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# Consultation response

Consultation on the implementation of the new subscription contracts regime in the DMCCA, February 2025

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## About Parent Zone

Parent Zone is an organisation that sits at the heart of digital family life, providing advice, knowledge and support to shape the best possible future for children as they embrace the online world. Founded in 2005, we have collaborated with many organisations who share our vision, remaining responsive to the continually developing nature of digital technologies, and how they intersect with family life. We recognise the enormous opportunities that the online world offers to children, young people and families whilst understanding the challenges that accompany it.

One aspect of our work at Parent Zone centres on an often overlooked category of risks and harms which collectively are called 'child financial harms' (CFH). With funding from Nominet, we have led a CFH consortium, which seeks to understand and find solutions to this category of online harms.

Our work in this area has included investigating the business model of the gaming industry with a report titled 'The Rip-Off Games' published in 2019.[1] In 2023 we published 'A problem hiding in plain sight?' – a research report that explored the financial behaviours and experiences of children and young people.[2] Most recently we have published research into parental understanding of young people's exposure to financial risks and harms online.[3]

We are pleased that the DMCCA looks to address issues relating to unwanted subscriptions but concerned that issues related to children and young people are not adequately covered – indeed they are not referenced at all.

The DMCCA consultation is available to read here.

[1] https://parentzone.org.uk/sites/default/files/2021-12/PZ_The_Rip-off_Games_2019.pdf

[2] https://parentzone.org.uk/sites/default/files/2023-11/A%20problem%20hiding%20in%20plain%20sight%20-%20PZ%20report%20Nov%202023.pdf

[3] https://parentzone.org.uk/sites/default/files/2025-02/Short-changed-and-out-of-time_A-Parent-Zone-Report.pdf

# Chapter 2. Cooling-off cancellation rights: returns and refunds

## 2.2 Refunds and returns for goods (question 6)

Our research shows that 96% of children and young people between the ages of 13-18 purchase things, whether physical or digital, online.[4] Our work with parents across the UK shows that they find it impossible to monitor their children's online spending. Design choices including frictionless payments and pay-to-play subscription models contribute to the fact that much of this spending is unsupervised and therefore high risk.

Parents report that subscriptions are a particular cause for concern because they are easy to take out but difficult to cancel. Free trial periods, subscriptions that are necessary to play a game and subscriptions that have terms and conditions that are not transparent for adults (much less children) are all problematic and causing child financial harms on a daily basis.

The digital goods and services that children spend money on are varied. They include things like game content (e.g. DLCs, in-game features or advantages, or cosmetic items like skins), memberships to live-streaming channels and direct donations to streamers themselves, or subscriptions to 'premium' features and functionalities on things like social media platforms.

It is not clear within the current characterisation of the DMCCA exactly how the definitions of 'category 3' or 'digital goods' ("sealed audio recordings, video recordings, and computer software but are unsealed after delivery") apply to certain types of online content – in other words, things that children spend their money on.

Additional information around whether these sorts of goods are covered by the current definitions of 'category 3' or 'digital goods' would be beneficial for parents who want – and need – to understand procedures for returns and refunds. Without further clarity it is difficult to assess whether the regulatory proposal in Chapter 2.2 will lead to the change parents are asking for.

[4] https://parentzone.org.uk/sites/default/files/2023-11/A%20problem%20hiding%20in%20plain%20sight%20-%20PZ%20report%20Nov%202023.pdf

## 2.4 Refunds for digital content (question 9)

In a highly digitised economy, with children and young people spending considerable sums on digital content, it is extremely important that their consumer rights are protected, including their right to a refund. Our 2023 research found that the average weekly spend online of 13-18 year-olds was circa £11.50. Whilst this figure captures other forms of spending besides digital content, it is beyond doubt that significant sums of money are being spent by children each week on content that is digital, including streamed music and video, live-streamers and influencers, software, virtual items like NFTS, as well as gaming and in-game purchases.

The idea that these types of 'digital content' are something that cannot be returned appears to be at odds with other consumer goods legislation. We understand the argument made by industry that in "the digital streaming sector [...] consumers could sign up, binge watch content, and then cancel for a full refund." but there are clear problems with applying that limited user case with the wider digital goods economy. It is demonstrably not always the case that content can be 'preserved, saved, and accessed' outside of the platform or subscription service where that content is hosted.

For example, if a user refunds a game which has been purchased through the gaming platform Steam, their license to play the game is revoked. They would no longer be able to launch or access any gaming content even if some files remain stored on their computer. The same applies to subscription-based music streaming services. In the case of Apple Music, once a user cancels their subscription they can no longer stream any content, even if they have downloaded this content onto their devices for 'offline listening'. It is also incorrect to suggest that a user attending a live virtual event (e.g. a music performance in the metaverse), could preserve or save that content outside of the experience when clearly the user's experience – and what the user has paid for – is the live (albeit virtual) nature of the experience.

It is also problematic to suggest that consenting to receive digital content means that a consumer forfeits their right to cancel a subscription or return a digital good. If this content has been wrongly described or is not fit for purpose, then a consumer should be entitled to return the content and to receive a refund for the digital goods, just as they are with other types of non-digital goods under the Sale of Goods Act. The idea that digital goods are never unfit for purpose or incorrectly described and advertised is simply wrong.

Our research shows that certain types of digital content (e.g. video games) can be released by developers before they are complete and bug-tested to an adequate standard that makes the game playable.[5] Certain services may also require that a user subscribes before they can properly access features and see what that service is like. These early-release games can result in less than satisfactory experiences or products that are unusable. Young gamers frequently tell us about their frustrating experiences buying games that are not fit to play:

*"Why release a full game with bonus features if you can push a half-assed product out at full retail and then double your money with DLC and triple it with microtransactions and stuff?"*

Similarly, singular digital goods (e.g. loot boxes) that do not perform the way they have been advertised are a clear and valid reason for a consumer to be entitled to a refund. For example, if a user is promised when purchasing a loot box (containing a randomised item) that the item will not be one they already own, and the user finds that it is, the user should be able to return the item.

If an experience is unsatisfactory due to design or misleading advertising then the digital product is not fit for purpose and should therefore be eligible for a refund, even if the consumer has expressly consented to receive the digital content, good or service. Where a consumer is being denied this basic consumer right it should be clearly communicated to them. We would strongly argue that this right should not be one a company can opt to remove.

We are also concerned that dark pattern designs and nudge techniques – like time-limited offers – are being used to manipulate children and young people into purchasing digital goods. Our 2019 research showed that almost half (49%) of young gamers thought online video gaming was only fun when they were spending money.[6] In cases where a young consumer has been manipulated into making a purchase, the digital nature of the purchase should not be a barrier to a return or refund. Best consumer practices in other industries demonstrate that trial periods and cooling-off periods are viable.

These examples demonstrate the various reasons for, and circumstances in which, digital content should be returnable. None of them appear to have been given adequate consideration in your proposals.

Relatedly, in some cases the consumer (especially in the case of children) will not be able to adequately consent to receive content in a way that forfeits their right to cancel

[5] https://parentzone.org.uk/sites/default/files/2021-12/PZ_The_Rip-off_Games_2019.pdf

[6] https://parentzone.org.uk/sites/default/files/2021-12/PZ_The_Rip-off_Games_2019.pdf

or to a refund due to terms that are unclear. While unclear terms impact consumers of all ages, they are even more problematic for children.

More generally the lack of mention of gaming within the DMCCA reveals a blindspot of both children's spending, CFH, and remedies that should be available to parents.

## Chapter 3. Cancellation remedies for breach of duties

### Question 17

We are in broad agreement with the principles set out in paragraph 88. However, we do believe that principle 3 in particular could be strengthened in a way that recognises both children's unsupervised spending and the nature of digital goods and content.

It is unfair to suggest that a refund for unsupervised spending on a digital good is diminished because the consumer did not take "reasonable steps to reduce their financial loss" (principle 3) when the consumer is a child making the purchase without permission, and, most likely, without a full understanding of the nature of the subscription and contractual terms.

Parents already believe that there is no financial remedy for unsupervised purchases. One parent told us:

"That's why I didn't bother chasing [the payment], because I just presumed she'd said yes without knowing it."

Examples like these confirm the existence of unsupervised spending where the consumer (i.e. a child) should not always, realistically be expected to take "reasonable steps" to minimise losses. They also show that financial harms (losses) can occur when parents believe they – or their child – are at fault and that refunds are an impossibility.

We would also suggest that, in relation to principle 1, not only should the remedies available to the consumer be straightforward and easy to understand, but possible breaches in traders' duties should be similarly set out in a clear fashion so that a consumer knows when they are entitled to cancel and/or to receive a refund.

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# Chapter 6. Arrangements for exiting a contract

## Question 22

We regularly hear from families about the impact of unwanted subscriptions on children and parents. This impact can take the form of CFH. It can also make busy family life even more frustrating, costly and complex. That in turn impacts families in multiple ways, including their wellbeing.[7]

As such, we support proposals which make it easier and more straightforward for consumers to exit a contract or subscription. We do however flag that the DMCCA assumes the subscriber is an adult. It fails to recognise the reality that children are currently able to take out subscriptions easily and without adult oversight. It is important to tackle this category error.

We would also like to see the DMCCA acknowledge how complex 'crossover subscriptions' can be when it comes to exiting a contract.

### Child subscribers

We know from our own research that predatory business models use dark nudges and pattern designs to exploit children financially.[8] This can make it difficult or unlikely for a child to cancel a subscription – even if the trader does not make an 'unreasonable number of offers' to retain a consumer. The definitions of 'straightforward' and 'reasonably necessary' contained within the DMCCA are also a concern. What constitutes a 'straightforward' way of exiting a contact will be different for a competent, well-experienced adult and a child who is navigating this part of a (or any) service for the first time.

This raises the question of whether the protections set out in the DMCCA adequately address the fact that children are vulnerable and can experience harm as consumers, particularly in digital contexts. Ultimately it raises the basic question of whether children should be able to enter into these contracts in the first place.

We would argue that in order to minimise the likelihood or severity of CFH a child should not be able to enter a contract without permission from a parent or responsible adult. For the current proposals to work this needs to be considered, and platforms and services should have responsibility for an appropriate level of pre-sale age verification.

[7] https://assets.ctfassets.net/mfz4nbgura3g/4IHIs8hVMDQ3cu3pD9Hijk/fd791f709562e740be483914aa98f18f/Pushed_20to_20Purchase_20report_20_20-_20July_202023.pdf

[8] https://parentzone.org.uk/sites/default/files/2021-12/PZ_The_Rip-off_Games_2019.pdf

We also suggest that it should be easy for a parent to exit a contract on behalf of a child when a subscription has been made accidentally or without permission. We know that these sorts of subscriptions are happening and currently there are little to no protections in place for parents to easily stop the financial losses that result from them.

The proposals contained in chapter 6 are a good step towards protecting certain consumers, but more remains to be done for parents and children.

**Crossover subscriptions and service access**

Subscription services are becoming increasingly interoperable – meaning that their features and functions 'crossover' onto different platforms. A user can subscribe in one place but mainly use the service elsewhere. This can make the process of exiting a contract or subscription more complex.

One example of an interoperable, crossover subscription is Prime Gaming (part of the Amazon Prime service) and live streaming platform Twitch. Prime Gaming allows users to perform additional functions on Twitch, for example the ability to subscribe to certain Twitch channels as well as 'Subscriber Perks' like chat privileges and emoticons for these specific channels.

Although someone wishing to cancel a Prime Gaming subscription can do so through Amazon Prime, if their subscription is mainly utilised and experienced on a different platform (i.e. Twitch) then this may mean that they do not know where to look in order to cancel. This issue can be compounded by the use of language and terms that appear similar across platforms. For example, Twitch offers users the ability to subscribe to individual channels within Twitch, but this could easily be confused with an overarching Prime Gaming subscription.

These scenarios become more problematic when a child has subscribed to a service without a parent's knowledge. Parents may have minimal or no awareness of the service's functionality or the multitude of ways it can be accessed.

We would propose that services minimise confusion relating to crossover subscriptions. This may be better information around how subscriptions and functionalities work, standardised language or terms, or clearer user prompts to manage subscriptions.

Without this we expect parents to continue having difficulties exiting contracts, even if additional proposals (like *technically* being able to exit where they or their child signed up) are put in place.

# Chapter 7. Information notices

## Question 23

The DMCCA's acknowledgement that "Consumers can lead busy lives and may not remember key dates relating to their subscription contracts, leading them to make payments for subscriptions they do not want or use" is welcome and confirms what we already know about family life: it's busy, and parents should have support wherever they can get it. We wholly agree with information reminders that are transparent and make it easier for someone to cancel a contract.

However, there is again a lack of recognition in the DMCCA that children may be subscribers and financial agents in their own right, at times without the knowledge of parents. Once more, this raises the question of whether a child should be able to enter a contract in the first instance.

In these circumstances where a child has entered a subscription, tools like reminder notices may be useless, though well-intentioned when it comes to adults.

For example, a child or young person might subscribe, without permission, to a service using a parent's credit card but their own personal email address. When it comes to important renewal information notices, the child will receive notices via their email, but the parent remains financially responsible and liable for payment. As such, if a monetary sum goes out unnoticed each month, subscriptions can continue and roll over (causing a financial loss for the parent) without the parent actually having an explicit notice from the trader that this is the case.

Children who have subscribed to something unintentionally or by accident – our 2023 research revealed 22% of children aged 13-18 who spend money online have done so[9] – may be unlikely to inform parents about this subscription if they worry that they will get in trouble for subscribing in the first instance.

This can create a situation where a parent is continually losing money without being appropriately notified by a trader. Over time this may become increasingly costly and/or legally problematic to resolve, and can require the parent to access platform accounts and email addresses that are not their own, and which access to might be difficult.

9 https://parentzone.org.uk/sites/default/files/2023-11/A%20problem%20hiding%20in%20plain%20sight%20-%20PZ%20report%20Nov%202023.pdf

This isn't a hypothetical scenario, it's a reality for many families. One parent told us:

*"[My child] doesn't tell me it's a subscription, he doesn't read it [...] I've had to go through his emails to unsubscribe."*

In summary, we agree with regulatory proposals around reminder notices and can clearly see their benefits in many adult contexts. However, a failure to recognise how these proposals might be inappropriate or unhelpful in other contexts, specifically where children are unsupervised consumers, means they fail to provide the remedies parents are seeking.

It is clear there is a basic category error within these proposals which assume that a child cannot take out a subscription or enter a contract independently online. A solution to this problem, and problems like this, would be to decide at what age someone should be able to do so.

Though we are not here putting forward a suggestion for a specific age at which someone should be able to enter a contract, we are highlighting that it is a point that needs to be considered by the DMCCA if they wish to avoid blindspots and to protect consumers of all ages. This is likely to be a wider conversation which factors in the age appropriateness of certain services and subscription models, as well as existing regulations like the Online Safety Act.