



Vodafone response to Ofcom's consultation:

The future regulation of phone-paid services



Vodafone welcomes Ofcom's consultation regarding the transfer of regulatory powers from the Phone-Paid Services Authority (PSA) to Ofcom. The PSA has over time effectively managed regulation of Premium Rate Services (PRS) and successfully reduced the number of consumer complaints to the current historically low levels. In recognition of this success we agree that now is the right time to reassess the targeted need for regulation and to absorb this activity within Ofcom's broader framework.

Vodafone is a member of the Operator Billing Forum, and we draw Ofcom's attention to its response, submitted by MobileUK, which we endorse. Our response therefore concentrates on several key points within the consultation.

1. App store definition

We agree with Ofcom's characterisation of the PRS market as having undergone profound change, from voice-based services purchased primarily via the 09x number range to mobile data services charged through operator billing and increasingly data services purchased through the app stores of global players.

It is essential that this transition is explicitly reflected in Ofcom's definition of regulated providers. The traditional definitions for 'Merchants', 'Intermediaries' and 'Network Providers' are suitably captured, but an inadvertent gap has been created in relation to app stores. Vodafone suggests Ofcom bridges this gap by clearly identifying what it considers to constitute an app store and to explicitly state that this includes the app stores of the largest global players.

If Ofcom does not clearly define an app store, we anticipate there being two inadvertent consequences:

a. Registration exemptions

App stores can apply for an exemption to registration for their merchant / app developers be it singularly or as a blanket exemption. In the absence of a clearly defined term this creates an incentive for any member of the value chain to declare itself an app store, claim a blanket exemption and then to benefit from a lower level of regulatory burden for its merchant / app developers.

b. Due Diligence, Risk and Control (DDRAC)

The app stores of global players due to their commercial scale represent a high level of risk to Vodafone's regulatory compliance. If one assumes the global players will seek the blanket registration exemption for their many Merchants to which they are entitled, then Ofcom will have effectively lessened the oversight and control over these app stores which exists under the PSA's Code 15.

However, Ofcom is still intending to confer existing DDRAC expectations on Vodafone. These require that Vodafone knows which services are operating on its network and applies appropriate risk and control measures to these services, for the Global players their hyper scale makes this impractical. Further, Ofcom has effectively removed the ability for Vodafone to do this where a malicious Merchant or Intermediary is exploiting an app store registration exemption. Fundamentally, the only way Vodafone can satisfy its obligations is to ask the app store to confirm they have their own measures in place and to take this at face value. This is a problem which already exists, but which will be exacerbated, with some app stores today making it difficult for Vodafone to verify they have appropriate



DDRAC measures with specific regard to Security testing.

An app store with poor DDRAC may be protected from any regulatory repercussions caused by a Merchant acting in bad faith due to a registration exemption whilst potentially the same Merchant could bring Vodafone into non-compliance with its DDRAC obligations.

Ofcom should not be under the misapprehension that Vodafone can seek to contractually enforce regulatory compliance against a global player's app store in such circumstances.

Typically such contracts and relationships are held at a Group level rather than with the local entity meaning that the ability to enforce effective compliance across the entire value chain has to remain with Ofcom in order to be effective.

2. Information, Connection and Signposting Services (ICSS)

Vodafone maintains that ICSS do not constitute valid services and, as Ofcom has identified, that they do and will continue to generate significant consumer harm. Ofcom is acting to remove consumer harm from ICSS services for once and for all, we are supportive of the proposal to place the services on a price point which includes a free to caller Service Charge for the first minute. Such a price point exists today and can in our view be re-used upon Ofcom's direction.

Currently only two price structures are used by ICSS providers (ppc + ppm after 60 seconds and ppc) and Vodafone would not support any further disproportionate intervention to facilitate these services. A tactic ICSS providers may seek to delay the proposals is to demand all networks build all charging variations that would give a free 60 second period at the start of the call. The additional costs involved in creating superfluous price points for a non-service with the potential to generate significant consumer harm does not in our view pass any impact assessment.

The proposed implementation timescales however are unrealistic. Delivery schedules and budgets for FY24-25 were locked prior to this consultation and they do not include resource or funding for ICSS. Ofcom is already placing great demands on operators with the need to deliver One-Touch Switching, a new requirement for OTS porting and potentially new consumer roaming safeguards.

It is not possible to accommodate this additional unfunded development in October 2024 and we instead suggest that either Ofcom removes an implementation date from the implementing ICSS legislation or starts a longer implementation period from April 2025, rather than October 2024.

3. Levy

Vodafone is concerned by Ofcom's levy proposals. The decision to disband PSA was driven by a decline in complaints and necessary consumer protection activity meaning that the cost benefit of PSA remaining as a separate entity was insufficient. As a result it was transferred into the existing Ofcom structures.

The increased revenues created in the Charge to Bill market are being generated by the global hyper scaled App Stores and Ofcom should require these players as part of Ofcom's direct regulation to pay to Ofcom directly the levy from CPRS services.

It stands to reason that cost synergies have been realised by this activity through the reduction in building costs, unneeded infrastructure and removal of the higher salaries from the PSA board. Vodafone is surprised not to see this reflected in the output of Ofcom's funding model



which instead appears to be seeking to largely maintain previous levels of income. We do not agree with this outcome and request that Ofcom revisits its necessary funding levels and shares a more detailed breakdown of how it has arrived at the current proposal.

4. MNO Codes of Practice

Today Vodafone and the other MNOs effectively manage day to day compliance with the PSA Code 15 in their relationships with Merchants and Intermediaries through self-regulated Codes of Practice. These are vital tools in protecting the interests of consumers and preventing harm as they can be flexed to address emerging issues. Vodafone asks that Ofcom consider recognition of these Codes of Practice within the Order as a beneficial tool to the future day to day management of PRS.