

**Consultation on changes to
regulatory framework for
Information, Connection &
Signposting Services**

29 April 2019

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About the PSA

The Phone-paid Services Authority (PSA) is the UK regulator for content, goods and services charged to a phone bill. Our vision is a healthy and innovative market in which consumers can charge content, goods and services to their phone bill with confidence. Our mission in the phone-paid services market is two-fold:

- To protect consumers from harm, and
- To further consumers' interests through encouraging competition, innovation and growth.

We 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

1. Information, Connection and Signposting Services (ICSS) emerged in the phone-paid services market around 2011/2012. ICSS are services that offer connection to various organisations, or provide information, advice and/or assistance relating to such organisations.
2. Following receipt of a significant number of complaints from consumers as well as some public and commercial organisations regarding ICSS, the PSA¹ commissioned research² to gain an understanding of consumer experience before consulting on introducing a prior permission regime³ for these service types. In 2013, following consultation, prior permission for ICSS was introduced.
3. With the introduction of the 13th edition of the Code of Practice in 2015, relevant existing prior permission regimes were replaced with Special conditions. This removed the requirement for providers to obtain permission before commencing operation of services

¹ Then PhonepayPlus

² [Jigsaw Research: Information, Connection and Signposting Services](#)

³ Prior permission is where a certain category of service must not be provided without prior written permission.

subject to the regime. The specific conditions of the ICSS prior permission certificate were transposed into a Notice of Special Conditions⁴.

4. The PSA has continued to receive complaints about ICSS from consumers and public service or commercial organisations, whose contact numbers or information ICSS providers offer connection to, some of which have resulted in regulatory enforcement activity where sanctions have been imposed. ICSS remain the most complained about fixed line phone-paid service type to date, details of which are under the 'Developments driving the review of ICSS Special conditions' heading later in the document.
5. In 2018, in light of these continued complaints (despite Special conditions being in place and enforcement activity undertaken), the PSA commissioned further research⁵ into consumer behaviour when engaging with ICSS to gain a better understanding of why consumer harm is still occurring.
6. At the same time, Ofcom began a consultation on modifying the Premium Rate Service Condition (PRS Condition) to include all ICSS regardless of the number range on which they operate, which would bring all ICSS into the PSA's regulatory remit. This was especially relevant to the 084 number range where a considerable number of ICSS now operate. In December 2018 Ofcom announced that it had modified the PRS Condition to include all ICSS and that this would come into force as of 16 January 2019⁶.
7. Following the findings and recommendations of the research conducted by the University of Nottingham, continued complaints received about ICSS, and the extension of remit which Ofcom has determined, the PSA initiated a review of the current regulatory framework surrounding ICSS to ensure it remains fit for purpose.
8. This document sets out our considerations and findings. Following this review, we are now consulting on proposals to introduce updated Special conditions for ICSS that apply to all ICSS within PSA's remit, including those which operate on 084 number ranges. The proposals for change have been conducted according to our Risk Assessment Framework which is attached at Annex A.

Background

9. ICSS are defined as follows:

“Premium rate services⁷, excluding full national directory enquiry services, that provide connection to specific organisations, businesses and/or services located or provided in

⁴ [Notice of Special Conditions for Information, Connection and Signposting Services](#)

⁵ [Research conducted by LiPP at The University of Nottingham](#)

⁶ [Ofcom Statement: Review of the premium rate services Condition](#)

⁷ In order to qualify as an ICSS, the service first must meet the statutory definition of a Premium Rate Service contained in s.120(7) of the Communications Act 2003.

the UK; and/or which provide information, advice, and/or assistance relating to such specific organisations, businesses and/or services.”⁸

The definition creates two distinct categories of ICSS; services that provide connection to organisations sought by consumers and those that provide information, advice and assistance on organisations. For ease of reference we refer to these categories as Type 1 and Type 2 and further describe them as follows:

Type 1 – ‘Call connection’ services. Type 1 services offer connection to a small number of organisations, rather than the full range that a national Directory Enquiry (DQ) service provides. In some cases, Type 1 services may, in addition to connection, offer the number the consumer is seeking.

Type 2 – ‘Signposting’ and ‘Helpline’ or advice or assistance services (which may or may not include the consumer providing account details relating to an unrelated online account they hold, so that the ICSS provider can interact with the account on their behalf). Type 2 services usually offer consumers the number of one or small number of organisations (but not onward connection to that number), operator-led assistance, or provide generic, pre-recorded advice via an Interactive Voice Response (IVR) system.

Classification of ICSS as High-Risk Services

10. Special conditions for ICSS were introduced in July 2015 when the 13th edition of the Code of Practice came into force. Before this, since September 2013, the conditions existed in our regulatory framework within a prior permission regime.
11. Before prior permission requirements for ICSS were imposed, the PSA, along with various Government departments and commercial organisations, had received significant numbers of complaints relating to ICSS. Specifically, the complaints related to consumer harm arising from misleading promotions where key information likely to influence the decision to use the services was not present. The key information which was often absent included a clear and prominent description of the true nature of the service, without which consumers may believe they are contacting the organisation they are seeking directly, a prominent link to the homepage of the organisation where the actual number can be found and dialled with no or lower cost, the cost of calling the service and details (including contact details) of the company operating the service.
12. During 2013, ahead of the introduction of prior permission requirements for ICSS, the PSA commissioned an external research company, Jigsaw Research, to complete research on understanding the consumer experience of type 1 and type 2 ICSS and to quantify the user and public perception of the services⁹.

⁸ For the avoidance of doubt, this definition does not apply to Directory enquiry (DQ) services as defined in the Phone-paid Services Authority’s “Guidance on Directory Enquiry Services”, which currently operate on the 118 number range.

⁹ https://psauthority.org.uk/-/media/Files/PhonepayPlus/Research/Research_Apr_2013_Information_Connection_Signposting.pdf

13. This research found that the biggest complaint about ICSS at that time was a lack of transparency. The evidence collected from participants suggested that this could result in confusion which in turn could lead to consumer harm.
14. The consumers who participated believed the ICSS they witnessed were deliberately misleading for the following reasons:
 - Use of URLs¹⁰ containing the name of the organisation the ICSS connected to
 - Use of logos and imagery belonging to the organisation on ICSS websites
 - Not promoting the name of the service/true nature of the service and cost as prominently as other information
15. The research also found evidence of widespread impact and collective loss, and, based on estimates made using a nationally representative sample of 6,146 British adults, that 1.2 million adults had used an ICSS believing they were calling the organisation which they had sought.
16. The Special conditions framework was introduced with the 13th Code to replace the prior permission regimes which had previously existed. A consequence of replacing the prior permission regimes with Special conditions was that we were able to retain existing consumer protection, whilst removing the cost and time involved with obtaining prior permission before launching a service.
17. In the Code 13 consultation on guidance and Special conditions, the impact of the ICSS prior permission conditions were assessed. The assessment highlighted the extent to which the prior permission conditions were relied upon to maintain compliance standards, therefore, it was decided that the same standards should continue to apply to ICSS operating on number ranges within the PSA's remit at that time, including those operating on lower cost 087 premium rate number ranges¹¹.
18. The reason behind this decision was that consumers should not be misled into calling an ICSS, regardless of the cost of doing so. The prior permission conditions were transposed into the current Notice of Special conditions for ICSS, albeit one condition was removed, and another slightly amended for clarity.

Developments driving the review of ICSS Special conditions

Complaints and the Annual Market Review

19. Since the introduction of ICSS Special conditions the PSA has continued to receive complaints about type 1 ICSS from a variety of sources. This contrasts with the

¹⁰ Technically a "Uniform Resource Locator", but commonly known as a web address

¹¹ <https://psauthority.org.uk/~media/Files/13th-Code-of-Practice/Statement-following-consultation-on-Guidance-and-Special-Conditions.pdf>

effectiveness of Special conditions regimes for some other service types where complaint levels have dramatically reduced, such as online adult and online competition services.

20. Although the PSA continues to receive complaints about ICSS, the numbers are relatively small in comparison to the amount of complaints that we understand are received by organisations to which ICSS connect, and complaints made by consumers to their phone networks. It is possible that this is due to the nature of the services being provided. Consumers may be unaware that they are connecting via an ICSS and believe they are calling the organisation they are seeking directly. This may lead them to complain directly to the organisation the ICSS connected to, or the phone company who bills them.
21. The consumer research conducted by Jigsaw suggested that many consumers are unlikely to complain for the following reasons:
 - Consumers typically don't know who to complain to and may not realise they have used an ICSS;
 - Consumers believe that it will be too much hassle to complain; and
 - Consumers may feel foolish for calling the ICSS.¹²
22. In the 2017 - 2018 Annual Market Review (AMR)¹³, assistance services (the category in which ICSS sit) were the second largest service category by revenue with reported revenues of £92.4 million, second only to games and content services with revenues of £97.1 million pounds. The two other service types within the assistance services category were 'directory enquiries' and 'customer services'.
23. Out of the three service types which the assistance services category comprises, ICSS had the highest percentage of users reporting a problem with the service at 31% compared with 28% for customer services and 16% for directory enquiries¹⁴. ICSS also had a markedly higher percentage of users claiming that their trust had been compromised at 34% compared to 23% for customer services and 19% for directory enquiries.
24. When compared to the entire phone-paid services market, which is analysed by the AMR into 48 different service categories, ICSS had the second highest proportion of consumers reporting a problem, and the fifth highest proportion of consumers reporting that their trust had been compromised.
25. The total estimated revenues for ICSS during the 2017 - 2018 financial year was £10.4 million with an estimated user base of 568,000, an average user spend of £18.38.

Complaints from Government departments and commercial organisations

26. In addition to consumer complaints, the PSA regularly receives complaints from consumer interest groups and various public and commercial organisations to which ICSS connect.

¹² See page 27 of the Jigsaw research

¹³ [Annual Market Review 2017/2018](#)

¹⁴ Source: PSA quantitative consumer survey conducted in March 2018 with a base of 5000

27. The public organisations include various Government departments, some of which also receive contact from consumers who may be considered to be vulnerable due to personal and/or financial circumstances, such as the Department for Work and Pensions. Other Government departments the PSA receives complaints from include Her Majesty's Revenue and Customs and the Driver and Vehicle Licensing Authority.
28. The commercial organisations who complain to the PSA about ICSS include financial institutions, travel companies, online shopping sites and marketplaces as well as TV and internet service providers. The commercial organisations report that they are receiving complaints directly from their customers who believe they have received high call charges by contacting the commercial organisations directly.
29. The PSA also receives complaints from ICSS providers reporting other ICSS services which they believe are not complying with the Code of Practice and/or Special conditions.
30. The issues identified by these organisations generally relate to misleading promotions, passing off and pricing and transparency. The amount of complaints and referrals the PSA receives from these organisations also implies that many complaints about ICSS are unreported to us by consumers.

Enforcement

31. Since the introduction of Special conditions for ICSS, Tribunal adjudications against different ICSS providers have occurred within the last two years – all of them adjudicated as being very serious overall¹⁵.
32. Collectively the four adjudications provide the following information:
 - 98 consumers complained to the PSA.
 - The total collective revenue of the ICSS involved in the adjudications was over £2.2 million, with some of the ICSS operating solely on lower cost 087 number ranges which can only charge up to 13 pence per minute. The high amount of revenue suggests that many more consumers were affected by the non-compliant ICSS than those who complained to the PSA.
 - The ICSS were found to be in breach of Special conditions surrounding the use of misleading internet marketing practices, passing off, failing to provide accurate descriptions of the true nature of the service and failure to provide prominent links to the organisations' homepages where the information and number being sought could be found, as well as information that should be provided to consumers upon connection to an ICSS. Various breaches of the fairness, pricing and transparency and registration Code provisions were also upheld. The Tribunal considered each case to be 'very serious'. We have attached examples of the kind of search engine results and ICSS provider webpages which the relevant Tribunals found to be misleading, at Annex C of this document.

¹⁵ [Tribunal adjudications regarding ICSS](#)

- The ICSS providers were fined a total of £2,395,000 collectively, with the highest fine issued by a Tribunal in one adjudication being £850,000. One provider was issued with a further fine of £250,000 in a secondary breach of sanctions case for failure to comply with the sanctions imposed.
- Each provider received a formal reprimand and was ordered to place a bar on their services until breaches were remedied and compliance advice was sought and implemented to the satisfaction of the Executive. One provider was prohibited from operating or having any involvement in PRS for a period of five years following breach of sanctions proceedings.

33. Since the introduction of Special conditions in 2015, there have been more Tribunal adjudications against ICSS than any other fixed line phone-paid service type.

PSA Monitoring

34. The PSA performs regular monitoring of search engine results and paid-for advertising.

35. In February of this year the latest monitoring sweep of ICSS search results was performed on Google and Bing – Google as the search engine provider with the largest market share in the UK and Bing as second to Google at the time of monitoring.

36. The monitoring conducted searches using keyword variations such as ‘contact number’, ‘customer service number’ and ‘support helpline’ alongside 449 public or commercial organisation names. which resulted in over 5,000 unique search terms.

37. From the search terms 214 unique web domains were found on Bing and 459 unique web domains were found on Google. No paid-for ads were found on Bing and 4,303 paid-for ads were found on Google

38. The sweep primarily focused on pricing prominence and enabled calculation of the following percentages by number range where we identified potential pricing issues on landing pages:

Number Range	Bing	Google
084	45%	47%
087	42%	47%
09	0%	13%

39. On Google Maps the monitoring sweep also found ICSS numbers being promoted, this included ICSS operating on 084, 087 and 09 number ranges. Upon initial inspection, none of the map entries featured any pricing information or information regarding the true nature of the services. We have attached examples of these Google map entries at Annex C of this consultation.

2018 Research conducted by Linguistic Profiling for Professionals (LiPP) at The University of Nottingham

40. Considering the consumer harm evidenced through enforcement work, and the potential for consumer harm evidenced via complaints and monitoring, the PSA commissioned the University of Nottingham to conduct further research to better understand how consumers engage with ICSS by exploring consumers' responses to ICSS. The research was conducted in Summer 2017 and was published by the PSA in April 2018¹⁶.
41. The research focused on 'Type 1' ICSS, however, the conclusions and recommendations may have relevance for all ICSS, and more broadly for phone-paid services.
42. The research used eye-tracking technology and online survey methods to consider how consumers respond to search results containing ICSS and how they respond to ICSS websites.
43. 67 consumers between the ages of 19 and 69 with varying degrees of self-identified technological savviness participated in the research. The research was conducted using eye-tracking technology and online survey methods.
44. The research had two goals. The first was to identify consumer behaviour when presented with search results and websites containing ICSS. The second was to provide policy recommendations aimed at ensuring that consumers are able to identify ICSS and make fully informed choices about using phone-paid service numbers to access, in particular, customer service helplines of popular service providers.
45. From its research the University of Nottingham found that if consumers are unable to identify the service as being provided by a third party, then they may not receive the service they wanted from the expected source and may be paying an unknown entity for an additional, unknown, and unfamiliar service, which can be a form of consumer detriment. Furthermore, whilst some ICSS services provide added value services such as call recording, a consumer who is unaware that they are accessing an ICSS service is assumed to be unlikely to have the information that would allow them to take advantage of these added value services, even if they wished to do so. By examining both search results and ICSS websites, the research presents a full examination a of consumer behaviour in relation to this service type.
46. The research investigated the following:
 - How consumers respond to search results setting out a variety of phone numbers for a particular business (some of which directly contact the business and some of which connect to the business through an ICSS).
 - How and why consumers decide whether a webpage is an ICSS or whether it is a webpage operated by a business who they wish to contact.

¹⁶ [Research conducted by LiPP at The University of Nottingham](#)

- Where consumers look on webpages, and how this affects their ability to identify whether a webpage is an ICSS or whether it is a webpage operated by a business who they wish to contact.

47. The research demonstrated that consumers may inadvertently choose to use an ICSS whilst believing that they are directly contacting the organisation that they are seeking to contact, and the following conclusions were made:

- Consumers may believe that they are directly contacting a public or commercial organisation when in fact the contact is made through a third-party call connection service.
- When searching for the number of the customer service department of a public or commercial organisation, consumers will tend to favour results that appear higher up on a list of search engine results.
- When examining a website containing a number to call the customer service department of an organisation via an ICSS, consumers will make the decisions to call the number based on the “slickness” of the page. The more legitimate that a page looks, the more likely consumers are to judge that the connection service is affiliated with the organisation that they wish to contact and to utilise the number.
- The decision to utilise the number set out on the page is made quickly, based on first impressions drawn from graphic, layout and overall “slickness” of a website. Consumers often do not consider any disclaimer, the URL or the phone number that appears on the page.
- The eye tracking experiment on webpages suggests that consumers primarily consider the information that appears in the top left sextant of the landing page. They are much more likely to skip information that does not appear in this sextant. If information that looks “right” (particularly because it has the quality of “slickness”) appears in the top-left sextant then consumers will often make a decision to use the number presented. If information that looks “wrong” appears in this sextant, or if information that clearly identifies that the website is not affiliated with the organisation that the consumer is seeking appears in this sextant, then consumers will often choose not to use the phone number presented on the website.
- Consumers do not appear to be aware of the different types of PRS numbers, or do not appear to be aware of how the cost of a phone call may vary depending on the number they dial. They do not use the number as a factor for determining whether they are directly contacting the organisation or contacting the organisation through an ICSS. This also shows consumers are not aware of the different regulatory regimes that apply to differently priced call services and believe that regulation should be the same for all ICSS.

- The research suggested that ICSS, which cause consumers to take similar decisions whether they are offered by PRS or by charged services below the premium rate level, should be regulated using the same regime.
- There is no significant effect attributable to the device that the consumer is using to find a customer service number. However, layouts of search results and websites may differ between devices, and this may contribute to consumers' inability to identify factors that would trigger recognition of ICSS websites. This means that consumers visiting websites in mobile layout (on whatever device) will have less information on which to make decisions.
- The research did not examine consumers in particularly vulnerable groups. However, the research suggests that consumers who self-identify as having a low-level of technological literacy may be more likely to contact an organisation via An ICSS whilst believing that they are directly contacting the organisation they are seeking.

48. Overall, the findings of the University of Nottingham research are consistent with the findings of the research conducted by Jigsaw in 2013.

49. In considering the findings and recommendations of this research, we note that our current Special conditions for ICSS set out requirements and expectations for certain information to be displayed prominently within promotional material. However, they do not require that information is placed in any specific location, other than in close proximity to the premium rate number.

Modification of the PRS Condition

50. Following public consultation, Ofcom announced on 19 December 2018 that it had modified the Premium Rate Services Condition (PRS Condition) to capture all ICSS irrespective of the number range or price point the services are operating on.¹⁷ The modification of the PRS Condition extends the PSA's remit to include all ICSS operating on number ranges that were previously not within our remit.

51. Ofcom found that there is extensive actual and potential harm arising from ICSS operating on 084 number ranges, in particular to vulnerable consumers in the form of financial and emotional detriment and also reputational and operational harm to businesses and government departments as well as risks to the PRS sector. Ofcom consider this harm to be common across all ICSS.

52. They consider the harm relating to ICSS operating on 084 number ranges to result in four key risks to consumers:

¹⁷ https://www.ofcom.org.uk/data/assets/pdf_file/0015/131046/Statement-Review-of-the-premium-rate-services-condition.pdf

- The risk of consumers being misled into unknowingly using an ICSS to connect to public and commercial helplines leading to financial harm, bill shock and emotional distress;
- The risk of specific harm to vulnerable consumers, as some ICSS providers target public service helplines that may be used by particularly vulnerable people;
- The risk of harm to public bodies and commercial organisations, as consumers may blame them directly for any financial and emotional harm caused by an ICSS;
- The risk of harm to reputable phone-paid service providers where consumer trust and confidence in phone-paid services is undermined as a result of harm caused by some ICSS providers.

53. Ofcom conducted a review into whether regulatory arrangements for ICSS are sufficient and publicly consulted in July 2018. Responses were received from individuals and stakeholders, including ICSS providers, network operators, affected businesses, government departments and consumer groups. The responses were mainly supportive of the proposal to extend the PRS Condition to include ICSS regardless of the number range they are provided on; however, we note that responses from ICSS providers were not supportive of the proposals.

54. Based on their analysis and consideration of consultation responses Ofcom confirmed their decision to modify the PRS Condition. Following an implementation period of four weeks, the changes took effect on 16 January 2019 which meant that all ICSS came into the PSA's remit from that point onwards.

Considerations and Proposals

55. In light of the issues, a range of data and sources of information and changes to the PRS Condition outlined in this document, the PSA commenced a review of the ICSS Special conditions in December 2018. The aim of this review is to ensure the Special conditions are fit for purpose and remain an effective preventative measure for consumer harm.

56. This section sets out our considerations and proposals for changing, retaining, or removing existing, or introducing new, ICSS Special conditions.

Special Condition ICSS1

Existing Special Condition:

Imposed under Annex 2, Paragraph 1.1(c) and (k): (c) requirements to ensure there is an adequate technical quality to the provision of the high risk service

(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)

ICSS 1 Web-based promotions should not use internet marketing or optimisation techniques (such as metadescriptions or metatags) which mislead a consumer into believing (a) that their service is the actual service the consumer is seeking; or (b) that they are providing advice or information that is not already available from a public or commercial organisation (unless they genuinely are providing advice or information that is not available in this way). In addition, web-based promotions should contain metadescriptions which make the nature of the service clear and do not mislead the consumer into believing that they are the helpline or information the consumer is seeking. The Search Engine Marketing (SEM) should therefore clearly display a phrase which accurately describes the true nature of the service operated and promoted using the website to which the SEM links, such as “Premium rate connection service” or “Call connection service” within the result displayed for a Type 1 ICSS; and for example “Premium rate assistance service” or “Information assistance service” for a Type 2 ICSS. Such a phrase must be positioned to ensure it is clearly on-screen when the consumer views the search engine results. For the avoidance of doubt alternative phrases may be used where they meet the above SEM description requirement.

57. Evidence drawn from complaints, enforcement work and research set out above suggests that ICSS1 in its current form does not assist with preventing consumer harm which may occur from organic search results. Examples provided in the University of Nottingham’s research demonstrate that some ICSS which return in search results display premium rate numbers and statements which have potential to mislead consumers, whilst omitting the key information that is required by other ICSS Special conditions and the Code. Missing key information includes the cost of calling the service, an accurate description of the true nature of the service, for example “call connection service operated by XXX Ltd” or similar, and links to where the number advice or information can be found for no or a lower cost.
58. Evidence collated in PSA monitoring demonstrated that ICSS are also promoted heavily within search engine map facilities such as Google Maps and Bing Maps, particularly 087 and 084 ICSS. The map-based results discovered through monitoring found promotions of ICSS numbers which appeared to be non-compliant¹⁸. ICSS1 in its current form does not explicitly cover this form of search engine promotion. The PSA considers the use of maps to be a form of search engine advertising and, therefore, this practice should comply with the Code and Special conditions.
59. The map-based results discovered through PSA monitoring only appeared to display details of the organisation being sought, addresses for those organisations which may or may not be accurate, an ICSS number and opening hours of the organisation - which also may or may not be accurate. No information about the ICSS provider, the true nature of the service or cost of using the service appears to be provided, the lack of which is all detrimental to consumer understanding and decision making.

¹⁸ Examples of map-based promotions can be found in Annex C

60. This condition is also particularly prescriptive in relation to specific Search Engine Optimisation (SEO) and Search Engine Marketing (SEM) techniques such as metatags and metadescrptions without consideration of any other techniques which may or, may not be used.
61. In order to address these issues, the PSA proposes to update the wording of ICSS so that it is concise, outcomes-based and encompasses all internet search engine advertising and organic search results, including map-based search results.

Proposed amended Special Condition:

ICSS1 All search engine advertising and search results, including map based search results, must contain an accurate description of the true nature of the service and not use any language or marketing techniques which may mislead the consumer into believing that the service is the helpline or information service of the organisation the consumer is seeking. For example, the promotion or search result should say “*premium rate connection service operated by XXX Ltd*” or “*Call connection service operated by XXX Ltd*” for Type 1 ICSS, and “*Information assistance service operated by XXX Ltd*” for Type 2 ICSS. Such information must be prominent on-screen when the consumer views search engine promotions and search engine results. For the avoidance of doubt alternative phrases may be used where they meet the description requirement of this condition.

Q1 Do you agree with revised wording of ICSS1 as being outcome based and inclusion of the reference to the appearance of organic search engine results including map-based results? If not, why not? Please provide evidence to support your reasons.

Special Condition ICSS2

Existing Special Condition:

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)

ICSS 2 Services must not promote using websites with addresses which mislead a consumer into believing the website is associated with the organisation they are seeking.

62. Evidence drawn from complaints, requests for compliance advice and research conducted by the University of Nottingham demonstrates that some ICSS continue to promote using URLs containing words, letters and phrases which may have potential to mislead consumers into believing the website is associated with the organisation being sought. URLs include the internet path or protocol and subdomains which are not fully captured under wording of the existing ICSS2.

63. The PSA proposes to change ICSS2 by amending the wording to refer to URL rather than website address and clarify what is meant by this.

Proposed amended Special Condition:

ICSS2 Services must not promote using URLs which mislead the consumer into believing the ICSS website is associated with the organisation they are seeking. This means the full URL as displayed to the user in the browser address bar. This includes (but is not limited to) the domain name, any subdomain and the internet protocol or path.

Q2 Do you agree with the proposed amended wording of ICSS2? If not, why not? Please provide evidence which supports your reasoning.

Special Condition ICSS3

Existing Special Condition:

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)

ICSS3 Promotional material must clearly and prominently state (where this is factually the case) that the information (including the number), advice or assistance provided by the PRS is available direct from the relevant public or commercial organisation at no or lower cost. The presentation of this information should be in a manner which is clear, prominent and proximate to the premium rate number advertised, and should include a link to the homepage of the website containing the actual number the consumer is looking for where such a website exists.

64. Evidence drawn from PSA monitoring, complaints, requests for compliance advice and enforcement, demonstrates that this condition is not always properly adhered to. Some ICSS promotions imply that the information (including the number), advice or assistance provided by the PRS “may” be available direct from the relevant organisation where it is factually the case that the information (including the number), advice or assistance is available at no or a lower cost directly.

65. Furthermore, the evidence obtained from complaints and monitoring shows that this information is often not displayed clearly and prominently¹⁹. The research conducted by the University of Nottingham demonstrates through eye tracking heat maps that such statements and disclaimers often go unnoticed by consumers because of the positioning on the page and overall appearance of the page.

¹⁹ Examples can be found in Annex C

66. Some ICSS providers who offer functions in addition to call connection, such as call recording have, in the past, disputed that this condition would apply to their services as the additional function they provide is not available directly from the organisation being sought, and therefore have omitted the statement from their promotional material. However, in our view this does not change the risk that consumers will be misled into believing they are calling the organisation they are seeking directly.
67. In order to address these issues the PSA proposes to change this condition to require that the statement confirming that the number, advice or information is available for no or at a lower cost and a link to the relevant homepage, is positioned prominently on the page above the premium rate number and/ or clickable call button. The proposed change also confirms that this requirement applies to all services which meet the definition of ICSS regardless of any other function being offered.

Proposed amended Special Condition:

ICSS3 All Promotional material must clearly and prominently state (where it is factually the case) that the information (including the contact number) advice, or assistance provided by the PRS is available directly from the relevant organisation at no or a lower cost.

This statement should:

- (i) be set out above the premium rate number and, or clickable call button;
- (ii) include a link to the homepage of the official website of the organisation that contains the contact number the consumer is looking for where such a website exists.

For the avoidance of doubt this condition applies to all PRS that meet the definition of ICSS regardless of whether the service offers any other additional service or function.

Q3 Do you agree with the proposal to require the specific information listed in ICSS3 to be above the call to action? If not, why not? Please provide any evidence you might have which supports your answer.

Special Conditions ICSS4 and ICSS5

Existing 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)

ICSS4 Promotional material must be distinct in appearance from that of the organisation being sought.

ICSS5 Promotions must not use descriptions, colour or typeface which is, or may be, perceived to imitate the organisation the consumer is looking for. Promotions must not imply that advice and/or information is unique to an ICSS when the same advice and/or information are available from a public or commercial organisation.

68. Evidence drawn from complaints and PSA monitoring demonstrates that ‘passing off’ (misrepresenting an ICSS as a service of another organisation) and sometimes potential trademark infringement remain an issue within certain ICSS promotions. With ICSS operating on number ranges which are new to PSA regulation, both monitoring and complaints received from public and commercial organisations show that the use of official branding, logos and trademarks is prevalent in the market and causes consumers to believe that it is those organisations that are providing the ICSS. A number of organisations that have complained to the PSA have stated that the relevant ICSS have misled their consumers and are damaging the reputation of their organisations.

69. Considering the above, the PSA proposes to retain and combine Special conditions ICSS4 and ICSS5 as they are both relevant to the issue of ‘passing off’. It also proposes a minor amendment to confirm that official logos and marks must not be used, as well as logos, marks and other aspects that imitate or may be perceived to imitate the other organisations being sought.

Proposed Special Condition:

ICSS4 All promotional material must be distinct in appearance from that of the organisation being sought by the consumer. Promotions must not use descriptions, colour, typeface or logos or marks which imitate, or may be perceived to imitate the organisation the consumer is seeking, nor should any official logos or marks of those organisations be used. Promotions must not imply that the information being provided to the consumer is unique to an ICSS when the same information is available from the relevant organisation.

Q4 Do you agree with the proposal to combine ICSS4 and ICSS5 as both conditions are relevant to the same issue and potential for harm?

Q5 Do you agree that the amended condition should prohibit the use of official logos and marks, as well as imitative logos, marks and other promotional aspects?

Special Condition ICSS6

Existing Special Condition:

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)

ICSS6 Where an ICSS provides an IVR containing the number of the service the consumer is actually looking for, then promotional material must clearly instruct consumers to have a pen and paper ready, or some other means of recording the number, before they call.

70. The PSA's assessment of this condition is that the purpose it serves remains valid for those ICSS that provide the number that is being sought by a consumer. The prompt prevents the consumer from having to make repeat calls if they were not prepared at the time to record the phone number provided during the call. The PSA has not received any complaints indicating that such prompts are not working or are ineffective. Therefore, the PSA proposes to retain this condition.

Special Condition ICSS7

Existing Special Condition:

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)

ICSS7 Where the consumer has been provided with the number they are seeking, and then has the option of being connected to it directly, they must be informed clearly of the cost per minute of doing so and be given the opportunity to refuse.

71. The PSA proposes to retain this condition as it continues to be effective in providing cost transparency. However, the PSA proposes to make a minor amendment to the pricing requirement so that it includes ICSS which use per call tariffs and clarifies that the cost and opportunity to refuse should be given before a charge for the connection is incurred.

Proposed updated Special Condition:

ICSS7 Where the consumer has been provided with the number they are seeking and has the option of being connected to it directly, they must be clearly informed

of the cost of doing so and be given the opportunity to refuse before incurring any charge for that direct connection.

Q6 Do you agree that the pricing information requirement in this condition should cover those ICSS which have per call tariffs? Do you also agree with the clarification as to the cost and opportunity to refuse being given before a charge is incurred? If not, why not?

Special Conditions ICSS8, ICSS9 AND ICSS10

Existing 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)

ICSS8 Where the consumer is requested to supply secure personal and/or confidential details, then they must be clearly informed that their details are being provided to a third party, and not the organisation they wished to contact. In addition, where such secure data will be used to log into a consumer's online account in order to undertake any action on their behalf, then consumers must be clearly informed of this and that they could perform these actions themselves at no cost. They should also be advised that information about how this data will be stored, retained, or further used is available on the ICSS providers' website. Providers should ensure that such information is fully and clearly provided on the website relevant to the number the consumer has called.

Imposed under Annex 2, Paragraphs 1.1(k) and (n):

(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);

(n) requirements for caller agreement before a high-risk service proceeds before the caller is charged

ICSS9 Providers of ICSS who intend to collect confidential data/information (e.g. login passwords, PIN numbers etc) should also clearly inform consumers as to their intended use of such information, and make clear that by providing such information the consumer may be breaching the terms and conditions of the organisation they have a protected account with, and that the ICSS provider may then have unrestricted access to the consumer's account including, where applicable, payment details. Consumer consent should then be obtained before any confidential information is used. Providers should thereafter not use the information for any other purpose or on any other occasion without further consumer consent being given. As soon as the purpose for collecting the confidential information has been achieved the information should be destroyed immediately and permanently.

Imposed under Annex 2, Paragraphs 1.1(k) and (m): (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); (m) the provision of defined information to the Phone-paid Services Authority and the intervals at which it is to be given and the manner to which it is provided.

ICSS10 Providers of ICSS who intend to collect personal and/or confidential data and/or information should only collect information which is necessary to facilitate provision of the service, and should provide evidence that any data or information they have collected is necessary for service provision upon request by the Phone-paid Services Authority.

The PSA proposes to retain these conditions as we believe they are effective in preventing harm relating to type 2 ICSS which collect personal data. However, the PSA proposes to update them to ensure that they are consistent with the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA 2018). We recognise that this form of ICSS are no longer prevalent in the market, but we consider the conditions remain appropriate and necessary in preventing consumer harm.

Proposed updated Special Conditions:

ICSS8 Where consumers are requested to supply personal and/or confidential details, in addition to any GDPR and DPA 2018 requirements they must be clearly informed that their details are being provided to a third party, and not the organisation they wished to contact. In addition, where such data will be used to log into a consumer's online account in order to undertake any action on their behalf, then consumers must be clearly informed of this and that they could perform these actions themselves at no cost. Providers should ensure that any information about how their data will be stored and processed is also clearly provided on the website that promotes the ICSS number to the consumer.

ICSS9 Providers of ICSS who intend to collect personal and confidential data/information (e.g. login passwords, PIN numbers etc) should in addition to any GDPR and DPA 2018 obligations also clearly inform consumers as to the precise use of such information, and make clear that by providing such information the consumer may be breaching the terms and conditions of the organisation they have a protected account with, and that the ICSS provider may then have unrestricted access to the consumer's account including, where applicable, payment details.

ICSS10 Providers of ICSS who intend to collect personal and confidential data/information should in line with the GDPR and DPA 2018 only collect information which is necessary to facilitate provision of the service, and should provide evidence that any such data or information they have collected is necessary for service provision upon request by the Phone-paid Services Authority.

Q7 Do you agree with the proposal to retain ICSS8, ICSS9 and ICSS10 and the amendments made to ensure consistency with the GDPR and DPA 2018? If no, please provide reasons to support your answer.

Special Condition ICSS11

Existing Special Condition:

Imposed under Annex 2, Paragraph 1.1(n): requirements for caller agreement before a high risk service proceeds before the caller is charged

ICSS11 Consumers must receive an alert at the start of the call before onward connection stating the following (in any order):

- (i) the price per minute;
- (ii) that the ICSS provider is not [insert the end organisation's name] or that the ICSS provider is [insert ICSS provider name]; and
- (iii) the name of the end-organisation consumers will be connected to or given the option of connecting to.

Caller agreement may be given by pressing a specified key or otherwise responding to the alert, or by remaining on the line to access the service.

72. Many ICSS providers operate their services using per call tariffs, these are tariffs where the service charge is only charged upon connection to the PRS and not on a per minute basis. There are also number ranges available with tariffs that charge per call and a per minute service charge, which are also utilised by some ICSS. ICSS that operate with per call tariffs only, often use high tariffs as this charge replaces the per minute total cost of the call.
73. The current wording of ICSS11(i) only references per minute charges and therefore, could be read as only applying where the service charge is charged per minute.
74. The PSA's assessment of this condition is that it is a useful tool in preventing consumer harm particularly where the consumer has not seen pricing and other key information in the promotional material, or they chose to redial without revisiting a promotion.
75. Although the risk of financial detriment is somewhat reduced where an ICSS service charge is charged only per call and not charged per minute, the risk of consumers redialling without full knowledge of the cost of doing so remains. Furthermore, consumers will continue to be charged their phone company's access charge whilst the call is connected, even where the service charge is per call. Because of this, the PSA proposes to retain ICSS11 with additional wording to include per call tariffs and access charges.

Proposed Special Condition:

ICSS11 Consumers must receive an alert at the start of the call before onward connection stating the following (in any order):

- (i) the cost of the service per minute and/or per call including the statement “plus your phone company’s access charge”;
- (ii) that the ICSS provider is not [insert the end organisation’s name] or that the ICSS provider is [insert ICSS provider name]; and
- (iii) the name of the end-organisation consumers will be connected to or given the option of connecting to.

Caller agreement may be given by pressing a specified key or otherwise responding to the alert, or by remaining on the line to access the service.

Q8 Do you agree that alerts at the start of an ICSS call should clearly state the cost of using the service regardless of the call tariff type? If not, why not?

Special Condition ICSS12

Existing Special Condition:

Imposed under Annex 2, Paragraph 1.1(p): compliance with requirements of relevant regulators and professional bodies

ICSS12 Providers of ICSS who intend to collect personal data and are Data Controllers as defined within the Data Protection Act 1998 must ensure that they have complied with the requirement to notify the Information Commissioner’s Office (ICO) and provide it with full details of the types of data that they will be processing. Providers must ensure that they comply with the requirements of the Data Protection Act 1998 in relation to the processing of consumers’ personal data at all times.

76. The PSA proposes to remove this condition as not only is it outdated in that the Data Protection Act 1998 has been superseded by the GDPR and DPA 2018, but also it seeks to do no more than outline requirements that already exist in UK law. Most, if not all, organisations will be aware of the GDPR which came into effect across Europe in May 2018, as well as the DPA 2018 which, among other things, brought the provisions of the GDPR into UK domestic law.

Q9 Do you agree with the assessment of current condition ICSS12 and the proposal to remove it? If not, please provide reasons to support your answer.

Special Condition ICSS13

Existing Special Condition:

Imposed under Annex 2, Paragraphs 1.1(x) and (m): (x) providers of higher risk services to notify the Phone-paid Services Authority at commencement of such services and provide any related information required by the Phone-paid Services Authority within a specified time period; (m) the provision of defined information to the Phone-paid Services Authority and the intervals at which it is to be given and the manner to which it is provided.

ICSS13 ICSS providers must notify the Phone-paid Services Authority, within 48 hours of making the service accessible to the public, of all applicable telephone number(s) or access code(s) used for the operation of the service and their specific designated purpose. Where these change or new numbers are added, all such telephone number(s) or access code(s) must also be notified to the Phone-paid Services Authority within 48 hours of their being put into public use.

For example, this information may include a premium rate number (PRN) beginning 09*, a voice shortcode, and details of the company or organisation or service to which the number connects: - **PRN 09xxxx120321 - VSC 65xx0 - offers connection to 'XL TV Co Ltd'**

77. It is a requirement of the Code that details of all phone-paid services are provided to the PSA. However, this condition specifies additional information that ICSS providers must register that is not currently required for all phone-paid services.
78. Our consideration is that this condition can be simplified whilst ensuring that all relevant details are registered. Additionally, the new service registration system the PSA consulted on recently²⁰ is currently being developed. This will enable providers to add information more easily.
79. The PSA proposes to retain but modify this condition so that it is concise. We also propose to add the requirement to register web domains during service registration in order that consumers are better informed when using the service checker on the PSA website. This is a requirement that will become common to all service types in the near future. The revised condition will become ICSS12.

Proposed amended Special condition:

ICS12 ICSS providers must register their services within 48 hours of making the service accessible to the public, and in doing so make clear such services are ICSS when declaring that the service(s) are subject to Special conditions. This

²⁰ [Registration with PSA Statement September 2018](#)

should include all numbers, all web domains associated with the service and who the service is connecting to.

Q10 Do you agree with the modification of this condition and the requirement to register all web domains on the PSA service checker? If not, why not.

Proposal for New Special Condition

80. The research conducted by the University of Nottingham found, through the use of eye tracking technology, that consumers primarily consider the information displayed in the top left area of webpages, which they referred to as the “sextant”, and particularly at banners or logos that appear in this position. Furthermore, the research found that information, including disclaimers, positioned elsewhere on webpage is often ignored.
81. Based on these findings the PSA proposes to introduce a new condition that requires specific key information to be situated in top left corner of ICSS webpages. The proposed new Special condition would become ICSS5.

Proposed new Special Condition:

ICSS5 Promotional webpages containing the call to action must display an accurate description of the true nature of the service, cost of the call per minute and/or per call, and provider name prominently in the top left corner of the page; e.g. “call connection service, calls cost £X.XXp per minute or £X.XXp plus your phone companies access charge, operated by XXX Ltd”

Q11 Do you agree that the proposed additional condition (the new ICSS5), will help to prevent consumers from calling ICSS when they do not intend to? If no, please provide evidence to support your answer.

Application of Special Conditions to all ICSS regardless of the number range they operate on.

82. In reviewing Special conditions for ICSS, we have also considered whether the proposed amended conditions should apply to all ICSS, including those operating on 084 number ranges, which are now within the PSA’s regulatory remit.
83. We recognise that 084 number ranges have a maximum tariff of 7 pence per minute (inclusive of VAT) and, therefore, the risk of financial detriment is reduced in comparison to ICSS operating on 087 and 09 number ranges. However, we also recognise, through evidence gained through enforcement action, that 087 ICSS which have a maximum tariff of 13 pence per minute (inclusive of VAT), have amassed extremely large revenues. Therefore, the PSA does not consider that lower cost tariffs alone guarantee greater consumer protection.

84. More specifically, the PSA has considered whether the proposed updated and new conditions address market practice which would either not exist or be significantly reduced on the 084-number range. In doing so, we note that our own monitoring and Ofcom's assessment does not identify any such difference or reduction.
85. As such, the PSA proposes to apply the revised Special conditions to all ICSS, including those operating on 084 number ranges, in their entirety.
86. Ofcom considered that the nature of the harm was such that they would wish to futureproof regulation, and so they extended the PRS condition to include all ICSS regardless of the number range they operate on.
87. While the PSA does not currently have specific evidence of ICSS operating on number ranges other than 09, 087 and now 084 number ranges we consider there is a clear risk that service providers may seek to exploit a loophole if it emerges. Evidence for this risk is the fact that we have seen providers migrate ICSS from 087 to 084 number ranges in the past, in an attempt to evade PSA regulation. We have also seen ICSS-like non-PRS services operate on numbers incapable of being used to deliver a PRS, such as 0345, but promoted in a manner likely to mislead consumers.²¹

Q12 Do you agree with the proposal to apply the proposed Special Conditions to all ICSS regardless of the number range they operate on? If not, why not.

Impact Assessment

88. This assessment considers the impact of the proposals for change. The ICSS reference numbers are the reference numbers of the proposed conditions. The complete draft Notice can be found at Annex B.

ICSS1

89. The revised Special condition ICSS1 focuses on the desired outcome rather than prescribing specific techniques employed in marketing. The proposal extends the requirements on providers in relation to presented search engine results. It has always been our intention that providers completely control all search engine results associated with their services, as well as paid for search engine advertising and optimisation techniques, to ensure compliance with the Code and Special conditions.
90. The outcomes-based condition captures all ICSS presented in any form within search engines, including map-based results. We recognise that it may not be possible for providers to present additional information on Google or Bing Maps with their current

²¹ Services provided through the 0345 number range are not ICSS (although they are identical in nature and operation) as they do not meet the definition of a premium rate service (PRS) under the Communications Act 2003. Given such services do not meet the statutory definition of PRS they are incapable of meeting the definition of an ICSS.

capabilities, however, this does not change the need for consumers to be informed of all information that is likely to influence the decision to use an ICSS before they call and incur a charge. Therefore, if it is not possible to include the required information within a map-based search result then this form of ICSS promotion is unlikely to be compliant.

91. The PSA considers the impact of the revised condition on ICSS providers to be minimal without capital costs. Providers are able to use existing search engine advertising methods only with increased control and monitoring to ensure all results and ads, paid-for or otherwise, are compliant.

ICSS2

92. The intention of Special condition ICSS2 has always been to capture the full URL for any ICSS, with the requirement to ensure they do not mislead consumers into believing that a website is associated with the organisation they are seeking. As this is something that providers of ICSS should already be aware of, the rewording of the condition merely provides further clarity and the impact on providers should be minimal. We do not consider any changes to existing URL's to be disproportionately difficult or costly. The PSA does not consider loss of revenue as a significant impact when contrasted with consumers being better informed.

ICSS3

93. ICSS3 in its current form already requires promotional material to provide a clear statement advising that the information, including the number the consumer is seeking, is available for no or lower cost directly from the public or commercial organisation - and including relevant links in a prominent and proximate manner.
94. The revised condition provides clarity on the positioning of this information on the page, which is consistent with what is expected regarding key information for other forms of phone-paid service with which providers may be familiar. The PSA considers the time and cost of repositioning information on an existing webpage to be negligible.

ICSS4

95. The PSA does not consider that the consolidation of existing conditions ICSS4 and ICSS5 will have any impact on providers. The only proposed addition to this condition is confirmation that official logos and trademarks or other imitations of other organisations should not be used within promotional material. We do not consider removal of such official logos, marks or other imitations to be disproportionately time or cost intensive.

ICSS7 and ICSS11

96. The proposal for ICSS7 requires both per minute and per call tariffs to be announced before onward connection on IVR messages where the consumer has been provided with the number in which they are seeking and have the option of being connected. This revision may require some ICSS providers to update their IVR messages.

97. Proposed Special condition ICSS11 requires per call tariffs to be announced within the alert upon connection as well as any per minute charges and the statement “plus your phone company’s access charge”. As with ICSS6, this revision will only require providers who operate ICSS with per call tariffs to amend their alerts.

98. We consider the impact of updating existing IVR messages and existing alerts upon connection to ICSS to be minimal in terms of time and cost.

ICSS8, ICSS9 and ICSS10

99. The proposed changes to these conditions seek to ensure consistency with the GDPR and DPA 2018 whilst ensuring that the existing elements of the conditions that are unaffected by these laws are maintained. There should be no impact resulting from these changes as there are no additional requirements placed upon providers

ICSS12

100. This condition requires providers of ICSS to register their services with the PSA within 48 hours of commencing operation with the addition of registering all web domains. The PSA will shortly be launching a new service checker which will enable providers to register their services more easily with clearly labelled fields in which to enter the required details. We consider the overall impact to providers to be very minimal given that the impact of service registration in general should be reduced.

New Special Condition ICSS5

101. This condition is the only proposed new condition and is a response to research findings. The new condition will require providers to display an accurate description of the true nature of the service, the cost of the service and ICSS provider name in the top left corner of all promotional webpages. Although this is a new requirement, the PSA considers the impact to be minimal, as it will only require providers to reposition information that should already be present within existing webpages. As we have previously mentioned within this assessment, we do not consider loss of revenue to be an impact that outweighs consumers being able to make informed decisions.

Applying to all ICSS regardless of number range.

102. PSA proposes to also apply the revised Special Conditions to all ICSS regardless of number range.

We recognise that these proposals may have a greater impact on 084 ICSS providers, particularly where such a provider is not familiar with the existing requirements of the Code and Special conditions as they have not operating ICSS on 087 or 09 number ranges, or any other form of phone-paid service. However, we consider the impact to be outweighed by the consumer benefit. To the extent that ICSS have a value to the consumer at all, it is essential that they are presented in all cases with clear and unambiguous information – there is otherwise always a risk of consumer detriment from ICSS. In addition, the PSA will ensure that a reasonable implementation period is given.

We would welcome feedback on any technical issues which may require a longer implementation period.

Responding to this consultation

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.

Personal data, such as your name and contact details, that you give or 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 review of Special conditions for ICSS and publish the findings.

Further information about the personal data you give to the PSA can be found at <https://psauthority.org.uk/privacy-policy>.

The closing date for responses is 10 June 2019. Where possible, comments should be submitted in writing using this [response form](#) and sent by email to consultations@psauthority.org.uk.

Copies may also be sent by mail to:

Sarah-Louise Prouse
Phone-paid Services Authority
40 Bank Street London
E14 5NR

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

ANNEX A

Risk Assessment Framework

In responding to the risk, it is important that we apply regulation proportionate to the risk of harm posed by individual service types. When considering whether or not Special conditions would be an appropriate regulatory risk, we assess against a taxonomy of risk. The PSA taxonomy of risk is used to test whether a service category would be considered to be higher risk in respect of any of the six separate characteristics it contains. The risk characteristics are set out in the table below.

Risk Characteristic	Examples
Financial Harm	<ul style="list-style-type: none">• High one-off cost• High cumulative cost
Passing Off	<ul style="list-style-type: none">• Unauthorised use of trusted brands or marks• Misleading representation of trusted brands or marks• Lack of Professional Qualifications or Membership
Uninformed Consent	<ul style="list-style-type: none">• Confusing consumer journey• Complexity of proposition• Overall presentation lacks clarity
Unauthorised Consent	<ul style="list-style-type: none">• Lack of appropriately robust consent to data use• Lack of appropriately robust consent to charge• Inadequate technical systems lead to charge without consent
Vulnerable Groups	<ul style="list-style-type: none">• Underage access• Lack of allowance for needs of vulnerable• Targeting of vulnerable
Unreasonable Offence	<ul style="list-style-type: none">• Indecent, e.g. sexual• Offensive or menacing, e.g. disability, gender, race, religion, sexuality• General, e.g. pro-anorexia

The purpose of any risk assessment is a precursor to mitigating those risks, thereby establishing a healthy market in which consumers can use any services with confidence. If services are considered to pose a risk, compliance with PSA regulations, including any Special conditions adopted under 3.12 of the Code, should reduce those risks and increase confidence in the operation of phone-paid services.

Assessment of relevant factors

This table sets out the PSA’s considerations based on the risk assessment framework. The proposed response in this table is subject to consultation.

Risk	Apparent	Why	Evidence	Proposed PSA Response
Financial Harm	Yes	Potential for high call charges after onward connection to numbers that can be alternatively obtained at no or lower cost- this is both because the consumer may be unaware of the rate at which a long call to resolve their issue is being charged; furthermore, the ICSS provider has no control over whether the consumer is placed on hold or otherwise kept waiting.	Complaint data and consumer evidence of long call durations including end organisation queue hold times. Consumer evidence of ‘bill shock’. Evidence of providers using per call plus per minute tariffs.	Pricing information to be provided prominently & proximately within promotional material above the call to action. Where a PRS number is displayed in search results or paid for search engine marketing it must be accompanied by the cost. Information necessary on initial connection of the call, and prior to forward connection if requested by the consumer.

Passing Off	Yes	High complaint levels from consumers and third-party organisations citing unauthorised association with third-party organisations	<p>Evidence from monitoring and complaints received from public and commercial organisations that ICSS connect to, demonstrating prevalent use of official logos and marks, as well similar colour schemes, type face and layouts to that of the third-party organisations that the services are connecting to.</p> <p>Records of promotional material from consumer complaints, service reviews and requests for compliance advice.</p>	<p>Promotional requirements relating to service type and price</p> <p>Provision of links in online promotional material to official websites providing information for free or at a lower cost.</p> <p>Promotions should not use official logos and/or trademarks of third-party organisations.</p> <p>Promotions must be distinct in appearance from third-party organisations being sought.</p> <p>Promotions must not use descriptions, colour, or typeface that may be perceived to imitate third-party organisations.</p>
Uninformed consent	Yes	Consumers unaware they are contacting an ICSS and believe they are contacting the organisation they are seeking directly without cost.	Evidence from complainant statements and complaints received by public and commercial organisations that ICSS connect to, where the complainants believe they have been charged at a premium by the organisations they are seeking.	<p>Promotional requirements relating to service type and price.</p> <p>Clear expectations of what information search engine promotions and search results should provide.</p> <p>Placement of key information which describes the true nature of the service.</p>
Unauthorised Consent	No			

Vulnerable Groups	Potentially	Dependent on the original services sought, public services can be relied upon by vulnerable groups who would be particularly disadvantaged by ICSS costs.	Complaint evidence of callers wanting to connect to various non-universal Government services – for example child or housing benefits. Evidence of complaints made by or on behalf of elderly consumers.	Promotional requirements relating to service type and price Clear and prominent information regarding the true nature of the service and cost of calling
Unreasonable Offence	No			

ANNEX B

Information, Connection and Signposting Services

Proposed Notice of Special Conditions

This Notice is being issued to inform all providers involved, or intending to be involved, in the provision of society lottery services that Special conditions apply. Level 2 providers are required to comply with [the Phone-paid Services Authority's Code of Practice](#), and the Special conditions set out below, which are imposed under paragraph 3.11.1 of the Code.

Under paragraph 3.11.3 of the Code, *"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"*.

ICSS is defined as follows:

"Premium rate services, excluding full national directory enquiry services²², that provide connection to specific organisations, businesses and/or services located or provided in the UK; and/or which provide information, advice, and/or assistance relating to such specific organisations, businesses and/or services."

The definition creates two distinct categories of ICSS; services that provide connection to organisations sought by consumers and those that provide information, advice and assistance on organisations. For ease of reference we refer to these categories as Type 1 and Type 2 and further describe them as follows:

Type 1 – 'Call connection' services. Type 1 services offer connection to a small number of organisations, rather than the full range that a national Directory Enquiry (DQ) service provides. In some cases, Type 1 services may, in addition to connection, offer the number the consumer is seeking.

Type 2 – 'Signposting' and 'Helpline' or advice or assistance services (which may or may not include the consumer providing account details relating to an unrelated online account they hold, so that the ICSS provider can interact with the account on their behalf). Type 2 services usually offer consumers the number of one or small number of

²² This is defined in the Ofcom Statement dated 1 March 2002 and has been adopted (to the extent set out) as follows: "A Directory Enquiry Service which provides information on allocations of numbers to subscribers from the United Kingdom numbering scheme to callers located in the United Kingdom. A National Directory Enquiry Service shall be considered a "full" National Directory Enquiry Service for the time being if it provides information on the geographic numbers of all business and residential listings and on other numbers used for comparable purposes to geographical numbers (e.g. 08 numbers used for main switchboards etc), where the subject of the listing has not withheld their permission for its inclusion."

organisations (but not onward connection to that number), operator-led assistance, or provide generic, pre-recorded advice via an Interactive Voice Response (IVR) system.

For the further avoidance of doubt, the following providers of ICSS are exempt from this Notice:

- Any provider who has an established, written agreement with a public or commercial organisation to operate an information, advice, or assistance service on their behalf. Such agreement must be provided to the Phone-paid Services Authority upon request.

Special conditions

Imposed under Annex 2, Paragraph 1.1(c) and (k):

(c) requirements to ensure there is an adequate technical quality to the provision of the high-risk service

(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)

ICSS 1 ~~Web-based promotions should not use internet marketing or optimisation techniques (such as metadescrptions or metatags) which mislead a consumer into believing (a) that their service is the actual service the consumer is seeking; or (b) that they are providing advice or information that is not already available from a public or commercial organisation (unless they genuinely are providing advice or information that is not available in this way). In addition, web-based promotions should contain metadescrptions which make the nature of the service clear and do not mislead the consumer into believing that they are the helpline or information the consumer is seeking. The Search Engine Marketing (SEM) should therefore clearly display a phrase which accurately describes the true nature of the service operated and promoted using the website to which the SEM links, such as “Premium rate connection service” or “Call connection service” within the result displayed for a Type 1 ICSS; and for example “Premium rate assistance service” or “Information assistance service” for a Type 2 ICSS. Such a phrase must be positioned to ensure it is clearly on-screen when the consumer views the search engine results. For the avoidance of doubt alternative phrases may be used where they meet the above SEM description requirement. All search engine advertising and search results, including map based search results, must contain an accurate description of the true nature of the service and not use any language or marketing techniques which may mislead the consumer into believing that the service is the helpline or information service of the organisation the consumer is seeking. For example, the promotion or search result should say “premium rate connection service operated by XXX Ltd” or “Call connection service operated by XXX Ltd” for Type 1 ICSS, and “Information assistance service operated by XXX Ltd” for Type 2 ICSS. Such information must be prominent on-screen when the consumer views search engine promotions and search engine results. For the avoidance of doubt alternative phrases may be used where they meet the description requirement of this condition.~~

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)

ICSS 2 Services must not promote using web addresses **URLs** which mislead the consumer into believing the ICSS website is associated with the organisation they are seeking; **this means the full URL as displayed to the user in the browser address bar. This includes (but is not limited to) the domain name, any subdomain and the internet protocol path.**

ICSS 3 All Promotional material must clearly and prominently state (where it is factually the case) that the information (including the contact number) advice, or assistance provided by the PRS is available directly from the relevant public or commercial organisation at no or a lower cost. ~~The presentation of this information should be in a manner which is clear, prominent and proximate to the premium rate number advertised, and should include a link to the homepage of the website containing the actual number the consumer is looking for where such a website exists.~~

This statement should:

- (i)** be set out above the premium rate number and, or clickable call button;
- (ii)** include a link to the homepage of the official website of the organisation that contains the contact number the consumer is looking for where such a website exists.

For the avoidance of doubt this condition applies to all PRS that meet the definition of ICSS regardless of whether the service offers any other additional service or function.

ICSS 4 All promotional material must be distinct in appearance from that of the organisation being sought by the consumer. Promotions must not use descriptions, colour, typeface or logos **or marks** which imitate, or may be perceived to imitate the organisation the consumer is seeking, **nor should any official logos or marks of those organisations** be used. Promotions must not imply that the information being provided to the consumer is unique to an ICSS when the same information is available from the relevant organisation.

ICSS 5 Promotional webpages containing the call to action must display the accurate description of the true nature of the service, cost of the call per minute and/or per call, and provider name prominently in the top left corner of the page, e.g. "call connection service, calls cost £X.XXp per minute or £X.XXp plus your phone companies access charge, operated by XXX Ltd".

ICSS 6 Where an ICSS provides an IVR containing the number of the service the consumer is actually looking for, then promotional material must clearly instruct consumers to have a pen and paper ready, or some other means of recording the number, before they call.

ICSS 7 Where the consumer has been provided with the number they are seeking and has the option of being connected to it directly, they must be clearly informed of the cost of doing so and be given the opportunity to refuse **before incurring any charge for that direct connection.**

ICSS 8 Where consumers are requested to supply secure personal and/or confidential details, **in addition to any GDPR and DPA 2018 requirements** they must be clearly informed that their details are being provided to a third party, and not the organisation they wished to contact. In addition, where such ~~secure~~ data will be used to log into a consumer's online account in order to undertake any action on their behalf, then consumers must be clearly informed of this and that they could perform these actions themselves at no cost. ~~They should also be advised that information about how this data will be stored, retained, or further used is available on the ICSS providers' website. Providers should ensure that such information is fully and clearly provided on the website relevant to the number the consumer has called.~~ **Providers should ensure that any information about how their data will be stored and processed is also clearly provided on the website that promotes the ICSS number to the consumer.**

Imposed under Annex 2, Paragraphs 1.1(k) and (n):

(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);

(n) requirements for caller agreement before a high-risk service proceeds before the caller is charged

ICSS 9 Providers of ICSS who intend to collect confidential data/information (e.g. login passwords, PIN numbers etc) **should in addition to any GDPR and DPA 2018 obligations also clearly inform consumers as to the precise use of such information**, and make clear that by providing such information the consumer may be breaching the terms and conditions of the organisation they have a protected account with, and that the ICSS provider may then have unrestricted access to the consumer's account including, where applicable, payment details. Consumer consent should then be obtained before any confidential information is used. Providers should thereafter not use the information for any other purpose or on any other occasion without further consumer consent being given. As soon as the purpose for collecting the confidential information has been achieved the information should be destroyed immediately and permanently.

Imposed under Annex 2, Paragraphs 1.1(k) and (m):

(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);

(m) the provision of defined information to the Phone-paid Services Authority and the intervals at which it is to be given and the manner to which it is provided.

ICSS 10 Providers of ICSS who intend to collect personal and/or confidential data and/or information should **in line with the GDPR and DPA 2018** only collect information which is necessary to facilitate provision of the service, and should provide evidence that any data or information they have collected is necessary for service provision upon request by the Phone-paid Services Authority.

Imposed under Annex 2, Paragraph 1.1(n): requirements for caller agreement before a high-risk service proceeds before the caller is charged

ICSS 11 Consumers must receive an alert at the start of the call before onward connection stating the following (in any order):

- (i) ~~The price per minute~~ the cost of the service per minute and/or per call including the statement “plus you phone companies access charge”;
- (ii) that the ICSS provider is not [insert the end organisation’s name] or that the ICSS provider is [insert ICSS provider name]; and
- (iii) the name of the end-organisation consumers will be connected to or given the option of connecting to.

Caller agreement may be given by pressing a specified key or otherwise responding to the alert, or by remaining on the line to access the service

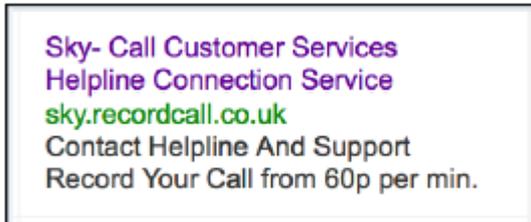
Imposed under Annex 2, Paragraphs 1.1(x) and (m): (x) providers of higher risk services to notify the Phone-paid Services Authority at commencement of such services and provide any related information required by the Phone-paid Services Authority within a specified time period; (m) the provision of defined information to the Phone-paid Services Authority and the intervals at which it is to be given and the manner to which it is provided

ICSS 12 ICSS providers must register their services within 48 hours of making the service accessible to the public, and in doing so make clear such services are ICSS when declaring that the service(s) are subject to Special conditions. This should include all numbers, all web domains associated with the service and who the service is connecting to.

Annex C

The Examples shown in sections 1 and 2 of this annex have been taken from Tribunal adjudications publish on the PSA website [here](#).

1. Examples of non-compliant search engine advertising and search engine results



[Case reference 105243: Adjudicated party De Veritate Sumus Ltd](#)

Call Us to Connect to Customer - Services. ⓘ
Record Your Call.
Ad dvla.recordcall.co.uk/

[Case reference 105243: Adjudicated party De Veritate Sumus Ltd](#)

HMRC Contact Number - Record Your Call ⓘ
- recordthecall.net
Ad www.recordthecall.net/call-hmrc

Call the HMRC helpline to speak to HMRC about
income tax and record your call.
Tax Credits · National Insurance · VAT

HMRC Contact Number - Record Your Call - recordthecall.net

Ad www.recordthecall.net/call-hmrc ▼

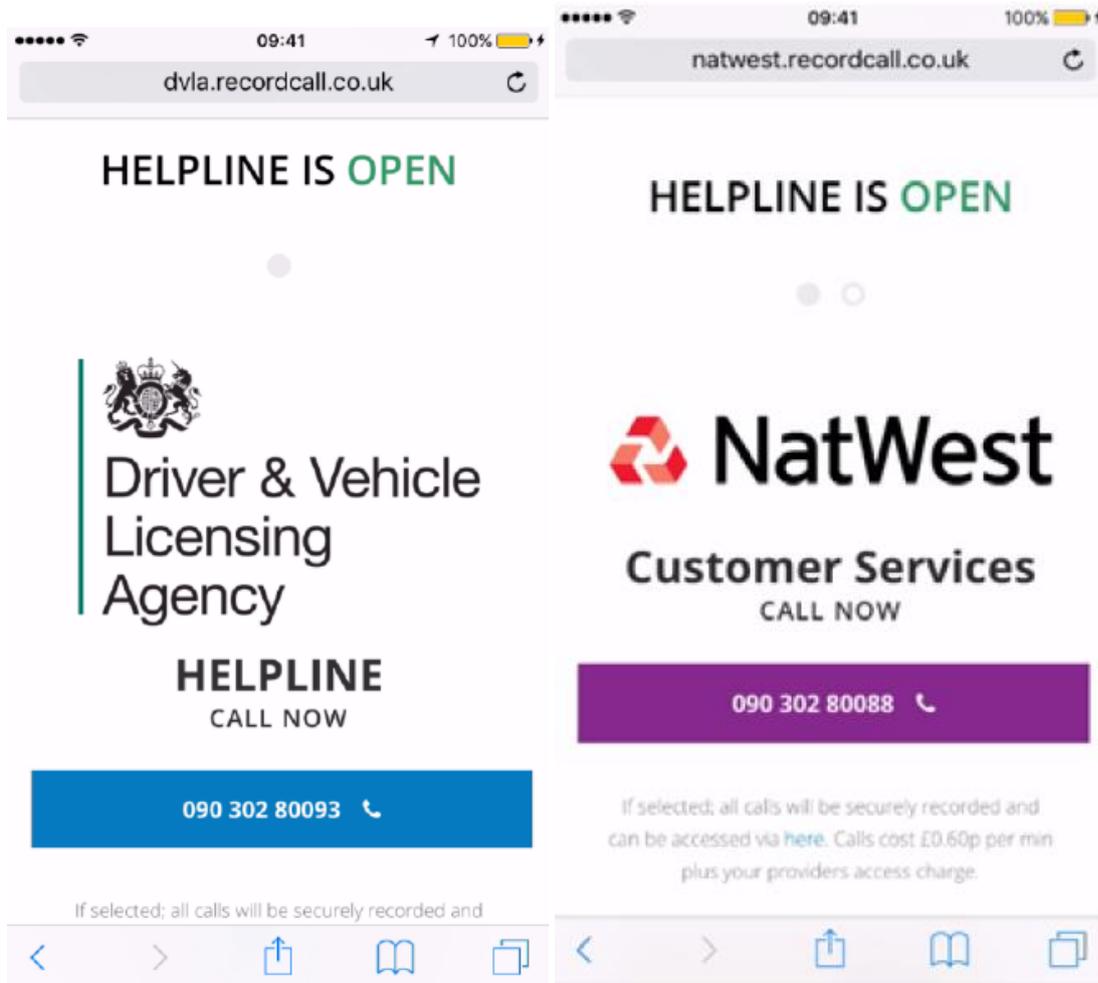
Call the HMRC helpline to speak to HMRC about income tax and record your call.
VAT · Self Assessment · Tax Credits · National Insurance

[Case reference 116798: Adjudicated party DK Call Limited \(UK\)](#)

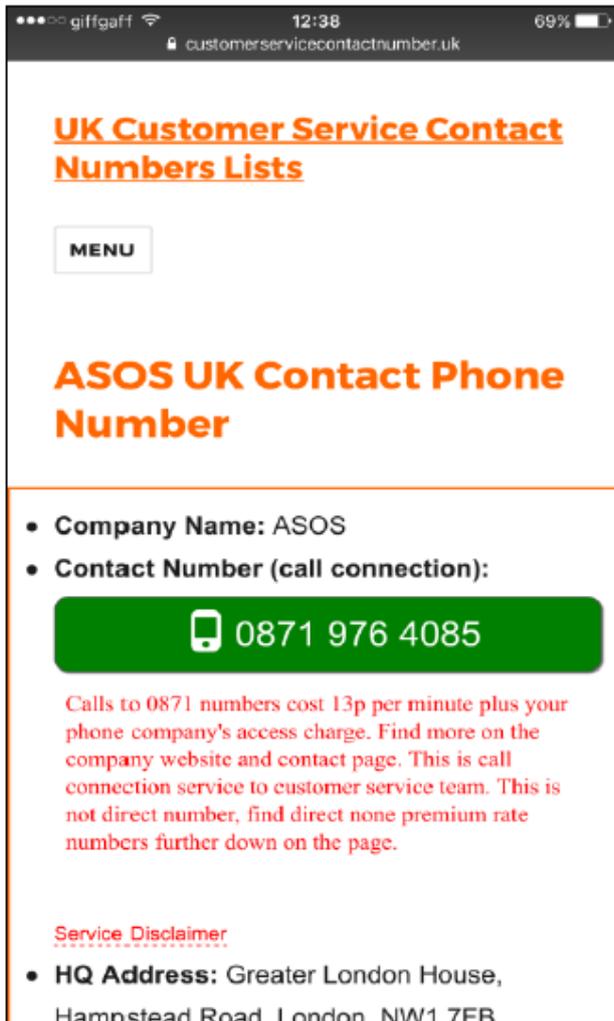
British Airways: Customer Service Contact Phone Number: 0871 976 ...
<https://customerservicecontactnumber.uk/britishairways/> ▼
21 Jul 2016 - British Airways Customer Service and Support Number 0344 493 0787

[Case reference 130464: Adjudicated party Tobaji Limited](#)

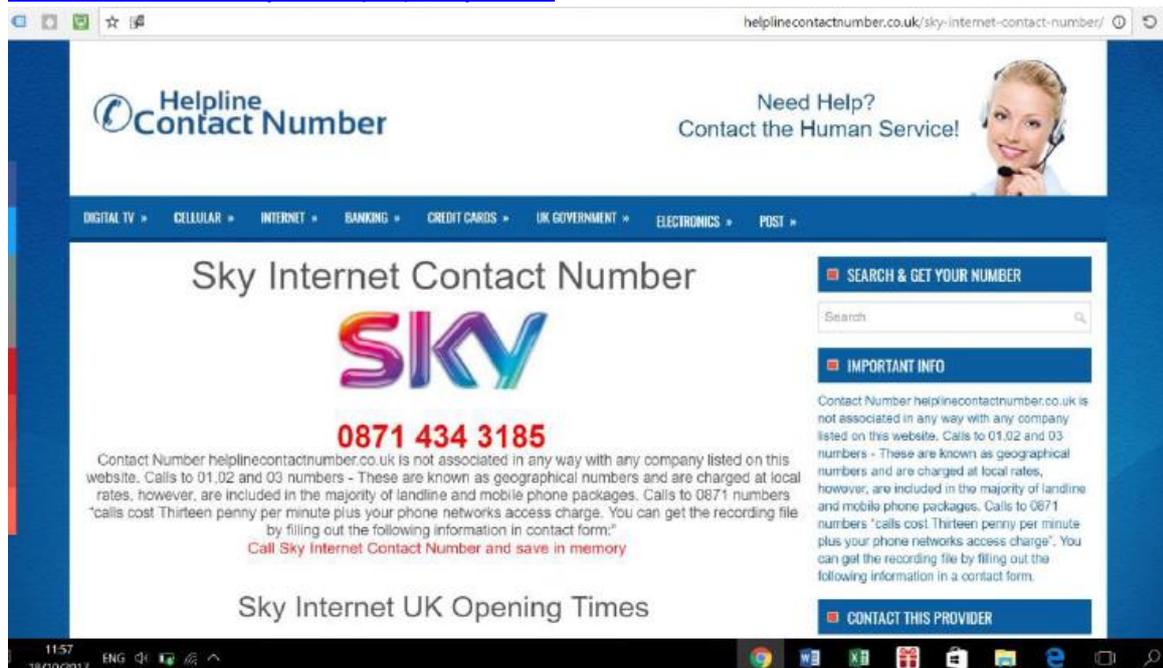
2. Examples of non-compliant webpages



[Case reference 105243: Adjudicated party De Veritate Sumus Ltd](#)



Case reference 130464: Adjudicated party Tobaji Limited



Case reference 137924: Adjudicated party Halak Online Ltd

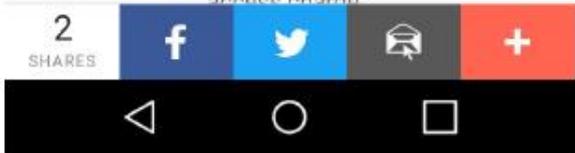
Microsoft XBOX Contact Number



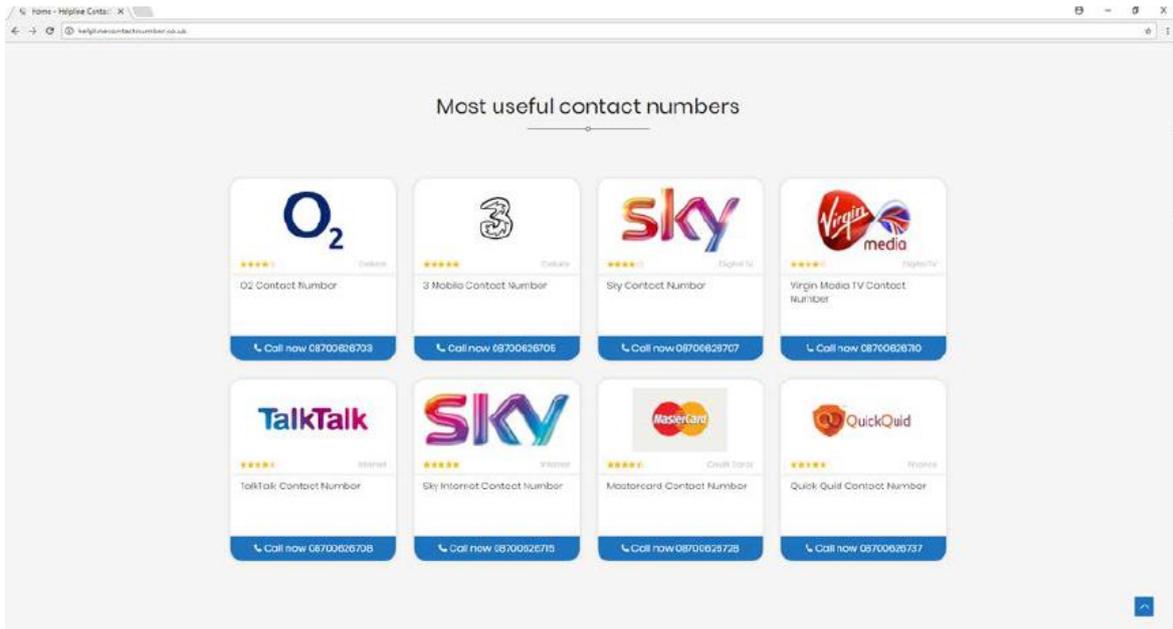
Click Here To Dial

Call Microsoft XBOX Contact Number and save in memory

Contact Number helplinecontactnumber.co.uk is not associated in any way with any company listed on this website. Calls to 0870 numbers "calls cost ten penny per minute plus your phone networks access charge"

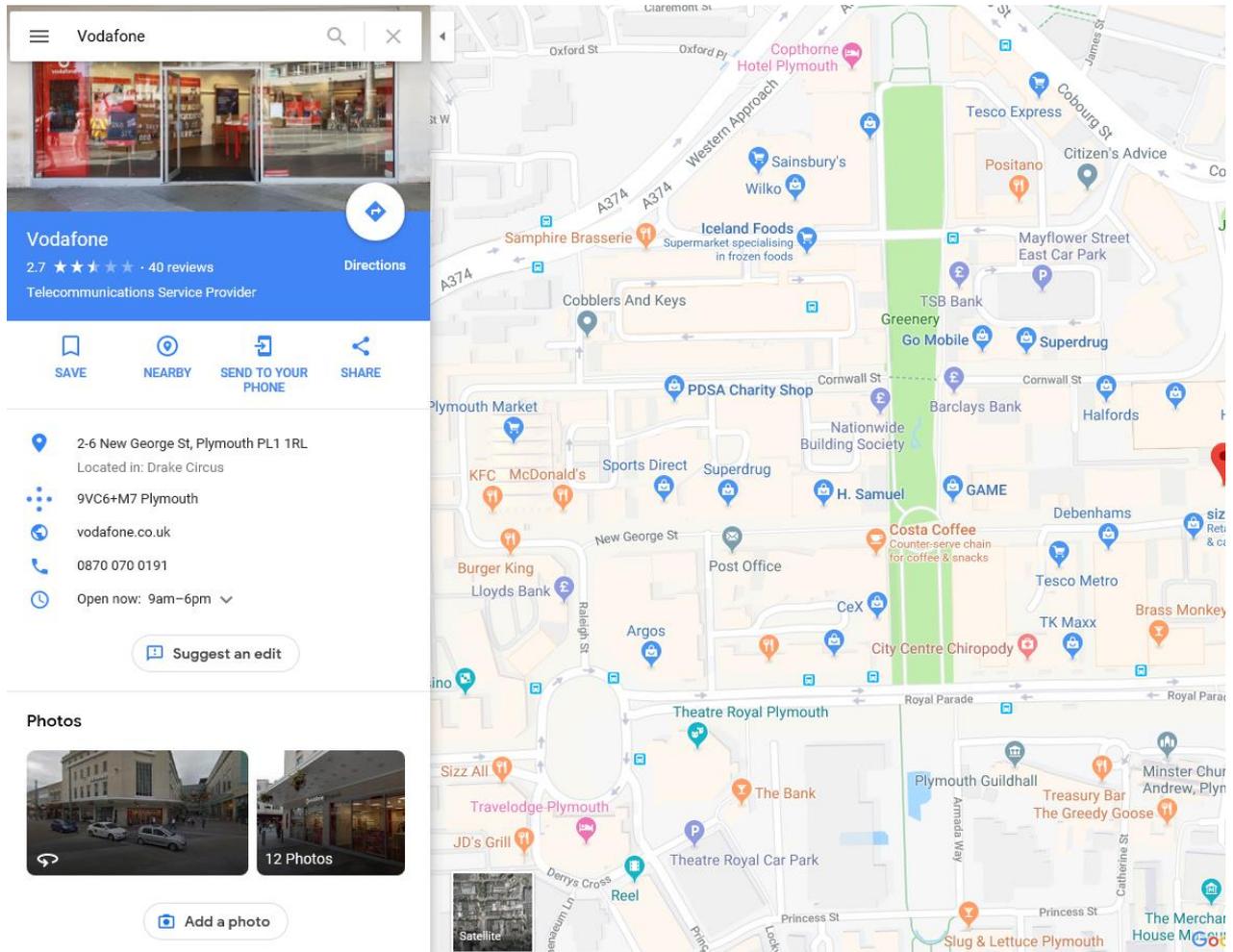


[Case reference 137924; Adjudicated party Halak Online Ltd](#)



[Case reference 137924; Adjudicated party Halak Online Ltd](#)

3. Examples of map-based results




DWP




[Back to results](#)



DWP
Directions

2.1 ★★★★★ · 11 reviews
 Government office

 SAVE
 NEARBY
 SEND TO YOUR PHONE
 SHARE

-  96 Milton St, Block 2-4, Glasgow G4 0DX
-  VP9W+7X Glasgow
-  gov.uk
-  0843 515 8313
-  Closing soon: 8am–6pm ▾
-  Claim this business

 Suggest an edit

Photos



 Add a photo

