

Dear Mark,

Please find below our response to the consultation and the specific questions it posed therein.

Q1 – What evidence are you able to share to support our data and intelligence about the growth in the number of mobile phone calls to live entertainment services?

From our records we can support the data that the amount of calls generated from mobile telephones has steadily increased in recent years. In some instances on PRS numbers we are currently seeing in excess of 60% of calls coming from mobiles.

We also feel it is worth noting that with the release of full cross network mobile voice short codes the number of people actually using live chat services from mobile devices will increase.

Q2 – Do you or do you not favour this option? Please give detailed reasoning where applicable.

In our opinion it is not a realistic or a reasonable option to do nothing. The cost of running the fund and the fact that claims have steadily declined over the last 5 years demonstrates there is no need for a fund.

Q3 – Do you or do you not favour this option? Do you see the current arrangements as being the valuable ‘barrier to entry’ into this section of the industry that some providers have stated? Please give detailed reasoning where applicable.

We would favour this option. We do not agree with the view that Live Adult Sex lines are of particular interest to the vulnerable and do not think that you will see a rise in complaints if option 2 was taken up.

Our view is that the people supporting the bond and any other barriers to entry are doing so to protect their market share from competition.

We think that the Prior Permission process can act as an effective barrier to entry for those companies or individuals that may seek to exploit this area of the market and that part of PPP’s remit is to make sure that such people are not able to operate services.

Q4 – Do you agree with our assessment that the risks attached to this option are greater than the short-term positive business impact that would arise? If not, why not?

We do not think that there is any great risk attached with this option. The public are much more aware of PRS now, something that may not of been the case when the Live Compensation Scheme was originally put in place.

With many callers using mobile phones to dial the opportunity for ‘unauthorized use’ has been significantly reduced.

This sector of the market has a proven low record of complaints to calls ratio and whilst some put forward the view that people do not complain about adult services I do not accept that there is any truth in this. Someone who has an issue with a live service is able to seek resolution to the service there and then as they have a live operator to talk to. The only issues that we have ever been contacted by consumers for is where they claim that someone else has used the phone (this has always been a land line) and they are claiming a refund. Nine times out of ten these calls tend to be made by the husband or partner of the phone subscriber and once the tapes of the recordings have been played the request for a refund is withdrawn.

Option 3 - Removal of the Fund, but keeping the Bonds in place (This option would not require any alteration to the Code of Practice)

Our view would be that there is no valid reason to keep the bonds in place as they have not been called upon in recent years and have a significant cost attached to them in terms of running the actual fund.

There have also been questions raised by Industry about the way the fund has been administered. The fact that it would appear that the Trustees are claiming that it would take some 12 months or more to dissolve the fund shows the poor way in which it has been administered to date. If they knew more about the people who were in the fund and where they operated from, which they should do, it would be an easy, quick and inexpensive process to close the fund and distribute the money.

Q5 – Do you or do you not favour this option? Please give detailed reasoning where applicable.

We do not favour this option for the reason given above.

Q6 – Do you or do you not favour this option? Please give detailed reasoning where applicable.

We do not favour this option as we think the purpose of the bond is to act as a barrier to entry. This objective is better met by having a robust Prior Permission system and where necessary a quick and appropriate way of suspending such permission and ultimately revoking it if required.

If the Prior Permission system was used effectively, then there would be no need to the bonds and the associated cost of having them and administering them.

Q7 – Do you or do you not favour this option? Please give detailed reasoning where applicable.

At first glance to those outside the industry this would seem like a sensible way of providing some safeguards, but we think that before you can get to that point one must understand what it is we are trying to achieve.

There seems to be two objectives: One to have a barrier to entry to stop people coming into this sector of the market. When looking at this we need to ask what are we trying to protect

against? If we are trying to stop inexperienced providers coming in that is fine and should be easily dealt with by the prior permission system. If however we are trying to stop 'rogue' providers coming in this is more difficult as they tend to have industry knowledge and experience but again this can easily be dealt with via the prior permission system.

The second objective appears to be protection of consumers from unauthorised phone use. With mobile calls on the increase and already making up over 60% of traffic to these services we would question the proportionality of measures that require considerable additional expense and administration.

We would also like to suggest that consumers taking out a contract for phone service need to take responsibility for the use of that service and therefore it should not be the Service Provider communities job to 'police' what or how a consumer decides to use their phone service or indeed who they allow to use it.

This point has always been an contentious one as far as we are concerned as it is a legal fact that when taking out a contract for a telephone service the person entering into the contract is entering into a legal obligation to be responsible for the cost of calls made from that telephone line, therefore the principal of unauthorized use does not exist. For example if someone's house is burgled they do not approach their electric, gas or water supplier and ask for a refund based on 'unauthorised use' so why should the use of phone service be any different.

We have previously looked into the possibility of taking out insurance in this market and the problem we had was the fact that the decision to enforce a claim ultimately currently comes down to the regulator (PPP) which means that quantifying the risk is virtually impossible. Without being able to quantify the risk the insurance underwriters can not arrange cover and therefore you can't actually get insurance.