

Code 15 update December 2020

CODE 15

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Today's agenda



- Objectives for Code 15
 - Draft Code Standards & Structure
 - Key draft standards and intended change
 - Verification & supervision
 - Enforcement
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Our objectives

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Our objectives

- We are developing a new Code that is fit for a mature market that delivers what consumers want and allows us to implement our strategic purpose
 - We want our new Code to:
 - introduce standards across the market
 - focus on the prevention of harm rather than cure
 - be simpler to implement and comply with
 - To do this the Code needs to be underpinned by effective enforcement
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The need for change

- **The market has changed significantly** in recent years and is fundamentally different to the market when Code 12 was introduced
 - **Outcomes-based regulation worked well during a period of market transition.** But regulation is now increasingly complex and employs several ex post fixes
 - **Consumer expectations have changed** in line with their experiences in other digital markets and changes in consumer legislation
 - **Enforcement can be slow and perceived as ineffective.** Code 14 enforcement tracks and powers are increasingly limiting our opportunities for timely intervention and optimal regulatory outcomes.
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The major changes we are considering

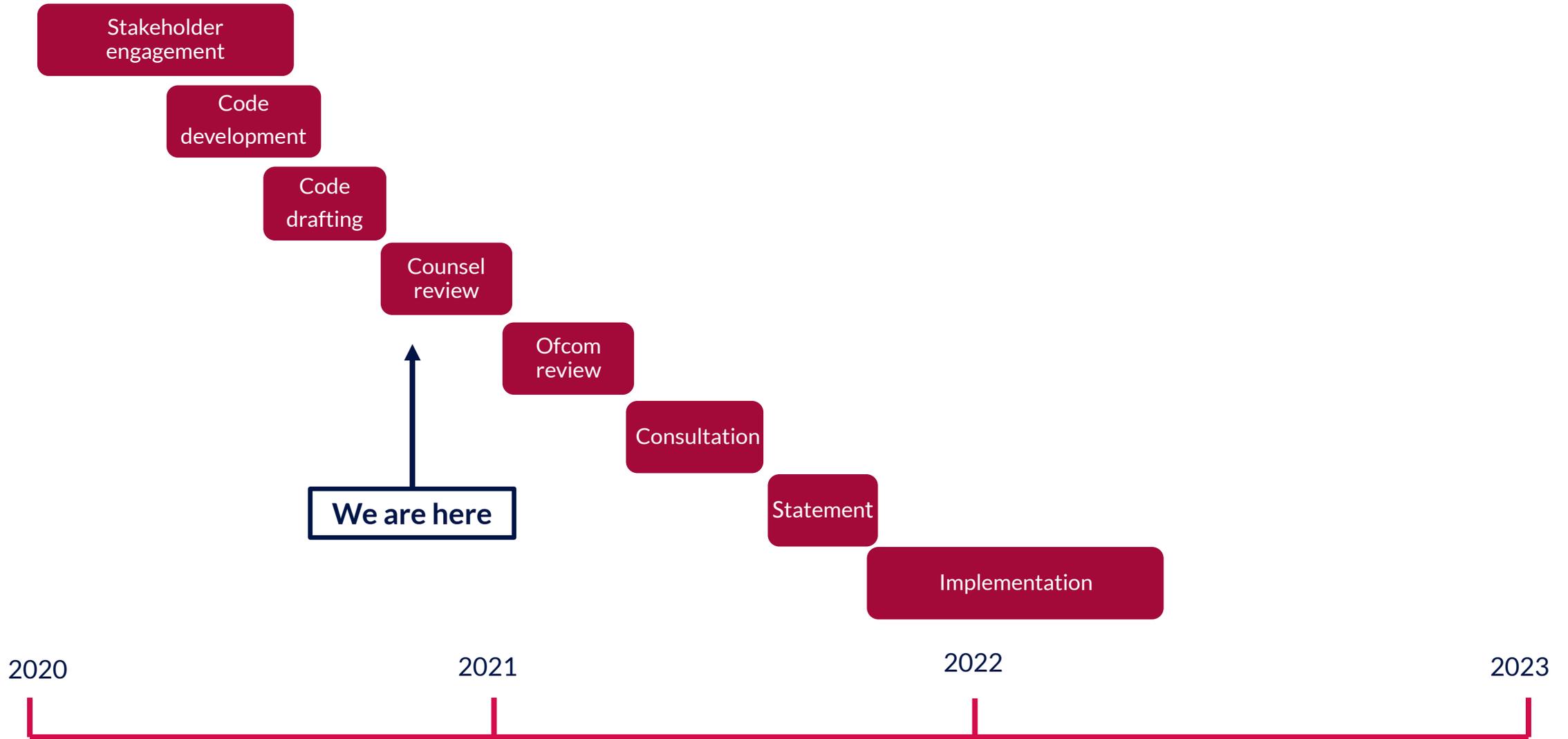
- **Standards in place of outcomes**, which should be clearer and easier for industry to implement while retaining the space to innovate to the benefit of consumers. These will set a minimum requirement for providers that meet consumer expectations
 - **Shift to prevention of harm rather than cure through:**
 - **Enhanced verification:** we want to introduce the right barriers to market entry that allows for legitimate innovation and builds confidence by deterring 'fly by night' providers who have no interest in the sustainability of the market
 - **Supervision:** we want to work with networks and L1s to build in compliance and best practice to stop harm developing in the first place
 - **Streamlined enforcement:** we want our enforcement to be as effective and efficient as possible so that issues can be solved quickly and easily where they can be
 - **Information gathering powers, conduct and co-operation:** we also want to introduce a step change in what we expect from providers in terms of behaviour
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The potential benefits



For consumers	For industry	For PSA
<ul style="list-style-type: none">• Clear and improved standards in the market to meet consumer expectations and best practice• Raised expectations for vulnerable consumers and post-purchase care• A focus on prevention of harm before it happens rather than cure post event, building trust and confidence in phone-paid services	<ul style="list-style-type: none">• A clearer and simpler Code to implement with fewer ex post regulatory fixes• A healthier market with confidence and certainty that those operating in the market are legitimate through enhanced verification• More proactive engagement from the regulator with networks and L1s to build in compliance and best practice, and therefore avoiding additional cost• Quicker resolution of issues where possible, avoiding uncertainty and drawn out investigations	<ul style="list-style-type: none">• A healthier, more compliant market with an improved consumer experience and confidence• More effective use of resource to both prevent harm in the first place and target enforcement when and where required• Better information and co-operation from regulated parties to enable the prevention of harm and streamline enforcement

Progress to date



Draft Code standards & structure

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Code 15 draft standards

We have identified the following draft standards:

Code 14 consumer protection outcomes	Code 15 draft standards
2.1 Legality	1. Integrity
2.2 Transparency and pricing	2. Transparency
2.3 Fairness	3. Fairness
2.4 Privacy	4. Customer care
2.5 Avoidance of harm	5. Vulnerable consumers
2.6 Complaint handling	6. Consumer privacy
	7. Prevention of harm and offence
	8. Organisation and service registration
	9. DDRAC
	10. Systems

Code 15 draft structure

The draft structure is intended to simplify regulation:

Code 14 structure

Code

- 6 consumer outcomes

Special conditions

- 13 service specific sets of Special conditions

Guidance

- 14 pieces of general guidance
- 7 pieces of Service-Specific Guidance

Exemptions

Code 15 proposed structure

Code

- 7 consumer standards
- 3 organisational standards
- Service specific requirements

Guidance (including best practice)

Exemptions

Key draft standards and intended changes

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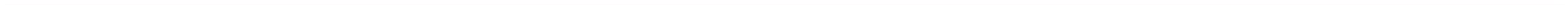
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Transparency



Consumers must receive full and clear information to enable them to make fully informed decisions when purchasing phone-paid services

- We want to ensure all providers meet consumer expectations during the promotion, purchase and exit from a service
- We intend this to include:
 - Clear responsibilities on merchants to ensure their marketing is accurate and compliant
 - Abundantly clear points of purchase
 - Clearer receipting
 - Easy exiting of a service



Consumers must be treated fairly throughout their experience of PRS including being charged for PRS only where they have provided informed and robust consent

- We want to make all consumer journeys clear and avoid the risk of consumers being misled
 - We intend this to include:
 - Simpler provisions that ensure misleading journeys are easier to enforce against
 - MFA for all online purchases (and those services that already have MFA in place, such as subscriptions, society lotteries, and recurring donations)
 - Subscription re-opt in after 12 months
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Due Diligence, Risk Assessment & Control

Organisations and individuals must perform effective due diligence on any person and organisation they contract with in relation to PRS and assess all potential risks in relation to the promotion, content and delivery of PRS on an ongoing basis

- We want to ensure all providers in the value chain have a clear understanding of their DDRAC responsibilities
 - We intend this to include:
 - the requirement that the DDRAC for each service must be signed off by a Director or equivalent
 - where a service moves from one intermediary to another, that all new DDRAC must be undertaken
 - that parties take steps to satisfy themselves that all parties in the value chain are meeting the DDRAC standard and requirements.
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All systems, including payment and consent verification platforms, used for the provision and exit of PRS must be technically robust and secure

- We want to codify some of our expectations that are currently set out in Guidance so that consumers, the industry and the PSA can have confidence in the robustness of transactions
 - We intend this to include:
 - Intermediaries must act on any security alerts in a timely manner
 - that Networks make provision for suspension of intermediaries on the basis of non-compliant activities, and intermediaries the same in respect of merchants
 - that contracts with third parties make provision for data or information to be provided to PSA upon request
 - the technical standards being brought into the Code.
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Verification & supervision

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Verification

We want to introduce the right barriers to market entry that builds consumer confidence while allowing for legitimate innovation, by:

- Setting clearer and more stringent due diligence requirements. Providers to undertake more thorough due diligence and ongoing risk assessment and control including in relation to any third parties that they contract with as set out at slide 15.
 - Requiring more detailed information at registration including that each individual value chain is registered, as well as named individuals with key responsibilities such as vulnerability, DDRAC, and systems
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Supervision

We want to proactively work with networks and L1s to build in best practice and stop harm occurring in the first place by monitoring compliance through:

- Regular reporting of relevant data from parties in the value chain – such as on consumer complaints, refunds issued
 - Audits, skilled persons reports and proactive advisory visits
 - Thematic reviews where evidence or information suggests a widespread issue.
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Enforcement

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Enforcement



We want to ensure that enforcement acts as an effective deterrent when consumer harm does occur, by:

- Enhancing our information gathering powers
 - Publishing a broader range of information about the enforcement activity we undertake
 - Introducing a single (one CAP member) decision maker and streamlined process for less complex cases
 - Enabling PSA to hold funds as security for fines, to help increase our fine collection rate
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Questions

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