



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.”