



Tribunal meeting number 153 / Case 3

**Case reference:** 29119  
**Level 2 provider:** WAP Network Group Limited (United Kingdom)  
**Type of service:** Virtual text chat service  
**Level 1 provider:** IMI mobile Europe Limited (United Kingdom)  
**Network operator:** All Mobile Network operators

### THIS CASE WAS BROUGHT AGAINST THE LEVEL 2 PROVIDER UNDER PARAGRAPH 4.4 OF THE CODE

#### BACKGROUND

Between 29 May 2013 and 5 June 2014, PhonepayPlus received 216 complaints from consumers in relation to a virtual text chat service` (the “**Service**”), which operated under the brand names, “Fonegirls”, “VirtualTxtBabes” and “Naughtywap”. The Service was operated by the Level 2 provider WAP Network Group Limited (the “**Level 2 provider**”) on the premium rate shortcodes 69034, 69035, 69061, 69062, 69744 and 89150. Promotional material for the Service stated that consumers were charged either 25p or 50p per SMS message sent and £1.50 per SMS message received. The Level 1 provider for the Service is IMI mobile Europe Limited (the “**Level 1 provider**”). The Level 2 provider advised the Executive that the Service had operated in its current format since October 2012 but information from the Level 1 provider revealed that the Service had been operational since September 2011. The Service was operational but the Level 2 provider stated on 15 July 2014 that it was no longer promoting the Service.

The Service was promoted on banner advertisements on a number of adult mobile websites. Consumers sent their postcode to a Service shortcode to be matched with a virtual profile and upon receipt of an age verification message, consumers were required to send a mobile originating message (“**MO**”) to opt-in to the Service.

#### The investigation

The Executive conducted this matter as a Track 2 investigation in accordance with paragraph 4.4 of the PhonepayPlus Code of Practice (12<sup>th</sup> Edition) (the “**Code**”).

The Executive sent a breach letter to the Level 2 provider on 1 July 2014. Within the breach letter the Executive raised the following breaches of the Code:

- Rule 2.3.3 – Consent to charge
- Rule 2.3.11 – Method of exit
- Rule 2.3.8 – Age verification
- Rule 2.3.12 (c) – Spend reminder messages
- Rule 2.4.2 - Consent to market
- Paragraph 4.2.4 – Provision of false or misleading information

The Level 2 provider responded on 15 July 2014. On 24 July 2014, the Tribunal reached a decision on the breaches raised by the Executive.

The Tribunal considered the following evidence in full:

- The complainant accounts;
- The Executive’s monitoring of the Service;



- Correspondence with the Level 2 provider (including requests for information and the Level 2 provider's responses);
- Correspondence with the Level 1 provider;
- Complainant message logs;
- PhonepayPlus Guidance on "Method of exit from a service";
- PhonepayPlus Guidance on "Virtual chat services";
- PhonepayPlus Guidance on "Privacy and consent to charge";
- The breach letter of 1 July 2014; and
- The Level 2 provider's response to the breach letter dated 15 July 2014.

### Complaints

The majority of complainants stated that they had received unsolicited chargeable SMS messages and/or unsolicited marketing SMS messages. In addition, some complainants reported that the stop command was not working properly. The Executive relied on all the complaints received but particularly noted the following:

"Service pretends there is a woman wanting to send me a photo. If i want to see it I need to reply with my postcode. Transcript of Text: FreeMsg: A female in youe area wants to send you picture! Just reply with your post code to view! Summary of Complaint: Have checked this number on the internet and it seems like they charge £1.5 per message received. So far only got one message, just today so not sure if will get charged for it. I am afraid of being sent more of this texts and beign charged money. I have never willingly signed up to this service. [sic]

"Out of the blue, I received the following message, without any details of prices of service or provider. The message came from 69744. I also don't know why I received this marketing message as I did not request it." [sic]

"Consumer complains about a service. Consumer wants to STOP the service. Consumer requested the service in June. Consumer tried to STOP the service several times. Only user. Consumer is a use of adult content. It was advertised in an adult site, consumer had access through is phone...[sic]"

### SUBMISSIONS AND CONCLUSIONS

#### ALLEGED BREACH 1

##### Rule 2.3.3

"Consumers must not be charged for premium rate services without their consent. Level 2 providers must be able to provide evidence which establishes that consent."

1. The Executive submitted that the Level 2 provider had breached rule 2.3.3 of the Code for the following two reasons:
  - Consumers incurred additional Service charges in excess of the four £1.50 match message charges listed in the promotional material; and
  - Promotional material failed to advise consumers that they would be charged for receipt of ongoing picture messages.

**Consumers incurred additional Service charges in excess of the four £1.50 match message charges listed in the promotional material**



During the investigation, the Executive requested that the Level 2 provider supply message logs for all complainants and a copy of the Service promotional material viewed by the complainants. In relation to one complainant, the Executive noted that the promotional material viewed by the complainant stated:

“Get Connected Tonight To a Fantasy Sex Chat Match! Just text your postcode to 69034 or Click Here to reply to welcome SMS. (Your number will not be used for anything else). (18+ Only. £1.50/msg per msg received and £0.50 per message sent. Upon receipt of your postcode message you will be sent 4 x £1.50 Match Message. See Full Terms below)” (**Appendix A**)

The Executive noted from the complainant’s message log that an SMS message containing a postcode was sent to shortcode 69034. An itemised telephone bill supplied by the complainant revealed that, in accordance with the terms and conditions stated in the promotional material, the SMS containing a postcode was followed by four £1.50 chargeable Service messages from shortcode 69034. However, the Executive noted that in addition to the chargeable messages from Service shortcode 69034, the itemised telephone bill also contained a further four chargeable messages from Service shortcode 69035, which had not been included in the message logs supplied by the Level 2 provider. Further, the complainant had not been advised of the additional charges in the promotional material. The Executive noted that the additional four SMS messages were received on the same dates as the SMS messages from shortcode 69034.

The Executive stated that it had requested information regarding the additional charges from the Level 2 provider and in response the Level 2 provider stated:

“When the user sends in an MO they are sent a match on 2 short codes, in this case the user sent in the Post Code [XXX] to 69034 and received a match from 69034 and 69035. Message flow is attached in [XXX], initial MO and matches sent date stamp are in bold on both short codes.”

Attached to this response was a message log containing eight mobile terminating messages (“**MT**”) at a cost of £1.50 per message from two shortcodes. Accordingly, this log differed from the message log for the same complainant that had been supplied by the Level 2 provider at an earlier date. The earlier log had only contained details of chargeable messages received from Service shortcode 69034.

In light of the above evidence, the Executive asserted that this complainant could not have consented to the additional charges from shortcode 69035, as the promotional material had only informed the complainant that s/he would incur costs of “...4 x £1.50 Match Messages”.

The Executive noted that following an analysis of 35 complainant message logs, all complainants had been charged across two shortcodes. In addition, the Service promotional material disclosed by the Level 2 provider revealed that the second shortcodes had not been promoted and consumers were only advised that there would be a cost from one shortcode. The Executive asserted that consumers would not have been aware of the second shortcode or that there would be additional charges emanating from it. Accordingly, it submitted that consumers had been charged for the Service without their consent.

**Promotional material failed to advise consumers that they would be charged for receipt of ongoing picture messages**



In relation to one complainant, the Executive issued two separate requests for the complainant's message logs and the promotional material viewed by the complainant for each of the Service shortcodes 69744 and 89150. The Executive received the requested information from the Level 2 provider and noted that the promotional material in response to the two separate requests was identical and only shortcode 69744 had been promoted (**Appendix B**). The Executive noted that the promotional material stated:

“Just Text Your Post Code to 69744 or CLICK HERE to reply to welcome SMS. (Your number will not be used for anything else). (18+ Only. £1.50/msg per msg received and £0.50 per message sent. Upon receipt of your postcode message you will be sent 2 x £1.50 Match Messages. See Full Terms below.)

This service is a text chat service, all profiles are fictitious and replies will be from text chat operators, any discussions about meeting or arranging to meet are purely for role play. To use the service will cost £1.50/msg per msg received and £0.50 per message sent. After you have successfully age verified you may be sent a maximum of 7 charged catch up messages per Match. To stop receiving messages at any time just text STOP to 69744). WAP Network Group Ltd, 02033269729 or support@wapbill.net for all enquiries regarding the service.”

An analysis of the message logs for this complainant revealed that an SMS containing a postcode was sent to shortcode 69744 on 19 November 2013. The Executive noted from the complainant message log supplied by the Level 1 provider that the complainant had been sent 46 £1.50 chargeable picture messages from shortcode 69744 between 19 November 2013 and 20 April 2014. The Executive submitted that this complainant could not have consented to charges to receive picture messages from shortcode 69744, as there was no reference in the Service's key terms to picture messages being sent. In addition, the promotional material stated that upon receipt of an SMS message containing a postcode the consumer would only be sent “...2 x £1.50 Match Messages”.

The Executive confirmed that the practice of the Level 2 provider sending chargeable picture messages, without first informing consumers and seeking their consent was not isolated to the complainant referred to above, but was widespread. The Executive analysed 35 complainant messages logs, of which 23 demonstrated that despite consumers not being informed of the additional charges for picture messages, consumers were sent chargeable picture messages.

Accordingly, the Executive asserted that, as the Level 2 provider had not informed consumers that they would incur additional charges for picture messages, consumers could not have consented to the additional charges incurred and as such consumers had been charged without their consent. For the two reasons set out above, the Executive submitted that there had been a breach of rule 2.3.3 of the Code.

2. The Level 2 provider partially accepted that a breach of rule 2.3.3 of the Code had occurred as it believed that the display of pricing information was clear but it accepted that consumers should not have been charged for picture messages.

In relation to the first reason advanced by the Executive, the Level 2 provider specifically referred to the complainant mentioned. It stated that after the complainant had sent his/her post code, s/he had been sent four free MT messages which clearly stated the ongoing cost of the Service. The messages stated:



69034

“FreeMsg: Reply with your age, e.g. 21 to meet Joanne, 19 from Burghead. (18+. WNG Ltd, 02033269729. £0.50/msg sent, £1.50/msg recvd. Unsub txt STOP) Picture Msg from Joanne (£1.50)”

69035

FreeMsg: Reply with your age, e.g. 21 to meet Chessie, 18 from Birnie. (18+. WNG Ltd, 02033269729. £0.50/msg sent, £1.50/msg recvd. Unsub txt STOP) Picture Msg from Chessie (£1.50)”

The Level 2 provider accepted that, in hindsight it may have been clearer to state in the promotional material that the cost of interacting with the Service was per shortcode. However, it stated that it was of the view that the initial free pre-age verification messages made clear to consumers the cost of the Service and it was reasonable to assume that these messages would have been read before the consumer decided to proceed and send their age to the Service.

Consequently, the Level 2 provider stated that in the future it would only send matches to the consumer via the shortcode the MO had been received on.

In relation to the second reason advanced by the Executive, the Level 2 provider submitted that the messages the consumer had received pre age verification should have been free but it had identified an issue with the “catch up picture messages” being incorrectly sent as chargeable messages, which in turn had led to the other issues identified in this case.

The Level 2 provider stated that from its current consumer database the percentage of consumers who had remained at the pre-age verification stage was 5% of the total number of consumers. The remaining consumers either chose to proceed with age verification or exited the service.

3. The Tribunal considered the Code, Guidance and all the evidence before it including the Level 2 provider’s written submissions.

The Tribunal noted that, as illustrated within the complainant message log referenced by the Executive, consumers were charged in excess of the four £1.50 messages that were stated in the promotional material, as charging across two shortcodes appeared to be a widespread practice within the Service. Further, the Tribunal commented that consumers would be unaware that they were incurring costs from two shortcodes and/or receiving picture messages, as this information was absent from the promotional material.

The Tribunal found that there was clear evidence that consumers had persistently been charged without their consent. Accordingly, for the reasons advanced by the Executive, the Tribunal concluded that consumers had been charged without their consent and upheld a breach of rule 2.3.3 of the Code.

**Decision: UPHELD**

### **ALLEGED BREACH 2**

#### **Rule 2.3.11**

“Where the means of termination is not controlled by the consumer there must be a simple method of permanent exit from the service, which the consumer must be clearly informed about prior to



incurring any charge. The method of exit must take effect immediately upon the consumer using it and there must be no further charge to the consumer after exit except where those charges have been legitimately incurred prior to exit.”

1. The Executive submitted that the Level 2 provider had breached rule 2.3.11 of the Code for the following two reasons:

- The STOP command only ceased charges for one of the Service shortcodes; and
- Variations of the STOP command such as “STOPALL” and “STOP.” did not work.

The Executive relied on the content of the PhonepayPlus Guidance on “Method of exit from a service”. The Guidance states:

Definition of a method of exit from a service  
Paragraph 1.1

“The definition of method of exit from a service is set out at paragraph 2.3.11 of the Code, which states the following:

Paragraph 2.3.11

Where the means of termination is not controlled by the consumer there must be a simple method of permanent exit from the service, which the consumer must be clearly informed about prior to incurring any charge. The method of exit must take effect immediately upon the consumer using it and there must be no further charge to the consumer after exit except where those charges have been legitimately incurred prior to exit.”

Use of the ‘STOP’ command  
Paragraph 2.1

“The most common and easily implemented system for consumers to exit a service is through the use of the ‘STOP’ command. This command should be recognised through both the capitals variation of ‘STOP’ and the lowercase variation of ‘stop’, and any combination thereof.”

Paragraph 2.2

“With regard to how the ‘STOP’ command should work in practice, we consider it best practice that consumers should be able to text ‘STOP’ to the mobile shortcode the service was initially requested from, or from which it is receiving (chargeable) messages, in order to stop the service. For example, if a consumer enters a service on 89XXX, they should be able to text ‘STOP’ to that same shortcode to opt out.”

Paragraph 2.3

“We accept that this may not always be possible – either for technical reasons, or because of the cost to a provider of doing so. However, where we discover that separate shortcodes for requesting a service and opting out from it are being used, then consideration will be given to a provider’s motive for doing so as part of any investigation. Any actions which are likely to confuse consumers may be considered unacceptable by a PhonepayPlus Tribunal.”



### Paragraph 2.4

“For the avoidance of doubt, we would always expect the consumer to be able to text ‘STOP’ to the same shortcode from which they are being billed.”

### Paragraph 2.5

“While there is a good understanding that texting ‘STOP’ to a service will result in the service stopping, there will be occasions where a consumer may not be aware of the ‘STOP’ command. In such circumstances, consumers may text ‘please stop’, ‘stop texting me’ or other variations containing the word ‘stop’.

### Paragraph 2.6

“We accept it is not always possible to recognise these variations immediately when a consumer wishes to exit. However where a consumer has legitimately tried to cancel a service and failed (either because they have mis-typed ‘STOP’, or because they have texted some other variation), then once this becomes clear to the provider, best practice would be for consumers to be retrospectively refunded for any charges subsequent to their first clear attempt to opt out, and immediately removed from the service.”

### **The STOP command only ceased charges for one of the Service shortcodes**

The Executive considered a complainant message log supplied by the Level 1 provider. The Executive observed from the message log that “stop all” was sent to shortcode 69744 by the complainant and was followed by a Service message confirming receipt of the “stop all” message. The Executive further noted that, following the sending of the “stop all” command to shortcode 69744, chargeable picture messages continued to be sent from Service shortcode 89150.

The Executive considered the promotional material that the complainants would have viewed and noted that consumers were invited to send STOP to shortcode 69744 to exit the Service. However, as the Service was operated across two shortcodes (69744 and 89150), for consumers to exit the Service fully, it appeared that consumers were required to send two separate “stop” commands to each shortcode and many consumers would not have been aware of the second shortcode.

The Executive submitted that, contrary to rule 2.3.11 of the Code, consumers had not been clearly informed of a simple method of permanent exit from the Service. The Executive identified that the practice of only ceasing charges on one of the Service shortcodes, but continuing to charge consumers for further messages from a second shortcode was not isolated to the complainant detailed above. The Executive highlighted an additional eight complainant message logs supplied by the Level 1 provider which demonstrated that, following the sending of “stop” to one of the Service shortcodes, chargeable message(s) continued to be sent to consumers via a second Service shortcode.

Further, the Executive asserted that as some consumers were interacting directly with virtual chat operators they should have been able to recognise that the stop command was a clear request to exit the Service, and accordingly it should have been actioned immediately upon receipt.

### **Variations of the STOP command such as ‘STOPALL’ and ‘STOP.’ did not work**



The Executive noted five complainant message logs supplied by the Level 1 provider where variations of the stop command were not recognised by the Service. The Executive stated that the issues with the stop command were as follows:

- A complainant had sent “STOP” to shortcode 69035 but was further charged for receipt of picture messages from shortcode 69034. As a result, the complainant sent, “STOPALL” twice to shortcode 69034, but received an error message in response on both occasions. The complainant then received a further picture message at a cost of £1.50. The Executive noted that a further nine picture messages were sent by the Service following receipt of “STOPALL”, although these did not appear to have been successfully transmitted to the complainant’s handset.
- A complainant had sent “Stop.” to shortcode 69035 and received an error message in response. The complainant continued to receive multiple chargeable picture messages until “STOP ALL” was sent to both Service shortcodes 69035 and 69034 five months later.
- A complainant had sent “Stop these texts” to shortcode 89150. The command was followed by an error message and the complainant then attempted to send the message “Stop.” with a full stop punctuation mark, but this was again followed by the same Service error message. The complainant made a third and final attempt to send “Stop” which was successful, although the Executive noted that this was only successful in relation to one Service shortcode.
- A complainant had sent “TEXT STOP ALL” on 13 separate occasions over approximately one month but received an error message on every occasion. The complainant sent a final message in an attempt to stop the Service and stated:

“I AM FED UP WITH THESE MESSAGES, IF I RECEIVE ANY MORE I WILL CONTACT MY SOLICITOR A.S.A.P”

The complainant again received the Service error message but no further messages were sent to the complainant.

- A complainant sent nine separate variations of the STOP command which included:

“69744stop”;  
“Stop 89150\\n”;  
“89150 stop\\n”;  
“\\n89150 stop”;  
“Stop. 89150”;  
“Stop 69745”;  
“Stop 69744”; and  
“69744 STOP”

All of these messages were followed by the standard Service error message and a further three chargeable picture messages were sent to the complainant’s MSISDN.

The Executive submitted that, in accordance with the above extracts of Guidance on the use of the STOP command, variations of the word “Stop” should function. The Executive did not accept that the variations of stop summarised above were variations that were not





immediately recognisable and accordingly they should have been actioned immediately upon receipt.

The Executive submitted that for the two reasons set out above, a breach of rule 2.3.11 of the Code had occurred, as consumers continued to incur Service charges despite using the promoted method of exit.

2. The Level 2 provider denied that a breach of rule 2.3.11 of the Code had occurred.

In relation to the first reason advanced by the Executive, the Level 2 provider submitted that upon receipt of the consumer's post code to Service shortcode 69034 consumers were also sent a match from Service shortcode 69035, as a result the two shortcodes were treated as two separate Services. In addition, it stated that it was usual practice for consumers who wished to interact with the Service to choose one of the two matches and send stop to the other.

In relation to the second reason advanced by the Executive, the Level 2 provider stated that the complainants who sent variations of stop received the Service error messages, as the variations of stop were not recognised by the system. It highlighted that consumers who sent stop were still in the pre age verification phase of the Service and as a result the messages sent by consumers had not been seen by operators. Those at the pre-age verification stage only represented 5% of the total consumer database. The Level 2 provider submitted that messages containing a variation of stop, if seen by an operator would be removed from the Service.

The Level 2 provider stated that in the future it would add a wider range of stop variations to its system in addition to "Stop" and "Stop all".

3. The Tribunal considered the Code, Guidance and all the evidence before it, including the Level 2 provider's written submissions.

The Tribunal particularly noted the Level 2 provider's submission that consumers who had been affected by the proper workings of the stop command had only been in the pre-age verification stage. The Tribunal accepted that complainants that had used a variation of stop which had not worked had been in the pre-age verification stage. However, there was clear evidence from two complainant message logs that a consumer had been interacting with a text chat operator and had attempted to terminate the Service by sending "Stop", yet he subsequently received a message from the Service on a second shortcode.

The Tribunal concluded that, on the basis of the clear evidence contained in the complainant message logs the stop command only terminated the Service on one shortcode and not the second shortcode, and as a result consumers continued to incur premium rate charges. In addition, the Tribunal found that common variations of "stop" such as "stopall" and "stop." had not terminated the Service. The Tribunal stated that given the fundamental nature of the obligation to ensure a consumer can exit the Service simply and immediately, it was concerned that the Level 2 provider did not have a more robust system in place.

Consequently, for the reasons provided by the Executive, the Tribunal found that the method of exit did not take effect immediately upon a consumer using it and consumers incurred further charges after communicating their instruction to terminate the Service. Accordingly, the Tribunal upheld a breach of rule 2.3.11 of the Code.



### Decision: UPHELD

#### ALLEGED BREACH 3

##### Rule 2.3.8

“Level 2 providers of virtual chat services must take all reasonable steps to discourage use by non-bill payers and to prevent use by those under 18 years of age. However, non-sexual entertainment text and picture-based virtual chat services may be used by those aged 16-17 provided that no advertising for the service has occurred in media where the target audience is below 16 years of age.”

1. The Executive submitted that the Level 2 provider had breached rule 2.3.8 of the Code as it had not taken all reasonable steps to discourage use by non-bill payers and to prevent use by underage consumers, for the following reasons:
  - Consumers were provided with Service content despite not completing any age verification; and
  - The Service was not terminated after a consumer notified the operator he was not the bill payer.

The Executive relied on the content of the PhonepayPlus Guidance on “Virtual chat Services”. The Guidance states:

##### Age verification Paragraph 1.1

“Providers should take all reasonable steps to ensure that no one under the age of 18 uses any virtual chat service which contains adult content, or is adult in nature. Initial age verification should take place prior to the consumer incurring a charge. Promotional material should clearly state that the service is only for individuals aged 18 and over. For virtual chat services delivered on mobile phones, it will usually be expected that the consumer is sent an initial text asking for their date of birth (which must be checked to ensure the consumer is over 18) before each individual service commences.”

##### Paragraph 1.2

“Alternatively, where a provider seeks to use a system for initial age verification of a mobile MSISDN (mobile number), which can then be applied across all its 18+ services once an initial check is made, providers will need to prove to PhonepayPlus upon request that the system is robust, auditable and tamper-proof. In addition, providers should ensure that they re-check age verification on MSISDNs every three months.”

##### Paragraph 1.3

“No consumer under the age of 16 is permitted to use any virtual chat services, whether the services contain adult content or not, and providers should take all reasonable steps to ensure that this is the case.”

#### **Consumers were provided with Service content despite not completing any age verification**



Following an analysis of the complainant message logs, the Executive noted that in a number of logs consumers had sent a postcode to the Service, but had subsequently failed to complete the age verification process by sending their age to the Service. Further, the Executive noted that picture messages were sent to consumers, regardless of whether consumers had confirmed their age.

During correspondence, the Level 2 provider had stated:

“Any profile picture messages sent prior to a positive age confirmation are non nude soft rated images. In the case of [XXXX] for example, the user had to first read and reply to the following age verification message, sent on an adult 69 short code: Reply now with your age, e.g. 21 to make contact with Chessie, 18 from Fenny Drayton. (Over 18 Only. WNG Ltd, 02033269729. £0.50/msg sent, £1.50/msg received. Unsub txt STOP) Following age verification they were sent over 100 reminder messages such as the following, reiterating the cost and that bill payer permission must be sought to carry on with the service: FreeMsg: You must be over 18 and have the bill payers permission to use this service. Messages cost £0.50 to send and £1.50 to receive. Total today = £1.50 The ‘Naughtywap’ service now requires users to send their age in first, in order to be able to access the service, and before any interaction of any sort can take place.[sic]”

Notwithstanding the Level 2 provider’s assertion, that the images sent to consumers prior to completing age verification are “non nude soft rated images”, the Executive noted paragraph 1.3 of the Guidance, which states that no consumer under the age of 16 is permitted to use virtual chat services, whether they are adult or not. In light of this, the Executive submitted that as the picture messages (albeit of a non-adult nature) were provided to consumers who had not completed age verification, the Level 2 provider had clearly not taken all reasonable steps to prevent consumers under the age of 16 from accessing a text and picture-based virtual chat service.

### **The Service was not terminated after a consumer notified the operator he was not the bill payer**

The Executive noted a complainant message log showing the interaction between the complainant and a text chat operator. An extract of the message log read as follows:

“Consumer: I got a roastin from the parents  
Operator Chessie: About what? hun you are nineteen years old you told me and old enough to make your own decisions dont you agree  
Consumer: They pay my phone bill  
Operator Chessie: right i am with you, your just have to be more careful, and get there before they pick the bill up, i used to have to do that at times! x  
Consumer: They have to see it  
Operator Chessie: just tell them you enter a lot of competitions this month lol i thought that you would have made some money to pay the bills though  
Consumer: They ain’t dumb  
Operator Chessie: alright well i hope that you are going to be able to continue as we did form quite a connection here if i do say so myself x [sic]”

Following the above exchange, the Executive noted that the Service was not terminated and interaction continued for approximately a further five months.



During correspondence, the Level 2 provider gave the following explanation in relation to the exchange between the consumer and operator and stated:

“Messaging fulfilment and operators are managed by a third party company called [XXX]. [XXX] are an experienced and trusted company that we have used for many years. I have requested confirmation of their operator training and resources. I have highlighted the conversation in question to all managers and moderators at [XXX] and they have reiterated their rules and guidelines to all operators, and have also apologised for not highlighting or deleting user [XXX]. I can say that we were contacted by the bill payer in this case, and a refund of £1689.50 was issued on the 18th of September 2013...”

The Executive asserted that, given the notification from the consumer that he was not the bill payer, the Service should have terminated to comply with rule 2.3.8 of the Code. However, the operator appeared in this instance, to have actively encouraged the non-bill payer to continue to interact with the Service without the bill payer’s knowledge.

Accordingly, for both reasons detailed above, the Executive submitted that there had been a breach of rule 2.3.8 of the Code.

2. The Level 2 provider partially accepted that a breach of rule 2.3.8 of the Code had occurred as it stated that it had processes in place to ensure non-bill payers did not use the Service. It accepted that the third party who had provided the operators had not followed the processes in place and that picture messages should not have been sent prior to age verification.

The Level 2 provider stated it had the following safeguards in place to ensure the Service was only used by over 18 year olds and bill payers:

- Operating on designated adult shortcodes;
- Consumers were required to manually send their age to the Service; and
- The Service sent regular reminders messages that stated consumers must have the bill payer’s permission.

In relation to the second reason advanced by the Executive, the Level 2 provider stated that although the picture messages sent to consumers prior to age verification were non nude, and the consumers were not able to take part in any conversations of an adult nature at this stage, it accepted that in hindsight any kind of picture message should not have been sent until after age verification.

The Level 2 provider stated that on the rare occasions when consumers have used the Service and they were not the bill payer then it had paid refunds as was the case with the complainant referred to by the Executive.

Further, the Level 2 provider stated that it had to place a certain amount of faith in the third party conducting the “message fulfilment service” and it acknowledged that on this occasion it had not properly followed its own guidelines.

3. The Tribunal considered the Code, Guidance and all of the evidence including the Level 2 provider’s written submissions.

The Tribunal noted the Level 2 provider’s assertion that it had an age verification procedure in place. The Tribunal commented that, although age verification messages and follow up



reminder messages were sent to consumers, it was clear from a review of the complainant message logs that consumers still received picture messages without their age being verified. The Tribunal further noted the Level 2 provider's assertion that the picture messages were "non nude" and consumers were not able to take part in any adult chat. However, the Tribunal concluded that the Level 2 provider was still required to take reasonable steps to discourage use by non-bill payers and prevent use of the Service by those under 16 years of age.

The Tribunal also noted the complainant message log which clearly demonstrated that a text chat operator was aware that the consumer was a non-bill payer and yet the operator actively encouraged use of the Service.

The Tribunal found that the Level 2 provider had not taken all reasonable steps to discourage use by non-bill payers and to prevent use by those under the age of 16. Accordingly, the Tribunal upheld a breach of rule 2.3.8 of the Code for the two reasons advanced by the Executive.

### **Decision: UPHELD**

#### **ALLEGED BREACH 4**

##### **Rule 2.3.12 (c)**

"All virtual chat services must, as soon as is reasonably possible after the user has spent £8.52 plus VAT, and after £8.52 plus VAT of spend thereafter: inform the user separately from the service or any promotion that £8.52 plus VAT has been spent;"

1. The Executive submitted that the Level 2 provider had breached rule 2.3.12 (c) of the Code as it had not informed consumers of the total cost spent on the Service after £8.52 plus VAT had been spent for the following reasons:
  - Spend reminder messages did not account for the charges incurred in receiving picture messages;
  - Spend reminder messages did not account for the cost of sending messages to the Service; and
  - The Service failed to terminate when a consumer had not interacted with the Service after £8.52 plus VAT had been spent.

The Executive relied on the content of the PhonepayPlus Guidance on "Virtual chat services". The Guidance states:

Message information and spend reminders  
Paragraph 2.4

"All virtual chat services should, as soon as is reasonably possible after a consumer has spent £10, and after each £10 spend thereafter:

- Inform the consumer separately from the service, or any promotion, that they have spent £10; and
- Inform the consumer of the cost per minute, or per message, of continuing to use the service."

#### **Spend reminder messages did not account for the charges incurred in receiving picture messages**



The Executive noted from a sample of complete complainant message logs from the Level 1 provider that consumers were sent spend reminders when the cost of Service messages received reached £8.52 plus VAT, however the spend reminders did not include the cost incurred in receiving picture messages. The Executive noted a complainant had sent a postcode to Service shortcode 69744 on 3 July 2013. Following, the sending of a postcode, the consumer did not interact further with the Service until stop was sent on 17 August 2013. During that period, 27 chargeable picture messages were sent to the consumer at a total cost of £40.50, but no spend reminder messages were sent to the complainant. The Executive asserted that, by not issuing spend reminders that took into account the cost of picture messages, the Level 2 provider had clearly failed in its obligation to inform consumers as soon as was reasonably possible that they had spent £8.52 plus VAT.

The Executive submitted that the practice of failing to issue spend reminder messages that took into account picture messages was widespread. The Executive noted that following a review of 35 complainant message logs, there were 23 message logs, which clearly demonstrated that spend reminder messages had not taken into account chargeable picture messages.

### **Spend reminder messages did not account for the cost of sending messages to the Service**

The Executive noted from a sample of complainant message logs that consumers were sent spend reminders when the cost of Service messages received reached £8.52 plus VAT, however the spend reminders did not include the cost of messages sent by the consumer.

The Executive noted a complainant that had interacted extensively with the Service for less than a month and had been provided with several spend reminder messages. It was noted that the amount stated in the spend reminder messages only covered the cost of messages received from the Service, and not the cost incurred in sending messages to the Service.

The Executive submitted that, by not issuing spend reminders that took account of messages sent by the complainant, the Level 2 provider had failed in its obligation to inform consumers as soon as was reasonably possible that they had spent £8.52 plus VAT. The Executive further confirmed that this practice was not limited to this complainant, as it was noted in an additional seven complainant message logs.

### **The Service failed to terminate when a consumer had not interacted further with the Service after £8.52 plus VAT had been spent**

The Executive submitted that the Service had failed to terminate when a consumer had not interacted with Service after s/he had incurred £8.52 plus VAT.

The Executive noted a complainant message log where the complainant had sent a postcode to Service shortcode 69744 but had not interacted any further. The message log highlighted that 120 chargeable picture messages had been sent, over an approximately six month period. The Executive asserted that by not terminating the Service after a consumer had ceased to interact with the Service and once £8.52 plus VAT had been spent, the Level 2 provider had clearly not complied with rule 2.3.12(c) of the Code. The Executive confirmed that the above practice was wide spread as it appeared to occur in 23 of 35 complainant message logs that were analysed by the Executive.



Accordingly, for the three reasons set out above, the Executive submitted that a breach of rule 2.3.12 (c) of the Code had occurred.

2. The Level 2 provider admitted that a breach of rule 2.3.12(c) of the Code had occurred, which it stated was as a result of technical issues.

The Level 2 provider submitted that it had become aware of some technical issues with the sending of picture messages, which had initially been free messages when sent as a “catch up” or “follow up” message. It stated that at some point these messages had become chargeable and this had created issues, as consumers had received chargeable picture messages after they had incurred £8.52 plus VAT and not interacted with the Service any further. Unfortunately, the spend reminder messages did not treat the picture messages as billed messages and as such reminder messages were not accurate.

In relation to the second reason advanced by the Executive, the Level 2 provider accepted that the spend reminder messages did not take into account the messages sent by consumers and that this was an unintended error.

In relation to the third reason advanced by the Executive, the Level 2 provider submitted that once consumers ceased to interact with the Service after £8.52 plus VAT has been spent they were supposed to only receive free follow up messages but unfortunately the picture message issue had meant that further chargeable messages were sent to consumers.

3. The Tribunal considered the Code, Guidance and all the evidence before it, including the Level 2 provider’s written submissions. The Tribunal noted that the Level 2 provider had accepted that a breach of rule 2.3.12(c) had occurred.

The Tribunal also noted that the sample of complainant message logs had revealed that spend reminder messages had failed to take account of the full interaction between the consumer and the Service. Consequently, consumers were charged in excess of what the spend reminder messages stated due to a failure to take account of the receipt of picture messages and the cost of sending messages to the Service.

In addition, the Tribunal accepted that the evidence demonstrated that the Service failed to terminate once a consumer had not interacted with the Service any further and £8.52 plus VAT had been spent. The Tribunal commented that it was concerned that consumers continued to be charged to receive messages, often for a number of months, after the spend reminder had been sent and the consumer had not interacted with the Service any further.

The Tribunal determined that the spend reminders that were sent did not accurately reflect what a consumer had spent and as such were redundant. It commented that the evidence presented by the Executive indicated that the problem with the spend reminder messages was widespread and on the balance of probabilities affected a larger number of consumers.

The Tribunal concluded that the Level 2 provider had acted in breach of rule 2.3.12(c) of the Code and upheld the breach for the reasons given by the Executive.

**Decision: UPHELD**



### ALLEGED BREACH 5

#### Rule 2.4.2

“Consumers must not be contacted without their consent and whenever a consumer is contacted the consumer must be provided with an opportunity to withdraw consent. If consent is withdrawn the consumer must not be contacted thereafter. Where contact with consumers is made as a result of information collected from a premium rate service, the Level 2 provider of that service must be able to provide evidence which establishes that consent.”

1. The Executive submitted that, aside from the reasons advanced in relation to the breach of rule 2.3.11 of the Code, the Level 2 provider had breached rule 2.4.2 for the following reasons:

- Marketing messages continued to be sent to consumers despite the sending of STOP ALL; and
- Marketing messages continued to be sent to consumers after six months of no interaction with the Service.

The Executive relied on the content of the PhonepayPlus Guidance on “Privacy and consent to charge”. The Guidance states:

When a consumer texts ‘STOP’  
Paragraph 8.1

“When a consumer sends ‘STOP’, or other word as notified to the consumer as a valid marketing opt-out contained in the marketing message, then all marketing must cease. For more information, see the General Guidance Note on ‘Method of exit from a service’.”

Paragraph 8.2

“When a consumer texts ‘STOP’ in connection with an ongoing paying commitment – be it for a subscription, or as an element in a virtual chat service – the consumer must not receive any further charge. For more information, see the Service-Specific Guidance Note on ‘Subscription services’.”

Paragraph 8.3

“However, in this circumstance, the provider may still send marketing messages. If, at this point, the consumer then sends ‘STOP’ (again), then all marketing must cease. If a consumer sends ‘STOP ALL’ at any point, then consent for all contact has been removed. At this point, the mobile number should be suppressed. Suppressing a number does not mean deleting it – it means recording the fact that no further messages should be sent. If a number is deleted, it could be received from a third party, then marketed to again, which would be in breach of the rules. For this reason, providers should store the date of suppression, as well as the number.”

Assumed withdrawal of consent  
Paragraph 9.1

“Consumers’ recollection of giving their consent to be marketed to deteriorates over time, and what could have been an interesting promotion immediately after their initial contact, could much later constitute an intrusion. On this basis, we advise that marketing should happen soon after consent is given, and that no consumer should be marketed to more





than six months after the date of their last consent. There may be some types of service which can legitimately market longer, such as services centred around a specific date in the annual calendar, such as a consumer's birthday or Valentine's Day, or the start of a new football season. However, the consumer will need to be clearly informed upon consenting to marketing that they may be marketed to the next year/season."

#### **Marketing messages continued to be sent to consumers despite the sending of STOP ALL**

The Executive noted from a sample of complainant message logs that marketing messages continued to be sent to consumers despite the sending of "Stop all".

The Executive noted from a complainant message log that the complainant had sent 'Stop all' to Service shortcode 69744 and messages from this shortcode ceased, but Service marketing messages continued from Service shortcode 89150 (which was also used to operate the Service).

The Executive asserted that the sending of "Stop all" to Service shortcode 69744 constituted the withdrawal of consent to be contacted or marketed to by the Level 2 provider. Accordingly, the continued sending of marketing messages from Service shortcode 89150 following submission of the "Stop all" command constituted contact without the consent of the consumer in breach of rule 2.4.2 of the Code.

#### **Marketing messages continued to be sent to consumers after six months of no interaction by the consumer with the Service**

The Executive noted from the sample of message logs that marketing messages continued to be sent to consumers more than six months after the consumer ceased to interact with the Service.

The Executive noted one complainant that had ceased to interact with the Service but marketing messages continued to be sent to the complainant from four Service shortcodes until the consumer sent "Stop all" to each shortcode. The last marketing message on the message log was sent more than a year after the complainant ceased to interact with the Service.

The Executive asserted that, notwithstanding the initial interaction with the Service that occurred on 18 October 2012, it was not reasonable to assume that the initial Service opt-in was valid for marketing purposes a year and 37 days later, which was clearly in excess of the six month figure provided in the guidance detailed above.

In addition, the Executive confirmed that the practice of the Level 2 provider sending marketing messages for periods in excess of six months was not isolated to the complainant referred to above. The practice was identified in an addition nine complainant message logs.

Accordingly, for the two reasons set out above, the Executive submitted that there had been a breach of rule 2.4.2 of the Code.

2. The Level 2 provider partially accepted that a breach of rule 2.4.2 of the Code had occurred. It stated that, as the shortcodes were separate Services, the stop all command did not work across all shortcodes. Further, it accepted that errors had been made in



marketing to consumers after six months, albeit it stated that the messages contained clear pricing, contact and opt-out details.

3. The Tribunal considered the Code, Guidance and all the evidence before it, including the Level 2 provider's written submissions. The Tribunal noted that the Level 2 provider had partially accepted that a breach of the Code had occurred.

The Tribunal noted the evidence from the complainant message logs which demonstrated that a number of consumers continued to be contacted after sending "Stop all" and/or in excess of six months after the consumer had ceased to interact with the Service.

The Tribunal commented that consumers continued to be contacted for periods up to a year after consumers interacted with the Service and that the Level 2 provider had not provided a full explanation as to why this had occurred.

The Tribunal determined that consumers had been contacted without their consent and in cases where consumers had indicated their withdrawn consent they had continued to be contacted. Taking into consideration the number of complainants that had been contacted without their consent, the Tribunal concluded on the balance of probabilities that the breach of rule 2.4.2 of the Code was more widespread.

Accordingly, for the reasons given by the Executive, the Tribunal upheld a breach of rule 2.4.2 of the Code.

### **Decision: UPHELD**

### **ALLEGED BREACH 6**

#### **Paragraph 4.2.4**

"A party must not knowingly or recklessly conceal or falsify information, or provide false or misleading information to PhonepayPlus (either by inclusion or omission)."

1. The Executive submitted that the Level 2 provider had breached paragraph 4.2.4 of the Code as a result of the following reasons:
  - Message logs supplied by the Level 2 provider contained inaccurate entries showing the inclusion of an initial fictitious MO messages; and
  - Message logs originally supplied to the Executive by the Level 2 provider only included entries for one shortcode.

Following receipt of complaints about the Service, the Executive contacted the Level 2 provider to request a sample of complainant message logs showing the full interaction between complainants' MSISDNs and the Service. In addition, the Executive obtained the message logs for the same complainants from the Level 1 provider.

#### **Message logs supplied by the Level 2 provider contained inaccurate entries showing the inclusion of an initial fictitious MO**

The Executive noted from a comparison of the complainant message logs supplied by the Level 2 provider and Level 1 provider, that 31 of 35 message logs supplied by the Level 2 provider contained inaccurate entries which had the inclusion of an initial fictitious MO.



By way of an example, the Executive referred to one complainant, where it had requested that the Level 2 provider supply message logs for both shortcodes 69744 and 89150. The Level 2 provider supplied two separate message logs, one for each shortcode and a covering email for each, which stated:

Shortcode 69744

“This user signed up via MO to the Naughtywap Virtual Chat Service on 69744, which is a dedicated short code, but used for billing across multiple services...”

Shortcode 89150

“This user signed up via MO to the Naughtywap Virtual Chat Service on 89150, which is a dedicated short code, but used for billing across multiple services...”

The Executive noted from the two separate message logs that both contained an MO opt-in with the same keyword sent on the same date and time. A comparison with the Level 1 provider’s log for the same complainant, demonstrated the full consumer interaction with the Service (across both shortcodes), and revealed that only one MO opt-in had been sent to one Service shortcode. No MO had been sent to the second shortcode, contrary to the Level 2 provider’s log.

Consequently, the Executive asserted that the Level 2 provider’s submissions contained in its emails (extracts included above) were false and it was clear that the Level 2 provider had inserted a fictitious MO to shortcode 89150. Further, the Executive confirmed that the practice of the Level 2 provider sending falsified message logs to the Executive was not isolated to this complainant but was widespread. The Executive stated that a review of message logs for a further 31 complainants revealed that despite two MOs appearing on the Level 2 provider’s log, only one MO was ever sent to one of Service shortcodes.

Accordingly, the Executive asserted that the Level 2 provider had inserted a false MO to convince the Executive that consumers had actively sent two MOs (one to each shortcode) to opt-in to the Service and therefore had knowingly provided false information to the Executive.

### **Message logs originally supplied to the Executive by the Level 2 provider only included entries for one shortcode**

The Executive asserted that the complainant message logs supplied by the Level 2 provider only included entries for one shortcode.

By way of an example, the Executive referred to one complainant and stated that it had requested that the Level 2 provider, provide a message log for a complainants’ MSISDN, along with other Service information. The Level 2 provider provided a message log showing the interaction between the complainant MSISDN and shortcode 69034. However, following the submission of an itemised telephone bill by the complainant, the Executive noted that the consumer was receiving premium rate charges from Service shortcode 69035, in addition to charges from Service shortcode 69034. The Executive contacted the Level 2 provider on 14 May 2014 regarding the apparent discrepancy and the Level 2 provider stated:

“When the user sends in an MO they are sent a match on 2 short codes, in this case the user sent in the Post Code IV30 to 69034 and received a match from 69034 and 69035.



Message flow is attached in [XXX], initial MO and matches sent date stamp are in bold on both short codes.”

The Executive noted that the log that had now been provided was different to the message log that had previously been provided for the same MSISDN.

The Executive submitted that the Level 2 provider had not complied with paragraph 4.2.4 of the Code as the Level 2 provider had deliberately omitted messages sent to or from Service shortcode 69035. The Executive acknowledged that its initial enquiries to the Level 2 provider were specifically in relation to a single shortcode. However, notwithstanding this, full disclosure of the complainant’s interaction with the Service was expected and at the time the message log for the above MSISDN was requested, the Executive did not yet have a full understanding of the Service, which was why it had included a request for information on how the Service was meant to operate. The Executive considered that, the Level 2 provider’s response to its enquiry should have included clarification that the Service was operating across two shortcodes and the Level 2 provider’s literal interpretation of the request amounted to a deliberate attempt to circumvent regulation by providing only a partial log.

Further, the Executive asserted that the Level 2 provider's practice of providing incomplete message logs was not isolated to the complainant referred to above but was widespread. A comparison of 35 complainant message logs demonstrated that the Level 2 provider had consistently failed to provide complete message logs to the Executive. Further, the Executive received a total of 216 complaints regarding the Service, and the message logs for these complainants only contained interactions for one shortcode.

The Executive submitted that the Level 2 provider knowingly (or recklessly) concealed information by providing message logs which only accounted for a single shortcode and accordingly, for the reasons set out above, there had been a breach of paragraph 4.2.4 of the Code.

2. The Level 2 provider denied that a breach of paragraph 4.2.4 of the Code had occurred.

The Level 2 provider explained that, “when message logs are generated they are generated for the each shortcode and always include the initial MO received to activate the service, which may have been received on the secondary shortcode.”

The Level 2 provider stated that this was not an attempt to deceive or falsify records. On many occasions, two requests for information for the same complainant had been received by its support team and both requests had been processed. In all cases, the Executive had been provided with all the information requested.

In relation to the second reason advanced by the Executive, the Level 2 provider reiterated its previous submission that if a consumer interacts with different short codes then this is treated as separate Services. In light of this, requests for message logs are processed per short code and only generated for the short code requested.

3. The Tribunal considered the Code, Guidance and all the evidence before it including the Level 2 provider’s written submissions. The Tribunal considered the message logs for each complainant provided by the Level 2 provider, the logs contained an MO on each shortcode. The Tribunal determined that the Executive had properly raised the breach regarding the inclusion of an MO on the second shortcode log but found that the



explanation from the Level 2 provider was unclear. The Tribunal concluded that it was not able to determine with any certainty whether the logs supplied by the Level 2 provider contained the insertion of an inaccurate and fictitious MO. Accordingly, the Tribunal did not adjudicate on the first reason raised by the Executive.

The Tribunal considered the evidence presented with respect to the second reason raised by the Executive and found that the Level 1 provider's message logs made it clear that the Level 2 provider had originally supplied the Executive with message logs that only contained entries for one shortcode. It commented that this had made it harder for the Executive to understand the nature of the Service and would have inevitably delayed the investigation.

The Tribunal found that the Level 2 provider had knowingly provided misleading information to the Executive, in an effort to circumvent regulation, which was clearly a serious matter.

Consequently, the Tribunal upheld a breach of paragraph 4.2.4 of the Code.

### **Decision: UPHELD**

### **SANCTIONS**

#### **Initial overall assessment**

The Tribunal's initial assessment of the breaches of the Code was as follows:

#### **Rule 2.3.3 – Consent to charge**

The initial assessment of rule 2.3.3 of the Code was **very serious**. In determining the initial assessment for this breach of the Code the Tribunal applied the following criteria:

- Very serious cases have a clear and highly detrimental impact or potential impact directly or indirectly on consumers.
- The nature of the breaches and the scale of harm caused to consumers are likely to severely damage consumers' confidence in premium rate services.
- The Service had an intentionally misleading billing mechanic that caused significant overcharging and generated substantial revenue.

#### **Rule 2.3.11 – Method of exit**

The initial assessment of rule 2.3.11 of the Code was **very serious**. In determining the initial assessment for this breach of the Code the Tribunal applied the following criteria:

- Very serious cases have a clear and highly detrimental impact or potential impact directly or indirectly on consumers.
- The nature of the breaches and the scale of harm caused to consumers are likely to severely damage consumers' confidence in premium rate services.

#### **Rule 2.3.8 – Age verification**

The initial assessment of rule 2.3.8 of the Code was **very serious**. In determining the initial assessment for this breach of the Code the Tribunal applied the following criteria:

- Very serious cases have a clear and highly detrimental impact or potential impact directly or indirectly on consumers.
- The nature of the breaches and the scale of harm caused to consumers are likely to severely damage consumers' confidence in premium rate services.

#### Rule 2.3.12 (c) – Spend message reminders

The initial assessment of rule 2.3.12 (c) of the Code was **serious**. In determining the initial assessment for this breach of the Code the Tribunal applied the following criterion:

- The Service was operated in such a way that demonstrated a degree of intentional non-compliance with the Code.

#### Rule 2.4.2 – Consent to market

The initial assessment of rule 2.4.2 of the Code was **serious**. In determining the initial assessment for this breach of the Code the Tribunal applied the following criteria:

- Serious cases have a clear detrimental impact, directly or indirectly on consumers and the breach has a clear and damaging impact or potential impact on consumers.
- The nature of the breach means the Service would have damaged consumer confidence in premium rate services.

#### Paragraph 4.2.4 – Provision of false or misleading information

The initial assessment of paragraph 4.2.4 of the Code was **very serious**. In determining the initial assessment for this breach of the Code the Tribunal applied the following criterion:

- The Level 2 provider deliberately supplied misleading information.

The Tribunal's initial assessment was that, overall, the breaches of the Code were **very serious**.

#### Final overall assessment

The Tribunal did not find any aggravating or mitigating factors.

The Level 2 provider's revenue in relation to the Service was in the range of Band 1 (£1,000,000+).

The Tribunal concluded that the seriousness of the case should be regarded overall as **very serious**.

#### Sanctions imposed

Having regard to all the circumstances of the case, the Tribunal decided to impose the following sanctions:

- a formal reprimand;
- a fine of £250,000;
- a requirement that the Level 2 provider remedy the breaches by implementing adequate consent to charge, method of exit, age verification, spend reminder and consent to market procedures for this Service and any similar services operated by the Level 2 provider and



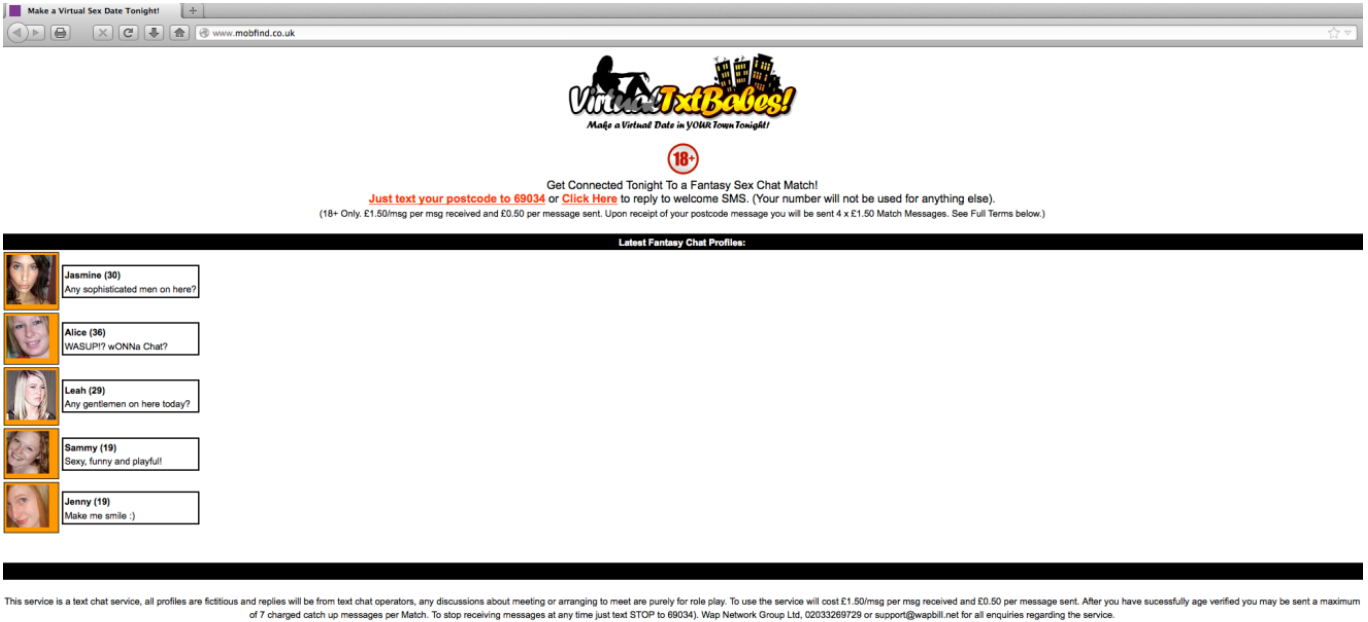
- produce evidence to the satisfaction of PhonepayPlus, within four weeks from the date of publication of this decision; and
- a requirement that the Level 2 provider must refund all consumers who claim a refund, for the full amount spent by them on the Service, within 28 days of their claim, save where there is good cause to believe that such claims are not valid, and provide evidence to PhonepayPlus that such refunds have been made.

**Administrative charge recommendation:**

100%

### Appendices

#### Appendix A – A screenshot of a promotional webpage viewed by a complainant:



#### Appendix B – A copy of the promotional material viewed by a complainant:

