

Intext Media (UK) Limited

Response to ICSTIS Consultation:

Statement on the provision of refunds to consumers and the development of industry best practice for customer service: A consultation paper

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Section Two: Dealing with refunds

Question 1

Do you agree that a refund should equate to the full cost of the service that the consumer actually paid for the service? If not, why not and what alternative would you suggest?

Intext Media Response Question 1

We do not recommend that the service provider should refund what the consumer paid. However heinous the crime committed by the service provider this could be wildly disproportionate. We are aware of instances where carrier pre-select businesses charge 4 times the published premium rate tariff price (i.e. 4 times the BT landline price) and the service provider does not receive any uplift from this profiteering on the part of the originating network operator.

Apart from fairness there is a very serious accounting point to consider.

A service provider's liability would be unknown and unlimited at any time. **In accounting terms this means that a service provider's provision for liabilities and contingent liabilities could be in excess of its revenue and this could render all UK service providers technically insolvent.** The only way around this would be for ICSTIS to issue contractually binding statements on a weekly or monthly basis to all UK service providers confirming the maximum level of consumer refunds that it will be imposing. We believe this would be costly and time-consuming for the regulator.

Please consider that in some sectors of the industry (ours for example) media clients of service providers are paid the majority of revenues so even a small percentage of enforced consumer rebate would render the service provider **actually insolvent**. We would need to request a statement from ICSTIS on at least a monthly basis of the maximum enforced consumer refund so that the SP's board could judge the solvency of the company. Given that many leading service providers have in excess of 1,000 numbers, the administrative burden for ICSTIS would be massive.

See example on next page

EXAMPLE showing how 1% compulsory refund would render a SP actually insolvent		
Commercials prior to refund		
Service provider revenue		£100
Media client payaway		-£95
Direct costs		-£2
Overhead		-£1
Profit		£2
Typical call cost and SP rebate		
Assume call tariff		60 ppc
Indirect access and mobile companies charge		£2.00 per call
SP typically receives per call		44 p
No. consumers to generate £100 to SP		227
If ICSTIS were to rule a compulsory refund to 1% of consumers, number of consumers affected		2.27
And if the refund per customer is		£2.00
SP must pay back		£4.55
Commercials after compulsory refund		
Service provider revenue		£100
Media client payaway		-£95
Direct costs		-£2
Overhead		-£1
Refund		-£5
Profit		-£3

ICSTIS has regulated the industry very effectively for twenty years or so without the need for the proposed compulsory refunds. Our view is that where a service provider has abused consumers to a significant extent that this is best handled by the courts and not the regulator.

Any redress could presumably therefore be covered in a court ruling.

Our example above shows that the regulator could otherwise push respectable and responsible service providers into receivership and this is a huge responsibility for a consumer protection regulator.

Question 2

Do you agree that a refunds arrangement should have no formal lower cost threshold and that ICSTIS may vary from this in case specific situations where to not do so would be disproportionate?

Intext Media Response Question 2

We would urge ICSTIS to be reasonable in this matter.

Question 3

We would welcome feedback and examples of how customer service refunds can be made in ways that meet the needs of both the consumer and the service provider who has to facilitate and administer the refund.

Intext Media Response Question 3

BACS payments tend to be swift and cheaper to administer than issuing cheques.

Question 4

Do you agree that refunds may be made in a number of ways as long as the customers are in general agreement to accept an alternative to a monetary refund being offered by the service provider or other party involved in the provision of the service?

Intext Media Response Question 4

Yes.

Question 5

We would welcome information about how service providers manage these issues today in order to benchmark various practices.

Intext Media Response Question 5

We would never countenance issuing any form of refund without absolute proof that the consumer had genuinely made a call or sent a text and been charged accordingly. We do know from dealing with the public over many years that there is a significant number of consumers who will cheat if they can gain personally from so doing.

OCPs issue bills routinely and can itemise those bills in detail (this may involve the consumer in making a request for this). In the case of pre-pay mobile contracts we understand that every mobile network will issue a detailed bill on request. Some charge

for this but if a consumer is convinced that they have a valid claim they should not be discouraged by a charge.

Question 6

We would welcome views on what is a reasonable degree of evidence in such situations for a service provider to demand given the risks of fraud.

Intext Media Response Question 6

No refunds should be issued without a definitive statement from the OCP showing that the customer made the calls or sent or received the premium charged text messages.

Although we receive some data on the number that a consumer rang from or sent a text from, we may receive partial data or no data at all (CLI withheld, ex-directory, or just the vagaries of the phone network). Furthermore we are not certain that we are entitled under the EU Communications Act to use the data that we do receive for assessing the validity of claims. It is therefore imperative that the consumer proves that they incurred a disputed charge.

Question 7

What suggestions do you have for how best to manage the authentication of consumer requests whilst minimising the barriers to consumers when seeking refunds? How can this be kept under review?

Intext Media Response Question 7

See our answers above to Questions 5 & 6.

Question 8

What evidence is it reasonable to ask of a consumer to evidence their disputed PRS transaction where their network provider does not provide bills or where they are not itemised?

Intext Media Response Question 8

As stated in our answer to Question 5 we are unaware of any mobile networks that do not issue confirmation of charges even for pre-pay mobiles. We are not aware of any OCP that will not issue a retrospective itemised bill on request.

If it is not possible to get such information then this should be highlighted to consumers when they sign up for service from such companies. This is not the fault of the service provider...

Question 9

We would welcome views about how matters of refund authentication can best operate in an environment where consumers do not ordinarily receive a telephone bill such as the majority of mobile phone users who have pre-pay arrangements.

Intext Media Response Question 9

See our answer to Question 8.

Question 10

We would welcome any other views on customer authentication and fraud management which might aid the development of an appropriate refunds framework.

Intext Media Response Question 10

We would like to repeat our experience that if consumers can gain financially from cheating, they very sadly will do so. The ICSTIS systems should therefore be set up to protect service providers from fraudulent claims.

Question 11

Do you think that industry or ICSTIS has a responsibility to notify all affected consumers of their rights to claim a refund when this has been made the subject of a sanction by ICSTIS? If you do, where does responsibility lie and why?

Intext Media Response Question 11

No, we do not think that there should be any obligation on ICSTIS or the industry to notify people that they have a right to make a claim because of the risk of encouraging fraudulent claims.

Question 12

What views do you have on how affected consumers, whether they complained or not, can be advised of their rights to a refund where that has been demanded by ICSTIS as a sanction?

Intext Media Response Question 12

See our answer to Question 11.

Question13

What further potential is there in the ICSTIS adjudication information being shared with the customer contact staff of the OCPs who may be able to alert future complainants about services to their right to a refund (where sanctioned by ICSTIS)?

Intext Media Response Question 13

See our answer to Question 11.

Section Three: ICSTIS' proposals on the use of its sanctions powers to order a refund by a service provider

Question 14

Do you have any views on this approach to considering how refund sanctions will be determined by ICSTIS?

Intext Media Response Question 14

Please see our comments in response to Question 1.

Section Four: The Live Entertainment Services compensation arrangements

Question 15

Do you agree that the arrangements for the ICSTIS Compensation Schemes for Live Services and multi-party chatlines should remain as they are and should not be affected by proposals in this consultation paper? If not, why not?

Intext Media Response Question 15

No opinion.

Section Five: Developing Industry best practices for customer service

Question 16

Do you agree that ICSTIS should take forward the development of best practice guidance for customer service in the way outlined above? Can you identify any organisations from which a representative should join this working group?

Intext Media Response Question 16

No opinion.

Question 17

Are there other aspects of customer satisfaction that you believe a Working Group ought to consider when developing best practice guidance for customer service?

Intext Media Response Question 17

No opinion.

Question 18

Do you have any views about the make-up and structure of a Working Group, including who should chair it?

Intext Media Response Question 18

You must have as Chair someone with both strong commercial experience as well as experience of ICSTIS's remit. I would propose Mike Tully as someone who holds the respect of the service provider community (he was a Managing Director of a leading SP) and he is well-versed in ICSTIS's objectives.