

Framework for Charitable Donations using the UK Mobile Networks

June 2009

1. Considerations and guiding principles.

- 1.1. This Framework has been agreed by 3, Orange, T-Mobile, Telefónica O2 and Vodafone for the implementation of a system to enable charitable donations using SMS shortcodes and Payforit (or other technology as agreed by individual operators e.g. MMS) and for the VAT that is usually charged by the MNO / MVNO on telecommunication activities to be passed (where applicable) to the charitable organisation.
- 1.2. This framework is regardless of the charity's qualification under HMRC rules for VAT exemption on donations and charities are required to seek advice elsewhere on the treatment of VAT on the donation
- 1.3. The Service offered is a commercial offering – there is no implied reduction in commercial rates for processing messages by the MNOs / MVNOs operating under the framework although they retain their individual freedom to offer variations in their standard rates on a case by case basis should they so desire.
- 1.4. The framework meets the statutory requirement to ensure charitable organisations can receive the full amount of a voluntary donation without MNO / MVNO VAT deduction at source.
- 1.5. For the purpose of simplicity, a rule of thumb for when VAT deduction at source is not applied is that the donation is voluntary and that nothing of value is given in return (e.g. ringtone or wallpaper). 'Thank you' messages and acknowledgements of the donation are not considered to be of value in this context.
- 1.6. MNOs / MVNOs retain their individual right to withhold the service from organisations they do not consider it would be in the public's or their own interest to service.
- 1.7. The burden of proof of the eligibility of the organisation wishing to use the service lies with the Service Provider who must check that the organisation is listed on the HMRC Charity Search facility presently found at <http://www.HMRC.gov.uk/charities/charities-search.htm> and they shall retain such evidence on file for audit purposes.

- 1.8. Organisations can register with HMRC directly for inclusion in the HMRC list.
- 1.9. See HMRC website <http://www.hmrc.gov.uk/vat/charities-fundraise.htm> and <http://www.hmrc.gov.uk/vat/charities-applied.htm> for further information.

2. Provision of Charitable Donation Service

- 2.1. The Service will be provided by use of a dedicated range of Short Codes in the 70xxx range with a shortcode per donation value for each Service Provider that requires the facility. To preserve the range and reduce the setup charges, each shortcode will use a keyword to identify the charity (e.g. text "Oxfam" to donate to Oxfam).

Note that certain organisations already have their own dedicated short codes and they may retain these rather than using the new short code range. However, HMRC has requested a means to identify charitable donations separately from other mobile services and MNOs may not offer this Service on other shortcodes.

- 2.2. An example mechanism would be
 - Consumer texts keyword to shortcode to donate at the shortcodes publicised value.
 - Service Provider sends chargeable MT with acknowledgement of donation to the charity.
 - Some MNO's / MVNO's may request that the charge to the user is applied through a 'direct to bill' API or other network billing platform instead of the SMS platform.
 - MNO / MVNO pays to the Service Provider the full donation and charges the Service Provider a commission for collection of the donation. The commission is liable for VAT.

- 2.3. A second example mechanism ('undisclosed agent') would be

MNO's terms of contract for the handling of the 3rd party services are that they act as an "undisclosed agent" and as such the responsibility of the retail price definition sits with the Charity. Thus the full retail revenue is passed to the 3rd party Service Provider who has the responsibility for the settlement of the VAT from these transactions with HMRC. The MNO then invoices the 3rd party Service Provider for its fee, which is subject to VAT.

3. Rules of engagement

- 3.1. These rules are applied at the absolute discretion of the individual networks who reserve the right to independently grant or decline permission to operate services for whatever reason.
- 3.2. Only Service Providers who have agreed with each MNO / MVNO to operate charitable donation services for qualifying organisations may do so and promote themselves as offering such services. The commercial agreement will allow the Service Provider to apply for shortcodes for the price points being offered to the Charities.
- 3.3. Shortcodes are managed by each of the 5 UK Mobile Network Operators in the following order:

70000 – 70199	Orange
70200 – 70399	O2
70400 – 70599	3
70600 – 70799	T-Mobile
70800 – 70999	Vodafone

Charities/Service Providers will write to the Lead Network Operator for the shortcode ranges detailed above and request shortcodes for the price points that they need. The MNO will allocate shortcode(s) as relevant.

- 3.4. All commercial terms between the Service Provider and the mobile networks are agreed independently.
- 3.5. Allocation of the Short Code by MNOs / MVNOs, enabling of shortcodes and monthly shortcode charges will be provided under each MNO's / MVNO's commercial arrangements with the Service Provider. Nothing in this document implies any favourable commercial terms.
- 3.6. Individual campaigns and campaign duration must be notified in writing with the individual networks **before** they become operational. VAT exemption for qualifying charitable organisations **cannot be applied retrospectively**.
- 3.7. All charitable organisations supported must be registered with the HMRC 'Charities Search' facility at <http://www.hmrc.gov.uk/charities/charities-search.htm>.
- 3.8. It is preferable that Service Providers retain a bank of pre-provisioned short codes for charitable services that respond to disaster situations and ensure a BAU process is maintained as far as possible to reduce one-off overheads at MNO / MVNO, Service Provider and charity level.
- 3.9. Service Providers must provide, on-request, a report showing the charities that have benefited from this service and the audit trail the Service Provider conducted to fulfil the requirements of this document. Reports should include keyword, shortcode, volumes and values to individual MNO / MVNO.
- 3.10. Under no circumstances should VAT exempt and non-VAT exempt traffic be mixed on the same shortcode. Any mixture of traffic renders all traffic liable to the application of VAT.

4. VAT Payment mechanism

- 4.1. The Framework is valid for pre-pay and post-pay consumers
- 4.2. Under this scheme, the MNO / MVNO will set up internal procedures to automatically pass to the Service Provider the Gross amount of the donations made by its customers.
- 4.3. The MNO / MVNO may add its own charges for collection of the donations and other charges and apply this to the Service Provider inclusive of VAT.
- 4.4. The Service Provider will pass the donations to the Charity and apply its own charge (including VAT) to the charity.
- 4.5. For Prepay contracts, the VAT has already been paid to HMRC so donations under these contracts will result in a VAT reclaim from HMRC by the MNO / MVNO
- 4.6. MNO / MVNO short code settlement rules will apply. As MT shortcode charges are considered by Ofcom to be a premium rate service, no payments can be made in less than 30 days.

5. Example for illustration purposes only.

In this example a donation of £1.00 is used with an MNO / MVNO commission charge of 22p and a Service Provider charge of 4p.

£1 is the gross amount being charged to the phone bill. This is passed to the Service Provider.

MNO / MVNO charge – 22p (plus VAT) is charged to the Service Provider.

Service Provider charges the charity the MNO / MVNO 22p (plus VAT) plus its own 4p (plus VAT)

Net benefit to the charity is £1.00 minus 22p minus 4p minus VAT = 70.1p

In some cases the VAT on commission charges is reclaimable by the charity netting an additional 3.9p benefit.

6. Signatories to this Framework agreement:

Mobile Data Association

3

Orange

Telefónica O2

T-Mobile

Vodafone