that offers this service to its customers, and works with the Department for Works and Pensions to eligibility check applicants ensuring the scheme is targeted at those most in need. Through the service customers receive reduced line rental, a quarterly call allowance and the right to pay by any payment method they choose. It is recognised that vulnerable customers are excluded from applying for benefits or schemes with complex application processes. Therefore, BT designed a very simple process for customers applying for BT Basic to ensure that those entitled to participate in the scheme can do so easily.

BT Basic comes with a Call Barring option which allows customers to stop certain calls being dialled from the telephone. You can bar a range of call types, for example, to international destinations, mobile phones or to Premium Rate numbers (these can include calls to chatlines or TV shows). There is no charge for this service.

#### **BT Basic + Broadband**

In August 2014 BT launched a new broadband offer meaning customers on low-income Government benefits also wanting broadband access can get a market-leading deal from BT without losing their cut prices line rental. BT Basic + Broadband has been priced at under £10 per month (£9.95) and is the UK's cheapest line and broadband bundle ensuring customers on qualifying benefits for BT Basic get the very best prices.

#### **Managing budgets**

To make it easier for customers to budget for their next bill and know how much they've spent – they can, at any time of the day or night by phoning us or visiting our website do just that. They'll need their account number handy (which can be found on any of their BT bills).

- **Via the Phone:** with 'Call My Bill' customers can find out how much has been spent on phone calls since the last bill or when the next bill is due – by calling our freephone number **0800 44 33 11 from the home landline** and choosing 'option 1' and then 'option 2.'
- **Via the website:** simply by registering online at **bt.com/mybt** and following the steps to register for a BT ID. Once registered, our online service will allow customers to view their bill, manage payments and check how much has been used.

#### **Right plan**

Right plan is a simple, online tool designed to help you find the right calling plan. The tool starts to analyse how customers use their phone, looking at the types of calls made, their time and duration.

BT monitors calls for a month before working out what they'd have cost on other standard calling plans/options. We'll then contact the customer to recommend switching to a better plan, or to confirm that they are already on the correct plan.

### **Home phone saver 19**

Home phone saver 19<sup>1</sup> – Is a deal where customers can benefit from a price promise where the price is set at £21.99 a month. The price of the package is guaranteed to stay the same until 2018 and is for solus customers.

In addition to paying for monthly line rental, customers receive unlimited calls to UK landlines, 0845 & 0870 numbers and some additional calling features – Caller display and Anonymous call reject (opt in)

### **Debt management within the BT High Value Accounts Team**

We also use a variety of mechanisms to protect our customers from incurring debt they may not be able to easily clear.

1. We use Credit Reference Agencies to vet new customers. Where a customer has low credit score, and could therefore be vulnerable to high charges, we set a Usage Alert for the first 6 months of service. This means that for new customers to BT we sometimes produce a bill at an early, if the amount of money owed us is higher than expected. These limits are set at between £50 and £100 for usage.
2. We make customer usage and bills available to view online.
3. One of the roles of the BT High Value Accounts Team is to identifying customers with likely high value of default, and to seek to provide customers with advice of unusually high usage. Working within finite resource levels, the HVA Team uses systems to monitor customer usage and identify unusual or excessive activity. Systems are in place to generate High Risk cases based on Rule Sets, which experience has shown to be high risk activity. The focus is on the types of calls made by customers and customer behaviours. Rules within our monitoring system are based on:
  - excessive volumes of calls, and
  - excessive call values for single and multiple calls,which are further focused on Call Type, i.e. Premium Rate, International and known “Hot Countries and destination” etc.
4. The decision on whether action is required, is taken by making a risk assessment on customer information held within BT's Billing and Customer Relationship Management Systems. This decision is influenced by several factors such as:
  - Length of service.
  - Outstanding Invoices
  - Whether the customer has a Usage Alert
  - Unbilled usage
  - Payment history
  - Payment method
  - Previous call patterns/behaviours

In some cases, action will mean having a conversation with the customer to ensure that they are aware of high usage. Sometime, a payment may be requested from the customer to demonstrate the customer's ability to pay, and on other occasions restrictive action may be required until a payment is received. In the instance of excessive volumes of calls to Premium

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<sup>1</sup> <http://btplc.com/inclusion/ProductsAndServices/Managingyourbudget/HomePhoneSaver/index.htm>

Rate numbers, initially this will be in the form of a Premium Rate Service bar until such time as a payment is forthcoming, which will allow the HVA advisor to ascertain the customer's ability and/or intention to pay for the calls made.

We recognise the need to maintain customer goodwill and restrictive action is a final resort in most cases. HVA do not wish to have a negative impact on customer satisfaction or revenue, however we are fully aware of the potential risks to the customer and BT associated with excessive usage. There is a significant threat to revenue streams and profits caused by those intent on exploiting BT for financial gain, or with the intent of not paying for goods or services provided, through systematic and intentional abuse. Maintaining customer goodwill and protecting BT against fraud requires a considered and balanced approach.

When unusual or excessive usage is identified the HVA process requires an attempt at contact with the customer, to ensure that they are aware of unusual call patterns and ascertain ability or intent to pay. On some occasions when we are unable to contact the customer by phone, a restriction may be placed on part of the customer's service until contact can be made, in order to protect the customer against further call charges on their bill, and/or protect BT against further exposure.

Even with a high level of sophistication, due to the ongoing proliferation of new products and services being made available to customers, it is always a possibility that certain patterns of activity will not be highlighted, although every effort is made to minimise impact. Therefore we cannot guarantee early action on every occasion. When issues are resolved to both BT's and the customer's satisfaction, any temporary restriction to service can be removed after consideration.

**BT Mobile** – Allows customers to avoid nasty surprise bills with monthly spend caps on all BT Mobile plans.

All customers can monitor how much they are using through the MyMobile portal on bt.com. They can also download the BT mobile App on Apple, Android and Windows OS phones which will allow them to monitor how much they are using. Customers can set a cap when abroad too, to help keep a lid on roaming data costs.

Maximum limits are in place and we send a text when the customer is approaching their in-plan allowance limit and another when they have used all of this, so that they are aware that further use will result in additional charges outside of their price plan.

If a customer is using data, calls or texts out of plan then they can set a spend cap out of plan to a minimum of £5 for peace of mind. We will also let them know when they are approaching this limit and again, once they've hit it.

BT Wi-Fi doesn't count towards monthly data usage and there's no limit to how long customers can stay connected or on how much they download. BT Mobile customers can stay connected in Europe and the USA with data roaming add-ons and we send a message when customers start using data.