



Multi-Party Chat:

A Statement by PhonepayPlus following its consultation on the rules regarding Multi-Party Chat services published on 31 March 2010

Issued by PhonepayPlus on 30 July 2010

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Section 1

Executive Summary

1.1 PhonepayPlus issued its consultation document on the review of the current PhonepayPlus Multi-Party Chat (MPC) services rules on 31 March 2010. There was a three-month period for response, with the closing date being 9 June 2010.

1.2 The purpose of this document was to gain public and industry feedback on proposed changes to the MPC rules following an earlier review. The proposed changes were following meetings with interested parties who suggested changes to the current regime.

1.3 The consultation document set out a number of proposed changes to the current MPC prior permission requirements.

1.4 These proposed changes can be summarised as follows:

- That providers of MPC services should no longer be required to obtain the caller's address prior to allowing them to participate in MPC services, check that the caller has the bill payer's permission, or state that all calls will be recorded and details passed to the regulator where appropriate;
- That the maximum tariff per minute for MPC services should increase from 60p per minute to £1.50 a minute;
- That providers should be allowed to operate adult MPC services, subject to a number of conditions around appropriate advertising, and a requirement to ensure as far as possible that their services are not accessed by under-18s;
- That MPC services should have to provide one monitor for every 40 callers, as opposed to the one monitor for every 20 callers, which is currently required;
- That MPC services should be allowed to transfer callers to other services, providing they are not transferring callers who originally called a non-adult service to an adult service, and provided this remains part of the same cumulative call spend;
- That MPC services should no longer be required to operate on the 09059 prefix;
- That the requirement for MPC providers to pay into a Compensation Fund should be removed.

Responses and Outcomes

1.5 Responses to this consultation were received from nine organisations. Their details are listed at **Annex A** of this document and responses to the consultation have been published on our website at: <http://www.phonepayplus.org.uk/output/response-multi-part-chat.aspx>

1.6 The responses are from a mixture of trade associations, services providers and consumer groups. PhonepayPlus has considered these responses and has decided to retain the majority of proposals set out in the consultation, but make additions or changes in a small number of cases. The full list of revised terms and conditions for Multi-Party Chat can be found in the Notice to Industry at Annex B of this document. However, the new prior permission regime can be summarised as follows:

- Providers of MPC services will no longer be required to obtain the caller's address prior to allowing them to participate in MPC services, or state that all calls will be recorded and details passed to the regulator where appropriate. This slightly alters our original proposal, in that providers will still be required to obtain confirmation that the caller has the bill payer's permission;
- The maximum tariff per minute for MPC services will increase from 60p per minute to £1.50 a minute;
- Providers will be allowed to operate adult MPC services, subject to a number of conditions set out in detail at paragraph 2.17;
- MPC services will still have to provide one monitor for every 20 callers. This alters our original proposal, which was that providers would only have to provide one monitor for every 40 callers;
- The maximum call spend limit will remain at £30, in line with the current limit for other live services and pending the outcome of the consultation on PhonepayPlus' new Code of Practice, in which spending caps are discussed generally;
- MPC services will still be required to provide call cost warnings when the consumer has spent £10 and £20 during a call;
- MPC services will be allowed to transfer consumers to other services (although not where it is possible to access adult chat or IVR through a service which has advertised itself as being non-adult) provided this transfer remains part of the same call (with the same spend limit);
- MPC services will no longer be required operate on the 09059 prefix;
- The age limit for participation in MPC services will remain at 18 or over;
- The requirement for MPC providers to pay into a Compensation Fund will be removed, although the requirement for them to pay a security bond will remain.

Section 2

Summary of Responses

2.1 We set out below a summary of the responses to the consultation questions that we identified.

Q1. Do you agree with the proposals around the permission condition? Please give detailed reasoning where applicable.

2.2 PhonepayPlus proposed that Multi-Party Chat (MPC) providers no longer be required to obtain the consumer's address, and confirmation of the bill-payer's permission, during the introduction to MPC services.

2.3 The majority of respondents agreed with our proposal that the requirement to obtain a consumer's address be removed, as this has less and less relevance due to the increased use of mobile phones. However, a few respondents questioned the removal of confirmation of the bill payer's permission. Whilst they accepted the argument that a caller could lie about whether he/she had permission, they felt that a cursory check still served to draw a caller's attention to the fact that they should not be calling from someone else's phone.

Conclusion

2.4 In light of these comments, the requirement to obtain bill payer's permission will remain, but the requirement to obtain address details will be removed.

Q2. Do you agree with the proposed changes for the introduction message? Please give detailed reasoning where applicable.

2.5 PhonepayPlus proposed that the requirement to warn consumers that call recordings may be passed to the regulator should be removed, although this could possibly just be stated in the promotional material.

2.6 All respondents agreed with this proposal.

Conclusion

2.7 In light of the general agreement to our original proposal, the requirement to provide a call recordings warning in the introduction message to MPC services will be removed as per the consultation document's suggestion. None of the respondents expressed any opinion regarding the inclusion of a warning about call recording in the promotional material. Whilst providers may wish to consider whether it is appropriate to include such a warning in promotional material, we do not propose to make it a condition of MPC prior permission.

Q3. Should higher tariffs up to £1.50 per minute be permitted? If not, please submit your comments and observations.

2.8 PhonepayPlus proposed to raise the charge per minute from the current maximum of 60p per minute to £1.50 per minute. This followed our consideration that the 60p tariff was set several years ago and that live chat services, the closest related service type which also carry risks of unauthorised or underage use, are already permitted to operate on tariffs of up to £1.50 per minute. Both these arguments were put forward by a number of industry stakeholders interested in providing MPC, even prior to the consultation.

2.9 The majority of respondents agreed to our proposal, subject to adequate safeguards being in place. One industry respondent proposed £1 per minute be the maximum rate, but in light of there being no similar proposals from other stakeholders, especially consumer or child protection bodies, we do not feel there is enough evidence to cap MPC services at a lower rate than live chat services.

2.10 Some respondents raised an additional issue around whether the cost advertised to the consumer would be accurately reflected, given that calling from some networks would result in an additional charge to consumers beyond the premium rate cost advertised.

Conclusion

2.11 In light of responses, PhonepayPlus has determined to raise the maximum allowable cost per minute to £1.50.

2.12 We note the concerns expressed by some respondents around pricing transparency and additional network rates, which would not be included in the tariff advertised to the consumer. We recognise that, in such a situation, a consumer may not be aware of the total amount they will pay per minute for a call – a situation not unique to MPC services – and this may have a detrimental effect on the consumer, and on wider consumer trust in premium rate services.

2.13 We have supplied evidence to Ofcom on this issue as part of [our response](#) to its recent [review of non-geographic calls services](#).

Q4. Do you agree with the proposal around the content of MPCs? If not, please submit your comments and observations.

2.14 PhonepayPlus proposed to allow MPC services of an adult nature to be allowed for the first time, providing these services were clearly labelled (with a warning that they are for over-18s only) and are not be designed or advertised in a way to be particularly attractive to under-18s.

2.15 All respondents agreed with this proposal and emphasised the need to ensure that MPC services that are non-adult are clearly differentiated from MPC adult services. Some respondents also expressed an opinion that MPC services that are adult-oriented should ask the age of consumers before they are able to access the chat service(s).

2.16 Whilst this would not necessarily prevent callers from lying about their age (as with live chat services), it would (when coupled with a requirement for operators to recognise any other signals which might indicate the caller is under 18, such as references to a day at school) make underage callers far more wary of trying to access adult content, and more likely to be identified and prevented if they try to do so.

Conclusion

2.17 In light of these comments, PhonepayPlus will allow adult MPC services. This, however, is subject to the following:

- That they operate on an appropriate prefix (i.e. 0908, 0909 or 098);
- That they are promoted clearly as being adult services and not for under-18s;
- That they are not promoted in places where they are likely to be particularly attractive to children, or which are easily accessible to them;

- That non-adult MPC services do not offer access to adult “chatrooms” within the operation of the service, unless they have clearly advertised this;
- That all MPC services with an adult element take steps to verify the age of consumers before they can access the service itself. This includes, but is not necessarily limited to, an age verification question and operators who are trained to identify any other indication that a caller may be under 18.

Q5. Do you agree with the proposed change around monitoring? If not, please explain your reasoning and any other details you wish to be considered in this regard.

2.18 PhonepayPlus proposed that the ratio of monitors per callers to an MPC service be increased to one monitor for 40 callers (from one for 20). This was in light of improvements in technology, which allow moderators to quickly isolate or block an aggressive, inappropriate or silent caller, which some industry stakeholders had argued should allow for a greater ratio between one operator and the number of callers.

2.19 While some industry respondents agreed to the proposed increase in the ratio, others questioned this change and argued that reducing the number of moderators, regardless of how quickly moderators can isolate and cut off MPC participants, will still lead to a reduction in the overall level of supervision.

2.20 In light of the possibility that MPC services may be opened up to those under 18 (see Q10), Childnet also requested that service providers’ attention be drawn to a review of the Home Office Good Practice Guidance for the provision of moderated services. These guidelines, published in 2005, cite the following as reasons for human (as opposed to technical) moderation of chatrooms and other forms of electronic media with multi-party participation:

- Whether the service is specifically targeted at children and younger users;
- Whether the service is very likely to attract children and younger users due to the theme of the service such as football or celebrities;
- Whether the service enables users to have contact and interaction with strangers;
- The ease with which users may be able to move from a public moderated area to a private un-moderated area within the same service, and
- Whether users of the service are anonymous and identity is not verified and stored.

Conclusion

2.21 In light of the feedback we received, which showed a clear split even within the industry around the ratio of callers to monitors, and the possible risk to children within non-adult services, PhonepayPlus determines that the monitor ratio should remain at one monitor to 20 callers.

2.22 We remain open to the possibility that there may be MPC services that do not carry a level of risk which requires this ratio of supervision. This is particularly because we propose that access to MPC services remains restricted to over-18s only. But we will consider such arguments for an increase in ratio on a case-by-case basis where permission is applied for.

2.23 In light of the concerns Childnet expressed, we would also draw the attention of potential MPC providers to the Home Office’s [Good Practice Guidance for the Moderation of Interactive Services for Children](#).

Q6. Should the maximum call spend remain at £30? If not, please supply any concerns you have or other information you feel should be considered.

2.24 PhonepayPlus proposed that the current £30 maximum call spend remain in place, in line with the current limit for other live services.

2.25 While there was some agreement that the £30 limit remain, some respondents requested that a higher cap be allowed citing increased spending power. Some also felt that call spend reminders (see call cost warnings at Q7) and a price cap was an unnecessarily “belt and braces” approach, and that only one of these safeguards was necessary.

2.26 Once again, concerns were expressed by some respondents around pricing transparency and additional network rates, which would not be included in the tariff advertised to the consumer. Whilst the PRS element of any charge to the consumer would be set at £30, the overall amount spent by the consumer could be considerably more, depending on which network they have called from and that network’s connection charges.

Conclusion

2.27 The call spend will remain at £30 for the time being. This is because PhonepayPlus is currently seeking view on all PRS call cost caps as part of the consultation on our proposed new Code of Practice. Should that consultation conclude that higher spending caps are necessary, then this can be reflected in the prior permissions regimes for MPC and other live services.

2.28 As before, we should remind the industry that network connection charges and call set-up fees are additional charges placed on top of a call; for example, the cost is higher from a mobile. We have supplied evidence to Ofcom on this issue, and the possible detriment PRS consumer may suffer from it, as part of [our response](#) to its recent [review of non-geographic calls services](#).

Q7. Should the call cost warnings remain unchanged? Is there any other information you feel should be considered or other safeguards put in place?

2.29 MPC services are currently required to automatically give the caller a call cost warning at £10 and £20, in addition to the spending cap which requires the call be cut off after £30 has been spent. PhonepayPlus proposed that these warnings remain unchanged.

2.30 Once again, while there was some agreement from respondents, others queried whether both the warnings and the spend cap were necessary.

Conclusion

2.31 The call cost warnings will remain unchanged. PhonepayPlus considers that the importance of keeping these warnings far outweighs any reasoning for changing them.

Q8. Do you agree with the proposals around single services? Please submit any concerns or issues you have with the intended change.

2.32 The current requirement is that MPC services must only be accessible when directly called, and must not be accessible through other services or allow access to other services (such as live chat or private chat between two callers to the MPC service).

2.33 PhoneyPayPlus proposed to allow MPC services to transfer consumers to other services (although not where it is possible to access adult chat or IVR through a service that has advertised itself as being non-adult) provided this transfer remains part of the same call (with the same spend limit). This would allow access to other services within a call to an MPC service.

2.34 The majority of respondents agreed with the change. However, Childnet did express a concern that moving from a public chat environment to a private chat, and then on to other more personal contact, is a characteristic of grooming.

Conclusion

2.35 In light of the responses, we consider the proposed change should go ahead. Whilst we take Childnet's concerns regarding the potential for children to be groomed very seriously, the current (and proposed future) age limit for using MPC services is 18 and over, which means children should be blocked from using MPC in the first place. This highlights the need for providers to practice age verification for all callers before they gain access to services and to train operators to ensure that no-one under 18 is using their service, having lied about their age. In addition, any private chat will still need to be monitored and recorded.

Q9. Do you agree with the proposal to allow MPCs to operate on prefixes other than the 09059 prefix? If not, please supply your reasoning and any other information you would like considered.

2.36 The existing prior permission regime for MPC services contains a requirement that MPCs must operate on the 09059 prefix. As this is no longer designated as necessary by Ofcom, the consultation proposed that this requirement be removed.

2.37 All respondents agreed, subject to adult services (if allowed) being on adult prefixes. There was also a query about whether MPCs would be allowed on the 087 number range.

Conclusion

2.38 MPCs will be permitted on other number ranges, including 087. However, adult services must be on adult prefixes (which would in itself prevent adult services on 087 number ranges). The current requirement for MPC to operate on the prefix 09059 will be removed.

Q10. Should the age of callers remain as 18 and over? Do you agree with the proposals regarding children? If not, please supply details of any other information you feel should be considered.

2.39 PhoneyPayPlus reported in the consultation that we had considered whether the age limit for use of MPC services should be lowered from 16 to 18, in response to representations from industry stakeholders prior to the consultation itself.

2.40 Having considered this representation, PhoneyPayPlus did not propose to change the existing restriction on under-18 callers to MPC services. Whilst we accepted that only a proportion of MPCs would operate as adult services in the future, we considered that there may still be issues around caller addiction, and so did not propose to test whether under-18s are more or less vulnerable to caller addiction at this stage.

2.41 Responses were split to this question. Some respondents advocated reducing the age limit for MPC services to 16 years old, with the proviso that adult MPC services would remain restricted to those over 18. The two main points made in support of this stance were as follows:

- That at 16 years old individuals can play the national lottery, join the armed forces and legally have children;
- That allowing services for young adults might help to stop them trying the over-18 services.

2.42 Other respondents, a mixture of industry and consumer/child protection bodies, agreed with our proposal that the age limit should remain at 18. The three main points in support of this stance were as follows:

- In the experience of some respondents, callers under 18 do not have the bill payer's permission in most cases. So, there was still a risk that they would use a fixed-line phone that was not their own;
- It is difficult to tell a 14- and 16-year-old apart from just their voice alone. So, reducing the age limit from 16 to 18 might have serious implications for an MPC operator's ability to identify underage callers;
- Opening up MPC services to 16-18 year olds increases the possibility that adults may have access to children under the age of 16, with attendant risks around grooming.

Conclusion

2.43 While there was some argument for lowering the age, the potential problems with under-18s calling services without permission would remain, as would the risk of caller addiction. There is also the risk that such a move will increase the chance of an under-16-year-old accessing an MPC service and, therefore, be at risk of grooming by an adult using the same service.

2.44 Whilst we recognise other social responsibilities that 16-year-olds have, we understand that a person must still be over 18 to obtain a landline phone or a mobile phone on contract. This, in our opinion, makes it far less likely that a 16-year-old would call an MPC service with a phone that was registered to them as the bill-payer.

Q11. Do you have any suggestions or comments on additional conditions you feel should be imposed or considered by the Tribunal?

2.45 This question was asked to allow for any other comments that respondents might have, separate to those surrounding the questions we asked.

2.46 We did not receive any other feedback specific to MPC services. However, some respondents did express their concern that prior permissions were not processed as quickly as they would like, and suggested an agreed time from the date of receipt within which all prior permissions should be processed by PhonepayPlus.

Conclusion

2.47 We already commit to process prior permission applications within six weeks. However, this is subject to the capacity of Tribunals to consider applications, and the willingness and ability of applicants to answer all questions put to them by the Executive before the application is submitted to Tribunal.

2.48 With a new prior permissions regime, such as the altered regime that we will shortly introduce for MPC services, it is likely the Tribunal will look closely at all applications. Therefore, we take this opportunity to remind potential applicants that the Executive will not submit applications forward to Tribunal without sufficient evidence that the applicant can discharge their duties.

Q12. Do you agree with the proposal to remove the Compensation Fund and just have a security bond?

2.49 The MPC services Compensation Fund currently exists for the sole purpose of making available compensation to any person whose telephone has been used without the knowledge or permission of the bill-payer.

2.50 Previously, PhonepayPlus has required that providers of all live services make contributions to a Compensation Fund, as well as posting a security bond with a separate fund, before beginning to operate. The purpose of the security bond is to offer security against any requirement to pay compensation claims. The bond is a legally binding document by which a third party (such as a bank) guarantees the service provider's ability to pay sums awarded to a claimant by the Adjudicator. The body providing the bond must be approved by PhonepayPlus,

2.51 The security bond is intended to be security to be used only in the event of a service provider being unable or unwilling to settle claims independently and if the Adjudicator has made an award in favour of the claimant.

2.52 The current compensation arrangements for MPC require that a Fund of at least £100,000 be established, with the cost being shared equally among all those who receive prior permission. For example, if only four applicants are granted permission, each applicant would need to have paid a £25,000 bond into the MPC Compensation Fund. Service providers who wish to provide MPC are required to pay a minimum of £19,000 to join the Fund, regardless of how many are granted permission.

2.53 Industry stakeholders expressed concern at this high cost and queried its relevance when considered alongside the requirement to also lodge a security bond. Bond sizes are determined by the PhonepayPlus Tribunal and the minimum bond for MPCs is currently £12,500.

2.54 The consultation document recognised that there were no claims against the Live Services Compensation Fund (the closest cousin of MPC) for some years, which was a major contributory factor in our decision to wind up the Live Services Compensation Fund last year, following a review. The consultation document further went on to propose that the MPC services Compensation Fund be wound up, in light of the security bond that potential

MPC providers must still pay, acting as a back-up where claims for compensation cannot be settled without recourse to an adjudicator.

2.55 There was full agreement to this position from all respondents, providing adequate back-up funding is in place should a refund be required for a consumer (which will be achieved through the continuation of the security bond requirement).

2.56 Some respondents suggested that there was no need for a security bond. They suggested instead that providers with a tarnished breach history could simply be refused permission outright to operate MPC services.

Conclusion

2.57 In light of the responses, PhonepayPlus determines that the new MPC prior permissions regime should not contain a requirement to pay into a Compensation Fund. However, the requirement to pay into a security bond will remain. Whilst previous breach histories with PhonepayPlus and other regulators are one indication of future behaviour, they are by no means a foolproof indicator. In addition, applicants who are new to the market will have no breach history, even though the risk they present is not fully understood.

Next Steps

The new prior permissions regime is set out in the Prior Permissions Notice at Appendix B of this document. The document takes effect immediately from the date of its publication.

We will continue to keep MPC services under review, especially over the coming weeks and months. This will include random monitoring to ensure compliance with the [PhonepayPlus Code of Practice](#) and individual conditions in permission certificates.

Annex A

List of Respondents

Service Providers

Amplefuture
Com and Tel
Jeff Samuel
Richard Burke

Networks

BT

Trade Associations

AIME
PRA

Consumer groups

Childnet
Citizens Advice

Annex B

PRIOR PERMISSIONS NOTICE

Issued on 30 July 2010

FOR THE ATTENTION OF ALL SERVICE PROVIDERS INTENDING TO OPERATE CHATLINE (MULTI-PARTY CHAT) SERVICES

This Notice is being issued to inform all service providers who intend to provide Chatline/Multi-Party Chat (MPC) services that new rules apply. Service providers are required to apply for a prior permission licence to operate MPC services. Services operating without a licence to operate MPC services will be considered to be in breach of the PhonepayPlus Code of Practice.

For the avoidance of doubt, a Chatline service is defined as follows:

“Chatline Service” means a service which consists of or includes the enabling of more than two persons (the participants) to simultaneously conduct a telephone conversation with one another without either:

- (i) each of them having agreed with each other; or
- (ii) one or more of them having agreed with the person enabling such a telephone conversation to be conducted, in advance of making the call enabling them to engage in the conversation, the respective identities of the other intended participants or the telephone numbers on which they can be called. For the avoidance of any doubt, a service by which one or more additional persons who are known (by name or telephone number) to one or more of the parties conducting an established telephone conversation can be added to that conversation by means of being called by one or more of such parties is not on that account a Chatline Service, if it would not otherwise be regarded as such a service;

This definition is not intended to cover business conference services.

General Conditions

- All provisions of the PhonepayPlus Code (as far as they are applicable) apply to the service.
- PhonepayPlus may impose such further conditions as it may deem necessary upon reasonable notice.
- This permissions certificate may be revoked without notice by PhonepayPlus if any condition is breached.
- PhonepayPlus may revoke this permission certificate for any other reason after giving reasonable notice.
- This permission is granted to the service provider and relates only to it (and, for the avoidance of doubt, does not relate to any subsidiary or associated company or any other company) and may not be assigned or otherwise transferred in any way.

- The service provider will notify PhonepayPlus of the applicable telephone number(s) or access code(s) when the service commences and, once notified, the telephone number(s) or access code(s) of the service may not be changed without the prior written consent of PhonepayPlus. If, for any reason, the service fails to commence within six months from the date of this permission certificate, or having commenced does not operate for any continuous period of six months, this permission certificate (in either case) will immediately cease to be in force.

Specific Conditions

- Providers of MPC services must ensure that, prior to allowing callers to participate, they obtain the caller's name and confirmation that they have obtained permission from the bill-payer to make the call.
- MPC services are permitted to operate at tariffs of up to £1.50 a minute.
- Providers are allowed to operate adult MPC services, subject to a number of conditions set out below:
 - That they operate on an appropriate prefix (i.e. 0908, 0909 or 098);
 - That they are promoted clearly as being adult services, and not for under-18s;
 - That they are not promoted in places where they are likely to be particularly attractive to children, or which are easily accessible to them;
 - That non-adult MPC services do not offer access to adult "chatrooms" within the operation of the service, unless they have clearly advertised this;
 - That all MPC services with an adult element take steps to verify the age of consumers before they can access the service itself. This includes, but is not necessarily limited to, use of an age verification question and operators trained to identify any other indication that a caller may be under 18.
- As a minimum, there must be one monitor for every 20 callers. Monitors may take part in conversations but must also ensure compliance with the Code of Practice. Monitors on services which are advertised as being non-adult must use all reasonable endeavours to prevent conversation which is primarily adult in nature. Callers must also be actively discouraged from seeking or giving out surnames, places of work, addresses or telephone numbers.
- Calls must terminate by forced release at a maximum spend of £30.
- Call cost warnings must be given automatically after the caller has spent £10 and £20 on the call.
- All reasonable endeavours must be made to ensure that services are not promoted in such a way or in places that make them attractive to children. Providers must make all reasonable endeavours to ensure that persons under the age of 18 do not take part in services.

PhonepayPlus recommends that service providers submit their applications as soon as possible. Application can be submitted via email to compliance@phonepayplus.org.uk.

Service providers are reminded that the granting of a prior permissions licence by PhonepayPlus to operate MPC services does not serve as an obligation to any network operator to provide connection or carriage for such services.