

Q1. 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?

A1. Agree that a refund should be the full cost paid by the consumer, plus any cost incurred in pursuing the complaint - otherwise it's only a part refund. Should be made clear that consumers can still take legal action against SPs, for example, more substantial loss claims in relation to financial or legal advice being obtained.

Q2. 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?

A2. Agree that there should be no lower cost threshold. Do not agree that ICSTIS should vary from this. If a service provider is operating in a micro-payment environment and is prepared to accept micro-payments, then they should be prepared to offer micro-refunds if they breach the ICSTIS code or consumer law. Is there scope to investigate a micro-refund mechanism via the consumer's phone bill, as an exact mirror of the micro-payment system for PRS? This would reduce the administrative burden of refunds significantly.

Q3. 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

A3. Refunds should be automatically paid back into the consumers account with an upper limit, this should be decided on a case by case basis, but as a general rule it could be no more than would be spent in the next billing period. Consumers should be notified prior to a more substantial refund and asked if they would prefer the refund by an alternative method. Vouchers should not be allowed, it is not for the SP to dictate how a refund is spent, for example by issuing vouchers which can only be spent with a limited range of suppliers. Cheques should also not be allowed, or should at least be allowed only where other options are offered for those without bank accounts (ie cash, postal order).

Q4. 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?

A4. As with Q3 -- non-monetary refunds should be allowed only with the individual customer's express agreement. A non-monetary refund could provide an incentive for bad practice, as the cost of the non-monetary refund to the SP will often be significantly less than the value to the consumer. For example, if a SP takes £9 from the consumer in a prize draw scam, they might offer the consumer a bottle of wine worth £9 retail price, which the SP has perhaps bought at £6 -- allowing them still to keep a gross profit of £3.

Q5. We would welcome information about how service providers manage these issues today in order to benchmark various practices.

A5. n/a

Q6. 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

A6. Normal rules of civil burden of proof apply. SPs must keep details of numbers called for verification. The SP must be able to provide a copy of the marketing material the consumer has seen. It is also probably not unreasonable, given modern technology, to require them to provide a recording of the call (where it is a voice call) or a copy of the data downloaded.

Q7. 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?

A7. A copy bill or record of CLI is probably best evidence, but a signed statement from the consumer (which is consistent with the other evidence) might be given some weight.

Q8. 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?

Q9. 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.

Q8&9. The consumer must be able to identify their own OCP, from whom itemised records could then be sought by ICSTIS. With pre-pay mobiles, I would expect the OCP to keep a record of the call even where no bill is produced. If the OCP makes a charge for a copy or itemised bill, this charge should be added to the refund.

Q10. We would welcome any other views on customer authentication and fraud management which might aid the development of an appropriate refunds framework.

A10. No comments.

Q11. 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?

A11. Not only should there be a responsibility to notify consumers -- in appropriate cases (i.e. where ICSTIS is satisfied that all consumers have suffered detriment, due to the nature of the particular service or promotion), the refunds should be processed automatically without any need for a claim to be made. Where larger amounts are involved the consumer should be contacted and invited to state a preference for method of payment, as set out in Q3.

Q12. 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?

A12. In cases where an automatic refund to all consumers is not appropriate, it might be possible to notify consumers by telephone (on the original number called). However, there would be some difficulty in notifying the bill payer, who might then discover that someone else in their household has been making calls which they had hoped to keep private (e.g. adult chatlines). Although a notification of every consumer could be costly, these costs are brought about by the SP's failure to comply in the first place. The cost of notification could be considered by ICSTIS when they set the level of any fine.

Q13. 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)?

A13. Not sure.

Q14. Do you have any views on this approach to considering how refund sanctions will be determined by ICSTIS?

Q14. Where there is demonstrable consumer detriment, refund should be considered as the first sanction, and then 'topped up' with other sanctions as appropriate. Where refund is not appropriate (e.g. a mere technical breach with no demonstrable detriment), there may be no need for refund.

Q15. 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?

A15. To the extent that the scheme duplicates the refund sanction, it should not be retained independently. However, the scheme does provide a degree of financial security which does not appear to exist with the refund sanction -- i.e. there is a compensation fund which can presumably pay out even if the SP is unable to. So, unless this security is applied across the board to back up the refund sanction, the scheme should be retained.

Q16. 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?

Q17. Are there other aspects of customer satisfaction that you believe a Working Group ought to consider when developing best practice guidance for customer service?

Q18. Do you have any views about the make-up and structure of a Working Group, including who should chair it?

Q16-18. If a company is keen to provide good service, isn't there already a BS for customer care standards, which they could adhere to? And if they don't care about customer service, guidelines won't make any difference to them.

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