Code 15 webinar
November 2020
Today’s agenda

• Objectives for Code 15
• Draft Code Standards
• Key draft standards and intended change
• Verification & supervision
• Enforcement
Our objectives
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.
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.
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.
## The potential benefits

<table>
<thead>
<tr>
<th>For consumers</th>
<th>For industry</th>
<th>For PSA</th>
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<tbody>
<tr>
<td>- Clear and improved standards in the market to meet consumer expectations and best practice</td>
<td>- A clearer and simpler Code to implement with fewer ex post regulatory fixes</td>
<td>- A healthier, more compliant market with an improved consumer experience and confidence</td>
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<td>- Raised expectations for vulnerable consumers and post-purchase care</td>
<td>- A healthier market with confidence and certainty that those operating in the market are legitimate through enhanced verification</td>
<td>- More effective use of resource to both prevent harm in the first place and target enforcement when and where required</td>
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<td>- A focus on prevention of harm before it happens rather than cure post event, building trust and confidence in phone-paid services</td>
<td>- More proactive engagement from the regulator with networks and L1s to build in compliance and best practice, and therefore avoiding additional cost</td>
<td>- Better information and co-operation from regulated parties to enable the prevention of harm and streamline enforcement</td>
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<td>- Quicker resolution of issues where possible, avoiding uncertainty and drawn out investigations</td>
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Progress to date

We are here

2020 2021 2022 2023

- Stakeholder engagement
- Code development
- Code drafting
- Counsel review
- Ofcom review
- Consultations
- Statement
- Implementation
Draft Code standards
### Code 15 draft standards

We have developed the following draft standards:

<table>
<thead>
<tr>
<th>Code 14 consumer protection outcomes</th>
<th>Code 15 draft standards</th>
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<tbody>
<tr>
<td>2.1 Legality</td>
<td>1. Integrity</td>
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<td>2.2 Transparency and pricing</td>
<td>2. Transparency</td>
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<td>2.3 Fairness</td>
<td>3. Fairness</td>
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<td>2.4 Privacy</td>
<td>4. Customer care</td>
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<td>2.5 Avoidance of harm</td>
<td>5. Vulnerable consumers</td>
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<td>2.6 Complaint handling</td>
<td>6. Consumer privacy</td>
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<td>7. Prevention of harm and offence</td>
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<td>8. Organisation and service registration</td>
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<td>9. DDRAC</td>
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<td>10. Systems</td>
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Key draft consumer standards and intended changes
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 mislead

- We intend this to include:
  - Provisions that ensure misleading journeys are easier to enforce against (including in relation to connection services)
  - Multi-Factor Authentication for all online purchases and all subscription purchases
  - Subscription re-opt in after 12 months
Consumers must receive excellent and timely customer care and resolution of issues

- We want to raise post-purchase standards by introducing clearer customer care requirements - this is an area of some concern for consumers

- We intend this to include:
  - Clear contact details and information about the status of a complaint
  - Prompt replies and responses
  - When a refund is due, this must be provided within 14 days and in an easily accessible manner

- We cannot:
  - Require ADR
  - Mandate the method of refund
Vulnerable consumers

Services must be promoted and provided in a way that ensures they do not cause harm or detriment to consumers who are or may be vulnerable as a result of their circumstances, characteristics or needs

- We want the market to take demonstrable steps to protect vulnerable consumers

- We intend this to include:
  - A nominated person in each merchant or intermediary who is responsible for ensuring the organisation takes account of the needs of vulnerable consumers
  - Customer care must take account of the needs of the vulnerable
  - Specific provisions to protect minors
Verification & supervision
We want to introduce the right barriers to market entry that builds consumer confidence while allowing for legitimate innovation, by:

- **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.

- **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.
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.
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
Questions