

GENERAL GUIDANCE NOTE

Lower cost services

Who should read this?

All Network operators and providers involved in the provision of lower-cost premium rate services to consumers.

What is the purpose of the Guidance?

To assist networks and providers by clarifying PhonepayPlus' expectations in relation to lower-cost premium rate services, especially with regard to registration, pricing transparency, undue delay, complaint handling, and special conditions.

What are the key points?

Lower-cost services are those where the service charge is no more than 10p per minute. 0871, 0872 and 0873 numbers are always included within the definition of lower-cost services. The main issues for Network operators and providers to consider are:

Section numbers

- 1) Network operator and Level 1 provider duties before connecting services;
- 2) Level 1 and 2 provider exemptions from the PhonepayPlus Registration Database;
- 3) Service exemptions from the Registration Database;
- 4) Special condition requirements for some types of chat services;
- 5) Practical pricing in promotions;
- 6) Pricing in greetings;
- 7) Queuing and keeping consumers on hold;
- 8) Complaint handling;
- 9) Spending caps; and
- 10) Call recording and monitoring requirements.

1. Network operator and Level 1 provider duties before operation (due diligence and PhonepayPlus Registration)

- 1.1** The objective of due diligence is to ensure the identity and suitability of potential providers to offer premium rate services ('PRS') to consumers is established. If you have any doubt about your status under the [PhonepayPlus Code of Practice](#), information can be found in the General Guidance Note on '[Definitions of those involved in providing PRS](#)'.

1.2 Under the [PhonepayPlus Code of Practice](#), Network operators and Level 1 providers must (amongst other things):

3.1.1 *ensure that PhonepayPlus regulation is satisfactorily maintained by;*

- (a) *taking all reasonable steps in the context of their roles, including the adoption and maintenance of internal arrangements to ensure that the rules set out in Part Two are complied with and the outcomes achieved in respect of all premium rate services with which they are concerned, and;*
- (b) *carrying out their own obligations under the Code promptly and effectively and*
- (c) *taking all reasonable steps to prevent the evasion of, and not to undermine, the regulation of premium rate services, and*
- (d) *taking all reasonable steps to ensure that consumer complaints are resolved quickly and fairly and that any redress is provided quickly and easily;*

3.3.1 *perform thorough due diligence on any party with which they contract in connection with the provision of premium rate services and must retain all relevant documentation obtained during that process for a period that is reasonable in the circumstances.*

1.3 In the context of lower-cost services, such as those provided on 087x ranges, the burden of due diligence is lighter than on other premium rate numbers, which reflects the lower risk to consumers that derives from factors such as the reduced capacity for financial detriment, and the dominant types of service provided being data capture or enquiry lines which are ancillary to the main business of the provider concerned. Accordingly, we consider the outcomes (above) to be met if Network operators and Level 1 providers:

- Bring PhonepayPlus' Code of Practice to the attention of the next party in the delivery-chain only (i.e. not the whole delivery-chain to the consumer);
- Verify the identity of the provider and retain the provider's address and contact information;
- Make arrangements in their contracts to be able to withhold payment to clients for a period of 30 days from the date of a consumer's connection, unless PhonepayPlus instructs such payments to be withheld for longer;
- Ensure that the next party has either assigned responsibility for customer service to another party or has sufficient arrangements in place itself; and
- Ensure that, if the connection is provided directly to a Level 2 provider (and not to an intermediary), and is relating to a category of service that requires adherence to special conditions, then that provider has in place such arrangements as to comply with the conditions.

2. Level 1 and Level 2 provider Registration

2.1 PhonepayPlus has exempted providers who only provide lower-cost services from the requirement to register with PhonepayPlus found at paragraph 3.4.1 of the [PhonepayPlus Code of Practice](#). For the avoidance of confusion, if a provider makes other higher-rate premium rate services available as well as lower cost

services, then they must adhere to the Code and register their organisation and relevant services.

- 2.2** Network operators with clients who provide only lower-cost services are still responsible for due diligence on those clients and their services, and for ensuring that levy payments are made.

3. Level 2 provider - service registration and number checker

- 3.1 PhonepayPlus has exempted providers of lower-cost services from the requirement to register their services. However, if a provider offers services which are subject to special conditions in order to operate, they must register these services only.

4. Level 2 provider: Adherence to special conditions

- 4.1 Some lower-cost services are required to adhere to special conditions, which PhonepayPlus sets out in Notices to industry, in order to operate:

3.11.1

Where PhonepayPlus is satisfied that there is or is likely to be a risk of:

- a) *a significant level of consumer harm; or*
- b) *unreasonable offence to the general public,*

arising from a particular category of PRS (a “High Risk Service”), it may impose conditions (“special conditions”) for the purpose of ensuring compliance with the Code’s outcomes. The conditions which may be imposed are the conditions set out in the Code Annex 2: Special Conditions and any related conditions which are necessary for the proper functioning of those conditions.

- 4.2 For more information on special conditions, and how they are activated, read Section Four of the statement on the 13th edition of the Code of Practice. However Level 2 providers of PRS that must adhere to special conditions should supply such evidence setting out how they comply with the relevant conditions to parties providing them with a connection.

5. Price information on promotions

- 5.1 The Code states that Level 2 providers must ensure that:

2.2.1

Consumers of premium rate services must be fully and clearly informed of all information likely to influence the decision to purchase, including the cost, before any purchase is made.

- 5.2 The general rule is that promotions for lower-cost services should state pricing information clearly, prominently, and in close proximity to the call to action. For more information on this, please see the General Guidance note on [“Promotions and promotional material”](#).

- 5.3 Where it is **not practical** to include pricing in promotions, it is acceptable to provide pricing information immediately on connection. If a provider has any doubt about the practicality of including pricing information, they should contact PhonepayPlus for further guidance.

6. Price information on connection

- 6.1 Callers who regularly use the same lower-cost service can become frustrated by hearing the same pricing message repeatedly. Therefore, when it is reasonable to assume that a consumer is the same repeat caller and can be identified by a unique number – such as a MSISDN (mobile number) – rather than a geographic number, (which may be shared within a household), providers of lower-cost calls only have to issue pricing information on the first three occasions, and then again on every fifth occasion. If more than six months have elapsed since the last call was made from the MSISDN, then the price information cycle referred to above should be started again.
- 6.2 Pricing information can be stated by an operator immediately on connection, or preferably, included in the greeting message. Where this introduction is not prolonged, this information can be provided, if necessary, in the chargeable portion of the call; long introductions in the chargeable portion of the call can constitute an undue delay. For more information, see the General Guidance Note on [‘The avoidance of undue delay’](#).

7. Queuing or keeping consumers on hold

- 7.1 If consumers are held in a queue while they wait for an operator to become available, they should be given a suitable indication of the length 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.
- 7.2 Where providers believe that a delay is likely to occur, they should consider implementing processes to ensure that consumers will understand right from the outset how long the delay is likely to be.
- 7.3 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 have been placed in a queue and where they are in relation to others in the queue.
- 7.4 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.

7.5 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.

7.6 We understand that a number of factors affect the delivery of a service, and that consumers' expectations of different services may vary. For individual complaints that relate to undue delay only, we would be likely to deal with this in the first instance using a Track 1 procedure¹ which would allow providers 30 days to address complainants and provide redress where relevant. The provider must be able to provide evidence that:

- There was no delay;
- The consumer was accurately informed of the delay and consented to it; or
- There were other factors that made the delay justifiable (see below)

If such evidence cannot be provided then they will be expected to refund the consumer for the delayed part of the call and to evidence to PhonepayPlus that they have taken measures to prevent the same harm from occurring in future.

7.7 In the case of a Track 2 procedure, the Tribunal will be asked to consider various factors, including the following:

- 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?

8. Handling complaints

'Basic rate' Call Charges requirement

8.1 Since 13 June 2014, regulations introduced by the Department for Business, Innovation and Skills (BIS)² apply a limit to the cost to consumers accessing customer helplines. The regulations do not demand that companies or

¹ As defined by paragraph 4.3 of the [PhonepayPlus Code of Practice](#).

² Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013

organisations provide a helpline, but where they do provide one paragraph 41 of the Regulations prohibits customer helplines charging consumers at any more than basic rate.

- 8.2** This precludes any charging beyond basic rate for post-contract calls (i.e. consumer contact about a product already purchased, whether charged via PRS or not, or to cancel a contract). For the avoidance of doubt, this does not preclude charging beyond basic rate for general consumer enquiries, data capture, or for technical support.
- 8.3** BIS has produced guidance in relation to the Regulations, which can be accessed via the gov.uk website³. PRS providers should pay particular attention to Section J of this guidance.

What about PRS that provides technical support?

- 8.4** BIS guidance sets out that this need not come under Regulation 41, provided it is clear to the consumer that the line exists to provide technical support for a product already purchased (e.g. a laptop, tablet, software, machinery, white goods or other electronics), with that technical support being charged separately from the original purchase via the cost of the call.
- 8.5** Technical support lines which carry a premium rate charge must not provide the facility to complain about a product already purchased.

What about 087 services which provide something other than a consumer complaint facility?

- 8.6** Where an 087 number is used to provide a PRS (such as chat, conference call facilities, data capture – i.e. receiving an order and/or payment for a product from consumers who call, or other forms of entertainment and information) its use will be compliant with the Regulations as long as no consumer complaint facility is provided on the 087 number.
- 8.7** However, since 13 June 2014 providers of premium rate numbers are no longer permitted to use any other 087 or other premium rate number, to receive complaints about the premium rate service.
- 8.8** PhonepayPlus recommends that Level 2 providers who use 087 numbers do the following:
- Review their current services against the BIS Guidance in order to ascertain their likely compliance with the Regulations.
 - Take appropriate steps to alter any services which are not compliant, particularly in respect of complaint handling arrangements for 087 services, or transfer services to a compliant number range.
 - Ensure that premium rate services continue to operate in full compliance with outcome 2.6 of our Code relating to ‘complaint handling’, and relevant rules, using suitable number ranges for complaints handled via the telephone.

³ https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/310044/bis-13-1368-consumer-contracts-information-cancellation-and-additional-payments-regulations-guidance.pdf

- 8.9** PhonepayPlus also recommends that Level 1 providers and networks that operate and provide numbers for the service types outlined above note the Regulations and conduct appropriate due diligence and risk control to ensure they are not facilitating unlawful practices through the operation or provision of numbers.

How PhonepayPlus will deal with complaints

- 8.10** For individual cases that relate to undue delay only, we will be likely to deal with them in the first instance using a Track 1 procedure⁴ which would allow providers 30 days to address complainants and provide redress where relevant, as set out in more detail at paragraph 7.6 above.
- 8.11** For compliance issues relating to pricing and transparency, we will contact providers immediately.
- 8.12** For more information on our expectations in relation to complaint handling please see General Guidance Note on the '[Complaint-handling process](#)'.

9. Service spending caps

- 9.1** Unless a lower-cost service is required to adhere to a special condition which requires a spending cap, there is no spending limit on lower-cost services.

10. Call recording and monitoring

- 10.1** Unless a lower-cost service is required to adhere to a special condition which is to the contrary, there is no need to record or monitor calls. If a call is recorded or monitored, then the service should state this information immediately following connection. For more information, please see the General Guidance Note on '[The conduct of live services](#)'.

The role of General Guidance

General Guidance does **not** form part of the Code of Practice; neither is it absolutely binding on PhonepayPlus' Code Compliance Panel Tribunal ('the Tribunal'). However, we intend for it to assist **all** Network operators and providers as to how compliance with the Code can be achieved.

Network operators or providers are free to disregard Guidance where they feel that the same standard and expectation of consumer protection can be met by some other means. Should consumer harm occur, the Tribunal may examine the provider's alternative actions (including no action), and whether those actions have achieved compliance with the Code. If they have not taken any action to comply with the Code, then the behaviour is likely to be regarded as a serious breach.

⁴ As at footnote 1 above.