



Paul Whiteing
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30th January 2006

Dear Paul,

RE: ICSTIS Statement on the provision of refunds to consumers and the development of industry best practice for consumer service.

Please find below the comments of WIN plc in respect of the provision of refunds to consumers and the development of industry best practice for consumer service. I hope that you will find these opinions helpful. Please do not hesitate to contact me if you wish to discuss any detail or need clarity on points raised.

Yours sincerely,

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WIN plc



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

30th January 2006

Q1. WIN agree that the refund should equate to the full cost of the service paid by the consumer. It would be inappropriate for the consumer to accept any deduction from that amount. The price paid to the consumer represents the actual loss incurred and certainty in this principle would establish sensible consumer expectation and prevent lengthy and costly discussion regarding compensation.

Q2. In practice Service Providers administer customer refunds on a regular basis, either on its own behalf or on behalf of the Information Provider. These amount in most cases to micro payments and are costly and time consuming to substantiate, verify and administer. However, for the time being this is a necessary activity in the interests of developing services and establishing consumer confidence. There is a real need to establish a mechanism whereby such refunds may be electronically delivered but efforts on the part of the Network Operators are required.

Q3. In mobile data services a reverse SMS mechanism would be an effective way to 'credit' the consumer.

Q4. Clearly there are multiple options to effect a refund to a consumer but mechanisms which should be avoided are those which require the consumer to participate in a third party proprietary payment mechanism where the consumer does not already have an account. For example, a requirement that the consumer receives a payment using the Pay Pal payment mechanism where that consumer does not have a Pay Pal account. In order for non-monetary compensation to be acceptable there must be a direct relationship between the service and the compensation sought e.g. credit against future service use, replacement service etc. Future diversity of payment mechanisms will inevitably lead to diversity in repayment models but the principle to 'refund' and not to 'compensate' must remain paramount. The ability to seek further compensation is addressed adequately under consumer protection legislation.

Q5/6. Fraudulent claims will increase as the value of services (which may or may not be delivered through the telephony system) increase. Authentication of claims is a significant issue.

In mobile data services the Mobile Network Operators Code has set down requirements to demonstrate service subscription, price information and service cessation. These provisions are to be adopted in ICSTIS's 11th Code. These requirements have set down

tangible standards which aid in the authentication of service delivery. Compliance with the Network Operators Code has assisted Service Providers in detecting fraudulent claims for refunds. However, given the perception of consumer insecurity and the perceived scope to exploit the consumer, the benefit of the doubt invariably falls in favour of the consumer. In the coming months this balance must be readjusted. Where services are fully compliant and there is technical evidence to suggest that the consumer has utilised the service, taken delivery of the service and thereby incurred the appropriate charges in respect of that service, then the balance must be in favour of the Service Provider or relevant Information Provider.

Today the evidence deduced includes MO and MT logs, service compliance with the codes, and operation of the STOP functionality. The mobile bill may be requested if relevant.

Each case is reviewed individually.

Q7. Service Providers or Information Providers should operate customer support facilities capable of:

- Examining MO and MT logs;
- Assessing service code compliance;
- Verify correct price points;
- Ensuring STOP functionality operation; and
- Refunding the consumer directly and in full either by replacement services or a monetary amount as appropriate and agreed.

ICSTIS is a natural review forum for the effectiveness of such customer support facilities as consumers who remain aggrieved will seek independent redress and should refer to ICSTIS.

Q9. In mobile data services, service initiation, delivery and cessation can be tracked on the network by service aggregators.

Q11/12/13. ICSTIS lists its adjudications on its website. Consumer notification would be achieved if ICSTIS were to publish such adjudications against the name of the entity that marketed the service to the consumer.

The current model requires the adjudications to be published in the name of the Service Provider which is often irrelevant to the consumer as the Service Provider may be an aggregator and reseller who, as such:

- has no control over the content of the service;
- has no control over the marketing of the service;
- has no control over the consumer database in respect of the service;
- has no direct contact with the consumer;
- has no contractual relationship with the consumer; and
- has no billing relationship with the consumer.

The ICSTIS process in this respect fails in its duty to protect the consumer against the point of harm (the Information Provider).

The ICSTIS process does not currently support the proposal to put consumers on notice of their right to a refund following an adjudication – there is a complete lack of transparency from a consumer perspective between the cause of the harm and the right to a refund. The consumer must be able to search the ICSTIS web site against the entity that caused the harm (the Information Provider) in order to see if there is a right to refund and that should be the case irrespective of who, in practice, administers that refund.

WIN do not consider that it would be reasonable for ICSTIS to be expected to proactively advertise the right to consumer refunds beyond its adjudication publication (subject to resolving the issues set out above). It would not be cost effective for ICSTIS to carry out such activities nor proportionate. In serious cases of wholesale harm the media coverage would in any event take on this role.

Q14. Refund sanctions need to remain flexible and can not be reduced to an arbitrary set of minimum requirements. The criteria set out in the consultation document seem broadly appropriate and relevant but the circumstances of each service breach must be considered in detail.

ICSTIS need to consider that the mechanism of refunds is not straight forward, is bespoke and expensive to administer so the obligation of proportionality is critical.

In addition where refunds are required by ICSTIS, ICSTIS itself must ensure that it is in the position to disclose to the Service Provider (or Information Provider) the requisite customer details that are in its possession in order to give effect to the refunds.

Q15. WIN agree that the Compensation Scheme for Live Services should not be affected by this consultation.

Q16. The requirement for best practice customer services is dealt with in a detailed and prescriptive manner in the Mobile Network Operators Code of Practice. These requirements will substantially be adopted in the ICSTIS 11th Code. ICSTIS can add value to these requirements through the development of guidance notes however the development of best practice and the operation of best practice should remain a commercial matter for each Service Provider and Information Provider. Customer service delivery is a key differentiator in the commercial provision of the services and ICSTIS role and resource should be directed at setting and enforcing the minimum requirements.
