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26 July 2024

Ofcom consultation on the future regulation of phone-paid services dated 21 November 2023 ("Consultation") and draft Electronic Communications – The Regulation of Premium Rate Services Order 2024 ("Draft Order")

Apple appreciates the opportunity to provide feedback on Ofcom's Consultation and Draft Order. For the purposes of this letter, please note that the App Store in the UK is operated by Apple Distribution International Limited (ADIL), a subsidiary of Apple Inc.

We support the broad objective of addressing consumer harm in the use of phone paid services, and we believe Ofcom should implement its approach in a manner that is proportionate and principles based.

We also believe the Draft Order should not be prescriptive and should instead, take into account the different models in the ecosystem. For example, ADIL operates the App Store and accepts different payment methods as a merchant.

Consultation Question 4: Do you have any comments about our proposed definition for PRS regulated providers and regulated activity in article 9 in Part 1 of the draft PRS Order?

We are concerned that as currently drafted, the Order could be read as implying that app stores broadly act as intermediaries, when this is not the case for ADIL, which is the merchant for digital content purchased through the App Store.

We would welcome clarifications that give providers flexibility to assess the role they play in the ecosystem based on their own business models, and take proportionate measures to meet the objective of the Draft Order of addressing consumer harm.

Consultation Question 6: Do you have any comments on our proposed requirements relating to due diligence and risk assessment in Part 4 of the draft PRS Order?

The Draft Order proposes new diligence measures that providers will be expected to implement. We believe such diligence measures should (a) be supported by an impact assessment (b) be proportionate (c) be implemented based on the role a provider plays in the ecosystem.

Consultation Question 7: Do you have any comments about our proposed approach to security testing in Part 5 of the draft PRS Order?

As a leading technology platform, the App Store is designed to provide maximum security for end users regardless of whether or not a PRS is being provided. Our billing platform has achieved accreditation under the highest industry standards, and such accreditations require regular testing.



Our view is that the Draft Order should provide principles for security testing instead of prescribing how security testing should be conducted.

Conclusion

Consistent with our feedback above, we would welcome changes to the Draft Order to allow for a principles and outcomes based approach in addressing the consumer harm that is associated with phone-paid services.

We hope these observations are helpful for the purpose of your review of the regulation in this area.