

Conditions regulating Premium Rate Services

Schedule

Condition under Section 120 of the Communications Act 2003 regulating Premium Rate Services

23 December 2003 (as amended 26 April 2007)

1. The Communications Provider shall comply with:
 - (a) directions given in accordance with an Approved Code by the Enforcement Authority and for the purposes of enforcing the provisions of the Approved Code; and
 - (b) if there is no Approved Code, the provisions of the order for the time being in force under section 122 of the Act.

 2. In this Condition,
 - (a) "Act" means the Communications Act 2003;
 - (b) "Approved Code" means a code approved for the time being under section 121 of the Act;
 - (c) "Communications Provider" means either:
 - (i) a person who:
 - (A) is the provider of an Electronic Communications Service or an Electronic Communications Network used for the provision of a Controlled Premium Rate Service; and
 - (B) is a Controlled Premium Rate Service Provider in respect of that Controlled Premium Rate Service;
 - (ii) a person who:
 - (A) is the provider of an Electronic Communications Service used for the provision of a Controlled Premium Rate Service; and
 - (B) under arrangements made with a Controlled Premium Rate Service Provider, is entitled to retain some or all of the charges received by him in respect of the provision of the Controlled Premium Rate Service or of the use of his Electronic Communications Service for the purposes of the Controlled Premium Rate Service;
- or
- (iii) a person who:

(A) is the provider of an Electronic Communications Network used for the provision of a Controlled Premium Rate Service; and

(B) has concluded an agreement relating to the use of the Electronic Communications Network for the provision of that Controlled Premium Rate Service with a Controlled Premium Rate Service Provider;

(d) "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;

(e) "Controlled Premium Rate Service" means a Premium Rate Service (other than a service which is only accessed via an International Call) in respect of which:

(i) the charge for the call by means of which the service is obtained or the rate according to which such call is charged is a charge or rate which exceeds 10 pence per minute; or

(ii) the service is a Chatline Service; or

(iii) is Internet Dialler Software operated; or

(iv) the service is a Sexual Entertainment Service;

(f) "Controlled Premium Rate Service Provider" means a person who:

(i) provides the contents of a Controlled Premium Rate Service;

(ii) exercises editorial control over the contents of a Controlled Premium Rate Service;

(iii) packages together the contents of a Controlled Premium Rate Service for the purpose of facilitating its provision; or

(iv) makes available a facility comprised in a Controlled Premium Rate Service;

- (g) "Dial-up Telephone Number" means the telephone number used by an end user's computer that connects it to the Internet
- (h) "Enforcement Authority" means, in relation to an Approved Code, the person who under the code has the function of enforcing it;
- (i) "Facility" includes reference to those things set out in section 120(14) of the Act;
- (j) "International Call" means a call which terminates on an Electronic Communications Network outside the United Kingdom;
- (k) "Internet Dialler Software" is software that replaces a Dial-up Telephone Number with a different Dial-up Telephone Number;

other than where it is used so that:

- a) an end-user's existing Internet Service Provider replaces the Dial-up Telephone Number;
- b) an end-user moves from his existing Internet Service Provider to another Internet Service Provider or is so moved with his consent.

- (l) "Internet Service Provider" means a person who provides end-users, by means of a Dial-up Telephone Number, with connection to the Internet in the ordinary course of its business.
- (m) "National Telephone Numbering Plan" means a document published by Ofcom from time to time pursuant to sections 56 and 60 of the Act;
- (n) "Premium Rate Service" shall have the meaning ascribed to it by section 120(7) of the Act;
- (o) "Sexual Entertainment Service" means an entertainment service of a clearly sexual nature, or any service for which the associated promotional material is of a clearly sexual nature, or indicates directly, or implies, that the service is of a sexual nature;

- 3. For the purposes of interpreting this Condition, except in so far as the context otherwise requires, words or expressions shall have the same meaning as ascribed to them in paragraph 2 above and otherwise any word or expression shall have the same meaning as it has been ascribed in the Act.