

Consultation response form

Consultation on PSA Guidance on refunds

Please complete this form in full and return by email to consultations@psauthority.org.uk or by post to Sarah-Louise Prouse, Phone-paid Services Authority, 40 Bank Street, London, E14 5NR.

Full name	Paul
Contact phone number	
Representing	Organisation
Organisation name	payforitsucks.co.uk
Email address	paul@payforitsucks.co.uk

If you wish to send your response with your company logo, please paste it here:

We plan to publish the outcome of this consultation and to make available all responses received. If you want all or part of your submission to remain confidential, please clearly identify where this applies along with your reasons for doing so.

Personal data, such as your name and contact details, that you give/have given to the PSA is used, stored and otherwise processed, so that the PSA can obtain opinions of members of the public and representatives of organisations or companies about the PSA's subscriptions review and publish the findings.

Further information about the personal data you give to the PSA, including who to complain to, can be found at psauthority.org.uk/privacy-policy.

Confidentiality

We ask for your contact details along with your response so that we can engage with you on

this consultation. For further information about how the PSA handles your personal information and your corresponding rights, please see our [privacy policy](#).

<p>Your details: We will keep your contact number and email address confidential. Is there anything else you want to keep confidential?</p>	Nothing
<p>Your response: Please indicate how much of your response you want to keep confidential.</p>	None
<p>For confidential responses, can the PSA refer to the contents of your response in any statement or other publication? Your identity will remain confidential.</p>	Yes

Your response

Please enter your response to each of the consultation questions in the appropriate box below.

Consultation questions	Your response
<p>Q1. Do you agree with the PSA's assessment that the research and other inputs, supports the implementation of best practice Guidance? If not, why not?</p>	<p>Confidential? No We regret that this consultation relates only to the refund process, and not to the overall complaint handling process experienced by consumers. The most common complaint from consumers is of cumbersome and obstructive complaints handling making it almost impossible to obtain a refund. Consumers are faced with delays, obfuscation, misinformation and sometimes even blatant lies. Although a failure to handle complaints properly is a breach of the current Code, there have been no serious efforts at enforcement. A further issue is the lack of a clear disputes procedure when a refund is refused without good reason.</p> <p>We believe that the issue of refunds would be better addressed through mandatory changes to the Code, rather than a reliance on companies following guidance. Having said that, we welcome the fact that this issue is finally being addressed. In our experience the majority of refunds are triggered because a consumer has asserted that they did not consent to a contract with the service</p>

provider. Whilst there are other possible causes for consumers asking service providers for a refund, this is by far the most frequent. It is in this context that the remainder of our comments should be considered.

Most of the problems consumers experience with Phone-paid Services arise from the large number of entities involved in an unnecessarily complex system, and the failure of any of them to take responsibility when things go wrong. Consumers attempting to complain to level 2 providers often find that they are dealing instead with yet another company whose sole purpose appears to be to “protect” the level 2 provider from legitimate complaints and refund claims. This is in marked contrast to other payment systems where there are clear and uniform disputes procedures.

To illustrate this, we describe two very different cases which we have dealt with recently.

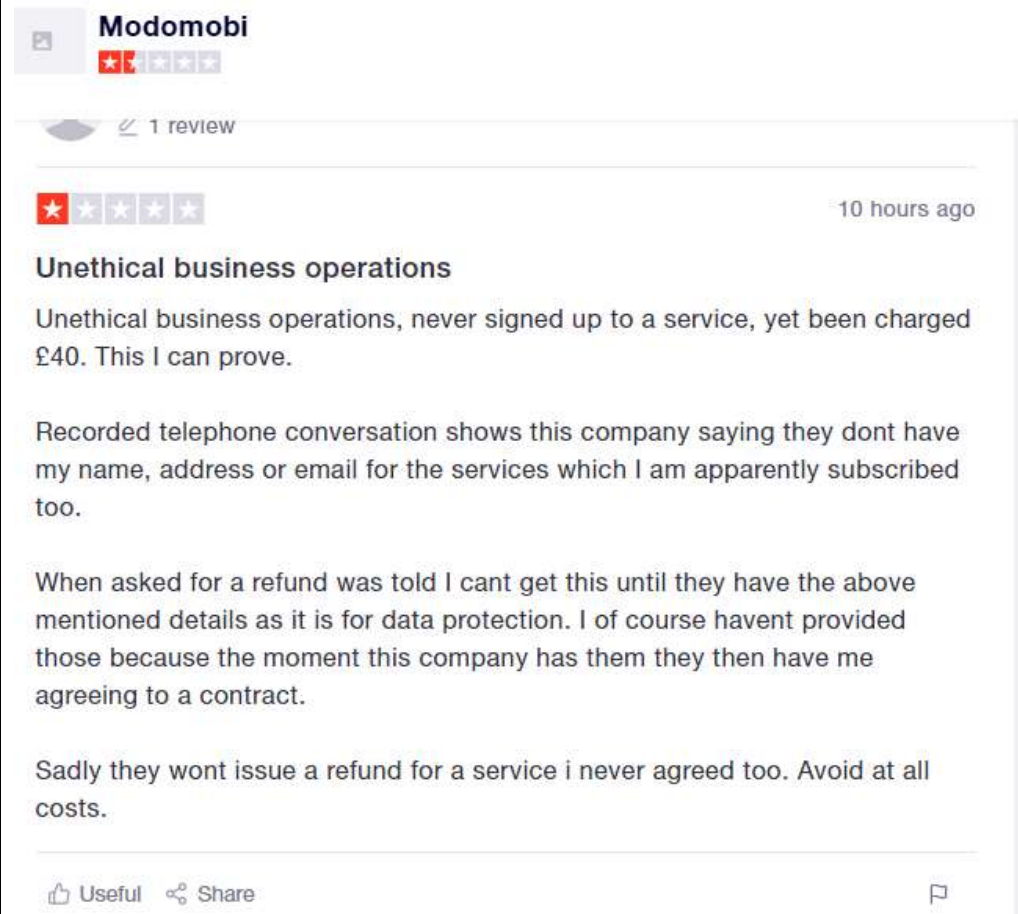
The first concerns one of the “services” that appears to have been set up with the sole intention of defrauding consumers. After the introduction of new Special Conditions for subscription services in November 2019, this “fitness” service came to our attention. It circumvents the authorisation now required for subscription services by taking a single payment of £40 (by means of 4 £10 Premium SMS). It uses the two-click authorisation method which research has shown to be highly vulnerable to abuse. The “service” advertises on YouTube videos aimed at children. It is our belief that a significant number, if not the majority, of payments taken by this “service” are fraudulent. In our view, it is a cynical attempt to exploit the remaining vulnerabilities of the system. In many cases, the device supposedly initiating the payment is a 4G router. A child, using a tablet attached to the router has clicked links on a YouTube video, thus starting the subscription. The text messages notifying the charges are not seen as they are unexpected and go to the router.

This service only operates on one of the four mobile networks. Significantly, this is the only network which does not allow its customers to apply a charge to bill bar to stop these charges.

Consumers disputing these charges are met with an initial refusal by their network to assist. Some consumers have reported obtaining a refund from their network, albeit after spending hours trying to talk to someone with the authority to do this. When they attempt to contact the service provider, they find they are dealing with a “customer service” company based in Australia. This company always starts by telling the defrauded consumer that they are not entitled to a refund. They frequently refuse to provide contact details of the “service provider” making it very difficult to pursue a refund. They may sometimes offer £20 refund if pressured. Only customers who threaten county court action are refunded in full. We have received dozens of complaints about this service.

Customers seeking a refund from this service thus have a haphazard response. Some get a refund from their network, others get a refund from the service provider, while many give up and receive no refund at all. The only thing these consumers have in common is that they have had to spend hours battling a system designed to ensure that companies like this retain their ill-gotten gains.

There are also nearly 50 reviews on Trustpilot, all one-star, highlighting this company's dubious business practices. Rather than defend itself by answering the critical reviews, the company has chosen to try to get them removed because they contain the words "scam" and/or "fraud"! Some of these reviews are reproduced below to try to evidence the degree of consumer resentment caused by the difficulty in having these fraudulent charges refunded.



Modomobi
1 review

10 hours ago

Unethical business operations

Unethical business operations, never signed up to a service, yet been charged £40. This I can prove.

Recorded telephone conversation shows this company saying they dont have my name, address or email for the services which I am apparently subscribed too.

When asked for a refund was told I cant get this until they have the above mentioned details as it is for data protection. I of course havent provided those because the moment this company has them they then have me agreeing to a contract.

Sadly they wont issue a refund for a service i never agreed too. Avoid at all costs.

Useful Share

This illustrates a common problem with refunds – companies demanding additional personal data as a condition for providing a refund. If refunds were provided by MNOs this wouldn't be an issue.



A day ago

Scam left my bank account short

£40 payment taken from my account. Never knew or heard of the company. Modomobi refused refund as after 14 days. Never received any txt messages from them and they told me I could complain but not email or txt links sent to do this following three telephone calls. Call centre is in Sydney Australia according to service advisor. I will call again and demand full refund prior to contacting PSA and BBC watchdog both of whom are aware of this companies scams. I am with three I believe O2 and other providers have blocked this scam. I was left with no money after they took the £40.00.

Useful 1 Share



Another issue is a refusal of a “customer service” company to put the consumer in contact with the service provider.



2 days ago

SCAM ARTISTS!!!

SCAM ARTISTS!!!! WHERE IS THE ZERO STARS OPTION???

Awful company. Never clicked to subscribe. Jesse refused to give a refund. Kept repeating that I 'must have clicked on a double opt in' - this never happened. It was the first time I saw the company.

Useful 1 Share



Stonewalling consumers, insisting they must have “subscribed” but without offering any evidence. Either consumers should be provided with proof of a lawful contract, or they should be refunded.



2 days ago

Will have to claim back charges in court as they refuse to refund.
As with other "reviews", I was charged £60 (6 messages at £10 each) back on Dec 2 +3 via my phone bill, my phone provider is Three who have denied any accountability and refused to reverse these charges. They say you have to claim the money back from Modo Mobi Limited directly. After speaking with them over the last 2 weeks they simply offered £40 as a refund, as a "show of good will"..
I have now had to file a small claim and will look to get my money back in court.
There was no texts received with an offer to "opt-out" only ever received the charges to my bill..
They themselves say you can get "enrolled" for lack of a better word to their "premium text service" by watching things like "best cat videos" on the internet... if that doesn't say something about how shady this company is, I don't know what will.
This is literally a company operating by charging as many phone customers as possible knowing that not everyone will jump through the hoops to get their money back... if you find yourself here facing the same charges I would urge you to get your records straight, keep it in writing and take them to task

Useful 3 Share



Consumers often have to resort to the Small Claims procedure to obtain a refund. Those not prepared to take this step often fail to obtain a refund



6 days ago

SCAMMED OUT OF £40

SCAMMED OUT OF £40. Disgusting. A single mother who relies on every last penny who now doesn't have a phone as I cannot afford the extra £40 charges I never consented your in the first place. The amount of distress and upset you gave caused. Disgraceful.

Useful 3 Share



The PSA fail to understand that charge to bill fraud affects real people. The amounts involved may seem trifling to them, sitting in their luxurious offices in Canary Wharf, but many consumers are badly affected by money lost to Payforit fraud.



13 hours ago

Another victim of MODOMOBI

Another victim of MODOMOBI, my daughter was using my mobile while on YouTube must have double clicked an advert.

The fact she was on the kids YouTube channel is disgusting, they are targeting children with the hope they inadvertent press the wrong thing. I will need to speak to Three but looks like i just got scammed. Three should block this kind of process, i can't believe this type of scam still operates today.

Useful 1 Share



Even if the method of subscription is technically lawful, a contract entered into by a child cannot be lawful and charges should be refunded. Targetting children in this way should not be allowed.



5 hours ago

After seejng them charging my partner...

After seejng them charging my partner 40quid on her phone bill i thought i would ring up to find out 1)who they was and 2)how to get my money back, i was rudly put kn hold for 1 hour and 30 mins before they decided to hang up, i then phoned back and when asked for their company address was told we cant give that out. I expect a full refund for theft of monies for a service i didnt want need nore sign up too

Useful Share



An hour and a half on hold! And then a refusal to provide contact details for the "service provider".



18 hours ago

They advertise on child friendly videos...

They advertise on child friendly videos on youtube. My 3 year old signed me up without me knowing and £40 taken from my account before I realised. They are fraudsters and know exactly what they are doing. Someone somewhere is getting very rich from underhand advertising.

Useful 1 Share



An hour ago

My two year old was watching videos on...

My two year old was watching videos on YouTube and I have now received 4 texts that I am being charged £40 on my phone bill.

Useful 1 Share



The second case is very different. It concerns a large streaming music service, Spotify. There is no suggestion of deliberate fraud here, but there is evidence of a system that is not fit for purpose.

A consumer discovered that they were receiving charges from Spotify which they did not recognise.



Feb 14

[@Spotify](#) [@Payforit_Sucks](#)

Spotify tell me its Three's problem and Three tell me it's Spotifys problem.. Whilst they both assure me they will get the issue sorted they continue to palm me off. Appalling customer service from both

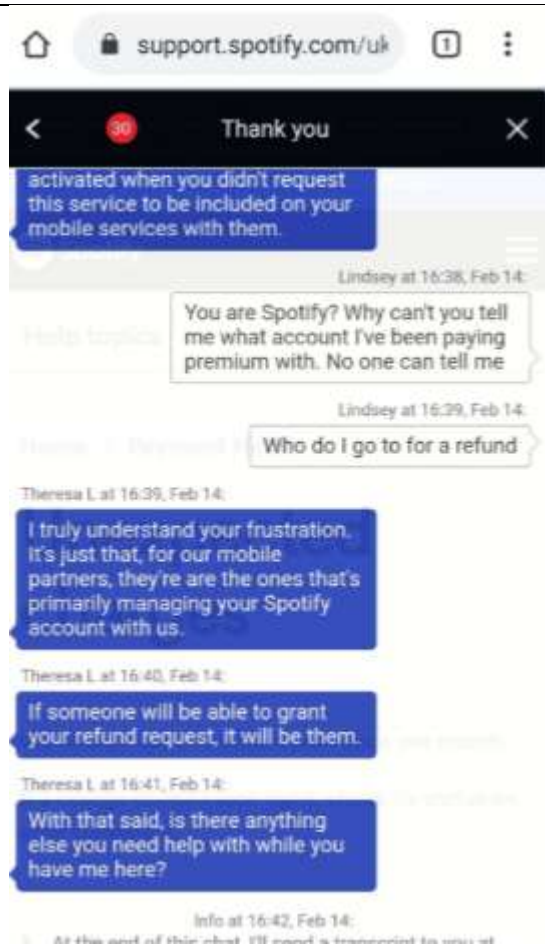
Not only did Three fail to help, but they supplied incorrect information, saying that a charge cap would stop the charges (it doesn't) and that they can refer the matter to Ofcom (should be Phone-paid Services Authority). Truly shocking customer service!



The screenshot shows a live chat interface with a header "Live chat." and a back arrow on the left and a menu icon on the right. The chat history consists of five messages:

- 5:07 pm [Redacted]: Thanks for waiting patiently.
- 5:09 pm [Redacted]: I can see that the Spotify is an music app and we don't charge, provide or support these services. Hence, I'm sorry we don't be able to refund you.
- 5:09 pm [Redacted]: However, I can set an cap to the account so as you don't be charged in the future for these services.
- 5:09 pm [Redacted]: If you want you can raise this issue to "Ofcom"
- 5:09 pm [Redacted]: And rest assure they'll help you as Spotify or any company cannot charge you for the services you are not using and are liable to refund you.

The response from Spotify was equally unhelpful, referring the consumer back to Three.



Neither Three nor Spotify mentioned Boku, who actually processed the payment. After receiving advice identifying Boku as the payment processor, the consumer was *eventually* provided with a refund by them. Many less persistent consumers would have given up long before this! This demonstrates how, even where there is no intention to defraud, the overly complex system makes it difficult for consumers to obtain the refunds to which they are entitled. **This example also shows that the customer service representatives of the network and of the service providers are themselves unable to understand the system. Realistically what chance do consumers have!**

We believe that this should be addressed by the MNOs taking a much more active role in the system. It is they who have the initial contractual arrangement with consumers which facilitates the charges, and they need to accept much more responsibility when the system is shown to be at fault. It is the repeated failure of MNOs to accept their responsibilities for dispute resolution (as laid down in their own Payforit rules!) that is the greatest reason for consumer dissatisfaction.

Consumers have entered into a contractual relationship with their network and naturally expect their network to be helpful in resolving charging issues. The networks claim to be merely passing on charges from 3rd parties, but when a consumer refuses to pay one of these 3rd party charges, it is the network that chases the debt. **If the networks truly want to distance themselves from these charges, one**

	<p>approach would be to provide a chargeback facility similar to that offered by credit and debit cards. This would force the “service provider” to chase the debt and effectively remove the MNOs from disputes over these 3rd party charges.</p> <p>If the networks wish to continue with the assertion that these are “third party charges”, they should ensure that they can confront the consumer with evidence that they consented to the disputed charges and therefore the charges were lawful. Networks should not be passing on charges which they cannot show to be lawful, as currently happens with “Payforit”.</p> <p>Non-compliance with any reasonable interpretation of para 2.6.4 of the Code seems to be a widespread issue with phone-paid services, and PSA have appeared reluctant to enforce it, even against UK based service providers. Even more problems arise when the errant service provider is based overseas and PSA appear powerless to enforce the provisions of the Code.</p> <p>If the Code can’t be enforced, what is the realistic prospect that service providers will pay any regard to revised guidance?</p>
<p>Q2. Do you agree with the principles underpinning the Guidance, particularly that consumers should be presented with choice in how they would like to be refunded? If not, why not?</p>	<p>Confidential? No</p> <p>We believe that the provisions of the Consumer Rights Act 2015 should be complied with in respect of refunds. As a general principle, this states that “The trader must give the refund using the same means of payment as the consumer used to pay for the digital content, unless the consumer expressly agrees otherwise”.</p> <p>PSA have previously argued about the need for a service to comply with the law in this respect (essentially claiming that section 45 of the Consumer Rights Act only applies if the refund is specifically being made because the supplier does not have the right to supply the digital content to the consumer). We reject that view, and in any event, if the consumer has not entered into a lawful contract with the supplier (the most common reason for refunds), the supplier does not have the right to supply the digital content to the consumer. Without getting into complex legal argument, the fact remains that all other commonly used payment mechanisms apply the provisions of section 45(3) to all refunds.</p> <p>Thus we would argue that the default method of refund should always be by means of a refund to the consumer’s phone account. This leaves open the possibility of an alternative refund method if the consumer and the company can agree it.</p> <p>Service providers should not be allowed to pressure consumers into providing additional personal information in order to facilitate other refund methods, nor should they be allowed to insist on refund mechanisms which are inconvenient for the consumer. A refund back to the consumer’s phone account should always be available if no agreement can be reached on an alternative. The fact that some Phone-paid Services claim to be unable to refund by this method should not be a reason to “bend the rules”. If work needs to be done in order to enable compliance then that work has to be done. The entire system for making “third party” charges to phone bills is archaic and needs fundamental reform.</p> <p>In the case of other payment mechanisms, refunds are normally processed</p>

	<p>through the original payment processor. If this principle were to be adopted, the MNOs would need to take a leading role in processing refunds. We find it utterly incredible that this isn't the normal process in any event. If I pay for something with Paypal, for example, any refund will be returned to my Paypal account and processed by Paypal. The same principle applies to credit card payments, Google Pay and Amazon Pay. Why can't it apply to Payforit and other "charge to bill" mechanisms? The Phone-paid payment system needs to be brought into the 21st century. There needs to be standardisation around a single refund mechanism, and the obvious method for this is to refund back to the account from which the money is taken.</p> <p>The simplest way to achieve this would be for the MNOs, as the payment facilitators, to get fully involved and take full responsibility for issues with the system they have devised.</p> <p>While it is good to see a clarification of what PSA consider to be "promptly" in the context of section 2.6.4 of the Code, we feel that 14 days is far too long. Most modern payment systems can provide refunds in two or three days at most. This is another area in which the system needs to be brought up to date. We would prefer to see consumers reunited with their money with the same speed and efficiency as that with which it was taken. There should be no unnecessary delay in providing refunds and it is hard to see any way in which 14 days can be regarded as "promptly". This is a further area where standardisation of refund procedures would be of benefit. The standardised method ought to be fast (no more than three days). If consumers agree to a different refund method, they should be informed of the expected timescale for this method.</p> <p>PSA say that they consider choice to be important to consumers. We believe that it is possible to have a standard/default method of refunding, whilst still leaving it open for the vendor and the consumer to negotiate an alternative if they wish. PSA can then lay down clear expectations in terms of timescales and communications for the default method,</p> <p>If it isn't possible to reform the system to allow consumers to be treated fairly and promptly when they make a complaint, the system is not fit for purpose and should be abandoned. There are, after all, many other methods of paying, all of them vastly safer and better regulated than charging to a phone bill.</p> <p>We will continue to encourage consumers to opt out of Payforit and other "charge to bill" mechanisms until the MNOs put their house in order and take responsibility for the fraud which their system is enabling..</p>
<p>Q3. Are there any other issues surrounding refunds that are not addressed through the proposed draft</p>	<p>Confidential? No</p> <p>As we observed in our introduction, the issue of refunds is closely linked with disputes resolution. Often consumers request a refund because they dispute the existence of a contract between themselves and the service provider. In this context the Consumer Contracts (Information, Cancellation and Additional Charges) Regulations 2013, provides that the burden of proof rests with the service provider and not with the consumer.. The consumer doesn't have to prove that he didn't enter into a lawful contact, the</p>

<p>Guidance? If so, please provide supporting evidence of any such issues.</p>	<p>service provider has to prove that he did. Many service providers ignore the provisions of the Consumer Rights Act and refuse a refund (or offer only a partial refund) whilst providing no evidence of the existence of the disputed contract. A situation where the service provider is the final arbiter in such cases is unacceptable. PSA should regard such behaviour as a failure to treat the consumer fairly and therefore as a breach of the code. A more robust approach, particularly where the service provider is based outside the UK, is badly needed.</p> <p>The Small Claims procedure has proven to be useful mechanism for resolving these disputes, but can only be effectively used where the service provider is UK based.</p> <p>We believe there is a strong case for excluding “service providers” based outside the UK from operating PRS services, unless they can show that consumer will have some independent means of obtaining an adjudication in the event of a dispute.</p>

Submit your response

To send your responses to the PSA please email this completed form to consultations@psaauthority.org.uk or by post to Sarah-Louise Prouse, Phone-paid Services Authority, 40 Bank Street, London, E14 5NR.