

PRIOR PERMISSION

Service Category: Live Entertainment

Any provider that wishes to be involved in the provision of a premium rate service ('PRS') that involves live entertainment (either 1-2-1 chat services (sexual or non-sexual), or psychic/tarot services – services which allow the caller to speak live with a live operator or consumer for 'entertainment purposes'), and fulfils any of the key conditions outlined below, must have prior permission from PhonepayPlus before the service can commence operation. Prior permission will only be granted subject to the application of certain conditions as set out below.

Live entertainment services can only be operated if a bond is provided by a bank or other acceptable company. The amount of the bond is determined by several factors. Typically, bond levels are set between £12,000 and £17,000 for live 1-2-1 chat services, and between £10,000 and £15,000 for psychic/tarot services.

Permission granted under this category of service is applicable to any services within the service type identified within the application (i.e. live 1-2-1 chat, psychic/tarot, or both).

General conditions:

- (i) All provisions of the [PhonepayPlus Code of Practice](#) ('the Code') (as far as they are applicable) apply to the service.
- (ii) PhonepayPlus may impose such further conditions as it may deem necessary upon reasonable notice.
- (iii) This permission certificate may be immediately revoked by PhonepayPlus at any time if any condition is breached.
- (iv) PhonepayPlus may revoke this permission certificate after giving reasonable notice.
- (v) That all platforms and connections to a Network operator that provide access to the service(s), and any other relevant services provided, are of adequate technical quality.
- (vi) The Level 2 provider must register the applicable premium rate numbers ('PRNs') with PhonepayPlus before the service commences. Once registered, any change to the PRNs must be registered within two working days.
- (vii) If, for any reason, the service fails to commence within six months from the date of this permission certificate; or, having commenced, does not operate for any continuous period of six months – then this permission certificate (in either case) will immediately cease to be in force.

Category-Specific conditions:

- (i) All calls must be continuously recorded to allow investigation of complaints.
 - (ii) It is mandatory:
 - a. to use recording equipment compatible with PhonepayPlus replay facilities which enables the calling line identity ('CLI') of each caller, the time, date and content of live services to be accurately identified from the recording; such recordings must enable PhonepayPlus monitoring at all times and must be 'tamper-proof',
 - b. to disconnect such services immediately if recording should cease at any time for any reason,
 - c. to retain such recordings for a period of at least one year and deliver them to PhonepayPlus and the Adjudicator, intact, within three working days of request,
 - d. before starting to operate any service, to supply to PhonepayPlus the following:
 - i. a statement from the installer of the recording equipment, detailing the type of recording equipment and the total number of simultaneous conversations which the recording equipment can support as configured,
 - ii. a statement from the Network operator(s), detailing the total number of lines, and the number ranges associated with them, provided to the provider,
 - iii. completed copies of declaration forms prescribed and issued by PhonepayPlus.
- Any change to the above must be notified to PhonepayPlus within one month of the change.
- e. to permit representatives of PhonepayPlus to visit any premises at which any part of their operations in connection with the provision of the live service is conducted, with or without notice and at any time, to investigate whether the Code is being complied with in all respects and to inspect the recording equipment,
 - f. to give such information and co-operation as PhonepayPlus may reasonably request which pertains to compliance with this Code.
- (iii) All promotional material and introductory messages to services, when dialled, state clearly that calls will be recorded.

- (iv) All calls to services (excluding sexual entertainment services) costing over 60 pence per minute must not exceed £25.54 plus VAT in total cost and terminate by forced release.
- (v) Providers should ensure that they are fully aware of the Code provisions relating to sexual entertainment services, as failure to comply with these provisions may lead to the imposition of sanctions for breaches of the Code:
- a. Sexual entertainment services are entertainment services of a clearly sexual nature or any services 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. Pay-for-product services where the product is of a clearly sexual nature are sexual entertainment services.
 - b. Sexual entertainment services, and promotions for them, must not contain references which suggest or imply the involvement of persons under 18 years of age.
 - c. Promotions for sexual entertainment services must not appear in media targeted at persons under the age of 18.
 - d. All sexual entertainment services must terminate immediately when a maximum of £25.54 plus VAT per call has been spent.
 - e. Promotions for sexual entertainment services must be in context with the publication or other media in which they appear. Services should be in context with the advertising material promoting them. The content of a service should not be contrary to the reasonable expectations of those responding to the promotion.
 - f. Save where the relevant Network operator has provided an alternative solution acceptable to PhonepayPlus, all sexual entertainment services must provide a message at the beginning of the service stating that:
 - i. the user must be over the age of 18,
 - ii. the user should be either the bill-payer or have the bill-payer's permission to call the service,
 - iii. service details may appear on the phone bill.
 - g. Promotions for sexual entertainment services, and the services themselves, must be compatible with access control and rating arrangements available for, and appropriate to, the medium through which they are accessible. All websites that can be used to access premium rate sexual entertainment services must be content-rated with the Internet Content Rating Association (ICRA), or any other rating system that is generally accepted.

- (viii) Providers should take note of the following information relating to compensation claims for unauthorised connection to an electronic communications network:
- a. A bond must be lodged with PhonepayPlus as security for meeting compensation claims ('the Bond') prior to commencement of any form of live entertainment service.
 - b. The Bond is a legally binding document by which a third party (such as a bank) guarantees the provider's payment of sums awarded to a claimant by the Adjudicator. The body providing the bond must be approved by PhonepayPlus; the bond must be in a form, and must guarantee the amount required by PhonepayPlus. This bond must remain in place while the relevant live services are being operated, and for a period of one year thereafter.
 - c. Claims for compensation may be made by any person whose connection to the electronic communications network has been the subject of unauthorised use. When claims are received by PhonepayPlus, the relevant provider will first be given an opportunity to settle them to the satisfaction of the claimant.
 - d. The relevant provider must, within one month, investigate all claims put to it.
 - e. The relevant provider must promptly pay all claims which are valid under the terms of the Compensation Scheme.
 - f. If a claim is not met in full, the relevant provider must, if requested by the Executive, notify PhonepayPlus of the reasons and must provide details of any investigations carried out into the claim.
 - g. If the relevant provider does not settle to the satisfaction of the claimant within such time as the Adjudicator considers reasonable (and which will be notified to the relevant provider), the Executive will investigate the claim and prepare a report which will be promptly passed to the Adjudicator for adjudication. A copy of the report will be made available to the relevant provider for comment and representation. The Adjudicator will make an adjudication, after such investigation as he considers appropriate, on the basis of the material in front of him.
 - h. An oral hearing may be held at the instigation of the Adjudicator, the claimant or the relevant provider.
 - i. The Adjudicator will make his adjudication promptly in writing.
 - j. If the Adjudicator directs that an award should be made, the relevant provider must make immediate payment of the award and of any administrative charges relating to the award.

- k. If the relevant provider does not make immediate payment of any such award, and PhonepayPlus consequently takes steps to enforce the provider's Bond, the provider concerned must forthwith cease to provide any live services.

Please note that, in addition to the conditions set out above, additional conditions may be imposed at the time that the permission is granted.

Who should apply:

The provider contracted to, or having arrangements with, a Network operator in respect of the provision of the service (the 'contracted provider') must apply for the prior permission. The prior permission application must include the following:

- Details of all associated providers involved in the delivery of the service who have a responsibility to be registered with PhonepayPlus;
- A statement listing the provider(s) (i.e. of those that are required to register) that fulfils each of the conditions. (N.B. This must be set out clearly in respect of each service delivery-chain that has associated providers);
- Written confirmation from each of the associated providers that they fulfil the conditions set out against their name in the statement, and that they acknowledge and understand that permission granted to them will be granted in respect of the conditions that they fulfil and that they will therefore be liable under the Code for any failure to meet those conditions.

How to apply:

In the first instance, the contracted provider should email the Executive (compliance@phonepayplus.org.uk). The application must:

- Contain a description of the service;
- Include examples of promotional material for each service;
- Explain how the conditions outlined in this document will be fulfilled, providing the details, statement and confirmation required in the 'Who should apply' section above.

Please note that evidence should be supplied where appropriate or requested.

In the event of an investigation:

In the event of an investigation, PhonepayPlus will target the provider or providers responsible for the conditions of the prior permission certificate which have been breached and hold them liable under the Code. This may result in the withdrawal of permission from those providers and/or the imposition of sanctions against those providers, where a Tribunal finds that those breaches have occurred.

Upon request, providers will be required to provide evidence of contracts which establish their responsibility for fulfilment of the condition(s).