

SERVICE-SPECIFIC GUIDANCE NOTE

Virtual chat services

EXECUTIVE SUMMARY

Quick summary on the use of virtual chat services:

- Providers should take reasonable steps to ensure that appropriate age verification processes are in place and that adult chat (i.e. that which could be defined as sexual entertainment) does not occur in non-adult chat platforms.
- Prior to incurring a charge, consumers should be made aware of the number of messages they are likely to receive and the total cost for each message. Spend reminders should be sent to consumers once they have incurred a charge of £10, and at every charge of £10 thereafter.
- Promotional material should be clear about whom the consumer will be exchanging messages with (i.e. service operators or other consumers of the service).

1. Introduction

- 1.1. The purpose of this Service-Specific Guidance Note ('the Guidance') is to assist registered parties/providers ('providers') by clarifying PhonepayPlus' expectations by clearly explaining the expectations around the use of virtual chat services.
- 1.2. For the purpose of this Guidance, virtual chat services are defined by PhonepayPlus as those services which, while not being live conversation services, enable two or more people to exchange separate messages by recorded voice, text or pictures.

2. The role of Service-Specific Guidance

- 2.1. Service-Specific Guidance does **not** form part of the Code of Practice; neither is it binding on PhonepayPlus' Code Compliance Panel ('the Tribunal'). However, we intend it to help providers understand how compliance with the Code might be achieved.
- 2.2. Providers are not obliged to follow this Guidance, but in the event of an investigation, a Tribunal will adjudge whether the alternative actions that providers took delivered compliance with the Code. We recommend that those looking to radically depart from this Guidance contact our Compliance Advice Team in reasonable time ahead of launching the service.

3. Age verification

- 3.1. Providers should take all **reasonable steps** to ensure that no one under the age of 18 uses any virtual chat service which contains adult content or is adult in nature. Initial age verification should take place prior to the consumer incurring a charge. Promotional material should clearly state that the service is only for individuals aged 18 and over.
- 3.2. No consumer under the age of 16 is permitted to use any virtual chat services, whether containing adult content or not, and providers should take all **reasonable steps** to ensure this is the case.
- 3.3. Operators determining a consumers age should not use leading questions (e.g. "You are over 18, aren't you?"). Age verification methods should require the user to state their date of birth.

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Age verification is an ongoing duty and, if during the course of the service, the user gives any indication that they are under 18 (or under 16 in the case of non-adult virtual chat services) then the service should be immediately terminated.

- 3.4. Providers should also take all **reasonable steps** to ensure that sexually explicit chat does not take place on non-adult virtual chat services. A failure to do so could likely result in a breach of paragraph 2.3.8 of the Code of Practice. Where non-adult virtual chat services are promoted, such promotions should only take place in media where the target readership is those 16 years of age and over.

What would these reasonable steps be?

- 3.5. What we mean by 'reasonable steps' is an expectation that all providers, that are engaged in a virtual chat service, should take a proactive stance in the way their staff are trained and moderated to ensure compliance with the Code.
- 3.6. In practical terms, the extent and level of moderation will depend on the size and available resource an individual provider has at its disposal. However, as a starting point, we would expect to see evidence (**see below**) of how individual operators are being trained in practice.
- 3.7. Some of the mitigating steps that may help providers to achieve consistent standards of compliance include:
- Signing up to PhonepayPlus' News Alerts to ensure they are being kept updated with adjudications and any new policy developments that might impact upon their business model. Contacting PhonepayPlus' Compliance Advice Team to receive further guidance on the compliance of their service model with the Code of Practice.
 - Having a training manual available, which is regularly updated and sets out some of the key 'triggers' and steps that individual operators are expected to take where underage activity is suspected.
 - We would consider it best practice that, where a provider successfully identifies 'underage use', the infringing MSISDN (mobile) number be forwarded to the appropriate Mobile Network Operator for further consideration.
- 3.8. No person employed as an operator for virtual chat services may be under 18. All such employees should be adequately trained to operate according to these and any other relevant conditions, and all relevant rules of the Code, before commencing operation.
- 3.10. Virtual chat services that are adult in nature and require the user to be over 18 to participate should only operate on shortcodes beginning with 69, 79 or 89, which are the prefixes designated by UK Mobile Network Operators for adult services. For more information on the appropriate number ranges, please see the General Guidance on the 'Appropriate use of number ranges'.

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4. Message information and spend reminders

- 4.1. Consumers should be made fully aware of the total cost of using any virtual chat service prior to entering. This includes making the consumer aware of the number of messages that they are likely to receive in response to the messages they send.
- 4.2. For example, if for every one message the consumer sends, three are received, promotional material should clearly state:
 - The total cost of all messages (e.g. Total cost per one message sent = £4.50).
 - The cost of each text message (e.g. £1.50 per text message received); and
 - The number of messages the consumer will receive (e.g. you will receive 3 replies for every 1 message sent).
- 4.3. Where one mobile originating (MO) message could result in mobile terminating (MT) messages of up to £10, the £10 should be stated as the likely cost.
- 4.4. All virtual chat services should, as soon as is reasonably possible after a consumer has spent £10, and after each £10 spend thereafter:
 - inform the consumer separately from the service or any promotion that they have spent £10;and
 - inform the consumer of the cost per minute, or per message, of continuing to use the service.

If the consumer continues to interact with the service, having received these clear spending reminders, then this can be considered further opt-in to the service.
- 4.5. Spend reminders should be auditable and evidence of a spend reminder being successfully sent; these should also be available on request.
- 4.6. In the case of text virtual chat services, consumers must be made aware of the 'STOP' command prior to incurring a charge within the service. For more information on the 'STOP' command, please see the General Guidance on 'Methods of exit'.

5. Services should not mislead consumers

- 5.1. Promotions for virtual chat services should not lead consumers to believe that they will be exchanging messages with other consumers, or that they may be able to meet other consumers by using the service, unless that is the case.
- 5.2. Use of words such as 'meet' and 'date' may be deemed misleading if the consumer does not, in fact, have the opportunity to meet any other users or operators of the service. Operators should not indicate to consumers that a meeting can take place where this is not a function of the service. Where a consumer does request a meeting, expectations should be managed correctly and operators should inform the consumer that the purpose of the service is fantasy chat.

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6. Services that use instant messaging

- 6.1. Services that use an instant messaging mechanic (i.e. where the consumer is participating in chat via an instant messaging service, such as MSN, but being charged via their mobile device) should make sure consumers are fully aware of how the service works.
- 6.2. Prior to incurring a charge, the consumer, in addition to other guidelines in relation to virtual chat services, should be clearly and prominently informed of:
 - Whether the service uses virtual currency and credits as a form of payment;
 - The incremental charges that they will incur for using the service;
 - The likely total cost of using the service, if this is fixed; and
 - How they will be charged, and whether an automatic top-up charge applies.
- 6.3. Where the charging mechanic is subject to an automatic top-up (i.e. when the consumer has used all their credits, the service automatically issues an incremental charge to provide the consumer with more credits in order to continue with the service), the consumer should be aware that this is how the service will work, prior to incurring a charge.
- 6.4. Providers should, where possible, inform the consumer through the instant messaging service that they have spent all their credits and that their account will be topped up via a premium rate charge.