

Citizens Advice response to Phonepayplus' consultation on 'Mobile phone-paid services and their Marketing'

September 2008

Summary

Citizens Advice wholeheartedly supports Phonepayplus' proposals to ensure that consumers receive fewer and more targeted promotional text messages, are better able to make informed decisions about purchasing services via their mobile phone and find it simple and straightforward to stop mobile subscription services.

Evidence reported by our bureaux demonstrates that current rules are not working adequately. As a result CAB clients, including vulnerable customers such as children and those for whom English is a second language, are suffering financial detriment and are caused considerable stress and aggravation in attempting to resolve difficulties caused by a range of mobile phone-paid services. In some cases it appears as though vulnerable members of society may be explicitly targeted and preyed upon by these practices. Particular problems reported by bureaux include:

- Clients receiving reverse-billed text messages which they have not requested and which they don't know how to stop;
- The failure of information providers to act promptly, or at all, to stop receipt of such messages when requested to do so; and
- The lack of clarity over the nature of services purchased when the customer signs up to a subscription service for which regular payments will be collected.

The proposals put forward by Phonepayplus are, in our opinion, a proportionate response to problems which currently beset the mobile phone market and should help to make paid-for services accessed by mobile phone more transparent for all consumers. A key part of this is ensuring that those who opt for such services are fully informed about (i) what they are signing up for; (ii) the costs of doing so; and (iii) how to cancel any subscription services.

It would seem clear to us that an industry interested in customer satisfaction and a sustainable expansion of this market should have a strong interest in supporting these proposals.

Introduction

The Citizens Advice Bureaux (CAB) network is the largest independent network of free advice centres in Europe, providing advice from over 3,200 outlets throughout Wales, England and Northern Ireland. We provide advice from a range of outlets, including GPs' surgeries, hospitals, community centres, county courts and magistrates' courts, and mobile services both in rural areas and to serve particular dispersed groups.

The Citizens Advice service provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. It values diversity, promotes equality and challenges discrimination.

The service aims:

- to provide the advice people need for the problems they face; and
- to improve the policies and practices that affect people's lives.

In 2007/08 the CAB service in England and Wales dealt with more than 12,500 mobile phone problems and an additional 54,000 problems about telecoms debt (involving both fixed-line and mobile debts).

The previous year bureaux reported that they dealt with almost 8,500 mobile phone problems, and in 2005-6 this figure was just below 4,400. We have therefore seen significant year-on-year increases in the number of mobile phone problems dealt with, as shown in the table below:

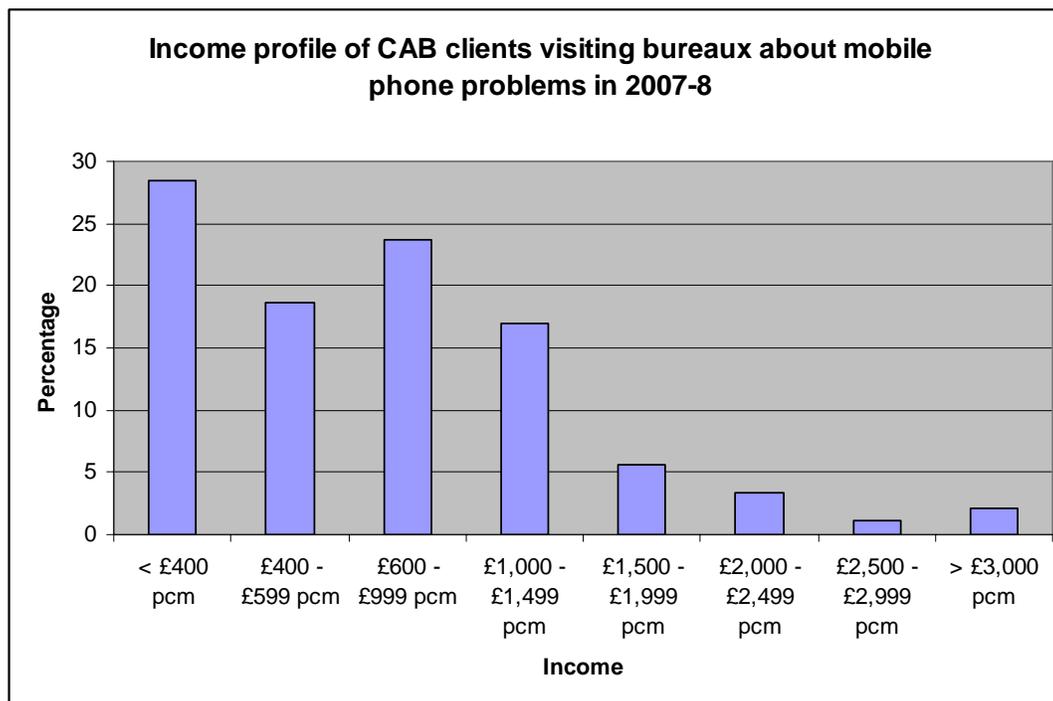
Year	No. of mobile phone problems	Percentage increase on previous year
2005-6	4,372	N/a
2006-7	8,458	93%
2007-8	12,537	48%

In 2007-8 problems about mobile phones included substantial proportions on selling methods (12%); cancellation and withdrawal (19%), complaints and redress (23%) and costs and billing (18%).

Analysis of the client profile of clients who came to bureaux about mobile phone problems in 2007-8 provides some useful insights, including one eye-catching finding that although clients from an Asian background represent only 5% of CAB clients in general, they represented 15% of clients who came to a CAB about mobile phone problems in 2007-8.

In addition, client data reveals that over 70% of clients have a monthly income of below £1,000 per month. This can be broken down to show that 28% of clients had an income of below £400 per month, 19% had an income between £400-599 and 24% had an income of between £600-999.

Chart 1



Base: 1324 clients who had a mobile phone problem and provided data about their income in 2007-8.

General comments

In this response we provide details of cases reported by bureaux about problems encountered by clients with mobile phone-paid services. Many of these cases involve some or all of the four main causes of complaints identified by Phonepayplus in their consultation document, namely:

- promotional SMS messages;
- use of marketing lists;
- lack of transparency; and
- Subscription services and use of the STOP command.

We have arranged the cases into four broad headings and deal with each in turn below:

1. cases involving receipt of unsolicited texts;
2. cases where information about type of service and associated costs is not sufficiently clear;

3. specific issues relating to children accessing mobile phone-paid services; and
4. cases involving the apparent failure of the STOP command.

Cases involving receipt of unsolicited texts

Bureaux report a number of cases where clients have received unsolicited text messages which invite them to reply to a short code number on a premium rate in order to receive important information. Such cases often appear to prey on some of the most vulnerable people in society.

A CAB in South East Wales reported that an asylum seeker sought advice because she had received a text message on her mobile phone purporting to be from the Home Office. The message stated that if the client wished to view the message she would have to reply with the code 'secure 5716' to a short code number. Any texts would be charged at £2 plus the costs of standard text. As the client was concerned that the message was something to do with her asylum claim, she put credit on her mobile phone and replied to the message but was simply asked to ring another premium rate number. The CAB adviser called the UK Border Agency at the Home Office about this matter and found out that while they may phone asylum applicants they would not send text messages. The client was therefore informed that the message was false and advised to delete it.

In many instances, unsolicited contacts cost the clients money since they involve reverse-billed SMS messages, which clients have to pay for from limited means.

A Cheshire CAB reported that their client, an elderly man suffering from multiple sclerosis (MS) and living solely on benefit income, received an unsolicited text message to which he replied. The client then began receiving text messages of a suggestive nature, each of which cost him £2.50 to receive. The client did not know how to stop receiving the text messages. At the time of seeking advice he had a bill of £450 from his mobile phone provider, who said that there is nothing they can do about the situation, and that he had to pay the amount owed.

A CAB in the West Midlands reported that their client, an unemployed single Asian mother, had been receiving a series of unsolicited text messages. She did not know what the messages pertained to, nor why she had started to receive them, only that she was being charged for receiving them. The client stopped using her phone but the messages continue to arrive. In the end, the client was forced to buy a new SIM card for her mobile phone.

A CAB in Somerset reported a case in which their client, a woman of Chinese origin who speaks good English, bought her husband a mobile phone. The client's husband received 18 chargeable texts over the course of four weeks, which he immediately deleted since he did not

understand them as he speaks only a few words of English. The client's husband then received a bill for £23 for receiving the texts.

A Northumberland CAB reported a case in which their client received an unwanted text message each time he topped up his pay-as-you-go mobile phone with £5 credit. This message cost him £1.50 of his available phone credit. The client did not request this message, did not sign up for it and has had difficulty stopping it. Apparently to opt out of receiving the text, the client needed to have access to the internet but he did not have this.

A Hampshire CAB reported a case in which their client, a young man in full time employment, came to the bureau because of a sudden rise in his mobile phone bill. The client had been with the same provider for two years and his monthly bills were usually in the region of £50-60. However, his bill had recently jumped to £120 and then leaped to £520 the following month. The CAB adviser found that large clusters of text messages charged at £1.50 each were responsible for the inflated bills - on certain days the client had received as many as 91 reverse-billed SMS text messages from a competition hotline. The client was adamant that he had never entered a competition or signed up to this service, and had never lent his phone to anyone else who might have played a prank on him. The client's mobile network operator has not been sympathetic to the client's predicament and has insisted he pays the bills in full.

Cases where information about type of service and associated costs not sufficiently clear

Bureaux also report cases where information about the type of service – i.e. that it is a subscription rather than a one-off service – and the costs associated with it are not made sufficiently clear. A key factor in this can be the fact that when someone receives an unsolicited message from a number they do not recognise their first inclination is to simply delete it rather than read through it and learn about how to opt out of the service. In our opinion people should not be billed for services unless they have actively opted to receive the service.

A Cornwall CAB reported that their client, who is visually impaired, responded to an advert in a magazine to text “a single girl looking to date now”. When she responded, inviting the client to text her, the client did so without being aware of the high cost of doing so since information about the cost was to be found only in extremely small print. The client brought in his monthly mobile phone bill which was 17 pages long. In one month he had sent 398 text messages costing a total of £39.80; he had received 239 texts from the girl costing £1.28 each, costing a total of £305.92; and had received 23 photos at 21p each, costing a total of £4.83. In total, the client's bill was £350.55. The client said that he felt “Pretty shaken up about the whole thing; they took all my money. When I got the bill I was heartbroken, and financially broken, it was excruciating. I also feel picked on because I am visually impaired.”

A CAB in Oxfordshire reported that their client, a Chinese woman, came to the bureau about a problem she had with unwanted text messages. The client had been contacted by text message and offered an information service, but was not provided with any information about costs. Subsequently, the client found out that she could have cancelled the service if she had texted back immediately, but at the time the client was unaware of this and was not made aware of it by the text message. Since receiving the initial text message, the client has incurred costs of £46 through unwanted text messages. After great difficulty the client has now managed to cancel the service.

Such cases suggest that information about costs incurred needs to be made much more explicit, and information about opting out of such services needs to be spelled out clearly. We therefore support the proposal for services to provide what is often described as a 'double opt-in' process, whereby when the consumer opts for a particular service they are then sent information about the type and costs of the services and are then asked to confirm their purchase before they are charged.

Specific issues relating to children accessing mobile phone-paid services

One clear and disturbing trend from the evidence reported by bureaux about mobile phone-paid services is that it is often children who are enticed by mobile subscription services, though they are often unaware of the terms and conditions which apply to such purchases.

A CAB in Hampshire reported that their client's two daughters, aged 11 and 13, downloaded ringtones to their mobiles. Subsequently they kept receiving text messages from the company that supplied the ring tones at a cost of £2 per text message. The client managed to stop the text messages on one of her daughter's mobile phones, the other ran out of credit and the client did not purchase any further credit. As the children are both underage the client wanted to know if the contract was legal

A CAB in East Sussex reported that their client's 12 year old son had replied to a text message on her mobile phone not realizing that he was agreeing to the company contacting her and charging her £1.50 each time they did so. The client was extremely annoyed that the company was able to take money from her mobile phone account in this way.

A CAB in North Yorkshire dealt with a case in which the client's son, who had recently moved from a PAYG mobile to a monthly contract, responded to an advert for a game which he could receive for a cost of a £3 initial payment. However, the client's son was not aware that texting for the game without putting 'STOP' after this meant that he would receive video clips at £1.28 a time and at a rate of 6-8 clips a minute. The extent of the problem became apparent when the client received a monthly bill for £290. As the CAB adviser noted, "this appears to be a rather clandestine method of gaining additional revenue from unwary customers."

It would seem clear to us that while certain subscription services may not be targeted solely at children, children are likely to make up a considerable proportion of the users. Given this, we would argue that Phonepayplus needs to be fully confident that their proposals to enable consumers to make informed decisions about purchasing services and stop mobile subscription services are sufficiently robust to protect children.

Cases involving the apparent failure of the STOP command.

As well as making sure that consumers are fully aware of the costs of signing up to mobile phone-paid services it needs to be clear about how to stop such services. In theory there are accepted methods of doing so which should be adopted by all the industry (i.e. making use of the STOP command), though consumers are not always aware of these protocols.

Unfortunately at the moment it appears that not all subscription services adhere to this, as the cases below demonstrate:

A CAB in West London reported a case in which their client, a lone parent of Somali / Finnish origin with 6 children, came to the bureau about unwanted text messages. The client had a mobile phone contract for several years, but approximately six months ago she began to receive unrequested SMS text messages. She was then charged for 'Services collected for others' on her bills. On contacting her network operator she was told these messages were premium rate SMS which she had subscribed to. The client had no knowledge of ever requesting these messages and did not think she should have to pay for them. She contacted the subscription service several times (with great difficulty!) and was told that the messages would be stopped and she would receive a refund but nothing ever happened. The CAB adviser contacted the subscription service and were told the same thing as the client, with similar results – no action was taken. The CAB has now written to the subscription service.

A Gloucestershire CAB's client started to receive multimedia messages, and at one stage was receiving hundreds of messages. The client had sent messages saying STOP but the texts kept coming. The client's telephone bill at the beginning of November 2007 was £664.73 and when he contacted his network operator he was told that his bill had risen to £1,250 and they were going to cancel his account and leave him with this debt. The client is unemployed but has been asked to pay £250 per month to clear the debt, even though he did not request the messages. As the client is unemployed and living solely on benefit income he will not be able to afford this.

We agree with Phonepayplus that the requirement to offer a STOP command and act upon it is quite clear, but the issue is one of compliance. We therefore agree that there is no reason to consult with the industry about the Notice which

confirms that failure to comply with a STOP command will immediately lead to an Emergency Procedure investigation by Phonepayplus.