



## ICSS UPDATE

### For providers of information, connection and / or signposting services (ICSS) as defined in the Statement dated 31 July 2013

24/04/2014

#### Background

This is an update to both the PhonepayPlus 'Final Statement on a prior permission regime for ICSS' ('Final Statement') and the ICSS notice issued on 6 December 2013. In the Final Statement, PhonepayPlus set out the clear evidence of consumer harm along with evidence gathered from research undertaken by *Jigsaw* relating to consumers perception of these services.

The new prior permission regime came into force on 12 September 2013, and 42 applications were made ahead of that date.

In November 2013, three applicants jointly initiated judicial review proceedings against PhonepayPlus in relation to its decision to introduce the ICSS prior permission regime ('the Regime').

We subsequently decided to suspend the implementation of the Regime pending resolution of the legal challenge which meant that we did not issue certificates to providers who were compliant.

In the 6 December 2013 update, we expressed our intention to proceed with a prior permission regime for ICSS in due course, after resolution of the legal challenge. At the same time we reaffirmed our expectations under the PhonepayPlus Code of Practice ('the Code'), and ICSS providers were encouraged to voluntarily implement the conditions set out in the prior permission notice dated 31 July 2013, so as to also comply with the Code .

#### Legal challenge

We confirm that the legal challenge has now been resolved with both parties having agreed, amongst other things, amendments to four conditions set out in the Final Statement.

The amendments are in respect of one condition under the heading 'Search Engine Marketing (SEM)' and three conditions under the heading 'Alerts on connection'. These are set out below (no other conditions have been amended):

#### Search Engine Marketing (SEM)

- a) Web-based promotions should not use internet marketing or optimisations techniques (such as metadescriptions or metatags) which mislead a consumer into believing (a) that their service is the actual service the consumer is seeking; or (b)

that they are providing advice or information that is not already available from a public or commercial organisation (unless they genuinely are providing advice or information that is not available in this way). In addition, web-based promotions should contain metadescriptions which ~~make it clear that the service on offer is a premium rate service (PRS), and not make the nature of the service clear and do not mislead the consumer into believing that they are~~ the helpline or information the consumer is seeking. The Search Engine Marketing (SEM) should therefore display ~~the~~ a phrase which accurately describes the true nature of the service operated and promoted using the website to which the SEM links, such as “Premium rate connection service” or “Call connection service” at the beginning of the result ~~as displayed (for a Type 1 ICSS<sup>1</sup>) and for example “Premium rate assistance service” or “Information assistance service” for a Type 2 ICSS<sup>2</sup>. Such a phrase must be positioned~~ to ensure it is clearly on-screen when the consumer views the search engine results. ~~For the avoidance of doubt alternative phrases may be used where they meet the above SEM description requirement.~~

#### Alerts on connection

...

- b) Consumers must receive an alert at the start of the call before onward connection ~~informing them clearly stating the following (in any order):~~
  - (i) ~~of~~ the price per minute; ~~and,~~
  - (ii) that ~~the ICSS provider “this~~ is not [insert the end organisation’s name], ~~and [identify your name as or that the ICSS provider]~~ ~~can connect you to the number you require~~ is [insert ICSS provider name]; and,
  - (iii) the name of the of the end-organisation consumers will be connected to or given the option of connecting to.
- ...
- d) **For Type 2 ICSS, where** ~~Where~~ the consumer is connected to an IVR containing information which is freely available on the web, the consumer must be informed of this, and the address of the relevant website, at the start of the call.
- ...
- g) Where the consumer has been provided with the number they are seeking, and then has the option of being connected to it directly, they must be informed clearly of the cost per minute of doing so and be given the opportunity to refuse. ~~Where onward connection is automatic, then the consumer must first be clearly informed of the cost~~

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<sup>1</sup> These services are defined as follows: “Call connection’ services. Type 1 services offer connection to a small number of organisations, rather than the full range that a national Directory Enquiry (DQ) service provides. In some cases Type 1 services may, in addition to connection, offer the number the consumer is seeking.”

<sup>2</sup> These services are defined as follows: “Signposting’ and ‘Helpline’ or advice or assistance services (which may or may not include the consumer providing account details relating to an unrelated online account they hold, so that the ICSS provider can interact with the account on their behalf). Type 2 services usually offer consumers the number of one or a small number of organisations (but not onward connection to that number), operator-led assistance, or provide generic, pre-recorded advice via an Interactive Voice Response (IVR) system.”

~~per minute of doing so in order that the consumer can choose to end the call at any point.~~

PhonepayPlus considers that these changes assist in giving providers greater clarity and flexibility on some of the conditions, without weakening the consumer safeguards that are the central reason for the introduction of the prior permission regime and will be maintained through industry compliance.

PhonepayPlus does not consider it necessary to consult on these changes, having already fully consulted on the reasons behind our decision to impose additional conditions and establish the Regime. Moreover, these are only modest changes to the conditions, they have already been discussed and agreed with the providers involved in the legal challenge and, as indicated above, they have the effect of giving providers some more certainty and flexibility without compromising on consumer protection.

### **Actions required by ICSS providers**

All providers of these ICSS must now seek and obtain prior permission before operating ICSS in the United Kingdom. Those services already established by previous applicants for prior permission, which are compliant with both the Code and the conditions set out in the Final Statement dated 31 July 2013 (as amended by this update) ('the Conditions'), may continue to operate pending the applicant's payment of any relevant administrative charges (to be invoiced in due course) and receipt of a prior permission certificate from PhonepayPlus.

#### *1. ICSS providers already in the market –*

All providers must make contact with PhonepayPlus in order to finalise applications and ensure services are compliant with the Code and the Conditions. Any applicants who need to make changes to the service in order to comply with the Code and the Conditions must do so immediately and notify PhonepayPlus of the final service information that it should consider when assessing their application.

#### *2. Future entrants to the market –*

If you wish to operate such ICSS and have not launched the service **before 24 April 2014**, please contact our Industry Services Team using the email address [priorpermissions@phonepayplus.org.uk](mailto:priorpermissions@phonepayplus.org.uk) for advice about how to obtain prior permission and the information you will need to supply<sup>3</sup>. Please note services cannot now be launched without first obtaining prior permission.

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<sup>3</sup> The prior permission notice states that applicants ought to supply:

- a description of the service;
- examples of promotional material; and,
- an explanation as to how the conditions will be fulfilled, providing relevant evidence in support of assertions made in the application.