

Live Entertainment & Chatline Services

Notice of Special Conditions

This Notice is being issued to inform all providers involved, or intending to be involved, in the provision of Live Entertainment and Chat Services that Special conditions apply. Level 2 providers are required to comply with the PhonepayPlus Code of Practice, and the Special conditions set out below, which are imposed under paragraph 3.11.1 of the Code.

Under paragraph 3.11.3 of the Code, *“a breach of any special condition in respect of a high risk service imposed under paragraph 3.11.1 shall be a breach of the Code”*.

Live Entertainment service is defined at paragraph 5.3.23 in the following terms:

“Live entertainment service’ is a service which allows the caller to speak live with a live operator or one or more other consumers for entertainment purposes, including, but not limited to, one to one Chatline (sexual or non-sexual), psychic or tarot services.”

Chatline service is defined in the PRS Condition¹ issued by Ofcom under section 120 of the Communications Act 2003, which, at the time of writing, states the following:

“Chatline Service” means a service which consists of or includes the enabling of more than two persons (the participants) to simultaneously conduct a telephone conversation with one another without either:

- (i) each of them having agreed with each other; or*
- (ii) one or more of them having agreed with the person enabling such a telephone conversation to be conducted, in advance of making the call enabling them to engage in the conversation, the respective identities of the other intended participants or the telephone numbers on which they can be called. For the avoidance of any doubt, a service by which one or more additional persons who are known (by name or telephone number) to one or more of the parties conducting an established telephone conversation can be added to that conversation by means of being called by one or more of such parties is not on that account a Chatline Service, if it would not otherwise be regarded as such a service,”*

Multi-party chat services fall within the above definition of Chatline service, allowing multiple consumers to access one chatroom simultaneously.

The definition above is not intended to cover business conference services.

¹ For further information about the PRS Condition see the Ofcom website here: <http://stakeholders.ofcom.org.uk/telecoms/policy/premium-rate-services/>

For purposes of this Notice, 'chatroom' is defined as a function within any live service or chatline which enables two or more users to simultaneously conduct a live conversation.

For the further avoidance of doubt, providers of Virtual Chat Services are exempt from this Notice:

Special conditions

Imposed under Annex 2, Paragraphs 1.1 (b), (i), (j) and (x):

(b) requirements as to the mechanism and processes used to deliver services to, and to enable exit from services by, consumers;

(i) required recording equipment of voice based high risk services and the use and standard of that equipment;

(j) the retention of such recordings and their provision with related information to PhonepayPlus;

(x) providers of higher risk services to notify PhonepayPlus at commencement of such services and provide any related information required by PhonepayPlus within a specified time period.

LECS1 All calls, or conversations within a chatroom, must be continuously recorded, time- and date-stamped to ensure an accurate record of each user's entry to, movement within (where appropriate) and exit from a service.

LECS2 It is mandatory:

- a) to use recording equipment compatible with PhonepayPlus' replay facilities which enables the calling line identity ('CLI') of each caller, the time, date and content of live services to be accurately identified from the recording; such recordings must enable PhonepayPlus monitoring at all times and must be 'tamper-proof';
- b) to disconnect such services immediately if recording should cease at any time for any reason;
- c) Continuously record the conversations taking place in each separate chat-room within a service (where applicable/where an individual service has more than one chat-room). The provider must be able to supply to PhonepayPlus where requested:
 - (i) A time- and date-stamped record of the date and time of a caller's entry into a service;
 - (ii) The time- and date-stamped time(s) that a caller may have changed/jumped from 'room to room' within a services; and
 - (iii) The time- and date-stamped time of each consumer's exit from a service.

- d) to retain such recordings for a period of at least one year and deliver them to PhonepayPlus and the Adjudicator, intact, within three working days of request;
- e) before starting to operate any service, to supply to PhonepayPlus the following:
 - (i) a statement from the installer of the recording equipment, detailing the type of recording equipment and the total number of simultaneous conversations which the recording equipment can support as configured;
 - (ii) a statement from the Network operator(s), detailing the total number of lines, and the number ranges associated with them, provided to the provider.

Imposed under Annex 2, Paragraph 1.1(m): the provision of defined information to PhonepayPlus and the intervals to which it is to be given and the manner in which it is provided.

LECS3 Any change to the details provided under LECS2 must be notified to PhonepayPlus within one month of the change taking effect.

Imposed under Annex 2, Paragraph 1.1(r): PhonepayPlus' access to premises in order to monitor the compliance of a high risk service with the Code and any relevant special conditions.

LECS4 To permit representatives of PhonepayPlus to visit any premises at which any part of their operations in connection with the provision of the live service is conducted, with or without notice and at any time, to investigate whether the Code is being complied with in all respects and to inspect the recording equipment

Imposed under Annex 2, Paragraph 1.1(k): information that is required to be given to callers in promotional material or at various stages before and during provision of a high risk service (including as to receipts).

LECS 5 All promotional material and introductory messages to services, when dialled, to state clearly that calls will be recorded.

LECS6 Save where the relevant Network operator has provided an alternative solution acceptable to PhonepayPlus, all services must provide a message at the beginning of the service stating that:

- a) (as applicable) the user must be over the age of 18,

- b) the user should be either the bill-payer or have the bill-payer's permission to call the service,
- c) service details may appear on the phone bill.

Imposed under Annex 2, Paragraphs 1.1(f) and (g):

(f) steps to be taken to ensure that a high risk service is not used by or promoted in such a way as to make it particularly attractive to persons under the age of 18 years old or younger;
(g) the denying of access by users under the age of 18 years old to a high risk service or by all users where the relevant handset is not verified as being owned by someone aged 18 years old or over.

LECS7 Promotions for live sexual entertainment services must not appear in media targeted at persons under the age of 18.

LECS8 Promotions for live sexual entertainment services must be in context with the publication or other media in which they appear. Services should be in context with the advertising material promoting them. The content of a service should not be contrary to the reasonable expectations of those responding to the promotion.

LECS9 That live sexual entertainment services are promoted clearly as being adult services, and not for under-18s;

LECS10 That services are not promoted in places where they are likely to be particularly attractive to children, or which are easily accessible to them;

LECS11 That non-adult services do not offer access to adult 'chat-rooms' within the operation of the service, unless they have clearly advertised this;

LECS12 All providers of services must take steps to verify the age of consumers before they can access the service itself. This includes, but is not necessarily limited to, use of an age verification question and operators trained to identify any other indication that a caller may be under 18, or under 16 as applicable.

Imposed under Annex 2, Paragraph 1.1(n): requirements for caller agreement before a high risk service proceeds before the caller is charged.

LECS13 Prior to services allowing callers to participate in chatrooms, the caller's name and confirmation that they have obtained permission from the bill-payer to make the call, must be obtained.

Imposed under Annex 2, Paragraphs 1.1(u) and (v):

(u) the lodging with PhonepayPlus, prior to commencement of a high risk service, of a legally binding document ("a bond") by which a third party guarantees a relevant provider's payment of sums, as security for meeting compensation claims in relation to unauthorised use of the service;

(v) the relevant provider's handling and payment of such claims and the ceasing of a high risk service if one or more claim is not paid in accordance with an award made by a legally qualified member of the CCP (the process for which may be set out in the condition).

LECS14 Providers should take note of the following information relating to compensation claims for unauthorised connection to an electronic communications network:

- a) A bond must be lodged with PhonepayPlus as security for meeting compensation claims ('the Bond') prior to commencement of any form of live entertainment service and multi-party chat services.²
- b) The Bond is a legally binding document by which a third party (such as a bank) guarantees the provider's payment of sums awarded to a claimant by a legally qualified member of the CCP (following an adjudication made in accordance with (g) below). The body providing the bond must be approved by PhonepayPlus; the bond must be in a form, and must guarantee the amount required by PhonepayPlus. This bond must remain in place while the relevant live services are being operated, and for a period of one year thereafter.
- c) Claims for compensation may be made by any person whose connection to the electronic communications network has been the subject of unauthorised use. When claims are received by PhonepayPlus, the relevant provider will first be given an opportunity to settle them to the satisfaction of the claimant.
- d) The relevant provider must, within one month, investigate all claims put to it.
- e) The relevant provider must promptly pay all claims which are valid under the terms of the Compensation Scheme.
- f) If a claim is not met in full, the relevant provider must, if requested by the Executive, notify PhonepayPlus of the reasons and must provide details of any investigations carried out into the claim.
- g) If the relevant provider does not settle to the satisfaction of the claimant within such time as the legally qualified member of the CCP considers reasonable (and which will be notified to the relevant provider), the Executive will investigate the claim and prepare a report which will be promptly passed to that CCP member for adjudication. A copy of the report will be made available to the relevant provider for comment and representation. The CCP member will make an adjudication, after such investigation as he considers appropriate, on the basis of the material in front of him.
- h) An oral hearing may be held at the instigation of the legally qualified CCP member, the claimant or the relevant provider.
- i) The CCP member will make his adjudication promptly in writing.
- j) If the CCP member directs that an award should be made, the relevant provider must make immediate payment of the award and of any administrative charges relating to the award.

² Providers of such services must contact PhonepayPlus to make arrangements for a bond of the correct amount.

- k) If the relevant provider does not make immediate payment of any such award, and PhonepayPlus consequently takes steps to enforce the provider's Bond, the provider concerned must forthwith cease to provide any live services

Imposed under Annex 2, Paragraph 1.1(q): the monitoring of the use of high risk services and in particular the information to be given to callers and action to be taken in the course of such monitoring.

LECS15 Where a service provides one or more chatrooms there must be one monitor for every 20 callers as a minimum. Monitors may take part in conversations but must also ensure compliance with the Code of Practice. Monitors on services which are advertised as being non-adult must use all reasonable endeavours to prevent conversation which is primarily adult in nature. Callers must also be actively discouraged from seeking or giving out surnames, places of work, addresses or telephone numbers.