



Response to Ofcom consultation on a service charge cap on 09 and 118 numbers

September 2012

Introduction

Citizens Advice welcomes the opportunity to respond to Ofcom's consultation on a service charge cap for 09 and 118 numbers.

The Citizens Advice service provides free, independent, confidential and impartial advice to everyone on their rights and responsibilities. It values diversity, promotes equality and challenges discrimination.

The service aims:

- to provide the advice people need for the problems they face
- to improve the policies and practices that affect people's lives.

The Citizens Advice service is a network of nearly 400 independent advice centres that provide free, impartial advice from more than 3,500 locations in England and Wales, including GPs' surgeries, hospitals, community centres, county courts and magistrates courts, and mobile services both in rural areas and to serve particular dispersed groups.

In 2011/12 the Citizens Advice service in England and Wales advised over 2 million people on 7 million problems. Debt and welfare benefits were the two largest topics on which advice was given.

In 2011/12 bureaux advised clients on a number of issues relating to telephone costs, including:

- Over 78,000 issues regarding telephone and broadband debts
- 1,556 issues with fixed line telephone billing and costs
- 943 issues with mobile phone billing and costs.

It is not possible to disaggregate our statistics any further to provide a breakdown of issues specifically regarding 09 or 118 numbers but we are able to provide qualitative data on the impacts of PRS, which we have used throughout this consultation to illustrate the kinds of issues clients bring to bureaux.

Typically, the issues clients have faced with 09 and 118 numbers involve the cost of calling them. These costs tend to manifest themselves either as an unexpectedly large bill or as a deterrent to calling an organisation where not doing so may cause detriment (e.g. not calling a phone company to dispute an inaccurate bill). Clients often face unexpectedly large bills where the service they are calling is misleading in advertising the cost of calling or they are put through to another organisation by a directory enquiries company without the high cost of such a call being explained to them.

In light of the existing consumer detriment in the context of an effective cap of £1.53 per minute on 09 numbers we believe there is already a need for greater consumer protection and that that need will only increase if Ofcom introduces a higher service charge cap for 09 numbers.

We note that the proposed service charge cap may reduce the cost to call some 118 numbers but would highlight that many of the cases of consumer detriment involving such services are charged at a per minute rate below the proposed cap.

Consultation questions

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?

Yes, the criteria are appropriate.

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

We are persuaded by Ofcom's arguments about the need to set a maximum SC for 09 numbers and broadly agree with the analysis of the issues as they affect consumers.

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

The analysis is persuasive.

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?

Yes, if a new provision for 'drop calls' is introduced then there should be a separate cap.

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

Yes, but acknowledge periodic reviews will be appropriate.

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

We are unconvinced by some of the arguments Ofcom makes on this proposal and feel that the consultation is unclear on some of the implications of setting the SC cap exclusive of VAT.

The reference to consumer awareness of retail prices seems slightly disingenuous given that presenting the cap exclusive of VAT at £3 per minute when the majority of prices are presented to consumers inclusive of VAT would be far more confusing than having a cap which wasn't a 'round number'. For example, if the cap is £3 per minute exclusive of VAT,

the actual cap on prices paid by consumer would be £3.60. Not only is this significantly more expensive than £3, it would have two undesirable effects: namely making consumers underestimate the potential maximum cost of calling an 09 or 118 number and making it appear that some service providers were breaking the cap, eroding confidence in the charging regime for non-geographic numbers.

In any case, there will be a multiplicity of price points beneath the cap, many of which will likely translate into difficult to recall prices both before and after VAT. Clarity for consumers would be improved by including VAT in all the costs and caps which apply to phone calls. We would also note that the issue of cost will be further complicated for consumers by the existence of an access charge levied by the originating communications provider. Some consumers will have an effectively higher cap on the per minute cost of 09 and 118 calls than others depending on the access charge on their own phone tariff.

A further concern about clarity for consumers comes in the form of minimum call charges and set up fees. These distort the cost of phone calls significantly as a short phone call will cost more than the per minute cap (and access charge) would imply. Depending on the level of these charges a call would actually have to be rather long to approach an effective per minute rate which resembles the advertised rate.

We accept that there is a strong argument in favour of consistency with the caps for 084 and 087 numbers, which it is also proposed will be exclusive of VAT. But taking the existing retail price control on BT's 09 charges as an example it is clear that consumers who are aware of it understand it to be £1.53 per minute (which includes VAT), not £1.27 (ex VAT) which is how it is specified in the Numbering Plan.

This leads on to a further concern – if Ofcom sets the cap exclusive of VAT does it intend to set the cap at £2.50 per minute so that it reaches £3 when VAT is added? Or does it intend to set it at £3 per minute, which works out at £3.60 per minute when VAT is taken into consideration? This is important as one of the other options for an SC cap which Ofcom compares and contrasts the £3 cap with is the uprated BT retail price cap. The uprated BT cap explicitly includes VAT whereas the £3 proposal is very vague on this issue. This could be argued to make the comparison rather meaningless, particularly in terms of consumer detriment. After all, an additional 60 pence per minute in the cost to the consumer means that a call charged at the cap which lasts ten minutes would cost an additional £6 to the consumer compared to the same call with a cap set at £3 per minute including VAT. Similarly, the potential spoils for fraudulent or misleading practices are greater if the £3 cap is exclusive of VAT rather than inclusive, increasing the attractiveness to people who would wish to take advantage of consumers.

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.

Not necessarily. Even with an effective cap of £1.53 we see incidences of bill shock, misleading practices and outright fraud. We also see clients who are unable to afford to call companies and organisations because of the high costs of an 09 number. A significantly higher per minute cap and even the introduction of a 'drop call' function will only increase these risks.

A CAB in Yorkshire and the Humber advised a client with a low income and two dependent children who wanted to challenge her mobile phone bill but could not afford to call her mobile company's customer services as they were provided via an 09 number at £1.53 per minute.

In relation to this specific example, while most communications providers now offer customer services via an 0800 or 0845 number, the forthcoming Consumer Bill of Rights will preclude companies from charging customers any more than the basic rate for a phone call.

A CAB in the South West advised a client who was confused by her quarterly phone bill being significantly higher than usual. Upon investigation by the adviser, it transpired the client had been calling a lot of premium rate phone numbers, including 11 calls to one 09 number which came to £55 in total. The client had been doing word searches advertised on the back of a popular lifestyle magazine and was phoning in her answers to claim her 'prize'. These prizes were invariably an entry to a competition or another quiz, which involved her phoning in her results again. These calls lasted 6 minutes and 15 seconds and cost £1.53 per minute, which was only evident if one read the very small print beneath the word searches.

A CAB in Yorkshire and the Humber saw a client who had been the victim of an apparent premium rate service scam. The client received a letter strongly implying that they had won a substantial sum of money which could be received if the client called an 09 number. The client spent a great deal of time and money trying to get through to speak to a person but only encountered an automated telephone system. The CAB adviser's investigations suggested that the company behind the letter's behaviour was in fact legal.

A CAB in London advised a pensioner reliant on benefits who had run up large bills by calling a 118 number and being put through to the company he wished to speak to. He claimed he had not been told that this connected call would be charged at £1.20 per minute, as should have been made clear to him.

A CAB in Central England saw a client who was in dispute with a car parking company but was refusing to call them because of their use of an expensive 09 number.

A CAB in East England reported a case where a client wanted to check whether a winding up petition had been issued for a company but was required to call an 09 number to make the enquiry. The client was concerned that a public authority could use a premium rate service number for access to publicly held information.

The uprated BT retail price cap of £2.29 is only 61 pence less than Ofcom's preferred £3 per minute cap (notwithstanding the VAT issue) but would provide the potential for an additional 76 pence per minute for new 'innovative' services which would cost more to provide than is economical at £1.53.

It must be recognised however that while introducing a cap above £1.53 has attractive advantages for service providers and communications providers it may lead to a greater

number of consumers suffering detriment through bill shock, misleading practices and fraud if patterns of behaviour by service providers change as a result of the additional revenue which can potentially be generated. Even if patterns of service provider behaviour do not change, the potential for higher call costs would mean that people who would have been victims of bill shock, misleading practices or fraud will experience greater financial detriment than would otherwise have been the case.

Question 5.1: Are there any other consumer protection measures we should consider for the 09 and 118 ranges? Please explain why you consider any additional measures you identify might be appropriate?

At the moment the cases bureaux report to us about 09 numbers tend to be about services which clients have no choice but to call (often debt management firms) or 'competitions' advertised in magazines. Preventing these services from using PRS would protect consumers as well as working with OFT and Trading Standards to monitor and take enforcement action against misleading competitions and similar enterprises. Other options which could help include enforcement action against companies not making the per minute costs of directly transferred 118 calls clear, and a requirement to prominently advertise the cost of calling rather than hiding it in small print.

A CAB in the South East advised a client who had spent over £100 calling 09 premium rate numbers following his entry to a word search puzzle in a popular tv listings magazine. Having sent in his entry by post, he was informed that there were other correct entries and he should call an 09 number for a chance to win an increased prize. Repeated calls were encouraged, with calls lasting up to seven minutes at £1.53 per minute. The adviser observed that while such competitions were technically legal as the small print explained the costs and terms and conditions, it was effectively indistinguishable from a scam.

A CAB in the East of England reported a case where a client ran up a bill of over £100 for one telephone call made via a 118 number. The client claimed he had not been informed by the operator that if he was put through directly he would be charged £1.50 a minute. Because the client had a tariff which includes free calls on a Saturday, it would have been free if he had simply taken the number from the operator and dialled it himself. The client was extremely angry to have been financially harmed by a trusted company. Upon investigation by the advisor, it transpired that even the company in question's website made the costs of being transferred directly very unclear, only finding them eventually buried in small print.

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.

Pre-call announcements, provided they are kept sufficiently short and clear, can be an effective way of ensuring customer price awareness. There is an advantage to OCPs being responsible for the message in that they will be able to tell customers what the access charge is as well as the service charge, thus giving full clarity on the price.

There is a particularly strong argument in favour of a pre-call announcement for 'drop-calls', particularly if it is provided by the OCP. The creation of a 'drop call' facility will create new opportunities for consumer detriment as even the shortest call could cost up to £5. A business engaging in fraud or misleading practices could encourage multiple calls, with the cost building up rapidly and significantly in an extremely short period of time. For this reason there is a very strong case for requiring a pre-call announcement for such calls.

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.

A consumer opt-in may be helpful. We take the points made by Ofcom in considering the pros and cons of an opt in but would make a couple of observations. Consumers who wish to use services provided via 09 and 118 numbers will in large part do so anyway, regardless of whether they have to opt-in or not. The consumers who might not use those services if they had to pro-actively opt-in – at which point the likely costs would presumably be highlighted to them – include people who experience bill shock as a result of arguably misleading 'competitions' and other similar enterprises, as well as people who are the victims of fraud. While we understand there will be elements of the industry who would wish to ensure such people do not become less likely to call 09 or 118 numbers we would question whether their motives are aligned with the interests of the consumers concerned.

The argument which draws on the Universal Service Directive is compelling, but we would question whether requiring consumers to opt-in is tantamount to 'blocking' access to numbers or services. In addition, Article 28 does not say that national authorities must ensure end users are able to access and use *all* services using non-geographic numbers.

At the very least, requiring a prominently advertised opt-out option such as that already provided by BT is an idea worth further investigation.

Question 5.5: Do you have any comments on our assessment of the costs and benefits of time-related notifications on the 09 and 118 range? Please provide reasons for your views.

Example used to illustrate the length of call required to meet PPP's total call cost limit is misleading: Ofcom's preferred option is a £3pm cap, not £5, which would mean the maximum length of a call would be ten minutes (assuming both prices are either with or before VAT). If the uprated BT retail price limit was put in place then the maximum length of a call would be just over 13 minutes. In that context, the lower the per minute cap the greater the benefit of a time-related notification.

We would note however that the total call cap is effectively not Ofcom's direct decision, making certainty about the variables on this issue elusive. If the total call cap were to increase as a result of Ofcom's reforms then the benefit of time-related notifications would increase significantly.

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.

Take the point that many consumers have limited understanding of what the cost of calling wider number ranges is and having sub-ranges may be confusing or difficult to communicate.

Question 5.9: Do you agree with our assessment that additional consumer protection measures would only be justified if SPs are able to set SCs for services on 09 and 118 with the ranges proposed under Option 3? Please provide reasons for your view, including, if relevant, the measures that you consider would be appropriate.

No. We already see consumer detriment with an effective cap of £1.53. A £3 cap is almost double that, significantly increasing the risk of greater consumer detriment. We have outlined our views on appropriate measures elsewhere in this consultation.

Below are further summaries of cases bureaux have seen where services provided via 09 and 118 numbers have caused consumer detriment.

A CAB in the East Midlands advised a client who had bailiff action regarding council tax arrears and was provided with a premium rate number to call the bailiffs. Already in financial hardship, the extra expense caused him increased worry in an already stressful situation. The CAB adviser noted that the deterrent action of such costs can put clients off calling bailiffs, potentially putting them at risk of worsening debts or further action.

A CAB in the North West reported a case in which a deaf client wished to contact the DVLA after his full driving licence had not arrived long after it was expected but found that he had to contact an 09 number if he wanted any information. The client reported that the high cost of this call had left him significantly out of pocket.

A CAB in the South East reported a case where a client was struggling to claim his Employment Tribunal award from former employers who had since ceased trading. In order to find out if the company had been liquidated and if it had any assets he could claim against he was referred to the Companies Court but found that he was required to call an 09 number costing 75p per minute if he wished to find out the necessary information.

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.

We have no particular problem with the £5 per call cap for 'drop calls' provided there are sufficient consumer protections in place but if Ofcom is determined to set a service charge

cap above £1.53 it would be preferable to see it set at the BT retail price cap updated by inflation.

The reason for this is that we already see evidence of consumer detriment at £1.53.

The fact that we already see detriment with costs effectively capped at that level suggests there is already a case for additional consumer protection measures, let alone under the proposed £3 per minute cap