

Representing the Communication Services Industry



Service Charge Caps for 09 and 118 Services
Ofcom Consultation -Issued 25 July 2012

FCS Response – 27 September 2012

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Introduction

The Federation of Communication Services is the UK trade association for the communication services sector. Our 350 members and associates deliver products and services by means of copper, fibre and radio. We are pleased to have the opportunity of responding to this detailed consultation document on behalf of our members who deliver numbering services to Service Providers, those that are TCPs and those who are Service Providers. More information and a directory of our members is available on the [FCS website](#).

Key points

Ofcom is rightly proud of its 'light touch' approach to regulation. The regulation of PRNs represents a perfect opportunity to demonstrate 'light touch' regulation in practice, in a controlled environment in which the number ranges are circumscribed, the commercial constraints are already in place, and consumer choice is clear to identify.

The two number groups should be treated quite separately.

Directory Enquiries services and the 118 short-code range

DQ services represented by the 118 range can be demonstrated to provide a socially important public service. Especially for that part of society which does not have ready access to the internet. To give consumers confidence, to avoid bill shock and to ensure the continued universal provision of the service, we recommend a firm price cap should be set to ensure consumers will be billed for a maximum service charge per call, irrespective whether the call is placed via a land-line or a mobile operator.

As already noted in previous submissions (2.20) substitute services are available. Setting a firm price cap on 118 numbers puts the onus on suppliers of competing services provided by mobile apps, say, or cable television to demonstrate a compelling alternative to customers which can be billed at least as conveniently as telephone calls.

Removing any incentive to over-price 118 numbers by stealth, as it were, should encourage an increased focus on the service as part of the value package in CPs service offerings in future, as the market segments and as they differentiate their service offerings to suit the needs of different demographic groups. Some CPs may take the view that unlimited free directory services are a compelling sales proposition to certain demographics. Others may choose to price their offering in such a way as to appeal to a different set of customer priorities. Of course, others still may wish to create a premium service. But in that case they will need to use a different numbering group which will clearly flag up to the consumer that s/he is buying a different service.

Premium Rate services and the 09 number range

PRN services in the 09 range are correctly identified (4.13) as not representing a socially important public service. We argue that bill capping acts as an inappropriate disincentive for the development of these services. Future regulation of the 09 number range should be restricted simply to ensuring appropriate provisions are in place to safeguard consumers from bill shock and OCPs from bad debt risk. We argue that the framework to satisfy both these conditions is

either already in place within the current market models (in the form of bond payments overseen by PhonepayPlus) or capable of swiftly arising as a result of natural market forces (*in extremis*, taking the form of OCPs simply barring access to certain PRNs as their default option unless they are satisfied appropriate safeguards are in place).

The specific risk of Bill shock related to drop-charge calls can be mitigated by insisting on a two-stage connection process involving a recorded announcement BEFORE the connection is completed. (Access charge payable to OCP irrespective of whether the caller proceeds).

The best encouragement for SPs to innovate is to allow them control over their pricing models in an environment which stimulates healthy competition. There may well be a role for 'super-premium rate' calls, just as there may be a role for 'nominal charge calls routed on 09 numbers' (4.93). The correct route is to concentrate on a consistent consumer pricing statement and to allow the market to determine what constitutes an appropriate rate for the call.

It is therefore appropriate for Ofcom to step back from imposing any constraints on the growth of this market segment. A genuinely light-touch will allow it to develop in the full light of competition from internet and alternative premium-bearing services, whose content and charging models already sit beyond the scope of Ofcom's influence. By creating an entirely commercial environment in which it is in the interests of TCPs to ensure OCPs will allow and encourage access to their numbers, 'light touch' clears the way for new relationships and new approaches to risk/revenue sharing which will ensure a far more robust and stable market framework going forward.

Consultation questions

For convenience, we have restricted the balance of this submission to answering those specific questions which are relevant to this line of reasoning.

Question 4.1: *Do you agree with the assessment criteria we are proposing to use for our analysis, and in particular the three additional criteria we have identified as relevant?*

AGREE: Premium rate services in the 09 range cannot reasonably be classified as 'socially important' (4.13). If we were comparing them with other consumer products, they are firmly in the 'impulse purchases' category. Taking account of consumers' potential exposure to 'bill shock' and OCPs' potential exposure to bad debt is also appropriate in the context of avoiding unintended consequences. But we are concerned the possibility of EU-originating, UK-terminating fraud has not considered in this context. We note that 'facilitating growth in the premium rate calls market' is not one of the criteria.

Question 4.2: *Do you agree that a maximum SC should apply to 09 numbers for the reasons set out above?*

STRONGLY DISAGREE: The way to address consumer ignorance about pricing policy is to draw the consumer's attention to it in a consistent and transparent fashion, not to apply resale price maintenance mechanisms. If the consumer were in a supermarket or garage forecourt, s/he would have a choice to buy or not to buy 'impulse purchase' products, and price would be

only one of a number of considerations. To draw an analogy parallel to the most frequent current use of 09 numbers, 'top shelf' books or DVDs will probably be sealed, and the consumer will have to decide whether the pleasure likely to be obtained from the purchase is worth the gamble of what might be an artificially inflated shelf price. These are the decisions mature individuals expect to take every day in every other aspect of their lives. Telecoms should be no different.

Regarding OCPs exposure to bad debts, two obvious mechanisms are available. The most obvious one is to require TCPs of drop charge numbers to play a recorded announcement, and to permit connection only after confirmation by the customer. This requirement should be added to the existing conditions attached to the grant of the number, and attract a premium payment into the bond scheme administered alongside existing enforcement models, via Phonepay Plus. The other mechanism would be for OCPs to seek insurance cover from commercial underwriters. In this case, the costs would have to be reflected in access charges, but could be expected to reduce over time as the risk profile becomes more established.

Question 4.3: *Do you agree that a maximum SC should apply to 118 numbers for the reasons set out above?*

AGREE: There is a strong 'public benefit' argument attached to the universal provision of DQ services. The most vulnerable members of bill-paying society are the most likely to suffer confusion over differential tariffs between fixed and mobile providers for the provision and onward connection of DQ calls. And the present practice of interposing a recorded message only after the caller has opted to be onward connected, which necessarily has to be vague about 'costs from other operators' does not encourage consumer confidence. Consumers should expect to enjoy a maximum billed cost per call irrespective of whether the call is a mobile or fixed line operator.

Question 4.4: *Do you agree that a different maximum SC for calls charged on a per call basis and calls charged on a per minute basis is appropriate?*

AGREE: but these are issues for the industry to resolve. In particular, alternative revenue-share/risk-share payment models may well arise in response to the genuine concerns of OCPs about bad debt risk, and be reflected in access charges. The key is clear and consistent statements to the consumer, not artificial price constraints

Question 4.5: *Do you agree that we should use the RPI measure of inflation to uplift the BT's current maximum retail price for 09 calls to derive the maximum SC under Option 1?*

Question 4.6: *Do you agree that we should not uplift the SC caps by inflation on an annual basis?*

DISAGREE: the maximum price should be removed all together. BT can then, ethically and transparently, price at a level which reflects its corporate commitments to consumers, rather than artificially observe a mandated price point.

Question 4.7: *Do you agree that the maximum SC cap should be set exclusive of VAT?*

AGREE: the rate of VAT is a variable beyond the control of Ofcom or the industry, and should be excluded as a matter of principle.

Question 4.8: *Do you agree that Option 2 (a £3 per minute and £5 per call cap) is the most appropriate maximum service charge limit for 09 and 118 numbers? If not, please explain why.*

DISAGREE: The methodology may be sound, but it is based on a flawed assumption. The question starts with the faulty premise that maximum service charge limits are desirable mechanism, and then sets out to provide a template for their implementation. But maximum service charge limits are not a desirable mechanism. Free market competition is the only sustainable mechanism that reflects the variety of choices available to the consumer, many of which fall outside Ofcom's purview.

The fastest way to increase consumer price awareness and reduce the risk of 'bill shock' is to stimulate and empower a market in which a wide variety of premium rate services are allowed to develop, at a wide variety of price points. Allowing and encouraging consumers to make informed, mature decisions about the cost of discretionary purchases. And offering them the opportunity to complete those purchases via convenient telephone billing mechanisms, rather than on-line, mobile wallet, virtual currency or credit card services.

The requirements on the regulator in this scenario are to set the appropriate form of words by which billing and pricing communications are to be communicated to the consumer. And to exercise, where appropriate, those powers of compulsion and enforcement necessary to ensure compliance.

Question 5.2: *Do you have any comments on our assessment of the costs and benefits of a pre-call announcement on the 09 and 118 range? Please provide reasons for your view.*

The compulsory use of recorded announcements would provide a safeguard against mis-dialling drop-charge numbers. We recommend recorded announcements detailing the cost of connection should be mandated for services which attract a 'per call' charge, rather than a 'per second' charge. And that the call connection is only allowed to proceed if the customer opts to do so.

Otherwise, recorded announcements should not be mandated: some TCPs may wish to use them as part of their customer service routine; others may reason that consumers who have already purposed to make a purchase respond negatively to recorded announcements which have the effect of delaying them from doing so. On a 'pence per second' call model, the risk of bill shock is significantly lower than on a 'drop charge' model.

Blanket mandatory recorded announcements would render 09 numbers completely unavailable for automatic dial-up services like emergency response alarm pendants / pull cords for single elderly people or lone workers, where instantaneous machine-to-machine connectivity is required for the correct operation of these devices. In the event of Ofcom opting to make announcements compulsory, a band of numbers within the range should be reserved exclusively for fee-bearing machine-to-machine connections.

Question 5.4: *Do you have any comments on our assessment of the costs and benefits of a consumer opt-in for 09 and 118 numbers? Please provide reasons for your view.*

The concerns regarding consumer protection and 'bill shock' stem from a generally low lack of consumer awareness about the price of calls in general, and premium-rate calls in particular. Anything which increases consumer awareness of these issues is therefore to be welcomed. Voluntary call-barring, discussed as part of a package of measures at contract renewal, is an intelligent and non-invasive option which would encourage the consumer to think more seriously about the services they require. It is entirely appropriate that 09 numbers should require an opt-in by default. For consumer safety, and to ensure compliance with the spirit of the Universal Service Directive, 118 numbers should require a very specific opt-out.

Question 5.7: *Do you have any comments on our assessment of the costs and benefits of dedicated number ranges on the 09 and 118 range? Please provide reasons for your view.*

The evidence from previous enquiries (5.39) fairly reflects the status quo, and is likely to do so for a very considerable time into the future. Unless callers are habitual users of PRNs, it is extremely unlikely they will associate different broad tariff bands with different numbering configurations. Far more likely they will do so, in fact, for specific individual numbers. The key is to ensure a consistent and transparent convention for drawing the consumer's attention to the prices pertaining to the particular number they are purposing to ring.

Question 5.8: *Do you have any comments on our assessment of the costs and benefits of an extension of the 30 day withhold period on the 09 and 118 range? Please provide reasons for your view.*

A 60 day withhold period would be preferable. The current 30 days should be sufficient for fraud to come to light, but experience suggests this is not always the case (especially in instances of misuse which might come to light only after a monthly billing run). The incremental cost of extending the period to 60 days would be negligible in the current economic climate.

There are a number of issues regarding PRN fraud which fall outside the precise scope of this consultation, and we would welcome the opportunity to discuss them in greater detail. Extending the withhold period would not materially affect the number of instances, but it would make them easier to deal with.

Question 6.1: *Do you agree that the level of the SC should be set at £5 per call and £3 per minute and that no additional consumer protection measures will be required? If not, please provide alternative options and evidence to support your preferred option.*

DISAGREE with the service charge cap for 09 numbers. AGREE no further consumer protection measures are required beyond what is already envisaged (viz. The requirement for consistent and transparent pricing statements prior to purchase)

Alternative option: no capping. Evidence: this is self-evidently not a closed market. Alternative services are freely available over the internet, enjoying a degree of price elasticity over which Ofcom can exercise no control. All the projections for 4G mobile telephony suggest further innovations will be widely available in a very short space of time, adopting a variety of payment

methods of which PRN billing is only one. Anything which serves to restrict the flexibility of service providers to use PRN billing will simply increase demand for alternative platforms, to the detriment of the PRN sector as a whole.

Setting price caps or interfering in free market mechanisms is therefore simply a recipe for stagnation.