



Multi-Party Chat
A PhonepayPlus Consultation
A PUBLIC CONSULTATION

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The deadline for comment is 9 June 2010

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Section One - Background

Multi-Party Chat Services

Multi-Party Chat (MPC) are live services which enable more than two users to simultaneously conduct a telephone conversation with one another.

In 1992, due to significant issues around unauthorised use (especially by under 18s) and caller addiction, the Director General of Oftel (the functions of which are now incorporated into Ofcom) withdrew recognition of multi-party chatlines with regards to what was then the ICSTIS (PhonepayPlus' former name) Code of Practice – effectively banning them.

In 2000, ICSTIS began a review of this position, in order to see if MPCs could be reintroduced to the marketplace with new safeguards to mitigate the previously identified risk. To do this, we involved a number of stakeholders, including those from industry with an interest in providing MPC, in a working group.

The conclusion of this group was that MPCs should be allowed to operate under a prior permission regime, with specific conditions to mitigate the identified risk to consumers. The conditions are set out in detail at Section 2 of this document. The regime was originally intended to last two years, with a review at the end of this period.

The pilot prior permissions regime was introduced in 2002, following the conclusion of the review. However, take-up (i.e. the number of providers who applied for permission to operate MPCs) was poor. The main reason for this appears to have been an industry perception that the conditions of the regime had the effect of making it difficult for providers to run MPC services profitably.

Some providers appeared to have the view that the conditions which were eventually applied to the prior permission were disproportionate to the risk faced by consumers. PhonepayPlus (then ICSTIS) did not agree with this view, and whilst we acknowledged that some providers felt unable to run profitable MPC services given these conditions, the available technology in 2002 was unable to facilitate any automatic controls to mitigate caller addiction and unauthorised access.

As a result of the poor take-up, the regime was not reviewed after two years had elapsed. By this time, no recognised MPC services were operational.

Background to this consultation

In 2009, PhonepayPlus considered representations from a number of industry stakeholders, both previous providers of MPC and those who were interested in providing MPC in the future, that the marketplace had changed in a number of ways which might cause us to re-examine the prior permissions regime. These were:

- The general availability of internet chatrooms, a genre which had become ubiquitous since 2002, and offered a similar environment for Multi-Party Chat, with which consumers had now become familiar;

- Significant improvements in network practice and technology around identifying and informing callers with unusually high billing activity (so taking steps to protect bill-payers from activity caused by unauthorised use or addiction);
- Improvements in technology around monitoring chat; and
- Improvements in technology and training which would facilitate the prevention of access to under-18s.

In light of this consideration, PhonepayPlus began a review of the previous prior permissions regime for MPC and the developments in the market since that regime was introduced.

Following initial representations from previous providers or likely providers of MPC, PhonepayPlus is now conducting a public consultation. This is in order to present our initial findings and recommendations and gain feedback from other interested parties – both inside the industry and from other interested parties such as consumer or child protection groups.

Section 2 – Review of Multi-Party Chat and Recommendations

Current Prior Permission conditions for Multi-Party Chat

As set out in Section 1 of this document, PhonepayPlus' (then ICSTIS) review of Multi-Party Chat (MPC) services in 2000 decided on a prior permission regime with conditions which would be applied to all providers of MPCs. These conditions were based on the concerns around consumer protection at the time.

These Prior Permission requirements for MPCs are as follows:

a) *Permission*

Service providers must ensure that, prior to allowing callers to participate in chatline services, they obtain the caller's name, address, date of birth and confirmation that they have obtained permission from the bill-payer to make the call.

b) *Introduction*

On connection to the service callers must receive a brief message giving details of call costs and the name of the provider of the service, and be warned that rules apply governing disallowable conversation and that a recording of their conversation may be released to the regulatory body and the Adjudicator.

c) *Tariff*

Chatline services will be permitted to operate at tariffs of up to 60p per minute.

d) *Content*

Chatline services must not be promoted as sexual entertainment services, nor may they operate as sexual entertainment services.

e) *Monitoring*

As a minimum, one monitor for every 20 callers will be required. Monitors may take part in conversations but will also be expected to ensure compliance with the Code of Practice. Monitors 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.

f) *Maximum spend*

Calls must terminate by forced release at a maximum spend of £30.00.

g) *Call cost warnings*

Call cost warnings must be given automatically after the caller has spent £10.00 and £20.00 on the call.

h) Single service accessibility

Chatline services must only be accessible when called directly. They must not be accessible through other premium rate services (including other chatlines) or allow access to other premium rate services.

i) Prefix

Chatline services must operate on numbers prefixed by 09059.

j) Children

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. Service providers must make all reasonable endeavours to ensure that persons under the age of 18 do not take part in services.

PhoneyPayPlus review of Multi-Party Chat

As previously referred to in Section 1, PhoneyPayPlus' initial review has concentrated upon two areas:

- Representations from industry members who have previously provided MPC services, or who have expressed an interest in doing so in the future, if the current prior permission regime was altered.
- Our own consideration of the changes in the market since 2002, and how this might alter the consumer perception of MPC, or the risks posed by it.

The rest of this section addresses each of the current conditions in turn, setting out our consideration and proposals. However, there are considerations which apply more generally to the market. They are:

Compliant Levels against live services

Complaint levels against fixed-line voice services made up the majority of our complaints in 2002. However, this figure has dropped sharply in the interim, and these services constitute on average only 7% of our complaints during the last year. Whilst not all voice services are live services, this does provide a general indication that other types of live service (the closest related services to MPC) do not currently cause significant levels of harm.

Ending of a Consumer Compensation Fund for live services

More specifically, the Consumer Compensation Fund for consumers of live services was wound up in 2009, following a review in which one of the principle considerations was that no claim had ever been made on the fund.

The Fund was originally set up by PhoneyPayPlus, and one of the requirements of permission to operate live services was that a £7,500 payment was deposited into it by all providers. It was administered by independent trustees, whose role was to consider whether consumers who complained as a result of 'bill shock' related to a live service should be entitled to a

refund paid from the Compensation Fund reserves in respect of unauthorised use of the service.

Whilst providers of live services are still required to post a security bond, they are no longer required to make a payment into the Consumer Compensation Fund.

Improved operator training in live services

Since 2003, and following a number of issues around underage access – especially to ‘Babe TV’ services – live service providers generally have developed stricter training for their operators in order to ensure that they identify and block underage callers. Whilst this training was not specifically intended for an MPC environment, it could easily be adapted for it.

Improved network technology around high usage callers

Following fairly significant developments in technology since the MPC prior permissions regime was first devised, safeguards can now be put in place to block the lines of high usage callers, and to immediately isolate and cut off any caller who uses inappropriate language. In addition, networks now have the ability to flag unusually high usage and inform consumers before they receive their monthly bill. This should allow any unauthorised usage, or issues of caller addiction, to be confronted at an earlier stage.

PhonepayPlus’ Proposals

With these general considerations in mind, the rest of this section sets out each of the current conditions, followed by our specific consideration and proposals in respect of each of them. In summary, PhonepayPlus believes that:

- Prior permission will continue to be required to operate a MPC service;
- Some of the current prior permission conditions applied to MPC should be altered or removed;
- Adult MPC services should be allowed for the first time; and
- The requirement to pay into a compensation scheme should be removed.

a) Permission

Service providers must ensure that, prior to allowing callers to participate in chatline services, they obtain the caller’s name, address, date of birth and confirmation that they have obtained permission from the bill-payer to make the call.

When considering the above condition, we looked at two factors:

- Whether any of the information required by the condition is duplicated elsewhere;
- Whether the information which the condition would capture is still useful in the context of consumer protection.

The feedback we received from the industry suggested the following:

- That consumers would not be prepared to give personal details due to concerns over future marketing, and as a consequence, some callers would be likely to give false details;

- That those making the call could lie about whether they have permission from the bill-payer – underage users would therefore not be caught at this stage, but can be caught by trained moderators soon after they begin the service itself;
- That consumers may be put off by the delay caused to the service by the need to provide all the required details.

We considered this feedback, especially in light of the improvements in identifying underage users that live services other than MPC have made over the past few years. Similarly, improvements in network technology means that high volume usage can now be identified and communicated to the bill-payer far earlier, which has reduced instances of bill shock and assisted in capturing unauthorised use.

We also took into account the changes to electronic and communications media since the existing prior permissions regime was introduced. Forms of live chat services now operate on the web and consumers of those services are not required to confirm the caller is the bill-payer.

Lastly, the great majority of people in the UK now own mobile handsets. Many handsets are pay-as-you-go, and therefore not tied to monthly contract billing to an address in the same way as a fixed-line phone is. This would seem to make the provision of an address less relevant to those calling a chatline from a mobile phone.

As a result of this consideration, PhonepayPlus proposes that providers should no longer be required to take address information and confirmation of the bill-payer's permission. A far higher number of premium rate calls are now made from mobile handsets, and as previously stated, we believe taking an address will have little relevance if the call does not relate to a fixed-line call. Also, if a call is from a mobile, the caller should automatically be the bill-payer.

Q1. Do you agree with the proposals around the Consumer information and confirmation of bill-payer permission condition? Please give detailed reasoning where applicable.

b) Introduction

On connection to the service callers must receive a brief message giving details of call costs and the name of the provider of the service, and be warned that rules apply governing disallowable conversation and that a recording of their conversation may be released to the regulatory body and the Adjudicator.

Industry stakeholders have expressed concern at the length of the introduction message, in light of the need to provide a warning about disallowable conversation and that calls are recorded. Some also said that the requirement regarding disallowable conversation would be likely to confuse callers.

PhonepayPlus considered this feedback, but did not feel that the cost to the consumer of providing this information at the start of the call outweighed the benefit to the consumer. As a result, PhonepayPlus proposes that introduction messages should continue to reflect the following:

- Details of the call costs
- The name of the provider

- A brief warning that rules apply to prevent inappropriate conversation.
- A warning that all calls are recorded

However, we consider the need to warn consumers that call recordings may be passed to the regulator should be removed. This is on the basis that this additional information would delay the call unnecessarily and therefore incur additional costs for the consumer. This information could be stated in the promotional material.

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

c) *Tariff*

Chatline services will be permitted to operate at tariffs of up to 60p per minute.

When considering whether this tariff was still appropriate, we recognised that it was set at this level several years ago. This was especially relevant given that live chat services, the closest related service type which also carries risks of unauthorised or underage use, are permitted to operate on tariffs of up to £1.50 per minute.

Industry stakeholders were keen for a greater flexibility in tariffs to allow for competitive services to be operated. They signalled that higher tariffs would allow for greater investment in equipment and training for staff.

It is important to note that PhonepayPlus does not make 'value for money' judgements on services, as this is something the market decides upon and consumers will choose services accordingly. Therefore, PhonepayPlus proposes that MPC should be allowable on tariffs of up to £1.50 per minute, in line with live chat services.

We consider that, if consumers are aware of the cost before calling, they can make an informed decision on whether to use the service. We should also take this opportunity to point out that not all providers are intending on using higher tariffs, but we see no reason why the opportunity should not be available. Consumers of MPC are additionally protected by a £30 forced release (i.e. termination once £30 is spent), as is the case for all live services which do not operate on the 087 number range.

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

d) *Content*

Chatline services must not be promoted as sexual entertainment services, nor may they operate as sexual entertainment services.

When considering the types of content which should be allowed on MPCs, we re-examined the original reasons for not allowing sexual services, and whether any risks arising from those could now be mitigated by safeguards. The main reason for not allowing sexual services to operate on MPC was the possibility of under-18s being able to conduct inappropriate conversations.

Some industry stakeholders highlighted that, since 2002, they have developed greatly improved monitoring for their live services to ensure that under-18s do not access them. Operators/moderators are now better trained to recognise and immediately disconnect underage callers. Additionally the improved technology now available to the industry means that:

- The sound quality of a multi-party chatroom is better, making it very likely that a moderator should identify any consumer who is underage;
- The technology around moderation has greatly improved and any one caller can now be isolated (i.e. spoken to in a private one-to-one conversation), and cut off, in a matter of seconds.

For these reasons, PhonepayPlus proposes to take a pragmatic approach. Our opinion is that, if adults wish to partake in adult conversation, then, providing the correct safeguards are in place, they should be able to do so. We would welcome comments from industry stakeholders who are not specifically interested in providing MPC on the issue of whether safeguards are appropriate in today's market.

In the event that sexual services are allowed on MPC, PhonepayPlus proposes that such services should be clearly labelled, with a warning that they are for over-18s only. Where services are promoted as being general chat, they must not allow adult chat and should not be promoted in a way designed to target, or be particularly attractive to, under-18s.

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

e) Monitoring

As a minimum, one monitor for every 20 callers will be required. Monitors may take part in conversations but will also be expected to ensure compliance with the Code of Practice. Monitors 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.

As with the condition around content, in considering monitoring and moderation, we looked at the technology available in the current market and whether it now mitigated risks that were apparent in 2002. Industry stakeholders with an interest in MPC cited the cost implications of the current condition, which required them to employ multiple operators. They cited that improvements in technology, which allow moderators to quickly isolate or block an aggressive, inappropriate or silent caller, should allow for a greater ratio between one operator and the number of callers.

PhonepayPlus proposes to allow one moderator per 40 callers. Moderators will be required to 'police' services to ensure Code compliance and warn and/or disconnect callers for inappropriate behaviour; for example, bullying, racism or underage consumers.

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.

f) Maximum spend

Calls must terminate by forced release at a maximum spend of £30.00.

We looked at possible reasons for a change to the current £30 limit (a limit imposed by the Tribunal on the majority of live services that are required to gain prior permission). None of the industry stakeholders with an interest in MPC expressed any concern with the maximum spend.

PhonepayPlus proposes no change to the current maximum call spend. It should be noted that PhonepayPlus is planning to consult generally on spending caps and forced release limits as part of the consultation on its new Code of Practice, which is expected to be published during April 2010.

Q6. Should the maximum call spend remain at £30.00? If not, please supply any concerns you have or other information you feel should be considered.

g) Call cost warnings

Call cost warnings must be given automatically after the caller has spent £10.00 and £20.00 on the call.

In considering whether these call cost warnings were relevant, PhonepayPlus looked at whether additional warnings should be imposed, or alternatively, if there was a case for relaxing this requirement. Industry stakeholders with an interest in MPC queried whether lower tariff services (10p per minute, often offered on 087 numbers) would still be required to provide these warnings.

PhonepayPlus proposes no change to the call cost warnings. Whilst the majority of live services offered on 087 numbers are exempted from the need to seek prior permission, we propose to retain the requirement for MPC in the first instance. This is in order to test whether callers, even those spending 10p per minute, will realise how much they are spending.

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

h) Single service

Chatline services must only be accessible when called directly. They must not be accessible through other premium rate services (including other chatlines) or allow access to other premium rate services.

Again, we considered the potential harm or issues which were originally raised, and so whether this requirement was still relevant in the current market and possible issues which may arise by making changes.

Stakeholders with an interest in MPC have stated their view that this provision would limit the range of services they would be able to provide to MPC consumers. An example would be one-to-one live services which could be accessed in the middle of an MPC call, but would remain part of that call.

PhonepayPlus considers that, given the technology now exists to transfer MPC users to another service whilst they are engaged in an MPC call, that there is one outstanding issue.

This is whether consumers have requested or consented to the connection, and been made aware that this will mean leaving the MPC part of a service.

PhonepayPlus considers that, as long as a consumer is clearly informed and consents, there is no reason why they should not be able to be transferred between more than one service, as long as this remains part of the same call (and with the same spend limit). So, our proposal is to change the existing condition to allow access to other services within an MPC call. This is to allow a greater flexibility in the type of chat available whilst on a MPC service.

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

i) *Prefix*

Chatline services must operate on numbers prefixed by 09059.

Given that the 09059 range is no longer designated by Ofcom as exclusively for MPCs, we propose that this condition be discontinued, and replaced by a requirement for MPCs to operate only on appropriate prefixes as designated by Ofcom or mobile network operators. Sexual entertainment services would be required to operate on prefixes designated as being specifically appropriate for them.

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.

j) *Children*

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. Service providers must make all reasonable endeavours to ensure that persons under the age of 18 do not take part in services.

Whilst no industry stakeholders with an interest in MPC had a specific issue with a provision to protect underage consumers, the question was raised whether the age limit should be lowered to 16 from 18.

Having considered this representation, PhonepayPlus does not intend to make any change to this condition. Whilst we accept that only a proportion of MPCs would operate as adult services in the future, there may still be issues around caller addiction, and we do not propose to test whether under-18s are more or less vulnerable to caller addiction at this stage. Operators on services will have to disconnect anyone suspected of being under-18 and/or remain silent on a service and do not respond to questions by operators.

Q10. Should the age limit for MPC 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.

As well as considering the existing conditions for MPC, and whether they are still relevant and/or necessary, we also considered whether any other conditions should be added in light of emerging risk.

On the basis of our consideration, there does not appear to be any reason to include additional conditions at this time. However, the Tribunal considering the application for prior permission may still deem other specific conditions should be imposed on any given applicant as part of the permission being granted to them.

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

Compensation Scheme Bond for MPCs

In the context of MPC services, the Compensation Fund 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.

Where PhonepayPlus receives a claim for compensation, it first passes it to the relevant service provider who is given the opportunity to investigate and settle the claim to the satisfaction of the claimant. Should the service provider choose not to settle the claim, then PhonepayPlus passes the matter to the Fund's Adjudicator who will decide whether the claim is valid and award compensation directly from the Fund where appropriate.

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,

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.

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 scheme. 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.

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.

In considering this feedback, we recognise 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 Review considered that a lack of any claims on the Live Services Compensation Fund was due to:

- Improved training on underage access,
- Improved network arrangements around warning consumers where their bills were becoming high, and
- A willingness on the part of live services providers to refund consumers where they had received an unexpectedly high bill, without recourse to formal adjudication by the Fund's Administrators.

The potential providers of MPC services already provide a sizable proportion of live one-to-one services. As such, we would reasonably expect the good practice used in the majority of live services, and the subsequent lack of compensation claims which led to the live services Fund being wound up, to be replicated in any MPCs.

For this reason, PhonepayPlus proposes that a new MPC prior permissions regime should not contain a requirement to pay into a compensation fund. However, we propose that the requirement to pay into a security bond should remain, and that contributions should be kept high for entrants with an unknown, or compromised, history in the PRS arena.

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

Section 3 – Summary of Questions

Set out below are the questions raised through the consultation document on which feedback is welcomed:

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

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

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

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

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.

Q6. Should the maximum call spend remain at £30.00? If not, please supply any concerns you have or other information you feel should be considered.

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

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

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.

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.

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

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

Section 4 – Responding to the Consultation

Where possible, comments should be submitted in writing and sent by email to lmorris@phonepayplus.org.uk by no later than 9 June 2010. Copies may also be sent by mail or fax to:

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If you have any queries about this consultation, please telephone or email Lee Morris using the above contact details.

Confidentiality

We plan to publish the outcome of this consultation and to make available all responses received. If you want all, or part, of your submission to remain confidential, you must make a specific request for this, along with your reasons for making the request.