

**Consultation on the
regulatory framework for
phone-paid subscriptions**

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About the PSA

1. The Phone-paid Services Authority (PSA) is the UK regulator for content, goods and services charged to a phone bill.
2. The PSA's vision is a healthy and innovative market in which consumers can charge content, goods and services to their phone bill with confidence. The PSA's mission is twofold:
 - to protect consumers from harm
 - to further consumers' interests through encouraging competition, innovation and growth.
3. We will seek to do this through:
 - improving the consumer experience of phone-paid services
 - applying and enforcing an outcomes-based Code of Practice
 - delivering a balanced approach to regulation
 - working in partnership with Government and other regulators
 - delivering high standards of organisational support.

Executive summary

4. There is significant potential for innovation and growth of phone-paid subscriptions. For this potential to be realised, the regulatory framework should provide the necessary protection to consumers, so that they can have trust and confidence in phone-paid subscriptions, while being sufficiently flexible to enable a range of products, services and payment mechanisms to operate.
5. Over the last 12 months, the subscriptions service category has been the subject of more than 95% of consumer complaints to the Phone-paid Services Authority. While there are some services that are causing significant harm to consumers, there are other services operating effectively within the existing regulatory framework and which the PSA does not receive complaints about.
6. The PSA has undertaken a review of the regulatory framework underpinning phone-paid subscriptions to assess its effectiveness and identify whether and what changes are required to address the issues without inadvertently impacting on those services that are already operating effectively.
7. In undertaking this review, the PSA has considered a range of information and data and obtained some early input from stakeholders (through the Call for inputs process that we completed). Information and data was also obtained through external research that PSA commissioned to understand consumer expectations when engaging with phone-paid

subscriptions, as well as a review of our complaint data and other research previously undertaken.

8. The evidence from these show that there are significant opportunities to strengthen the regulatory framework to increase consumer trust and confidence, ensure consumers are protected from harm and to support growth. The PSA has identified that there are opportunities for change at each stage of the consumer journey of using a phone-paid subscription – from discovery and sign-up, through to using and exiting a service.
9. This document sets out our considerations and findings. We are now consulting on proposals to introduce Special conditions to apply to all phone-paid subscriptions, regardless of price or service type.
10. The proposals outlined are evidence-based and are what the PSA considers represent the minimum level of regulatory intervention required to achieve the outcomes of the review. We believe that the proposed changes will support consumer confidence and that the growth and innovation of phone-paid subscriptions will continue.

Background

11. As outlined in its 2018/19 Business Plan, the PSA is undertaking a review of phone-paid subscriptions regulation to support the PSA's vision and to ensure that the regulation keeps pace with market developments.
12. Phone-paid subscriptions are defined at paragraph 5.3.37 of the Code of Practice (the Code) as 'services which incur a recurring premium rate charge'. This is a broad definition which captures a range of subscription service types. This can include, but is not limited to, services charged on a daily, weekly, yearly or monthly basis using payment mechanisms/platforms, such as operator billing (which includes the Payforit platform in the UK) and PSMS.
13. In undertaking this review, the PSA is seeking to ensure that consumers can trust and enjoy phone-paid subscription services and that the regulation is right-touch to enable innovation and growth as well as protecting consumers from harm.

The evolution of phone-paid subscriptions

14. Initially, most phone-paid subscriptions were for products and services that enabled consumers to personalise their handsets, such as ringtones or wallpapers. Such services were only consumable on the handset that the consumer had used to make the purchase.
15. While these services still exist, phone-paid subscriptions have expanded to include a range of different products and services. For example, branded subscription services providing video and music content, such as Spotify and Netflix, that have attracted significant consumer bases.
16. Having the right regulatory environment plays an important role in supporting consumer confidence and trust, which in turn will support growth. We are already seeing major

brands offering phone payment and there is potential for many other content types and service offerings to move into phone-paid subscriptions. For example, online newspapers or ticketing.

17. Phone payment is competing with payment mechanisms that have more established norms that consumers are familiar with. These payment mechanisms have set expectations about what a digital payment experience, including phone payment, should look like. For example, debit and credit cards, PayPal and Apple Pay which have all played a role both in developing norms around the digital payment experience and setting consumer expectations about what the digital payment experience should look like¹.
18. These newer services use a variety of different payment mechanics in addition to phone payment, for example credit card and PayPal. There are also differences in some of the key aspects of these services, when they are compared to earlier subscription services. Examples of these differences can include:
 - the way the consumer signs up to, accesses, and receives information about the service. For example, whether the service is entirely or predominantly SMS-based or also includes receiving or accessing content in other ways, such as email, app or website
 - the way in which on-going relationship with the consumer is established. For example, through an account or portal.
 - the ways in which the consumer can exit the service. Such as through using the STOP mechanism or another method such as through an app.
19. The increase in consumer use of mobile phones to make both quasi-physical² and digital purchases means that there is significant potential for growth of phone-paid subscriptions, if consumers can purchase content, goods and services with confidence and convenience. From the provider's perspective, subscriptions can provide a stable revenue stream and enable them to build ongoing relationships with consumers.
20. Over the last 12 – 18 months the PSA has seen growth in phone-paid services generally. The Annual Market Review (AMR) found that in Financial Year (FY) 2017/18 there were an estimated 23.5 million users of phone-paid services. This is a 4% increase from FY2016/17 across the market. The AMR also confirmed that:
 - convenience continues to be the main driver for use of phone-paid services, as reported by 22 percent of the consumers that participated in the AMR research
 - there has been a general improvement in the levels of trust in phone-paid services, with 65% of users, on average, being satisfied or extremely satisfied with their

¹ See Jigsaw research findings discussed throughout this document.

²A quasi-physical purchase is one which does not deliver a physical good or service. Rather, it delivers a digital voucher which can be used to access a physical service. An example would be a ticket which can be digitally displayed on the consumer's phone in order to access transport, entertainment, or sports events.

phone-paid service – an increase of ten percentage points compared with the previous year.

21. Importantly, the AMR found that of the consumers who had experienced an issue, 38% reported that they would then reduce their usage of the service and 26% said they would stop using it.
22. Key findings from the AMR in relation to phone-paid subscriptions were that just over 20% of consumers that participated in the research said that they paid for the phone-paid service(s) that they engaged with on a subscription basis. It is anticipated that this figure will increase over time.
23. With phone-paid services generally, 25% of participating consumers stated they were likely or very likely to use operator billing, and when asked when they would be interested in beginning to use it, 32% said now, and a further 24% said within the next 12 months.
24. While there are many services operating effectively that generate very few or no complaints to the PSA, there are also some services that are causing significant levels of consumer harm, with some subscription services in the market driving more than 95% of issues reported to the PSA by consumers in the last 12 months.
25. In the PSA's view developing consumer trust and confidence in phone payment as a convenient payment mechanism will support growth and innovation. We also believe that consumers are only likely to explore phone payment as a payment option if they consider phone payment to be a convenient alternative to the other options available to them and can proceed with confidence.
26. This consumer harm and the risk of harm needs to be addressed without impacting on subscription services that are operating effectively. As illustrated below, there are some subscription service types such as music or video subscriptions that generate very few complaints, alongside others, such as information services and games, that are the cause of ongoing consumer harm.
27. There is the potential for significant innovation and growth of subscription service types. The PSA therefore considers that it is in the consumer interest to enable innovation and growth of new products and services offering phone-payment as a payment option. However, in our view the existing levels of consumer harm need to be addressed if this potential is to be realised.

Review objectives and approach

28. The objectives of the review of phone-paid subscriptions are to ensure:
 - consumers have the confidence to use the phone-paid subscriptions that they want
 - the market is compliant, thriving and innovative

- consumer interests are furthered through encouraging competition and innovation
 - there is the ability for existing services to operate effectively as well as for new services to enter the market
 - there is compliance with the regulatory framework for subscriptions. This means that consumers are protected from harm in the market.
29. A summary of the existing regulatory framework is set out at Annex A. To assess the effectiveness of the existing regulatory framework and determine what, if any, action was appropriate and proportionate to take, the PSA considered a range of research and other information and data, as well as early input from various stakeholders. The PSA:
- completed a Call for inputs process to gain insights from stakeholders
 - commissioned external research into consumer expectations of phone-paid subscriptions (the ‘Jigsaw research: PSA Review of Phone-Paid Subscriptions’)
 - reviewed other research previously commissioned by the PSA, research from Craft (the ‘Craft research’) and Futuresight (the ‘Futuresight research’)
 - reviewed PSA complaint information
 - consulted with the PSA Consumer Panel
 - considered relevant adjudication information
 - reviewed the compliance advice given on subscription services
 - looked at PSA Annual Market Reviews, including the review for 2017/18.
30. These sources provide a strong information and evidence base from which to assess the effectiveness of the existing regulatory framework, consider what regulatory changes might be required to achieve the outcomes of the review, and the impact of any possible changes.

Summary of research and other information, data and inputs considered

31. This section provides an overview of the research and other information and data, as well as inputs that the PSA considered in assessing the effectiveness of the current regulatory framework for phone-paid subscriptions and developing proposals for regulatory change to respond to specific issues.

PSA data

32. The PSA collects information from consumers who contact us to report an issue. Our complaint data shows that over the last 12 months, more than 95% of complaints have related to phone-paid subscriptions, as shown in Figure 1 below. This information is also outlined in Figure 2 below, expressed as percentages.

Figure 1: PSA assessed complaints by payment frequency

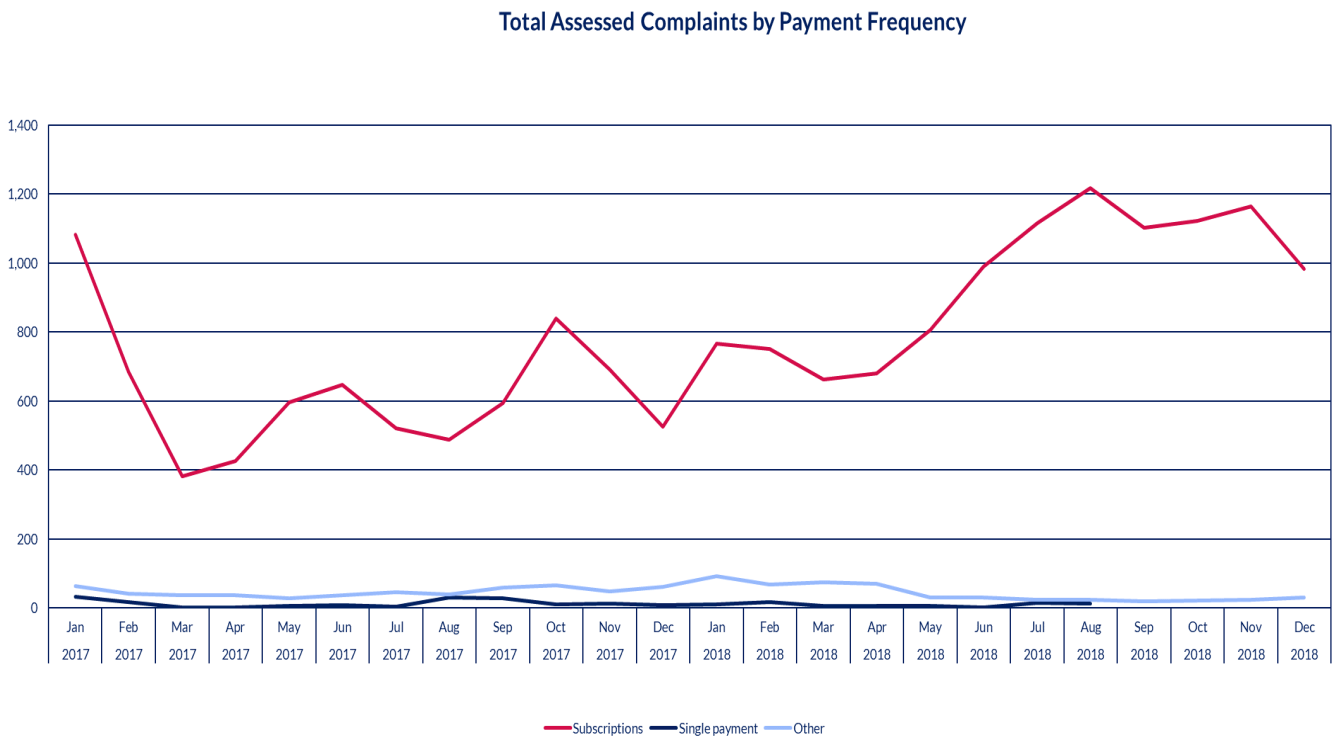


Figure 2 – total assessed complaints by payment frequency

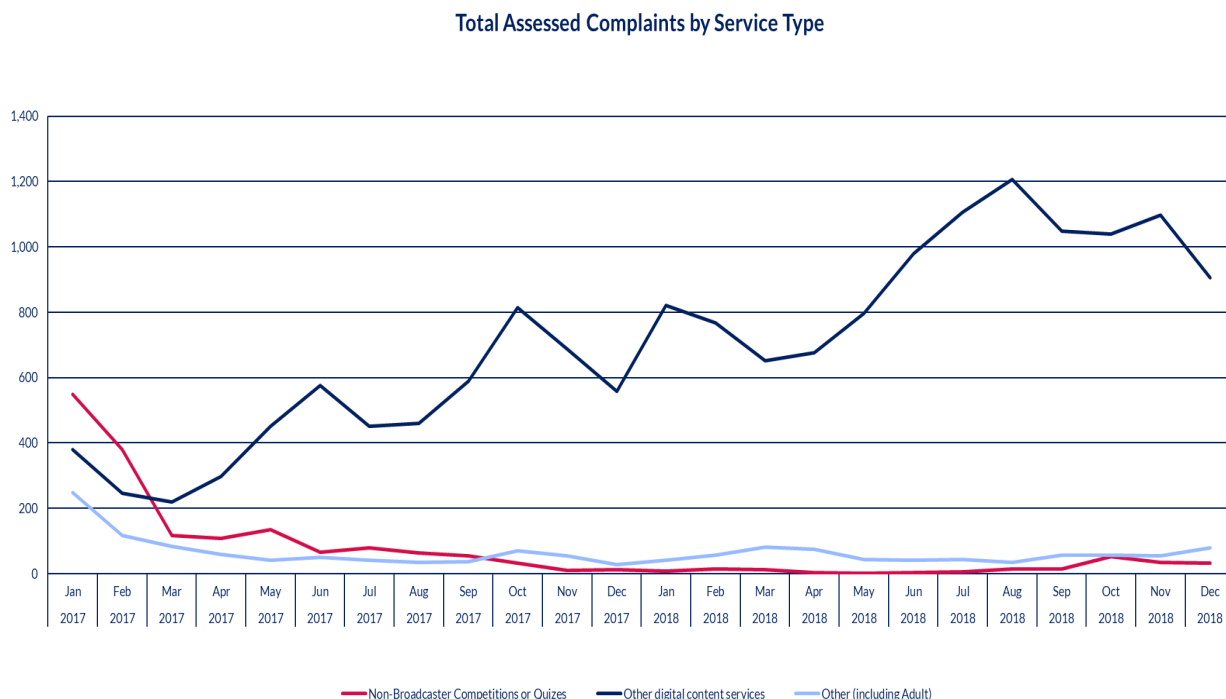
Subscriptions	1,082	684	381	425	595	647	521	487	593	840	691	526	766	751	662	679	806	990	1,115	1,218	1,101	1,121	1,163	982
Single payment	32	17	1	1	5	8	4	30	28	11	12	9	11	17	7	5	5	2	15	13		3		4
Other	63	41	36	36	27	37	45	40	58	65	49	61	92	68	74	69	31	30	24	24	19	21	23	30
Total assessed complaints	1,177	742	418	462	627	692	570	557	679	916	752	596	869	836	743	753	842	1,022	1,154	1,255	1,120	1,145	1,186	1,016

	2017	2017	2017	2017	2017	2017	2017	2017	2017	2017	2017	2017	2017	2018	2018	2018	2018	2018	2018	2018	2018	2018	2018	2018
	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec	Jan	Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov	Dec
	92%	92%	91%	92%	95%	93%	91%	87%	87%	92%	92%	88%	88%	90%	89%	90%	96%	97%	97%	97%	98%	98%	98%	97%

33. In the 24 months across 2017 and 2018, the PSA received 20,129 assessed complaints. Of these, 18,826 were complaints about a phone-paid subscription. The majority of these consumers also reported that they did not request the phone-paid subscription service about which they were complaining.

34. PSA complaint data also provides useful information on the types of services that are generating the most complaints, as shown in Figure 3 below.

Figure 3: Total assessed complaints by service type



35. Of these complaints, our data shows that the service types generating the most consumer complaints are games or apps charged to bill and Internet-based information services.

Jigsaw consumer research

36. Jigsaw is an external research company that was commissioned to complete research on consumer expectations of phone-paid subscriptions. The Jigsaw research looked at the consumer journey through a phone-paid subscription, focusing on the following stages:

- discovering a service
- signing up to a service
- using a service
- exiting a service.

37. The research included consumers who had contacted the PSA to make a complaint previously, as well as consumers who currently pay for a subscription using their mobile, and consumers who expressed an interest in doing so in future.

38. Key headline findings from the research were that:

- from the consumer perspective, phone-payment is an emergent method and so attitudes and norms aren't yet fully established

- consumers were more familiar with one-off premium rate charges than subscriptions and therefore can feel that more friction is required in the process as they don't have established cues for subscriptions
- the way a consumer discovers a service impacts on their expectations about friction. Where a service is pushed to a consumer or they haven't sought it out, more friction is required because they aren't expecting to be in a purchase environment
- consumers expect transparency and to be provided with clear information such as what they are signing up to, that a recurring payment is being made, and that the payment will come from and appear on their mobile bill
- consumers want it to be clear when they are browsing free content or viewing advertising, and when they have entered a payment environment
- where possible, established norms from other forms of mobile payment should be used as these are the cues they expect, such as use of a password, fingerprint, or PIN number
- mobile subscriptions offer a convenient option for consumers as long as it is clear what they are signing up to
- consumers don't always check their bill, unless it is significantly different to what they expect.

39. The Jigsaw research has been published on our website at psaauthority.org.uk/research-and-consultations/research/2019/february/jigsaw-research-review-of-phone-paid-subscriptions.

Other research considered

40. The PSA also considered the findings of external research previously undertaken. The findings of this research, as relevant to the subscriptions review, are outlined below.

Craft research: A Study of Consumer Journeys Relating to Online Competition and Adult PRS

41. In 2016, the PSA commissioned Craft research to explore the causes of the high levels of complaints being seen in relation to online competition services and adult services. The relevant findings from that research in regard to online competition and adult subscription services were that:

- It is quite possible for a consumer to provide unintentional consent an online competition or adult service. In relation to subscription-based competition and

adult services, the research suggested that consumers can, and do, remain unaware that such consent has been given³.

- a given consumer's desire for friction within a particular purchase journey is linked to their perception of the risk that the journey poses – one of these attributes being the transaction type, i.e. whether the service is a one-off or a subscription service⁴.
- consumers who subscribe to an online competition or adult service may think that confirmation messages are unsolicited SMS, where they are unaware that a service has been initiated.
- Many consumers are unaware that it is possible to be charged to a phone bill when viewing internet content.

Futuresight research on Customer Care and Complaint Handling

42. In 2017, Futuresight completed research for the PSA on customer care and complaint handling. Key findings from that research that are of relevance to this review of subscriptions are that:

- it is easy for consumers to share personal data online, and in doing so provide consent and authorisation for paid services without really realising
- a perceived or actual lack of consent could make it difficult for consumers to prove consent and relatively easy for merchants to avoid having to prove that the consumer did consent to a service
- issues resulting from a lack of diligence on the part of consumers (e.g. in checking their bills) can be exacerbated by the following issues:
 - the use of subscription models to debit relatively small amounts of money on a regular basis from consumers
 - some merchants relying on the fact that many people delete subscription service spend reminders thinking them to be spam.
- many complainants do not recognise subscription service messages from merchants and can ignore or delete them.

43. The research found that these issues could lead to a serious erosion of confidence and trust, not only in the service itself but the phone-paid services market as a whole. In addition, the research found that confidence and trust was maintained or increased by

³These findings were prior to the introduction of Special conditions for these service types. The consumer journeys tested in this research have similarities to some current consumer journeys in the phone-paid subscriptions market.

⁴The others being the trigger (how the purchase is authorised), the product (the type of product or service offered) and the provider.

merchants who operated in a way that was considered fair to consumers.

Annual Market Review

44. Each year, the PSA undertakes an AMR which is a comprehensive review of the phone-paid services market and looks at market trends and engagement across the 48 different service types. Almost 40 senior industry members contributed to the development of the 2017/18 AMR, together with more than 5,000 consumers.
45. The AMR found that in FY2017/18 there were an estimated 23.5 million users of phone-paid services – a 4% increase from FY2016/17. The AMR also confirmed that convenience continues to be the main driver for use of phone-paid services, as reported by 22 percent of the consumers that participated in the AMR research.
46. Almost two thirds (65%), of users, on average, are satisfied or extremely satisfied with their phone-paid service – up 10 percentage points compared to the previous year. The number of users who claimed to have their trust compromised has also dropped from 32% to 21%. The AMR found that trust was an influencing factor in the decision to use phone payment for 68% of these users.
47. Just over 20% of consumers that participated in the research said that they paid for the phone-paid service(s) that they engaged with on a subscription basis. These findings show that there is still significant potential for growth of phone-paid subscriptions, and that growing trust will support this growth.

Call for inputs responses

48. To enable us to gather evidence and inputs from a range of stakeholders, the PSA completed a Call for inputs process. The PSA received a range of responses from both industry and consumers.
49. Many respondents identified that there are significant opportunities for growth of phone-paid subscriptions and wanted to ensure that the regulatory framework supports this growth and doesn't stifle innovation. Many also recognised the opportunity to support greater trust and confidence in phone-paid subscriptions and thought that compliance would support this.
50. Differing views were expressed about whether subscription service types should be treated the same or differently. Some respondents thought that a 'one size fits all' approach wouldn't work and that different sectors should be subject to different regulatory requirements.
51. Conversely, other respondents thought that there are no subscription services types with sufficiently unique issues to warrant a different approach, and that regulation should be applied consistently across service types and payment mechanics.
52. Many respondents indicated that they do not consider that Special conditions should be implemented for subscriptions and expressed the view that the unilateral tightening of

regulation and imposition of Special conditions might limit growth if all services are labelled high risk.

53. An alternative view expressed about Special conditions was that these could be implemented if a tailored approach was taken, and that Special conditions could be an effective way of setting out the requirements for a subscription payment flow. For example, it was suggested that the existing PSA Guidance on subscriptions could be transposed into Special conditions.
54. Industry responses regarding the level of friction in a payment flow were generally split into two separate groups. Some respondents were supportive of an approach that added additional friction into the process and identified that clarity at the point of charging is critical.
55. Alternatively, respondents who were opposed to friction being added to the payment process advocated for a regulatory approach based on key performance indicators (KPIs). Suggestions ranged from using an agreed ratio of complaint levels to the overall subscriber database as a percentage (with the acceptable level being agreed between PSA and industry), to looking at consumer retention. Some respondents suggested that if the KPI is met, providers should be able to use a low-friction payment flow; and if it is not met, they should be required to use a greater friction flow, such as a PIN flow.
56. Many respondents were supportive of different approaches being taken to service messages, such as reminders and billing frequencies to fit a range of different services to support consumer engagement with important service information.

Consumer Panel

57. The PSA Consumer Panel provided a range of insights about the challenges and opportunities for phone-paid subscription services. Key views and insights included:
 - the need for greater consistency of payment experience to help deliver trust in the market, create behavioural norms and cues, and to facilitate innovation in the market. Panellists also thought consistency would support provision of clear consumer advice.
 - a need for consumers to be provided with pertinent information in a clear, unambiguous way as standard
 - consumers' need for a requisite level of friction. Panellists suggested that there may be the need for temporal gaps in authentication. For example, consumers could be required to authenticate or confirm opt-in to a subscription 24 hours after any initial engagement. This was considered particularly important if a service had a free trial period.
 - a perception that current reminder messages are ineffective and potentially confusing

- a belief that the current information provided in reminder texts could be significantly improved; SMS is no longer limited to 160 characters and therefore more comprehensive information could be made available.
- a need for service message frequency to mirror the billing cycle rather than another period or frequency as is often the case.
- a need for reminder messages to be provided to the device the content is accessed on.

58. The next section provides the PSA's analysis of the above information, inputs and data gathered in relation to the key issues identified.

Identifying and analysing the issues

59. This section sets out key issues that we have drawn out from the research and other information, data and inputs obtained and considered (as set out above) and which we believe show are impacting on consumer confidence and may be limiting growth of phone-paid subscriptions, together with the PSA's assessment of them.

60. The key issues that the PSA has identified and analysed are around:

- clarity of information provided to consumers in discovery and sign up
- friction and consumer consent to charge
- use of free trial periods
- service messages: reminder messages and billing frequencies across different subscription models
- method of exit
- post-purchase experience and complaint handling.

61. We have used this framework to analyse the issues as this reflects the consumer journey and experience of phone-paid subscription services. These are also the components that the Jigsaw research and the evidence gathered through the Call for inputs, have identified as requiring consideration through this review.

Clarity of information provided to consumers in discovery and sign up

62. The PSA has concerns that some of the ways that consumers currently receive or are made aware of relevant information, particularly in the discovery and sign-up process for a phone-paid subscription, may be contributing to the high and ongoing incidences of consumer harm.

63. Evidence from the Jigsaw research, some Call for inputs responses and the PSA Consumer Panel all identified that transparency and provision of clear information, throughout a

consumer's engagement with a phone-paid subscription, and particularly at discovery and sign-up, will support consumer trust and confidence in phone-paid subscriptions.

64. The Jigsaw research found that:

- in the sign-up process, consumers expect to be provided with the cost of the service, be clearly informed that it is a subscription service (including use of the word 'subscribe'), have the frequency of the payment written in full (i.e. no shorthand) and be clearly informed that the payment will be taken from the mobile bill relating to the specific phone number
- the information provided needs to be large and clear, without confusing clutter, and the information needs to be provided before the subscription activation (the button for which should not dominate the rest of the information)
- consumers would like clear and consistent language between services, to minimise confusion
- where consumers are provided with sufficient information and a clear process that enables them to make an informed purchasing decision, phone-payment for subscription services offers a convenient payment option
- clarity is important in all cases, but particular care is required where a consumer has not actively sought out a subscription service and comes across it while doing something else
- phone payment doesn't yet have established norms and cues that support consumers to identify that they are in a payment environment which can exacerbate issues
- the way in which a consumer finds a subscription service impacts on how they approach it, and issues are more likely to occur when consumers come across a service via a banner or pop-up as it may not be clear that they have left their original destination and they can have no idea that they are in a payment environment.

65. The PSA Consumer Panel:

- identified that greater consistency and transparency would support increased trust of and in phone-paid subscription services
- highlighted that consumers should be made fully aware of all payment terms and obligations (including setting out that what they are signing up to is a paid subscription service)
- emphasised the importance of these terms being clear (and not misleading).

66. These insights were echoed by some respondents to the Call for inputs who identified that clarity of charging at the time of purchase is critical and that developing consumer confidence in phone payment is critical if the growth potential for phone-paid subscriptions is to be realised.

67. Some respondents to the Call for inputs identified that progress has been made on many of the issues experienced by consumers, including around transparency of pricing, free periods to use the service before charging commences, marketing, initiation and free service messages.
68. Some respondents highlighted that:
- consumers are happy to pay for something that they want and know that they have purchased using phone payment as the payment mechanism
 - clarity of charging, at the time of purchase and with the appropriate confirmation provided, is critical
 - a visual cue that makes it clear to a consumer that they are on a payment page, together with authentication, is important.
69. Analysis of our complaint data shows that almost all consumers who contact us to report an issue with a phone-paid subscription also report that they did not request the service. This is supported by the findings of the Craft research finding that consumers can remain unaware they have signed up to a subscription service for weeks or months after activation.
70. The Futuresight research also found that it can be easy for consumers to share personal data online and in doing so provide consent and authorisation for paid services without realising.
71. Taken together, these findings suggest that these consumers may not have made an informed purchase, and may either have signed up inadvertently, or been signed up without their knowledge. There is the potential that a lack of clarity and transparency in the information provided contributed to their being unaware of sign-up to a phone-paid subscription.
72. Overall, the information, inputs and data provided by the various sources shows that clear and unambiguous information is required in all cases, and that particular care is required where a consumer comes across a subscription service that they have not sought out, because in that instance the consumer's awareness that they may be signing up to a recurring charge can be low.

PSA analysis

73. Clear information must be provided to consumers so that they are aware that they are signing up to a phone-paid subscription service and how and when they will be charged.
74. To reduce incidences of consumer harm and grow consumer trust and confidence, it also needs to be made clear to consumers when they are moving from browsing or engaging with free content, to a payment environment and a subscription service they are required to pay for.
75. Our assessment of the inputs, research and other information and data considered is that:

- consumers expect and require information that is clear and transparent, and would value consistency across phone-paid subscriptions
- consumers are in favour of cues that help them to realise they are in a payment environment and indicated that using norms from other forms of digital payment would support consumer awareness and confidence in phone-paid subscriptions
- having several steps in a process to sign up for a phone-paid subscription service would not deter consumers from engaging with phone-paid subscription services
- the proportion of consumers who complain to the PSA who also report they did not request the service, indicates that that many consumers may not have been seeking out the service or may not have been provided with sufficiently clear information
- when discovering and signing up for a phone-paid subscription, consumers expect it to be clear when they have gone from browsing a website or viewing free content, to when they are in a payment environment in which they are making a commitment to a phone-paid subscription service, where the charges are recurring and will be taken from the consumer's phone bill
- particular care is required where a consumer comes across a subscription service that they have not sought out as they are less likely to realise they are in a payment environment.

76. In addition, it is evident that other mechanisms, such as PayPal and Apple Pay have played a role in developing norms around the digital payment experience and setting consumer expectations around what the digital payment experience should look like. This came through in the Jigsaw consumer research which identified that consumers are familiar with using a PIN, thumbprint or password when making other digital payments.

77. The PSA considered these expectations against the existing regulatory framework for subscriptions. The current requirements are that providers must obtain double opt-in from a consumer, where the costs and name of the service have been presented clearly to them, if the subscription is charged at more than £4.50 per week. Alongside this, there is Guidance in place which sets out best practice for all subscriptions, including setting clear expectations on how and what information is to be provided to consumers.

78. While this framework is intended to ensure that there is clarity and transparency for consumers, the evidence suggests that the current requirements are not sufficient, and that there are opportunities to make changes that would reduce consumer harm being caused wholly or in part by a lack of clear and transparent information being provided to them. Overall, the PSA's assessment of the inputs and the research and other information and data provided on this issue is that changes to the regulatory framework are required.

79. The PSA is therefore consulting on proposals for when and how information is provided to consumers to ensure that consumers make informed purchasing decisions, with full awareness of what they are signing up to and can use phone-paid subscription services

with confidence.

Friction and consent to charge

80. The PSA has considered the inputs and the research and other information and data provided on friction and payment flows to establish the extent to which this is contributing to the harm being experienced by some consumers engaging with phone-paid subscriptions.
81. We note that the existing regulatory framework requires double opt-in for all subscriptions charged at more than £4.50 per week and recommends double opt-in for subscriptions charged at £4.50 per week or less.
82. Double opt-in is a two-stage process that requires the consumer to confirm, in two different forms, the charge they are signing up to. The purpose of adding an additional step in the process of confirming a transaction is to make sure consumers are aware that they are in a payment environment, what they are signing up to, and the associated recurring charges.
83. Double opt-in can take several forms. Some of those that are currently employed include:
 - entering a mobile number and clicking a call to action button
 - receiving a free initiation message with all relevant service information, that consumers are required to positively respond to, to confirm the charges
 - a PIN number being sent to the consumers MSISDN (the number that the subscription charges will be applied to) or being populated on the screen, that the consumer is then required to enter on the original payment page before clicking another button confirming the subscription
 - the consumer being required to create an account with a username and password.
84. The double opt-in approach was originally put in place to reduce the risk of financial detriment to consumers that could result from a recurring charge. PSA data shows that the level of friction required for services charged at more than £4.50 is operating well to protect consumers, with most complaints relating to subscriptions that are charged at less than £4.50 per week (and not currently required to utilise double opt-in).
85. Existing PSA Guidance sets out best practice for all subscriptions and recommends that providers obtain a double-opt in. However, this is not a requirement and PSA monitoring continues to observe a lack of adherence to this Guidance.
86. A key finding from the Jigsaw research is that consumers aren't always aware that you can pay for a subscription by entering your mobile number or visiting a website, without entering other payment details, such as card details⁵. This means there may be a greater

⁵This is consistent with the findings of the Craft research.

risk of consumer harm in these relatively low friction payment flows as consumers aren't aware that they are in a payment environment or that it is possible to sign up to a recurring charge in this way.

87. The Jigsaw research also found that:

- a low-level of friction is not well-aligned with what many consumers expect when signing up to a phone-paid subscription service and these expectations come from their experience of other digital payment mechanics
- consumers would like an additional step in the sign-up process so that it is clear what they are signing up to, the cost, and the method and frequency of payment
- consumer expectations around the level of friction required are in part driven by the fact that a mobile number is often shared and easily available (as are websites), so consumers do not expect to be able to make a payment simply by entering their mobile number or visiting a website. Part of the reason for this is that the way a consumer treats their mobile number is completely different to how they treat other forms of payment information such as debit or credit card details that are generally kept private and not shared freely.
- for consumers, payment for a subscription via mobile is an emergent payment method in which attitudes and behaviours are still being established, so where possible phone-paid subscriptions should use the norms established from other forms of mobile device-based payments, such as use of a pop-up asking the consumer to confirm payment, a PIN, to have to put in a password, or to use their fingerprint to confirm the payment
- consumers expect to activate a subscription ideally using a PIN sent to their mobile, and then confirm that activation. For example, a pop-up on their phone that contains only the relevant information of what they have signed up to, the cost, frequency of charging and method, and the renewal policy.

88. The Craft research also found that consumers expect a digital payment system to conform to the secure practices to which almost universally recognised brands such as PayPal, Amazon, iTunes etc. have accustomed them. That is, they expect to see a distinctive, dedicated point of sale screen; and a user authentication step ideally including some form of password protection.

89. These findings are consistent with the service information that the PSA has from consumers who often report that they did not know they had signed up to a subscription and/or they did not know that payment for this would or could come from their mobile phone bill.

90. Through the Call for inputs, two differing views emerged on the level of friction that should be required in the payment flow to ensure phone-paid subscriptions operate effectively without causing harm to consumers.

Input received supporting additional friction

91. Some respondents to the Call for inputs expressed support for mandating additional friction in a phone-paid subscription service flow. Many of these respondents expressed the view that requiring use of two-factor authentication, such as an account (username and password) or a PIN for all subscriptions (and not just those charged at more than £4.50 per week) would:
- help to ensure appropriate consumer consent is obtained before charging commences
 - protect the consumer from inadvertent sign up and mean there is a good record of consumer authentication
 - become an established norm
 - result in savings in customer service costs as well as increased consumer trust so consumers would be more likely to use phone payment again in the future (even if there was an initial drop in revenue).
92. Some of these respondents also highlighted the risk of malware automatically reading and inserting a PIN without any action being required from the consumer, if a PIN approach was mandated by regulation.
93. Some of these respondents suggested that the existing Special conditions that apply to subscriptions over £4.50 per week could be applied to all subscriptions, with the view that this would support consumer protection from harm while not over-complicating the regulatory framework.

Input received opposing additional friction

94. Another group of respondents were opposed to additional friction being added to the process or a payment flow being prescribed through regulation. These respondents:
- shared their experience of overseas markets where mandating a PIN as part of the subscriptions payment flow had resulted in a reduction in revenue
 - highlighted the risk that if revenues drop as a result of more friction in the process, this may reduce the value proposition to providers and reduce the size of the market. These respondents suggested that this would have a detrimental impact on consumers as there may be fewer phone-paid subscription services available to them.
 - thought that the relatively low friction process that phone paid subscriptions have is the unique selling point for this payment mechanism, and that an overly complicated payment flow would reduce the value proposition for providers and have a detrimental effect on the market and on consumers.
95. These respondents also cautioned against over-complicating the payment flow and were of the view that a phone-paid subscription service payment flow already has a complicated

structure and consumer interface with the payment method, when compared to other payment mechanisms.

96. Some of these respondents cited other payment methods that have low friction and few reported consumer issues (citing PayPal and Amazon). While with some of the examples cited each individual purchase has a low level of friction, the PSA notes that these purchases sit behind an initial account creation after which time a consumer can make a choice about how much ongoing friction they desire. This approach is consistent with the research findings on consumer expectations, and some of the Call for inputs responses received.
97. Some respondents who opposed additional friction being added to the payment flow for phone-paid subscriptions indicated a preference for a risk-based approach based on independently verifiable information to determine what regulation be applied. Some suggestions of what could be used included data on complaints or consumer engagement with the service.
98. Some of these respondents suggested that they thought there should be scope for different regulatory requirements to be applied depending on the subscription service type, and suggested that:
 - all services within a service type should be treated equally initially, but once a service has continued to report satisfactory statistics then that service can be elevated to a different regulatory status
 - there could be a hierarchy of regulatory parameters to work towards, with a methodology developed for different types of services and different price points
 - security, trust, and compliance need to be taken seriously and if the framework is breached then the privilege of a low-friction flow should be lost
 - KPIs aid self-regulation and measure services on merit rather than on brand or reach
 - data be published on the number of complaints as compared to the number of contacts and transactions
 - consumer usage could be monitored and refunds given if a service is not used, with the MNOs taking responsive action as required
 - a unilateral tightening of regulation will not support growth and innovation of subscription services.
99. An approach suggested by some respondents was that a risk-based response, using KPIs, would be an effective way to regulate phone-paid subscriptions.
100. Within those who were supportive of a risk-based approach, differing views were expressed on whether different services / service types should be treated similarly or differently. Suggested approaches included:

- Using empirical data as the basis for setting the regulatory requirements and treating all phone-paid subscriptions the same, until a service has proven its ability to comply with the regulatory framework, after which time it could be subject to lesser requirements
- Having a hierarchy of guidelines or parameters to work towards, across different types of services at different price points
- Considering carving out the regulatory requirements for different service types, as is currently in place for recurring donations
- Allowing a phone-paid subscription to utilise MSISDN pass-through⁶, providing complaint levels are below a certain percentage. If complaint levels are above the accepted level, then the service be required to use account and password protection. It was noted that this approach is used widely in France.

101. Many of these respondents thought that a blanket regulatory approach, such as mandating what is required in the payment flow, would prevent innovation and growth.

102. Some respondents thought that while the use of this data and analytics is critical to support a business to measure technical performance, consumer experience / satisfaction and identify issues, it may not be appropriate to use this data to form the basis of regulation. It was also noted that KPIs can be very sensitive to changes, such as particular promotions, and there is a risk of their being misinterpreted.

103. Some respondents acknowledged that advances in technology provides the opportunity for more automation so that providers across the value chain can collect and analyse a range of data to support delivery of a quality service offering that meets consumer expectations.

PSA analysis

104. In the PSA's view, phone-paid subscriptions that utilise very low friction payment flows, and do not provide clear information to consumers, are contributing to the levels of consumer harm and may be resulting in consumers being signed up to subscriptions without their informed consent. In addition, we are seeing that some consumers then complain about the market for services charged to a bill in general, damaging the reputation of this method of payment.

105. In our view, different payment flows have different merits and risks, with MSISDN pass-through having significant risks from the consumer perspective as it requires very little affirmative action from the consumer and having merit from the provider perspective as consumers can sign up with ease.

106. While for some consumers MSISDN passthrough may operate effectively, the PSA's view is that as phone paid subscriptions are a relatively unknown concept for many

⁶MSISDN Pass-through, is the process by which a consumers' mobile number can be passed, over the internet, directly from their device to a provider without the need for the consumer to manually enter their mobile number into a webpage.

consumers, it is necessary to consider what level of friction will ensure informed consumer consent so that consumers can use phone-paid subscription services with confidence.

107. For clarity, the PSA is not asserting that a low friction process in and of itself means that consumers will experience harm, and we acknowledge that a low-friction process for phone-payment is often seen as its unique selling point. In addition, the findings of the Jigsaw research are that where consumers have been provided with clear and unambiguous information on what they are signing up to, phone payment offers a convenient alternative to consumers.
108. However, the PSA continues to see examples of providers using payment flows that are very low friction and where the information that would support consumers in making an informed purchasing decision is not provided clearly.
109. In our view, the Jigsaw research, some Call for inputs responses and the PSA Consumer Panel insights provide evidence that additional friction is required in the sign-up process for a phone-paid subscription, regardless of the price of that subscription, if we are to grow consumer trust and confidence.
110. The Jigsaw research identified that opportunities should be sought to draw on what happens in other digital payment mechanisms that consumers are more familiar with, where possible, and that this could include:
 - use of an account and password
 - use of a one-time PIN that a consumer is sent and required to input
 - use of biometric technology, such as fingerprint or facial recognition.
111. While some Call for inputs respondents indicated that adding friction would likely result in a revenue drop for providers, in the PSA's view it is likely that the market would see growth over time as consumer trust and confidence increases and the informed consumer engagement with phone-paid subscriptions supports sustainable revenue for providers.
112. As mentioned above some respondents suggested that using a risk-based approach to regulation, particularly use of KPIs such as consumer complaint and retention data, would be a more effective regulatory approach.
113. While KPIs have a role in driving business performance or targets, we do not agree with the use of KPIs as the basis of regulation. The main problem is that the use of KPIs implies that there is an acceptable level of non-compliance with the PSA Code of Practice (the Code).
114. The PSA is responsible for applying and enforcing its outcomes-based Code of Practice and to set out clearly to providers what they are required to do to comply with the Code. Where there is non-compliance with the Code, we will take enforcement action. There is no scope to introduce a certain tolerance level of non-compliance.
115. The PSA agrees with respondents that there needs to be a focus on security, trust and compliance and that each of these components will contribute to a healthy and innovative

market. However, the PSA does not consider that the evidence supports a hierarchical approach to regulation, based on service type or price point or whether a set of metrics has been met.

116. The Code sets outcomes that providers are expected to achieve, and rules that must be complied with. The Code applies to all providers of phone-paid services and does not distinguish between brands or reach of a service.
117. The existing regulatory framework for subscriptions already distinguishes between requirements at different price points, originally set with consideration to the financial detriment that could be caused to consumers. However, as the evidence shows, this approach has not been sufficient to address the significant levels of consumer harm that this review is seeking to address.
118. Some respondents expressed that setting out rules or tightening regulation would limit growth and innovation. We do not agree that setting clear expectations of what is required of providers of phone-paid subscriptions would limit growth, but rather are of the view that it would provide a clear framework within which to operate. Indeed, the Jigsaw research provides a strong basis for what consumers expect to see in the payment flow for a phone-paid subscription.
119. For many consumers, issues arise as a result of both a low friction sign up and consent to charge process, coupled with the fact that many consumers do not expect to be able to pay for something by entering their mobile number or visiting a website. We note that this review is not considering the security component of consent to charge and that this work is being progressed separately⁷.
120. Other Call for inputs respondents welcomed additional friction and highlighted the need for there to be a good record of consumer authentication to protect the consumer from inadvertent sign-up. The PSA agrees that a record of authentication is important, and that this needs to be coupled with a record of the consumer journey and what the consumer saw when signing up to the phone-paid subscription service.
121. The Jigsaw research found that consumers expect a certain degree of friction when signing up to a phone-paid subscription service and that for consumers, having additional steps in a sign-up process is welcomed, particularly as the concept of phone-payment is relatively new for many consumers and consumers do not always see their mobile number as being something that can be used for payment. For example, because it is so freely shared when compared to other payment details, such as credit card information which is generally kept private.
122. Having considered the research and other information and data provided by the various sources mentioned, the PSA is consulting on proposals seeking to ensure that there is an appropriate level of friction in the consumer sign up process for phone-paid subscription services. This is to protect consumers from harm and give them trust and confidence, while ensuring both existing and potential new services can operate

⁷Recommendations on new security standards for phone-payment platforms will be consulted on later in 2019. Therefore, the discussion on this issue is focused on the journey into a phone-paid subscription service from the consumer perspective.

effectively within the framework.

Use of free trial periods

123. As part of this review, the PSA has sought to better understand the extent to which free trial periods are contributing to the consumer harm being experienced as a result of engagement with some phone-paid subscription services.
124. In the PSA's experience, free trials can be used in a range of ways. This can include limiting the content that a consumer can access on free trial basis (with additional content being accessed on a paid basis) or enabling a consumer to access all content for free for a defined period. We have sought to understand more about consumer expectations of free trial periods and the impact of different models.
125. At present, many phone-paid subscription services operate on a model where consumers can access the service content on a free trial basis, before the service rolls over to a paid subscription. It is common for phone-paid subscription services to operate a free trial for a 24-hour period before the charging period commences.
126. Existing Guidance is clear that it is appropriate for the purposes of the Code to promote the free element of any service, provided that:
- the promotion clearly states what is and isn't free, i.e. any use of the word free (or variations) must be clearly qualified in a way that is immediately visible, understandable and proximate
 - The consumer must be in no doubt when they opt into a service as to the nature of any premium rate elements and when charges may be initiated and be given a clear method of exit before charging commences.
127. Existing Guidance on the 'free trial' model states that:
- the consumer must be in no doubt when they opt into a service as to the nature of any premium rate elements and when the charges may be initiated, and given a clear method of exit before charging commences
 - charging should commence immediately, or as near as is reasonably practicable, after the defined free element or time period of the service is at an end
 - charging should not commence sometime after this point, where the consumer may be likely to have forgotten their initial opt-in to the free element
 - it is good practice to alert the consumer at the point which the free trial ends and the paid for service begins, even where transparent information is provided at the outset.
128. While many services across different payment mechanics offer free trial periods, it is common for these to last seven days, or one month, with some of these services utilising phone-payment alongside other payment mechanics. However, in general 24-hour periods are common across phone-paid subscriptions. In addition, consumers are not

always provided with a reminder that the free trial is about to end before charging commences.

129. The PSA Consumer Panel provided input on this issue and stated that in their view, where a phone-paid subscription service includes a free trial period, consumers should be required to positively opt-in to that subscription service before the charging period commences.

130. The Jigsaw research findings are consistent with this input. The research found that:

- consumers do experience issues with free periods ending and rolling into a paid subscription without sufficient warning or opportunity to exit. However, although irritating, consumers do accept a degree of responsibility where this was made clear upfront.
- consumers expect an upfront and clear explanation of what happens at the end of any free trial period (including how payments are taken)
- ideally, consumers want to have a clear warning at the point the free (or discounted) period is coming to an end, outlining the ongoing costs and providing the opportunity to cancel. Consumers do however recognise that this doesn't always happen, including across subscriptions that utilise other payment mechanisms.

131. Some respondents to the Call for inputs also raised useful points for PSA consideration around free trial periods. For example, it was raised that the term 'FREEMSG' should be removed from all subscription messages as it is confusing for consumers, including those relating to trial periods. This is consistent with the Craft research which found that consumers often do not engage with messages that begin with 'FREEMSG' as they assume these are spam.

132. Suggestions were made through the Call for inputs about how to reduce the risk of consumer harm from a free trial rolling into a paid subscription. These included requiring the sending of a message to consumers letting them know that a free period is ending prior to it ending and before the consumer is charged. It was noted that this approach works effectively for recurring donations, where consumers receive a reminder message 24 hours prior to being billed for the next donation. One respondent noted that this is intuitive and is something that should be considered across other subscription services.

133. In addition, one respondent suggested the PSA look to the Advertising Standards Authority (ASA) Guidance on use of free trial periods. The PSA has reviewed the ASA Guidance and determined that the principles outlined in that Guidance are well-aligned with that which is outlined in the PSA Code of Practice and Guidance.

PSA analysis

134. The research and other information and data provided by the various sources mentioned evidence that consumers can experience issues with free periods ending and rolling into a phone-paid subscription without sufficient warning, particularly where a

clear explanation of what will happen at the end of a free trial period has not been provided.

135. The PSA has concerns that the common use of 24-hour free trial periods which then roll into paid subscriptions, without the consumer being informed that a paid subscription has commenced, may be contributing to the high levels of consumer harm. Free trial periods can also lead consumers to believe that they won't be actively required to pay until the free trial period is over, meaning they are unsurprised by the lack of an obvious payment mechanism being presented at the outset and subsequently surprised or confused about the charge on their mobile bill.
136. There are a range of free trial models in operation, from time limited (e.g. one month) to trials limited by what content a consumer can access as the free component, and the PSA wants to ensure that any proposals it makes are proportionate and evidence based.
137. In the PSA's view, the prominence of 24-hour free trial periods may be contributing to the increased levels of consumer harm, as this is a relatively brief period for a consumer to experience a free trial of a service before it becomes a paid subscription.
138. While the PSA is aware of some services that offer 24-hour free trial periods, such as a gym trial where a consumer might have access for one day, the PSA considers this is not comparable because the 'free pass' does not automatically sign a consumer up to an ongoing commitment or roll over into a paid membership automatically.
139. Comparatively, the PSA is aware that many phone-paid subscription services that offer a 24-hour trial period do roll into a paid subscription without affirmative action being required from the consumer. While this is the case for other types of subscriptions which roll over unless the consumer opts out, such as Amazon or Netflix, the initial trial period is generally longer, such as one week or one month.
140. However, the PSA does not consider that it currently has sufficient evidence on which to base proposals in relation to free trial periods. We therefore would welcome further input through this consultation on approaches to regulation that would support more effective use of free trial periods in the context of phone-paid subscription services and which would lead to fewer issues being raised by consumers.
141. For example, the PSA is interested in hearing views on the impact of setting clearer requirements or guidance around the length of a free trial period, or the information that a provider is required to give a consumer before a free trial period rolls into a paid subscription and how this information might be provided.

Service messages: reminder messages and billing frequencies across different subscription service models

142. The PSA is concerned that some of the current approaches to providing service messages are ineffective because consumers do not engage with the messages received. Critical to delivering positive consumer engagement with phone-paid subscription services is ensuring that once signed up and using a service, consumers are well-informed

of what they have signed up to, their obligations in relation to paying for that service, and who to contact and how, if they have any queries or concerns.

143. At present, many phone-paid subscription services charge consumers weekly, and operate on the basis that once signed up to a subscription, the consumer will continue to be charged until they opt out. This can differ from subscriptions for other content, goods and services that are often for a defined period, such as an annual subscription, with the consumer receiving a reminder, or needing to positively opt in again, at the end of the defined period.
144. The existing regulatory framework may have contributed to the prevalence of a weekly charging model as it sets different requirements depending on whether or not the weekly threshold of £4.50 is met. It also guarantees ongoing incremental weekly income for providers of phone-paid subscription services, until a consumer opts out.
145. There has been some movement towards alternative charging models as new providers, some of whom are already established brands across various payment mechanics, begin offering phone-paid subscription services. For example, monthly charging, subscriptions for a defined period (such as an annual subscription) or subscriptions where the upfront sum can vary and impact the ongoing sum that the consumer is required to pay.
146. In undertaking this review, the PSA is seeking to ensure that a range of models can operate effectively within the regulatory framework, to support growth and innovation.
147. While the current Special conditions and Guidance are clear about what information is to be provided to consumers, and how such information is to be provided, there is evidence, as discussed below, to suggest that consumers do not always engage with service messages because they perceive these to be spam.
148. It is common for consumers who contact the PSA to report an issue to state either that they did not receive any service messages or that they ignored messages received because they did not perceive them to be legitimate messages. Consumers also report that as they were not aware that they had signed up to a subscription service, the service messages received were considered to have come 'out the blue' or 'appeared randomly'.
149. Within the existing regulatory framework users must receive confirmation via SMS or the most appropriate means of communication in relation to consumption of the service, of:
 - being subscribed to the service
 - the full name of the service
 - the associated costs, contact details of the provider of the service
 - instructions on how to exit.
150. There is also PSA Guidance in place that applies to all subscription services and sets out best practice around spend reminders.

151. The Craft research found that consumers who receive one or multiple confirmation messages via SMS may consider these to be unsolicited messages. Specifically, in relation to confirmation messages, the research found that in many cases the reference that the message is a payment confirmation does not appear at the top of the message and so consumers do not open the message and therefore do not engage with the information contained within it. This is also supported by the findings of the Futuresight research, that many consumers do not recognise subscription service messages from merchants and can ignore or delete them.
152. The Jigsaw research also concluded that confirmation of payment via texts from an unknown company or short code number can be viewed as spam and ignored (or even sometimes blocked so that texts aren't received). For consumers, a pop-up on their mobile (as they see with the likes of Google Pay or iTunes) with a confirmation button for them to click, would be more aligned with their expectations. The Consumer Panel also felt that the information that is provided through reminders could be improved, given that SMS is no longer limited to 160 characters and that the current form of sending service messages is likely to be confusing for many consumers.
153. This reinforces the point raised above around consumers expecting greater consistency across payment mechanisms and services using established norms from other methods of payment.
154. Respondents to the Call for inputs expressed a range of views about service messages. Some respondents suggested that greater flexibility around the requirements for these would support growth and innovation. Respondents specifically mentioned alert-based services that may not necessarily fit a calendar-based cycle for billing and reminders.
155. Respondents suggested that the PSA be mindful of the range of ways that subscriptions can operate when thinking about the regulatory framework. The PSA appreciates this insight and agrees that any changes to the regulatory framework need to be sufficiently flexible or broad to enable both current and emerging models to operate effectively and provide value to consumers.
156. Respondents identified that it may be hard to innovate within the weekly charging model that many providers are operating under, and that with a weekly charging model, short-term monetisation is prioritised over building relationships with consumers. It was suggested that consumers may be more comfortable and familiar with monthly billing as this is common across a broad range of subscriptions and that the current weekly charging model employed by many providers may be contributing to the level of bill shock being experienced by consumers. On this point, the PSA Consumer Panel were of the view that service messages should mirror the billing cycle and be consistent to the device the content is accessed on.
157. Respondents identified that the review provides an opportunity to consider providing more flexibility around reminder frequencies and the method of sending reminder messages to consumers, and the current reliance on SMS in the phone-payment space was questioned.

158. The PSA notes that there are some phone-paid subscription services already operating on a monthly subscription basis, but that many subscriptions continue to utilise a weekly charging model. In addition, the PSA notes that the existing regulatory framework does not limit charging frequencies. However, the PSA does acknowledge that as the existing Special conditions apply to subscription services if they are charged at more than £4.50 per week, this may be contributing to the general reliance on a weekly billing model.

PSA analysis

159. Service messages are intended to provide consumers with relevant information about their subscription service. In the PSA view, these are not operating effectively, primarily because the consumer does not always engage with the message.

160. Our assessment of the evidence is that where consumers don't engage, this is usually because they:

- are not aware they have been signed up to anything and so consider any messages received from an unknown company to be spam
- aren't always used to receiving service messages primarily via SMS.

161. We also believe that the current £4.50 weekly threshold at which the existing Special conditions apply is having an impact, as currently services that are charged at or above this threshold are required to send a service message at the point of the initial and each subsequent charge.

162. The PSA sees many services that charge consumers on a weekly basis and in our view, the high frequency of weekly service messages may deter consumers from engaging with them if they perceive these to be spam, or not related to a service they have been signed up to.

163. The Jigsaw research and the Craft research both support this view, finding that consumers sometimes ignore confirmation of payment texts received from an unknown short code and may even block these. Consumers expect that any service message would stand-alone and be in the standard phone confirmation format that consumers are used to.

164. It is important that consumers engage with service messages because these contain information about the service, including how and when the consumer will be charged. In the PSA's view, if the regulatory approach helps to ensure that consumers engage with phone-paid subscription service messages, then this will support consumer trust and confidence.

165. While the existing Special conditions and Guidance provide flexibility around how service messages are provided to consumers, the PSA continues to receive frequent reports from consumers that they think these messages are spam and do not engage with them, block them, or delete them. It is timely to consider opportunities to provide service messages in a more effective manner.

166. The PSA is proposing changes to the regulatory framework around service messages to require providers of all subscriptions, regardless of price, to send a receipt to the consumer at the point the initial subscription charge is incurred, and then after each subsequent charge. This approach is used across a range of existing services, including those already utilising phone-payment, such as Apple Music, and is well-aligned with the evidence of consumer expectations around receipting.
167. This differs to the current approach in which spend reminders are required to be sent either once a month or every time a user has spent £20.45 (whichever occurs first). There are also Special conditions that currently require a confirmation to be sent to the consumer at the point of the initial and each subsequent charge, if the subscription is charged at more than £4.50 per week.
168. The PSA considers that this approach will help to ensure that consumers engage with service messages if they are receipt-based messages. In conjunction with the other proposed changes to ensure clear and transparent information is provided to consumers, and there is requisite friction in the process, the PSA considers that the combination of these activities will support consumer confidence in phone-paid subscription services.

Method of exit

169. The PSA receives mixed information about the effectiveness of the STOP command, which is the method of exit used by many providers of phone-paid subscription services. We therefore considered it timely to consider this issue as part of the review of phone-paid subscription services.
170. Paragraph 2.3.11 of the PSA Code requires there to be a simple method of permanent exit from the service, which the consumer must be clearly informed about prior to incurring any charge. While this is often via the STOP command, there is nothing in the Code requiring that this is the method used.
171. In 2015, in accordance with section 3.12 of the Code, the PSA issued a [Notice of specified service charges and durations of calls](#) which sets out the post purchase requirements that providers must comply with. As part of this, providers are required to send consumers participating in the service a spend reminder, at no extra cost to the consumer, once they have incurred charges of £20.45, or each month, whichever occurs first. This was intended to provide greater protections to consumers.
172. The message sent to consumers must outline the name, cost and charging frequency of the service, how to contact the provider, and a reminder of how the consumer can stop the charges. At present, most providers meet this requirement by texting a STOP command to consumers which will also contain the information outlined above.
173. There is also a [General Guidance Note on method of exit from a service](#) setting out best practice around method of exit. The current version of this Guidance Note sets out that STOP is the most common, familiar and easily implemented system for consumers to exit a mobile based service, with best practice advice being that consumers should be able to

reply to the mobile short-code that the service was initially requested from or from which it is receiving chargeable messages.

174. The Craft research found that some consumers:

- find this opt-out mechanism counter-intuitive
- face challenges using the STOP command and experience message delivery failure
- attempt to reply to the STOP message, rather than send the message to a separate number, which is often required.

175. The PSA also sees this issue through the contacts that we receive from consumers who contact us to report an issue. Many of these consumers believe or assume that the STOP mechanism is spam aimed at establishing that a mobile number is active, or those who do attempt to use STOP report that it didn't work or that they incurred a charge for using it.

176. Alongside this, the Jigsaw research found that:

- Most consumers expect to cancel app subscriptions within an app, and where consumers are required to cancel through the settings on their phone, this can be confusing
- Where consumers reply to STOP and the message fails, this reinforces consumer fears that the company may be fraudulent and it can be unclear which company is behind the service.

177. The PSA is also aware that there is mixed consumer advice available on whether STOP is a trusted method of exit that is safe and effective for consumers to use⁸.

178. Call for inputs respondents expressed mixed views around the STOP command. Respondents identified that:

- some consumers use this method of exit effectively
- some consumers do not trust the mechanism or consider STOP to be spam and so feel anxious using it or do not use it
- some consumers use the STOP command incorrectly and reply directly to the service message
- there should be greater flexibility around opt-out and STOP should be one of many ways to opt out
- there is currently a reliance on SMS in phone-paid subscription services.

179. With the increased capability of smartphones, it is timely to consider whether the regulatory requirements or guidance around method of exit need to be updated to better

⁸For example, the PSA is aware that there is some consumer advice available stating that consumers should reply to the STOP message, which will not always be effective if the provider requires the consumer to send STOP to a different shortcode.

reflect the technological capability of systems and devices and to better meet the expectations of consumers.

180. For example, the existing General Guidance Note states that app-based services which build upon an ongoing consumer relationship and associated account, provide a means for the consumer to track and review their cumulative spend. The PSA is aware that there are phone-paid subscription services that already provide this facility to consumers and that this is common across other forms of digital payment.

PSA analysis

181. The research and other information and data provided by the various sources shows that while some consumers can use the STOP mechanism correctly, others do not trust it or report having difficulties when attempting to use it, as they receive a delivery failure or incur an unexpected charge when using STOP. For some consumers, this may be because they have not used the mechanism correctly, while for others this may be because the mechanism is not working.
182. In considering the research and other information and data gathered from the various sources, and in seeking to understand what would address these issues and support the objectives of the review to be achieved, we have arrived at the view that the underlying issue relates to clarity of the information provided to consumers upfront and as part of the sign-up and confirmation process.
183. As there is evidence that the STOP command works effectively in some sectors, such as where used for recurring donations, the PSA considers that it would be a disproportionate regulatory response to require providers to implement an alternative method of exit or require that consumers be able to reply to the shortcode on which the service message is received, particularly given the evidence which supports a new approach to receipting to ensure that consumers engage with service messages.
184. The PSA instead considers that this issue could be best resolved through ensuring that consumers are provided with all relevant information prior to charging occurring, including how to exit. In addition, the PSA considers that a receipting approach which provides information on how to exit will address the challenges that some consumers experience as a result of replying to STOP.
185. If consumers are provided with clear information upfront as part of the sign-up and confirmation process, understand what they are signing up to, and make an informed purchasing decision based on all relevant information, then it is reasonable to expect that from this clear information the consumer will understand how to effectively exit a subscription should they so choose, including where the method of exit is the STOP command.
186. The PSA also considers this change to be adequate and proportionate, because existing requirements around method of exit are not prescriptive, with the PSA Code of Practice setting out simply that providers must have a simple method of opt-out. The PSA therefore considers that this provides sufficient flexibility for providers to employ a range

of methods that best align with their service offering and existing mechanisms.

Post-purchase experience and complaint handling

187. The research and other information, data and inputs reviewed show that with some services, consumers can face challenges contacting the provider of their phone-paid subscription to raise an issue. PSA data shows that across 2018 all assessed complainants who contacted the PSA also reported that they had already contacted or attempted to contact the Level 2 provider.
188. Section 2.6 of the Code sets out the requirements for Level 2 providers in relation to complaint handling. The Code outcome that relates to this is that consumers can have complaints resolved quickly and easily by the Level 2 provider responsible for the service and that any redress is also provided quickly and easily. The Code also requires that Level 2 providers must provide an appropriate and effective complaints process which is free or low cost.
189. A common consumer issue reported to the PSA is that some consumers do not know who the charge on their mobile is from and so do not know who to contact in relation to a recurring charge that may appear on their bill. While for some services it is clear who the provider is and for what service they have been charged, for other services the consumer may only see that they have been charged for a premium rate service, but the name of that service or the provider may not be listed on the bill. For example, in less clear cases the consumer's bill may say 'Payforit' or provide a numerical reference code which is not clear to the consumer.
190. Alongside this, some consumers who contact their service provider report that there is no one on the line for them to talk to and they are required to leave a voice message and await a response from the provider.
191. The Jigsaw research found that:
- From the consumer perspective, those who find themselves inadvertently signed up to a service commonly expect the MNO to provide customer care assistance (and be able to cancel the service)
 - consumers would like to ensure that the company behind the service is clearly identified and there are clear ways to contact them if there are any issues⁹
 - consumers don't always check their bills, and where they do, they often scan them to see whether the amount is 'about right' – this can contribute to 'bill shock' if they don't realise they have been incrementally charged over a period of time
 - consumers expect there to be a genuine helpline available if they do experience issues

⁹The Code of Practice also requires that promotional material clearly identifies the service provider.

- ideally, consumers would receive a pop-up from their MNO each month informing them of the amount that has been added to their bill as a reminder (as occurs with some MNOs in the pay as you go market at present).

192. These findings are consistent with the Futuresight research into customer care and complaint handling, and one respondent shared a figure from the Futuresight research that 73% of complaints start with the consumer seeing something they don't recognise on their phone bill, and 56% of consumers seek assistance from their MNO.

193. Responses to the Call for inputs expressed the view that often consumers are not complaining about a specific service, but rather are querying an unexpected charge.

194. Many responses to the Call for inputs provided comment on the issue of refunds and the process for refunds being issued to consumers. The PSA notes that a review of refunds more generally will be progressed outside of this review of subscription services.

PSA analysis

195. There are services about which the PSA receives very few complaints, which suggests that the customer care approaches of those services are operating effectively for consumers.

196. However, it is also common for consumers to report to the PSA that they do not know who to contact to exit a subscription service and that they can face challenges getting hold of the Level 2 provider.

197. In addition, there is mixed evidence from consumers about the clarity of their bill – with some consumers reporting being uncertain about who a charge on their bill is from, and others having no issue.

198. Where appropriate, the PSA will take enforcement action to ensure that providers are operating in compliance with the Code, which requires that:

- the provider is clearly identifiable in promotional material
- the consumer is provided with contact details for the service provider
- the provider has an appropriate and effective complaints process
- consumer complaints are resolved quickly and easily.

199. The PSA is not proposing any changes to the regulatory framework around post purchase and complaint handling as a result of this review. The PSA considers that the other changes proposed will ensure that there is more clarity and transparency for consumers around who to contact, which will result in reduced harm. The proposed changes will also ensure that the receipt that the consumer receives clearly identifies the company providing the service and the cost.

200. In addition, as outlined in our 2019/20 Business Plan, the PSA will be reviewing and enhancing our customer care guidelines for industry, ensuring service providers have full

clarity of our expectations and how we will fairly and proportionately enforce breaches of Code provisions in this area.

Overall assessment

201. To support us in considering the effectiveness of the existing regulatory framework, the PSA considered research and other information, data and inputs received from a range of different sources.
202. We received valuable insights through our Call for inputs process, as well as reviewing our consumer complaint data, engaging our Consumer Panel on these issues and considering the findings of the Jigsaw research, together with research we have undertaken previously.
203. The PSA has also been mindful that some services do not generate complaints to the PSA, and we want to ensure that these services can continue to operate without unnecessary disruption.
204. Considering the evidence, the PSA has determined that from the consumer perspective, engagement with phone-paid subscription services is mixed, and consumers can face difficulties when all relevant information has not been provided to them upfront, and where the sign-up process for a subscription service is potentially misleading or does not have the expected level of friction.
205. Our overall assessment of the evidence is that changes are required to the regulatory framework for phone-paid subscriptions, if the outcomes of the review are to be achieved.
206. There are a range of different phone-paid subscription services operating. Some of these are operating effectively within the existing regulatory framework and providing clear information to consumers signing up and using the subscription service, as well as a level of friction that is aligned with consumer expectations.
207. However, there are also some services that are causing ongoing consumer harm that we cannot allow to continue to operate as they are. Many of these services are not meeting consumer expectations around how information is provided or providing a sign-up process that ensures consumers are making an informed purchasing decision.
208. We therefore consider that the current regulatory requirements are not sufficient to address the issues being experienced by some consumers engaging with some phone-paid subscriptions. In our view, the research and other information, data and inputs received evidence the need for changes to the regulatory framework, if we are to support consumer trust and confidence in phone-paid subscription services and support growth and innovation.
209. The evidence shows that harm is being caused across various parts of the consumer journey, from the consumer discovering a service, through to signing up and engaging with service messages.

210. As outlined above, we consider that regulatory changes are required to address issues across the following areas:
- Clarity of the information provided to consumers in discovery and sign up
 - Friction and consumer consent to charge
 - Use of free trial periods
 - Service messages: reminder messages and billing frequencies across different subscription models.
211. As outlined in the above sections, we are not proposing changes in the areas of method of exit or post-purchase experience and complaint handling. It is the PSA's view that these issues will be addressed if consumers are provided with clear and unambiguous information upfront, together with a clear sign-up process that contains a level of friction that is aligned with consumer expectations. In addition, we are progressing work separately in 2019/20 to review our customer care guidelines for industry.
212. We have not made specific proposals in relation to free trial periods at this point, but we are asking for further input through this consultation on approaches to regulation that would support more effective use of free trial periods in the context of phone-paid subscription services.
213. Where the PSA has evidence demonstrating a need for regulatory change in particular areas, we considered a range of approaches to determine what action would be most effective and represent a proportionate response to the issues, as well as representing the least disruptive approach to support a healthy and innovative market.
214. The PSA is seeking to implement targeted and tailored changes to respond to the specific issue identified, and to ensure that the proposed approach represents the minimum intervention required to address the harm.
215. The PSA considered each of the regulatory interventions available to us, and analysed the impact of each, both in addressing the identified harm and the impact it would have on industry and consumers, to determine the appropriate response.
216. Our analysis of each of these options is provided in the next section.

Options for responding to the issues outlined in this document

217. This section of the document sets out the options that the PSA has available to it to respond to the identified issues. The PSA has identified five possible options which are considered in this document:
- Maintain the status quo
 - Prior permissions
 - Market-led solutions

- Guidance
- Special conditions

218. Our assessment of each of these options is outlined below. In assessing the options, we have had regard to the Principles of Good Regulation and in particular the need to ensure that the solutions we are proposing are proportionate to the risk of the harm we are seeking to address and targeted on the identified problems as far as possible.

Maintain the status quo

219. The PSA considered the impact of maintaining the status quo, i.e. not taking any policy action to address the identified issues, noting that the PSA continues to take enforcement action where a provider is found in breach of the Code of Practice. While this is an effective action, it is not alone sufficient to reduce the ongoing levels of consumer harm resulting from some subscription services.

220. However, given the evidence of harm that consumers are experiencing with phone-paid subscriptions, as well as the findings of the consumer research and other evidence gathered as part of the review, such as through the Call for inputs, we do not consider that the current regulatory framework as it stands is providing sufficient protection to consumers.

221. The AMR found that approximately 15% of phone-paid services users engaged with a service on a subscription basis. Conversely, over the last 12 months more than 95% of the complaints that the PSA received related to a phone-paid subscription service. This suggests that phone-paid subscription services are causing a disproportionately high level of consumer complaints.

222. A further key driver is supporting the growth and innovation of trusted and compliant phone-paid subscription services. This is the second component of our mission. We consider that for the potential growth and innovation to be realised, there is a need for the market to focus on increasing consumer trust and confidence. A key component of this is ensuring that the regulation in place is fair and proportionate while adequately protecting consumers.

223. In our view, and considering the evidence, maintaining the status quo is not an acceptable approach and would not achieve the objectives of the review.

Making all phone-paid subscriptions subject to prior permission

224. The PSA considered whether making all premium rate services that utilise a recurring charge model subject to prior permission under paragraph 3.10.1 of the Code would represent a proportionate response to the issues. This would mean that such services would not be able to operate unless and until they have been granted permission by PSA to do so. Some Call for inputs respondents identified that MNOs in other jurisdictions had taken an approach that effectively banned such services, allowing for limited exceptions for some providers.

225. The PSA considered the prior permission approach and we have concluded that while there are significant issues being experienced by some consumers in relation to some services, subjecting all subscription services to prior permission would not represent a proportionate response to these issues, particularly when considered against drivers mentioned above.
226. As outlined in this document, the PSA has a number of regulatory options available to it and will always take an evidence-based approach to determine the regulatory response that represents the minimum intervention required to address the harm.
227. In the PSA's view, the review conducted evidences the need for regulatory intervention to reduce the current levels of consumer harm that are having a detrimental impact on the consumers who make a complaint to the PSA and are impacting on consumer trust in phone-payment and phone-paid subscription services more generally. However, the PSA does not consider that there is currently sufficient evidence to justify requiring all subscription services to have prior permission.
228. There are many services operating effectively within the existing regulatory framework which do not generate complaints to the PSA and, indeed, growth of subscription services has been seen over the previous 12 to 18 months as new services have started offering phone payment as part of their payment options.
229. Therefore, in the PSA's view a requirement for prior permission would not represent an appropriate and proportionate regulatory response to the identified harms and risk of harm.

Market-led solutions

230. The PSA seeks to use a mix of both flexibility and controls to ensure the regulatory framework is operating effectively for both providers and consumers. Our Code of Practice sets requirements for providers of phone-paid services and allows for a degree of flexibility in how these are achieved. Our regulatory framework also includes Guidance to set out best practice, and Special conditions which enable us to develop a targeted response to an identified issue.
231. Outside of this framework, we support market-led responses where possible as these take into account a range of expertise and experience in developing a response to an issue.
232. The PSA is also responsible for ensuring that any proposed regulatory responses are proportionate and represent the minimum intervention required to address the identified harms and risk of harm. In some circumstances, a market-led response can represent an appropriate regulatory response to the issues, either on its own or part of a multi-faceted response.

233. The most recent example of an effective market-led response is where companies across the value chain worked together to identify opportunities to work together, including with PSA to develop guidance for use of Direct Buy Marketing¹⁰.
234. In the context of phone-paid subscription services, the PSA has considered whether a market-led approach could form part of the regulatory response to the identified issues. However, in our view, the level of consumer harm is significant and a regulatory response that looks across all phone-paid subscription services and creates consistency for consumers, is required. Such an approach would both address the identified issues and set clear expectations for both existing and potential new providers of phone-paid subscription services.
235. While the PSA is supportive of market-led responses and would welcome conversations with industry about proposed market-led solutions as part of a suite of action to address the issues currently impacting on consumers, we do not consider that this approach is on its own sufficient to achieve the objectives of the review and that regulatory action is necessary.

Guidance

236. Guidance is non-binding and accompanies the Code of Practice. Guidance informs providers about best practice to comply with the rules set out in the Code of Practice – both generally and in relation to specific service types. While Guidance does not form part of the Code, it is intended to support Code compliance and will be taken into account in the consideration of any breach of the Code.
237. There is currently Guidance in place that applies to all phone-paid subscription services and sets out that:
- when operating a phone-paid subscription service, providers should make consumers aware of all relevant information that is likely to affect an individual’s decision to accept a future recurring charge (reflecting Code outcome 2.2)
 - relevant information could include (but is not limited to) confirmation that the service carries a recurring charge and the obligation to pay it, the cost and when and how often the charges will occur, a description of what the service is offering in exchange for the recurring charge, prominent pricing information and clear opt-out information
 - providers should take reasonable steps to ensure that the information is prominently available before the consumer begins use of the service
 - confirmation of the contract must be provided to the consumer in a durable medium prior to charging commencing.

¹⁰Direct Buy Marketing is the direct placing of adverts via major online platforms. [PSA’s consultation and updated guidance relating to Direct Buy Marketing](#)

238. Additional guidance of relevance to subscription services includes Guidance on:

- Promoting premium rate services
- Method of exit
- Enabling consumer spend control

239. In the PSA's view, the Guidance on subscription services, which was consulted on across industry, provides sufficiently clear information to providers about how to comply with the Code when operating a phone-paid subscription service.

240. However, we do not consider that updated Guidance represents the most effective regulatory response to addressing the issues outlined in this document. With the current Guidance in place the PSA continues to see examples of practice that is not aligned with it and which often results in harm being caused to consumers.

241. As the current Guidance has been in place since 2016, and we have not seen a fall in reported consumer harm, we consider that an enforceable regulatory response is required to protect consumers and support potential growth and innovation. We consider that updated Guidance will, in due course, support the PSA's proposed regulatory response.

Special conditions

242. The PSA has considered whether implementing Special conditions would represent the appropriate regulatory response to the identified issues. In our experience, Special conditions provide an opportunity for the PSA to develop and implement a targeted approach for particular service types whether this be to enable flexibility within a service type or respond to an issue.

243. One example of where Special conditions have been effective in supporting the operation and growth of a service type is recurring donations. The PSA implemented Special conditions to set out specific requirements and flexibilities for this service type. For example, the use of the SKIP command so that consumers can skip a donation if they wish and providing different requirements for how a consumer can opt-out of their recurring donation.

244. Another example relevant to responding to an issue is online competition and adult services. The PSA implemented Special conditions in response to consistently high levels of consumer harm being reported about these service types. As a result, reported consumer harm from these services has dropped significantly and we now receive almost no complaints about this service type.

245. More generally, Special conditions:

- enable the PSA to implement a targeted regulatory response to an identified issue that is having a detrimental impact on consumers or a specific service type

and which may be impacting on the reputation and/or growth of phone-paid services overall

- provide the PSA with flexibility to clearly set out the regulatory requirements to address an issue or harm, in relation to a particular service type, without a Code change being required
- provide clarity to industry on regulatory requirements, which will support compliance and the dissemination of best practice across industry
- support development of norms and expectations for consumers, through the creation of a more consistent experience within a service type.

246. The PSA is aware through the Call for inputs responses that there is some negative discourse around Special conditions, focussed on the designation of services attracting Special conditions as “high risk” and a view that these limit growth and innovation and represent a blanket and prescriptive regulatory response.

247. From our perspective, Special conditions enable us to address discrete issues in a clearly defined and targeted way and provide certainty to industry about how to provide these specific services while keeping the specific risks of consumer harm associated with the relevant service types tightly managed.

248. Paragraph 3.11.1 of the Code of Practice sets out the basis upon which we can impose Special conditions. These may be imposed for the purpose of ensuring compliance with the Code’s outcomes if the PSA is satisfied that there is, or is likely to be, a risk of:

- A significant level of consumer harm; or
- Unreasonable offence to the general public, arising from a particular category of PRS.

249. In assessing whether Special conditions are required, the PSA assesses the service type against its risk taxonomy, in relation to six separate risk characteristics. This approach enables us to determine whether the proposed regulatory response is proportionate to the risk of harm that a particular service type poses.

250. The PSA has carried out an assessment and this is outlined below.

Financial harm

251. There is a risk of financial harm where there is either a high one-off cost or a high cumulative cost for consumers. The definition of a subscription, contained in the PSA Code of Practice, is ‘services that incur a recurring premium rate charge’. It is axiomatic that the risk of financial harm to consumers is increased where more than one charge is made following a single sign-up event. The PSA considers that the evidence shows that phone-paid subscription services overall do meet the test of risk of financial harm, with more than 95% of complaints to the PSA over the last 12 months relating to subscriptions.

252. The PSA looked at our subscription services complaint data over the 24 months from 1 January 2017 to 31 December 2018, and the associated charges reported by consumers. We found that the costs varied significantly across service type, with consumers reporting cumulative charges ranging from below £10.00 and up to hundreds of pounds. This shows that there can be significant variation in charges depending on the service type. However, the PSA considers that this illustrates that there is a risk that consumers will suffer financial detriment as a result of a recurring charge.
253. This risk may be exacerbated by the fact that most complaints to the PSA said they did not request the service, and the Jigsaw and Craft research findings that some consumers do not regularly check their bills or can find the information on their bill not particularly informative.
254. This does not mean that the PSA considers that all subscriptions are at risk of creating financial harm, indeed many subscriptions operate effectively and do not generate complaints to the PSA. However, the PSA considers that there is a risk of financial harm being caused to consumers.
255. There are subscription services operating effectively that provide a clear sign-up process for consumers where they receive all relevant information and it is made clear to the consumer the service they are signing up to, the cost, how they will be charged (their phone bill) and the frequency of charging.
256. However, there are also services where this is not the case, with the majority of consumers who raise an issue about a subscription service with the PSA, also reporting that they did not request the service. For these consumers, there is a significant risk of financial harm.
257. The Craft research found that many consumers reported they did not discover the existence of their subscription to an online competition or adult service until weeks or months after the activation. The PSA addressed this issue by bringing in additional regulatory requirements for this service type. However, the PSA considers that this finding is likely to apply to some other subscription service types as the Jigsaw research also found that across subscription services more generally consumers do not always check their bills or check them thoroughly.
258. The Jigsaw research, undertaken as part of this review, also found that there are opportunities to provide greater transparency and clarity of information to consumers, including through having the requisite friction in the sign-up process for a phone-paid subscription service. The research found that many consumers expect the same levels of security that is applied to bank payments.
259. The Jigsaw research also shows that the current approach to service messages and spend reminders is inconsistent across services and that this is contributing to the risk of financial harm. While there are some services where the approach is effective and consumers do engage with relevant messages, there are others where the approach taken is not aligned with consumer expectations.

260. For example, it is common for consumers to report to the PSA that they do not engage with service messages because they thought they were spam. The Jigsaw research also found that some consumers panic when using STOP if it doesn't work, and that there are opportunities for greater clarity in the presentation of service messages. This point was echoed by the PSA Consumer Panel.
261. There are existing mitigations in place intended to reduce the risk of financial harm. For example, the requirements set out in the PSA Code of Practice, the Special conditions for subscription services charged at more than £4.50 per week and the Guidance that applies to all subscription services. In addition, there are examples of best practice across industry. However, it remains that over 95% of consumer complaints to the PSA in the last 12 months related to a phone-paid subscription service.
262. In addition, most complaints relate to subscription services charged at less than £4.50 per week, to which Special conditions do not currently apply. While the PSA does not consider that all services are generating issues, there are some services generating a disproportionate level of complaints.
263. Therefore, in the PSA's view additional regulatory requirements are required to reduce the actual harm and the risk of financial harm to consumers being caused by subscription services, particularly those services that are not currently subject to Special conditions and where the PSA continues to see ongoing consumer harm being caused.

Uninformed consent

264. Uninformed consent can include a confusing consumer journey, complexity of proposition, or where the overall presentation lacks clarity. In the context of phone-paid subscription services, the PSA continues to see examples of uninformed consent occurring in some subscription services, either through its own monitoring, through Tribunal adjudications of Code breaches and through the information consumers provide when they contact us to make a complaint.
265. The Futuresight research found that for the consumers participating in that research, it was very easy to share information online and provide consent or authorisation for phone-paid services without realising. These consumers found that this perceived or actual lack of informed consent could create difficulties for consumers attempting to challenge a charge because:
- it is difficult for consumers to prove that they did not consent
 - it is relatively easy for providers to avoid needing to prove that consumers did consent.
266. The Craft research also found that consumers can and do unintentionally provide consent to online competition services, and in relation to subscriptions remain unaware that such consent has been given, for periods in excess of a month. That research found that, in the context of online competition and adult services, marketing content can involve a significant risk of involuntary authorisation and that some design and copywriting practices adopted by that industry appear to be engendering the risk.

267. The Jigsaw research found that for consumers, confusion can arise where it is not sufficiently clear that they are signing up to a subscription and that information needs to be provided clearly, without confusing background or clutter and above the activation button. In addition, consumers would support greater transparency throughout the sign-up process for a phone-paid subscription service.
268. While there are mitigations in place with the PSA Code of Practice setting clear expectations about promotional material, together with Special conditions for subscription services charged at more than £4.50 per week, Guidance for all subscription services, and examples of industry best practice, we are concerned that despite the regulatory framework, there are ongoing practices occurring in which the consumer journey is unclear or confusing, leading to inadvertent or unintended sign-up.
269. Almost all consumers that contacted us in the last 24 months also said that they did not request the subscription that they are being charged for. In the PSA's view, this is indicative that either the consumer journey was not sufficiently clear leading to uninformed consent, or consent was unauthorised (discussed below). Confusing or unclear consumer journeys are playing a significant role in the level of consumer harm being reported to the PSA. This is supported by the Jigsaw finding that from the consumer perspective, it is not always clear they are signing up to a paid for subscription and greater clarity of information and its presentation is required.
270. There is also the risk of this where free trials are used, with the Jigsaw research concluding that for some consumers, some free trial periods lead them to believe that they won't be required to pay until the trial period is over, meaning they are unsurprised by the lack of obvious payment mechanism presented at the outset, that phone-payment can sometimes present. However, often free trial periods will roll into recurring charges which can be where we see instances of consumer harm.
271. It is evident from the ongoing levels of harm that the existing regulatory framework is not providing sufficient protection for some consumers of subscription services and that there are opportunities to set clearer expectations through regulation, to ensure that the Code outcomes are achieved.

Unauthorised consent

272. Unauthorised consent can arise where there is a lack of appropriately robust consent to data use or consent to charge, and/or inadequate technical systems lead to the consumer being charged without consent.
273. In addition to the consumers who report that they did not request the service they are signed up to, the PSA has uncovered, through our in-house monitoring of the market, examples of where malware has been used to simulate and automate purchases and clicks while the consumer is unaware. Between 23 July 2015 and 3 December 2018 there have been 41 adjudications relating to phone-paid subscription services, with a common breach in most of these cases being a lack of evidence to establish consent to charge.

274. There is evidence that within some sign-up and authorisation flows, there are high risks of unauthorised consent. For example, the Jigsaw research found that for many consumers, phone payment is a relatively new concept, and so when they come across a low-friction payment flow, they are not expecting to be subscribing to a paid service with recurring charges.
275. The Jigsaw research found that consumers expect to enter a PIN or password to activate a payment as part of the subscription flow. Both the Jigsaw research and the Craft research also found that consumers expect phone-payment to adhere to the secure practices that other digital payment mechanisms have accustomed them to. In addition, the research noted consumers found that the more familiar and widely used cues for payment (i.e. password or a thumb print) are not there to alert them that this is a paid for service.
276. The Code, Special conditions for subscriptions charged at over £4.50 per week, and Guidance all set out requirements and expectations intended to minimise instances of unauthorised consent. However, the ongoing consumer harm shows that these are not operating sufficiently to protect consumers.
277. It is the role of the PSA to set standards and expectations of what constitutes consent to charge to meet the requirement in our Code that consumers not be charged for premium rate services without their consent, and that Level 2 providers must be able to provide evidence which establishes that consent (paragraph 2.3.3).
278. We have continued to see consumer complaints about charges without consent in relation to mobile digital services over the last 18 months. While the PSA acknowledges that all payment platforms are likely to have some vulnerabilities, weaknesses that are exploited by rogue merchants can lead to consumers being charged for a phone-paid service, including a subscription service, without their consent.
279. In response to this issue, the PSA and mobile networks jointly commissioned an independent security consultant to test the various phone-payment platforms which currently facilitate mobile digital payments. Identified weaknesses were rated according to internationally recognised categories and standards. Two rounds of testing have been completed, and the findings and recommendations shared with each individual Level 1 provider.
280. The findings have not been considered as part of this review and will be consulted on separately. Therefore, the PSA has focused its assessment of unauthorised consent on consumer expectations around how consent is gained, rather than the underlying security component.

Vulnerable groups

281. The vulnerable groups risk factor considers such things as underage access, targeting the vulnerable, or not allowing for their needs. PSA does not consider that subscription services in and of themselves present any greater risk to vulnerable groups than the same

services presented for one-off payment. However, in the context of phone-paid subscription services, the PSA continues to see some instances of where children become signed up to a phone-paid subscription service. For example, as a result of a low friction payment flow.

282. There are already mitigations in place intended to guard against the risk of vulnerabilities being exploited. This includes for example the requirement that providers of subscription services charged at more than £4.50 per week obtain double opt-in consent from consumers, in addition to more general Code of Practice requirements around vulnerability.
283. However, given the higher risk of financial harm arising from subscription services, it is especially important that vulnerable consumers such as children, who may not understand the financial consequences of signing up to a service, be given clear information prior to sign up.
284. The Jigsaw research also found that there can be vulnerability risks, finding that consumers who are less tech savvy can find it harder to identify signals which might signify that a service is a paid-for service and may click through the detail without realising they are signing up for a recurring charge.
285. That research also found that consumers expect to enter a code that was sent to their phone, to activate the payment after they have clicked subscribe, and identified that this approach would make it harder for children to inadvertently sign up without realising there was a charge associated with the action. This indicates that there is some risk of vulnerable groups experiencing harm as a result of a subscription service.

Summary

286. In the PSA's view, the evidence from the research and other information, data and inputs considered above, together with the analysis of potential options for addressing the issues and risk assessment above provide a clear case for why Special conditions are a proportionate response to the issues set out in this document. Special conditions represent a targeted response to support the effective operation of a particular service type and as required, can be used to address any particular risks associated with a specific service type.
287. The PSA acknowledges that some respondents to the Call for inputs expressed the view that the unilateral tightening of regulation through the imposition of Special conditions would hinder innovation. Some Level 2 providers indicated that a blanket response which imposed additional requirements on providers might mean that they have less money to invest in content which would limit market growth. Others thought that Special conditions were not needed because of the existing conditions that MNOs have in place.
288. These respondents were of the view that Special conditions would mean that all subscriptions would be labelled as 'high-risk'.

289. Conversely, some respondents were supportive of Special conditions. Many of these respondents thought that the existing Guidance that applies to all subscriptions could be transposed into Special conditions, and that any Special conditions should apply regardless of the price point.
290. It is our considered view that Special conditions are a useful regulatory tool because they enable a tailored response to an issue and ensure that the risks of consumer harm are reduced or eliminated. The PSA would not be effectively fulfilling its role as regulator if it allowed the existing levels of consumer harm caused by various subscription services to continue.
291. Special conditions provide the PSA with flexibility to set out the regulatory requirements to address an issue or harm, in relation to a particular service type, without the need for a Code change. In addition, Special conditions provide clarity to industry on the regulatory requirements, which will support compliance and the dissemination of best practice across industry
292. The PSA acknowledges that the imposition of Special conditions would have an impact on providers where system-level changes may be required. There could also be an impact on revenues. However, the evidence is clear that consumers expect a degree of friction in the process for signing up to a subscription service and do not see this is a deterrent from engaging with phone paid subscriptions they wish to purchase. In addition, many services are already operating with the proposed level of friction in place, and these service providers have not reported any concerns over investment, growth or innovation.
293. As raised by some respondents through the Call for inputs, growing consumer trust is important to the growth of phone-paid subscription services. To achieve this, we need to ensure that there is clarity at the time of purchasing to ensure that consumer consent is obtained ahead of sign-up. PSA complaint data indicates that there are opportunities for improvement, with a majority of complainants stating they didn't request the service they have been charged for.
294. The evidence suggests that implementing additional friction would support consumers to make informed purchasing decisions. As the Jigsaw research found, consumers expect and are used to a level of friction in a process which can include entering a password or PIN number. In addition, these services do not generate, or generate very few complaints to the PSA.
295. While there is the potential for revenues of some services to be impacted, the PSA considers that many service revenues would not be impacted and, in fact, that overall revenues would be more sustainable and grow as consumer trust and confidence increases and the market supports new services and providers.

296. The PSA's role is to support the growth of compliant services/revenue and cannot allow the current levels of consumer harm to continue with the levels of financial and other harm being experienced by consumers. Taking a long-term view, we consider that the proposals will best support innovation and growth of phone-paid subscriptions.

Proposals

297. It is the PSA's view that Special conditions are required and are an appropriate and proportionate response to address issues with: (i) the clarity of information provided to consumers in discovery and sign up to a phone-paid subscription service; (ii) the low level of friction in some payment flows that is impacting on consumer consent to charge as well as overall trust and confidence; and (iii) the ineffectiveness of the way that service messages are currently provided, including reminder messages and billing frequencies across different subscription models.

298. The PSA has also identified that there are opportunities to reconsider how free trial periods are used, but is seeking further input on this area, through this consultation.

299. The PSA is therefore consulting on Special conditions on:

- Promotion and point of purchase to ensure that it is clear to a consumer when they are viewing free content, and when they are in a payment environment and could incur recurring charges to their phone bill
- Opt-in requirements to ensure adequate consumer consent is obtained and that consumers are able to make an informed purchase, based on all relevant information and a clear and unambiguous journey
- Service messages to ensure that consumers engage with relevant information, such as receipts that set out clearly what the consumer has been billed for, how they have been billed, and when the next payment will be added to their phone bill

300. The PSA received some feedback through the Call for inputs that the existing regulatory framework is complex and can be difficult to follow. In response to this feedback, the PSA is proposing a new approach to regulating phone-paid subscription services that clearly sets out the requirements for subscriptions and makes it easier for providers to understand and comply with the regulatory requirements, as follows:

- the Special conditions that currently apply to phone-paid subscription services charged at more than £4.50 per week be removed from the regulatory framework
- a new set of targeted Special conditions be implemented and apply to all phone-paid subscription services to address the specific issues relating to subscriptions
- any requirements that apply to a particular subscription service type under other Special conditions to continue to apply under those Conditions and are not replicated in the new Special conditions

- the PSA will produce updated Guidance to support compliance with the proposed new Special conditions.

301. The PSA will also produce Guidance to support implementation of proposed changes, following completion of the consultation.

302. As we are proposing that the Special conditions apply to all phone-paid subscription services, this means the £4.50 price threshold would be removed. There is no evidence to suggest that consumers are likely to purchase a phone-paid subscription at higher or lower price points.

303. The set of Special conditions that the PSA is proposing is as follows:

Promotional material

SS1: *PRS providers must clearly identify the brand of the current service being offered to and used by the consumer – this may be achieved by prominent brand management and display.*

SS2: *Payment options, where relevant, should clearly indicate that selecting payment through the phone account will place charges on the user's phone account (mobile or otherwise).*

Point of purchase

SS3: *The point of purchase must be separated from service promotion and interaction, in a clear and effective way to allow the consumer to consider their purchase.*

SS4: *At the point of purchase, PRS providers must:*

(a) clearly signpost the point of purchase by making it distinctive from other aspects of the service (such as by design and colour scheme) and take all reasonable steps to make that distinction clear, avoiding any confusion between service promotion and the point of purchase;

(b) ensure that consumers, when committing to a purchase, explicitly acknowledge that the purchase implies an obligation to pay;

(c) ensure that the consumer is made aware, in a clear and prominent manner and directly before the consumer commits to a purchase, of the cost of the service, and the frequency of charges; and

(d) indicate that the PRS subscription will be added to the consumers phone account.

Consent to charge

SS5: *Prior to delivering the initial charge of a subscription service, providers are required to obtain 'double opt-in' consent to charge from the consumer in the form of a positive, recorded and auditable response where the costs and name of the premium rate subscription have been presented clearly to the consumer.*

PRS providers must establish such consent via one of the following means of consumer interaction:

- (a) Use of a password system, the password being selected and controlled by the consumer
- (b) Use of a secure PIN loop system, which must be initiated and confirmed by the Level 1 provider through interaction with the consumer. The secure PIN must:
 - comprise no less than four truly random digits
 - expire if after three attempts the consumer has not entered the PIN correctly
 - expire within one minute of the PIN being received to the consumer's handset.

SS6: The second stage of the double opt-in must confirm consumer consent to the transaction through one or more of the following mechanisms:

- (a) Use of a confirmation button where prominent and proximate pricing and frequency of charge information is provided to the consumer
- (b) Use of biometric technology, such as fingerprint or facial recognition as the second form of activation.

Receipts

SS7: Each time the consumer incurs a charge for their subscription, a receipt must be sent to the consumer in either SMS or email format as soon as is reasonably practicable. This receipt must detail the full name of the subscription service, that the consumer is subscribed to it, the cost and frequency of charging, contact details of the provider of the service and instructions on how to exit the service.

SS8: Following the PRS provider obtaining 'double opt-in' consent to charge from the consumer (SS5 and SS6) the PRS provider must send the consumer a confirmation message or receipt, at no cost to the consumer, which sets out:

- (a) The name of the service
- (b) Confirmation that the service is a subscription
- (c) The charge and frequency of charging (or how this can and will arise, if applicable)
- (d) What the billing period for the subscription is, or where there is no defined billing period, the basis on which the frequency of interaction and charging for the subscription is established
- (e) The contact details of the Level 2 provider

(f) *Instructions on how to pause or exit the subscription.*

Method of exit

SS9: *PRS providers must establish effective opt-out processes for subscription services.*

Responding to this consultation

304. The PSA welcomes responses to the proposals outlined in this document. Particularly, we would value responses to the following questions:
1. Do you agree with the PSA's assessment that the evidence gathered from the research and other information, data and inputs considered support implementation of Special conditions for all subscriptions as an appropriate and proportionate response? If not, please set out your alternative approach and the supporting evidence.
 2. Do you agree with our proposed approach that the proposed Special conditions be applied to all phone-paid subscription services to create clarity and certainty for providers of subscription services, with any additional requirements under other Special conditions not being replicated in the proposed conditions?
 3. Do you agree that the research and other information, data and inputs we considered support action on each of the identified issues outlined in this document? If not, please provide supporting evidence.
 4. Do you agree with our analysis using the risk taxonomy (outlined from paragraph 249 of this document) that Special conditions represent a proportionate regulatory response to the risk of harm posed by phone-paid subscription services? If not, please provide supporting evidence.
 5. Are there any other issues not addressed through our proposed response that you consider warrant regulatory action in light of the research and other information, data and inputs considered? If yes, please provide supporting evidence.
 6. Do you have any views or evidence on the use and effectiveness of free trial periods of varying durations to support the PSA in considering what might be appropriate in the context of phone-paid subscription services?
305. We plan to publish the outcome of this consultation and to make available all responses received. If you want all or part of your submission to remain confidential, please clearly identify where this applies along with your reasons for doing so.
306. Personal data, such as your name and contact details, that you give/have given to the Phone-paid Services Authority is used, stored and otherwise processed, so that the PSA can obtain opinions of members of the public and representatives of organisations or companies about the PSA's subscriptions review and publish the findings.
307. Further information about the personal data you give to the PSA, including who to complain to, can be found at <https://psauthority.org.uk/privacy-policy>.

308. The closing date for responses is 16 April 2019. Where possible, comments should be submitted in writing using [this form](#) and sent by email to consultations@psauthority.org.uk.

309. Copies may also be sent by mail to:

Ms. Emma Bailey
Phone-paid Services Authority
40 Bank Street
London
E14 5NR

310. If you have any queries about this consultation, please email using the above contact details.

Annex A

The existing regulatory framework that applies to phone-paid subscriptions

1. The PSA maintains an outcomes-based Code of Practice. Outlined below is a summary of the existing regulatory framework that applies to phone-paid subscription services.

The Code of Practice

2. The PSA Code of Practice sets out the outcomes and rules that apply to all phone-paid services and providers of these services. The six outcomes from which all rules flow are legality, transparency and pricing, fairness, privacy, avoidance of harm, and fair and timely complaint handling.
3. Phone-paid subscriptions are defined at paragraph 5.3.37 of the Code of Practice as 'services which incur a recurring premium rate charge'. This is a broad definition which captures a range of subscription services and subscription service types.
4. Some of the general responsibilities in the Code that providers must comply with and which also relate to subscriptions include:
 - Rule 2.2.1: consumers must be fully and clearly informed of all relevant information likely to influence the decision to purchase, including the cost, before any purchase is made
 - Rule 2.2.2: promotional material must contain the name (or brand if part of the name) and the contact details of the Level 2 provider of the relevant PRS except where otherwise obvious. If the contact details include a telephone number, it must be a UK number and not at a premium rate
 - Rule 2.2.4: all written information that is material to the consumer's decision to purchase a service must be easily accessible, clearly legible and presented in a way which does not make understanding difficult. Spoken information must be easily audible and discernible
 - Rule 2.2.7: in the course of any promotion of a PRS, written or spoken or in any medium, the cost must be included before any purchase is made and must be prominent, clearly legible, visible and proximate to the premium rate telephone number, short-code or other means of access to the service
 - Rule 2.2.8: any messages that are necessary for a consumer to access, use or engage with a service but are provided separately from the service itself must be free of charge
 - Rule 2.3.11: where the means of termination of a service is not controlled by the consumer, there must be a simple method of permanent exit from the service, which the consumer must be clearly informed about prior to incurring any charge. The method of exit must take effect immediately upon the

consumer using it and there must be no further charge to the consumer after exit except where those charges have been legitimately incurred prior to exit.

5. In addition to the Code of Practice, attention must be given to the requirements set out in the Consumer Contractions (Information Cancellation and Additional Charges) Regulations 2013. These require providers to ensure, among other things, that all relevant information is available to consumers so that they can make an informed purchasing decision.

Special conditions

6. Where services are deemed to pose a risk or likely risk of significant harm to consumers, the PSA may impose Special conditions which apply in addition to the Code provisions, and which seek to ensure that the Code's outcomes are met.
7. The following Special conditions ¹¹ apply to phone-paid subscription services that have a charge of more than £4.50 in any seven-day period (including any joining fee, where relevant):
 - double opt-in is required from the consumer in the form of a positive, recorded and auditable response
 - the costs and name of the recurring charge service must be clear
 - consumers must be made aware that the service they are signing up to is one with recurring charges
 - pricing information (including method and frequency of billing) must be prominent
 - contact details of the provider of the service
 - the method(s) of exiting the service must be clear.
8. For avoidance of doubt, the Special conditions regime tailored to Subscription Services does not currently cover subscriptions charged at under £4.50 per week. However, some types of subscription services – e.g. online adult or competitions services, charitable donations and remote gambling services – may also be required to comply with other Special conditions regimes.

Guidance

9. Guidance¹² is in place to support providers of phone-paid subscription services to comply with the Code of Practice. The Guidance applies to all phone-paid subscriptions, including those charged at more than £4.50 per week and sets out what the PSA has identified as best practice.

¹¹ [Special conditions for Subscriptions in full](#)

¹² [Sector Specific Guidance Note for Subscription Services](#)

10. While Guidance is not mandatory, where potential breaches of the Code are being considered by a Tribunal, the lack of adherence to Guidance may be considered an aggravating factor.

11. The existing Guidance on subscriptions sets out that:

- when operating a phone-paid subscription service, providers should make consumers aware of all relevant information that is likely to affect an individual's decision to accept a future recurring charge
- relevant information could include (but is not limited to) confirmation that the service carries a recurring charge and the obligation to pay it, the cost and when and how often the charges will occur, a description of what the service is offering in exchange for the recurring charge, prominent pricing information and clear opt-out information
- providers should take reasonable steps to ensure that the information is prominently available before the consumer begins use of the service
- confirmation of the contract must be provided to the consumer in a durable medium prior to charging commencing.

12. Additional PSA Guidance of relevance includes Guidance on:

- Promoting premium rate services
- Method of exit
- Enabling consumer spend control.

Annex B

Draft Notice of Special conditions for subscription services

This notice is being issued to inform all providers involved or intending to be involved in the provision of subscription premium rate services that Special conditions apply. Level 2 providers are required to comply with the Phone-paid Services Authority Code of Practice, and the Special conditions set out below which are imposed under paragraph 3.11 of the Code.

Under paragraph 3.11.3 'any reference to compliance with the rules or obligations under this Code shall include compliance with obligations imposed under Special conditions. A breach of any special condition in respect of a high-risk service imposed under paragraph 3.11.1 shall be a breach of the Code'.

Subscription premium rate services are defined under 5.3.37 of the Code of Practice as 'services which incur a recurring premium rate charge'.

All premium rate subscription services are required to comply with the Special conditions set out in this notice.

For the avoidance of doubt, particular service types may also have other Special conditions with which they are required to comply, in addition to the Special conditions for subscription services.

Special conditions

Imposed under Annex 2, paragraph 1.1(k) information that is required to be given to callers in promotional material or at various stages before and during provision of a high-risk service (including as to receipts)

- SS1: PRS providers must clearly identify the brand of the current service being offered to and used by the consumer – this may be achieved by prominent brand management and display.
- SS2: Payment options, where relevant, should clearly indicate that selecting payment through the phone account will place charges on the user's phone account (mobile or otherwise).

Imposed under Annex 2, paragraph (n) requirements for caller agreement before a high risk service proceeds before the caller is charged and paragraph 1.1(b) requirements as to the mechanisms and processes used to deliver services to, and to enable exit from services by, consumers:

Point of purchase

- SS3: The point of purchase must be separated from service promotion and interaction, in a clear and effective way to allow the consumer to consider their purchase.
- SS4: At the point of purchase, PRS providers must:

- (a) clearly signpost the point of purchase by making it distinctive from other aspects of the service (such as by design and colour scheme) and take all reasonable steps to make that distinction clear, avoiding any confusion between service promotion and the point of purchase;
- (b) ensure that consumers, when committing to a purchase, explicitly acknowledge that the purchase implies an obligation to pay;
- (c) ensure that the consumer is made aware, in a clear and prominent manner and directly before the consumer commits to a purchase, of the cost of the service, and the frequency of charges; and
- (d) indicate that the PRS subscription will be added to the consumer's phone account.

Consent to charge

SS5: Prior to delivering the initial charge of a subscription service, providers are required to obtain 'double opt-in' consent to charge from the consumer in the form of a positive, recorded and auditable response where the costs and name of the premium rate subscription have been presented clearly to the consumer.

PRS providers must establish such consent via one of the following means of consumer interaction:

- (a) Use of a password system, the password being selected and controlled by the consumer
- (b) Use of a secure PIN loop system, which must be initiated and confirmed by the Level 1 provider through interaction with the consumer. The secure PIN must:
 - comprise no less than four truly random digits
 - expire if after three attempts the consumer has not entered the PIN correctly
 - expire within one minute of the PIN being received to the consumer's handset.

SS6: The second stage of the double opt-in must confirm consumer consent to the transaction through one or more of the following mechanisms:

- (a) Use of a confirmation button where prominent and proximate pricing and frequency of charge information is provided to the consumer
- (b) Use of biometric technology, such as fingerprint or facial recognition as the second form of activation.

Imposed under Annex 2, paragraph (k) information that is required to be given to callers in promotional material or at various stages before and during provision of a high-risk service (including as to receipts)

Receipts

- SS7: Each time the consumer incurs a charge for their subscription, a receipt must be sent to the consumer in either SMS or email format as soon as is reasonably practicable. This receipt must detail the full name of the subscription service, that the consumer is subscribed to it, the cost and frequency of charging, contact details of the provider of the service and instructions on how to exit the service.
- SS8: Following the PRS provider obtaining 'double opt-in' consent to charge from the consumer (SS5 and SS6) the PRS provider must send the consumer a confirmation message or receipt, at no cost to the consumer, which sets out:
- (a) The name of the service
 - (b) Confirmation that the service is a subscription
 - (c) The charge and frequency of charging (or how this can and will arise, if applicable)
 - (d) What the billing period for the subscription is, or where there is no defined billing period, the basis on which the frequency of interaction and charging for the subscription is established
 - (e) The contact details of the Level 2 provider
 - (f) Instructions on how to pause or exit the subscription.

Method of exit

- SS9: PRS providers must establish effective opt-out processes for subscription services.