



# Digital Economy Act 2017

## 2017 CHAPTER 30

### PART 6

#### MISCELLANEOUS

##### *Billing limits for mobile phones*

#### **102 Billing limits for mobile phones**

In Chapter 1 of Part 2 of the Communications Act 2003 (electronic communications networks and services) after section 124R insert—

##### *“Billing limits for mobile phones*

#### **124S Mobile phone providers’ duty to enable billing limits to be applied**

- (1) The provider of a mobile phone service must not enter into a contract to provide the service unless the customer has been given an opportunity to specify a billing limit in the contract.
- (2) In relation to a contract to provide a mobile phone service—
  - (a) a billing limit is a limit on the amount the customer may be charged for provision of the service in respect of each billing period, and
  - (b) a billing period is one of successive periods specified in the contract and together making up the period for which the contract remains in force.
- (3) A contract to provide a mobile phone service must provide for the customer on reasonable notice at any time—
  - (a) to specify a billing limit if none is specified for the time being,
  - (b) to amend or remove a limit in respect of all billing periods or a specified billing period.

- (4) In any billing period the provider must—
- (a) so far as practicable, notify the customer in reasonable time if a limit is likely to be reached before the end of the period, and
  - (b) notify the customer as soon as practicable if a limit is reached before the end of the period.
- (5) A limit may be exceeded in relation to a billing period only if the customer agrees after a notification under subsection (4)(a) or (b).
- (6) If the provider continues to provide the service after a limit is reached, the customer’s use of the service does not constitute agreement to the limit being exceeded.
- (7) The provider must give the customer confirmation in writing of—
- (a) the decision made by the customer in accordance with subsection (1),
  - (b) any decision of the customer under provision made in accordance with subsection (3), and
  - (c) any agreement by the customer in accordance with subsection (5).
- (8) This section applies to agreeing to extend a contract as it applies to entering into a contract, and in that case the reference in subsection (2)(b) to the period for which the contract remains in force is a reference to the period of the extension.
- (9) Nothing in this section affects a provider’s duty to comply with requirements to enable calls to emergency services.
- (10) In this section—
- “customer” does not include a person who is a customer as a communications provider;
- “mobile phone service” means an electronic communications service which is provided in the course of a business wholly or mainly so as to be available to members of the public for the purpose of communicating with others, or accessing data, by mobile phone.

#### **124T Enforcement of duty to enable billing limits to be applied**

- (1) Sections 96A to 96C apply in relation to a contravention of a requirement under section 124S as they apply in relation to a contravention of a condition set under section 45, with the following modifications.
- (2) Section 96A(2)(f) and (g) (OFCOM directions) do not apply.
- (3) Section 96A(5) to (7) (action under the Competition Act 1998) do not apply.
- (4) The amount of a penalty imposed under sections 96A to 96C, as applied by this section, other than a penalty falling within section 96B(4), is to be such amount not exceeding £2 million as OFCOM determine to be—
  - (a) appropriate; and
  - (b) proportionate to the contravention in respect of which it is imposed.”