

**Statement on changes to regulatory  
framework for Information,  
Connection & Signposting Services  
and further consultation on special  
condition ICSS 11**

9 October 2019

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## Executive summary

### About the Phone-paid Services Authority

1. 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.
2. 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.

### Background

3. Information, Connection and Signposting Services (ICSS) are services that offer call connection to various organisations, or provide information, advice and/or assistance relating to such organisations. ICSS are defined as follows:

“Premium rate services<sup>1</sup>, excluding full national directory enquiry services, 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.”
4. 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.

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<sup>1</sup> In order to qualify as an ICSS, the service must first meet the statutory definition of a Premium Rate Service contained in s.120(7) of the Communications Act 2003

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.

5. ICSS have been prevalent in the phone-paid services market since 2011/2012, particularly those which offer call connection. Special Conditions for ICSS were introduced in 2015 under the 13<sup>th</sup> edition of the Code of Practice<sup>2</sup>, these applied to ICSS which operated on number ranges within the PSA’s remit at that time including those operating on lower cost 087 premium rate number ranges. Special Conditions<sup>3</sup> apply where the PSA is satisfied there is or is likely to be a risk of:
  - (a) a significant level of consumer harm; or
  - (b) unreasonable offence to the general public, arising from a particular category of Premium rate service (“a high-risk service”).
6. In early 2019 the PSA began a review of the current set of Special conditions for ICSS. Various developments lead to the initiation of the review. These included:
  - continued evidence of consumer harm obtained through complaints from consumers, complaints from public and commercial organisations in which ICSS connect to, including Government departments
  - low levels of consumer satisfaction demonstrated in the 2017 – 2018 Annual Market Review (AMR)
  - PSA monitoring of ICSS services discovered via Google and Bing search engines. Monitoring conducted searches using keyword variations such as ‘contact number’, ‘customer service number’ and ‘support helpline’ alongside 449 public or commercial organisation names. The monitoring identified potential pricing prominence issues on ICSS websites and map-based search results.
  - Enforcement work where providers involved were fined a total of £2,395,000 collectively, with the highest fine issued by a Tribunal in one adjudication being £850,000, with each case was considered to be ‘very serious’ by the Tribunal. Since 2015 there have been more Tribunal adjudications against ICSS than any other fixed line phone-paid service type. Enforcement work against ICSS is ongoing, ICSS remains the fixed line service type which generates most complaints to PSA.
  - Research into consumer behaviour and ICSS which explored how consumers respond to ICSS promotions. This research was conducted by the University of

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<sup>2</sup> Between 2013 and 2015 ICSS were subject to Prior Permission. Prior permission is where a certain category of service must not be provided without prior written permission.

<sup>3</sup> Special Conditions can be found at section 3.11 and Annex two of the Code of Practice

Nottingham in summer 2017, and used eye-tracking and online survey methods to consider, first, how consumers respond to search results containing ICSS and, second, how consumers respond to ICSS websites.

- Modification of the Premium Rate Services Condition (PRS Condition)<sup>4</sup>. Ofcom announced on 19 December 2018 that it had modified the PRS Condition to capture all ICSS irrespective of the number range or price point the services are operating on. The modification came into force on 16 January 2019.
7. During the Review of the premium rate services Condition<sup>5</sup>, Ofcom found that there was extensive actual and potential harm arising from ICSS operating on 084 number ranges. In particular, there was harm to vulnerable consumers in the form of financial and emotional detriment, along with reputational and operational harm to businesses, Government departments and the PRS sector. Ofcom considered this harm to be common across all ICSS.
  8. In April this year the PSA published a consultation on proposals for updated Special conditions and applying them to all ICSS. Specifically, the proposals intended to improve clarity of information given to consumers about the services in search engine results and on service websites to make clear the true nature of the services, and that calls made via an ICSS may be more expensive than calling the organisation being sought directly. In addition, the PSA consulted, in line with the risks identified in Ofcom's review, as to whether the new conditions should apply to all ICSS regardless of the number range they operate on, including 084 that had been brought into the definition of ICSS as a result of Ofcom's Review. The consultation closed in June 2019 and the PSA has now completed the review.

## **What we have decided – applying updated Special conditions to all ICSS**

9. Following completion of the review the PSA has decided to update and strengthen Special conditions in order to protect consumers from the harm that may arise from the nature of the service type. We have also decided that the updated Special conditions should apply to all ICSS regardless of the number range they operate on, including ICSS operating on 084 number ranges.
10. We have made changes to some of the proposals following the feedback we received. Specifically, we have removed the requirement for a provider name within the search engine advertising from Special condition ICSS1. We have also amended the wording of ICSS2 regarding service URLs by removing reference to the full URL as displayed in the address bar and internet protocol path. Regarding the proposal for new Special condition ICSS5 we have retained the condition in part and removed the requirement for key information to be situated in the top left corner of the webpage. We have

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<sup>4</sup> [Review of the Premium Rate Services Condition](#); Statement on extending the definition of Controlled Premium Rate Services to include all ICSS.

<sup>5</sup> [Review of the Premium Rate Services Condition](#); Consultation on extending the definition of Controlled premium rate services to include all ICSS.

decided to retain existing Special condition ICSS7 with the inclusion of the statement “plus your phone company’s access charge”.

11. Regarding the proposal for Special condition ICSS11 we have decided to re-consult on a variation to the original proposal based on detailed feedback and a recommendation of an alternative option from one respondent. The re-consultation can be found at Annex B and further details about the proposal and our assessment are provided later in this statement. Whilst we re-consult on proposals for ICSS11, the existing ICSS11 will remain in force with the words ‘*and the statement “plus your phone company’s access charge”*’ added to ICSS 11(i).
12. Details of the responses we received, our assessment of the responses and our decisions are provided in full in the next section. The revised Notice of Special Conditions will come into force on 20 December 2019 giving ICSS providers 2 months to implement any changes which are necessary.

## Responses to the consultation

13. The PSA received 18 responses to the consultation. These included responses from ICSS providers and other commercial organisations including telephone Network operators, public organisations including various Government departments, consumer interest groups and individuals. 3 of the 18 respondents asked that their responses remain anonymous and not be published, however the PSA has considered the input received in those responses.

### General feedback and PSA consideration

14. Responses were varied in opinion. Some respondents questioned the value and validity of ICSS and even suggested that ICSS should be banned. This was consistent with the PSA Consumer Panel’s questioning of the value of ICSS to consumers<sup>6</sup>.
15. One respondent argued that the PSA is failing to consider that ICSS provide a valuable service to consumers where the organisations they are seeking to contact conceal their contact numbers or where those numbers are simply hard to find. They provided HMRC as an example of a public organisation who conceals its contact number, although the PSA noted that the respondent did not provide evidence to support the assertion. In checks that we conducted subsequently we found that various departments of HMRC could be discovered easily on the Gov.uk website in no more than two clicks after entering a search term such as ‘HMRC contact number’ on Google. In fact, many of the Government department contact numbers to which ICSS connect could be easily located within 2 to 3 clicks such as the DVLA and DWP services. In any event, regardless of whether contact numbers are easy or difficult to locate it remains the responsibility of providers to ensure their ICSS comply with the Code and Special conditions.

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<sup>6</sup> The PSA Consumer Panel provides valuable insight, views and input into PSA’s development of policy proposals from a consumer perspective but does not provide formal responses to PSA consultations.

16. They went on to say that consumers who are vulnerable or less technically literate are disadvantaged by organisations concealing their contact numbers and therefore ICSS can assist these consumers. The PSA believes that the contact numbers consumers are seeking can often be found relatively easily on the websites of the organisations they are seeking. However, where this is not the case it is important that all consumers are fully informed if they are using an ICSS and this is particularly important for consumers who may be vulnerable for any reason, including circumstances they are in. For example, we are aware that some ICSS connect to Government departments which handle various types of income support. Consumers who need to contact these departments may be vulnerable due to their financial circumstances and these consumers should be protected from harm associated with bill shock.
17. Others argued that there is no need to update the current regulatory framework for ICSS as it is working well, instead more robust enforcement is required to tackle non-compliance. In response to this the PSA can confirm that the primary drivers for updating the Special conditions relate to changes to our regulatory remit, advances in marketing techniques (use of map-based search functions for example), the general lack of consumer awareness and understanding of ICSS, and a need to raise the standards in order to meet consumer expectations and enable more effective enforcement against those ICSS that are non-compliant.
18. The PSA has considered all consultation responses carefully and some changes have been made to the original proposals based on the feedback we received. The next section details the responses to each consultation question and our consideration and decision.

### Question 1

19. Question one of the consultation concerned Special condition ICSS1 which addresses search engine advertising and search results including map-based search results. Evidence from complaints, monitoring and enforcement work identified that Special condition ICSS1 could go further to protect consumers from misleading search engine advertising and search results, including those that are map-based. The current wording of ICSS1 is restrictive as it focuses on search engine marketing (SEM), which is primarily paid advertising, and specific marketing techniques metatags and meta-descriptions. The wording of proposed Special Condition ICSS1 was amended so it is outcome based - which is consistent with the Code of Practice. The PSA also proposed extending this condition to include all forms of search engine advertising including map-based results and organic search results as follows:

**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.

Question one asked:

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

### Responses to question 1

20. The PSA received varied input in response to this question. Four respondents fully agreed with the proposals, others supported the approach but believe it could go further, whilst several others did not agree.
21. Those who believe the PSA should go further include consumer interest groups, individuals, Government departments and an ICSS provider. One respondent stated that providers should be required to state ‘premium rate service’ within their search engine advertising as this will be more likely to alert users who may not understand the costs involved in engaging with an ICSS.
22. Another respondent stated they agreed with the approach but would prefer the condition to require key information such as the true nature of the service to be presented in a bold font and preferably red font to act as an initial warning in order to deter those who may believe that the ICSS is actually the organisation they are seeking and avoid misunderstanding at the first point of contact.
23. A further respondent also stated they support the approach but the PSA could go further and explicitly prevent premium rate numbers from returning in search results including maps and extend the condition to apply to other mediums such as social media and print.
24. One respondent agreed in part to the proposal suggesting that it may be sensible to include the appearance of organic search results within ICSS1 and that any amendment to the Special condition should be confined only to the inclusion of organic search results and map-based results providing this is supported by robust enforcement action where services are found to be in breach.
25. Respondents who did not agree with the proposal for ICSS1 consisted of ICSS providers and an industry trade body.
26. Of the respondents who raised objections, four objected to the proposal for ICSS1 on the grounds of fairness, the point (in their view) at which consumer harm occurs, cost to the provider and technical difficulties.

27. Two of the respondents stated that by restricting search engine marketing, consumers will be kept away from the product before they are advised what the product is, and that in effect ICSS providers are being asked to dissuade potential customers from using the service even though they may need to use an ICSS. One respondent stated specifically that the proposal will deter consumers many of whom will be vulnerable or less tech savvy. Both respondents believed the proposal to be overbearing and went on to suggest that consumers decide whether to interact with the service or not based on the information provided on the ICSS website landing page rather than the search engine advertising. Therefore, the landing page is where wording should be regulated to best enable informed decisions.
28. A further two respondents who objected to the proposal stated that consumer harm doesn't occur at the point of clicking a search engine advertisement, whereas the provider of the service has by then incurred advertising costs. One respondent suggested that it is not necessary to repeat information that is available with an ICSS website and the alert upon connection to the service in the search engine advertising.
29. Several respondents remarked that current search engine constraints make it technically impossible to comply with the proposal due to character limitations within 'headlines' of paid for ads. One respondent also argued that there is no justification for stating the provider name within search engine advertising and the existing requirement of "call connection service" goes far enough to inform consumers and not be affected by the character limitations. This respondent also stated that using more than one brand name in search engine advertising and results may impact compliance with search engine advertising policies.
30. Another respondent suggested that where search engine advertising is paid for the advert will clearly show 'Ad' within the box which should help consumers to distinguish whether the service being promoted is an ICSS or not.
31. Regarding the inclusion of map-based results, one of these respondents also stated that map-based results are a "quirk" of certain search engines and should be monitored or regulated by the search engine provider rather than the PSA.
32. Some respondents suggested that alternative phrases should be allowed such as "customer contact using a call connection service" and "third party" should be allowed instead of the provider name. These respondents stated that the whole sentence should be taken into consideration when determining whether an advert is potentially misleading or not. Respondents suggested that guidance and clarification on use of language and marketing techniques is required as it is difficult to use words and phrases that are significantly different to that of the organisation to which the ICSS connects.
33. A final respondent who did not agree stated that mandating service descriptions will not protect vulnerable consumers from opportunistic behaviour of some ICSS providers and that complying with the condition will not assist vulnerable consumers in identifying the cost.

## PSA assessment of responses to question 1

34. In order for the accurate description of the true nature of the service to be prominent on the screen as the condition requires, we would expect it to be present within the headline<sup>7</sup> of the search engine marketing, or title of the search result, which typically appears more boldly than the rest of the text on the screen. The PSA understands it is not technically possible in any case we consider it would be disproportionate to require the information to be presented in bold red font as one respondent suggested.
35. To date the PSA has no evidence of any consumer harm occurring from ICSS being promoted via social media platforms or in print therefore we could not justify extending ICSS1 to include these forms of promotion. Whilst we do have some evidence of 087 and 084 numbers returning in organic search results and on map-based search results, we believe the requirement to provide the accurate description of the true nature of the service prominently within the result along with preventing the use of language or marketing techniques which may mislead consumers, will sufficiently mitigate this risk. Furthermore, where a premium rate number does appear the Code of Practice<sup>8</sup> requires pricing information to be presented prominently and proximately to the number. The PSA remains confident that ICSS1 covers what is necessary for consumers to understand this initial step.
36. The PSA does not consider providing an accurate description of the true nature of the service within search engine advertising to be an overbearing requirement. We believe it is both proper and fair to consumers for services to be advertised accurately and this is also required by the Code. Therefore, we do not believe that consumers who do wish to interact with an ICSS will be deterred from using the service because the service has been accurately presented to them in the first instance.
37. Because ICSS do carry a greater risk of financial detriment to consumers and a greater risk of misleading consumers due to very nature of the services, we believe it is especially important that consumers are accurately informed about the service at each stage of the consumer journey. This approach is consistent with the spirit of the Special conditions for other categories of phone-paid service.
38. Search engine advertising should be advising consumers what the service is with an accurate description of the true nature before the consumer reaches the website. In some instances the consumer may not reach the landing page but may still be able to make the ICSS call because the call to action is present within the search engine advert or result, in which case it is vital that key service information including the cost is present wherever the call to action is featured. The PSA disagrees with the assertion that only the wording of ICSS website landing pages should be regulated.

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<sup>7</sup> <https://support.google.com/google-ads/answer/1704389?hl=en>

<sup>8</sup> [https://psaauthority.org.uk/for-business/-/media/Files/PSA/For-Businesses/Your-phone-paid-service/Code-of-Practice/PSA\\_Code\\_of\\_Practice\\_14th\\_Digital.ashx?la=en&hash=49BE1A6A76303EEBCF254A692015059D4D4171A3](https://psaauthority.org.uk/for-business/-/media/Files/PSA/For-Businesses/Your-phone-paid-service/Code-of-Practice/PSA_Code_of_Practice_14th_Digital.ashx?la=en&hash=49BE1A6A76303EEBCF254A692015059D4D4171A3) rule 2.2.7

39. The PSA believes from experience and research that decisions are made throughout the consumer journey, and not just at one single point. An accurate description of the service will enable consumers to decide whether or not they want to visit the website, and the information on the website landing page will enable consumers to decide whether to interact with service or not. Misleading or confusing consumers into visiting a webpage is not a good experience in itself. If consumers are confused as to why they are on a website or that webpage is itself misleading (for example, the premium rate number or call to action, such as a clickable call button, is more prominent than, or masks, the information that is key to informed decision making) it is likely to result in consumer harm.
40. There is no evidence provided to suggest that complying with the proposal for ICSS1 is technically impossible. The PSA recognises that there are character restrictions in place for paid for search engine advertising and titles of organic search result titles. This in turn will mean that it may not be possible to comply in full with the example provided in the proposal, or at least make all the information in the example prominent. As such we have determined that it is not necessary at this stage of the promotion to include the service provider name as part of providing a true and accurate description of the service.
41. The PSA also recognises that providers cannot guarantee which information/wording will be pulled from their website and displayed within an organic search result to match the consumers specific search criteria. However, we believe that the provider does have control over whether an organic search result contains misleading language as they have full control over their website and the language and information presented within it. Therefore, if an ICSS website is compliant we believe it is unlikely that organic search results will mislead consumers.
42. The PSA does not consider 'Ad' featuring within search engine advertising to be sufficient enough detail for a consumer to be able to easily determine whether a promotion is an ICSS or not. This is because many organisations, both public and commercial, use paid for search engine marketing in which the term 'Ad' will be present. This will fail to differentiate the ICSS result from a wide range of advertising which is not related to an ICSS or any other service which may incur a premium rate charge.
43. With regards to map-based ICSS promotions, the PSA has evidence discovered through monitoring and complaints from Government departments of search engine map facilities being used by providers who have inserted their ICSS PRNs, and in some instances manipulated map facilities to provide false addresses for organisations to which their services connect.
44. We believe this demonstrates that some ICSS providers are purposefully using map facilities to promote ICSS and have full control over this method of promotion. Therefore, we do not agree with the assertion that map-based ICSS promotions are a 'quirk' of certain search engines for which the provider has no responsibility. Some ICSS providers are choosing to manipulate search engine map facilities without providing pricing information, an accurate description of the true nature of the service or any

other key information required to make an informed decision. The PSA considers these practices to be inherently misleading.

45. We do recognise that it may not be possible to provide all the required information within a map-based promotion due to character limitations and other factors. However, if this is the case then providers should consider whether using this method of promotion will be suitable to avoid misleading consumers.

## Decision

46. The fundamental intention of the proposal for Special condition ICSS1 remains the same as current Special condition ICSS1, this being that search engine advertising should not mislead consumers into believing that the service being promoted is that of the organisation the consumer is seeking. The proposal for the condition included organic search results and map-based search results as the PSA considers these to also be a form of service promotion. The PSA has considered the issues raised regarding limited character spacing in paid for advertisements, the view that the provider name is not necessary at this stage, and the fact that only one brand name is allowed within paid for ads. Therefore, the PSA has decided to revise ICSS1 as follows:

**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.

## Question 2

47. Question 2 requested views on the proposal for Special condition ICSS2, which addresses URL's for ICSS websites - requiring that they do not mislead consumers into believing that the ICSS website is associated with the organisation the consumer is seeking. The PSA has evidence from monitoring and complaints that some ICSS continue to promote using URLs containing words, characters and phrases which may have potential to mislead consumers.

The PSA proposed the following updated wording for ICSS2:

**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.

Question 2 asked:

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

## Responses to question 2

48. Six respondents which included consumer interest groups, telephone network operators and Government departments, fully agreed with the proposal. One respondent who agreed with the proposal commented that they have seen many terms or names associated to them used within the domain section of ICSS URLs such as “incomesupportnumber”, “socialfundcontactnumber” and “contactuniversalcredit”, they expressed concern that this practice may contribute to consumers being misled.
49. The majority of respondents, which included ICSS providers, agreed that the domain and sub-domain section of a URL should not contain any misleading language that may be perceived to mimic that of the organisation they connect to. Or indeed the name of the organisation to which the ICSS connects or any terms that are directly associated with that organisation. However, some of the respondents understood the inclusion of “internet protocol or path” to mean that the name of the organisation that the ICSS connects to should not appear in this section of the URL.
50. Some of these respondents argued that it is not misleading for the end organisation name to feature in the path of the URL and that the characters in the path are necessary for identifying individual pages. The natural way to do this is by using the name of the end organisation. A few respondents also added that having the target organisation name in the path of the URL is a useful signposting tool for consumers, and the fact it only features in the path and not the domain name itself should be a strong indicator that the website is not that of the organisation to which the ICSS connects. They also went on to suggest that any consumer who explicitly considers the full URL will understand its component parts.
51. Some respondents stated that guidance on what constitutes a potentially misleading URL is required and the PSA should provide examples of good and bad practice.
52. Several respondents highlighted that the University of Nottingham research found that most consumers did not look at the URL and failed to utilise information like the phone number or the URL to identify a website as an ICSS<sup>9</sup>.
53. One respondent stated that the existing Special condition is better tailored to capture harm. They stated that much of the harm associated with misleading URLs is associated

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<sup>9</sup> <https://psauthority.org.uk/-/media/Files/PSA/For-Businesses/Resources/Consumer-behaviour-and-ICSS-Exploring-how-consumers-respond-to-ICSS.pdf?la=en&hash=7C9D3193459194D714E2323E1A592C67BCD56AC9> page 12

with “false” URLs which appear in search engine results and paid for search engine advertising. These are different from the actual URL of the landing page the consumer would be directed to after clicking on an advert or search result.

54. They went on to explain that the URL which appears in the search engine advertising or result could effectively be masking the ‘real’ URL for the ICSS site. This ‘false’ URL may appear very similar to that of the organisation being sought and a consumer may click on it thinking it is associated with the organisation they are looking for. Once the consumer has arrived at the website landing page, the URL could be completely different and comply with PSA requirements. The respondent suggested that the amended wording proposed for ICSS2 will not capture this practice as it specifically states, “full URL as displayed in the browser address bar”.

### PSA assessment of responses to question 2 and decision

55. The intention of ICSS2 is to prevent consumer harm occurring from URLs which may mislead the consumer into believing the ICSS website is associated with that of the organisation they are seeking. We believe that URLs which contain the name of the target organisation, or any terms or phrases associated with that organisation, within the domain or subdomain have the potential to mislead consumers.

56. We recognise that having the name of the target organisation without any misleading statements in the URL path<sup>10</sup> is less likely to cause consumer harm. We also recognise that the target organisation name is often featured in the URL path for indexing purposes and may be necessary for identifying individual webpages.

57. We understand that by specifically stating that the condition applies to the full URL as displayed in the browser address bar this could lead to harm being generated from the appearance of URLs within search engine advertising and search results.

58. The PSA has considered all of these responses in full along with the Nottingham University research findings regarding consumer behaviour towards URLs when interacting with ICSS and has decided to proceed with the proposal for ICSS2 in part as amended as follows:

**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 **and** any subdomain. ~~and the internet protocol path~~

59. We agree that providers may benefit from guidance which demonstrates examples of good and bad practice relating to URLs for ICSS; we intend to produce and consult on an ICSS guidance note in the future. In the meantime, we would like to refer providers to Annex C of the ICSS consultation document for published examples of non-compliant

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<sup>10</sup> <https://community.tealiumiq.com/t5/iQ-Tag-Management/URL-Components-Explained/ta-p/5573>

ICSS<sup>11</sup> and remind providers that the PSA can provide free compliance advice if providers feel it is necessary.

### Question 3

60. This question requested views on the proposal for Special condition ICSS3 which requires promotional material to state that the information, advice or assistance provide by the ICSS is available at no or lower cost directly from the relevant organisation and provide a link to the homepage of that organisation where the direct contact number can be found. The PSA has evidence from complaints and monitoring that this information is often not prominent and clearly presented in ICSS promotional material. This is a particular issue with mobile websites where the information required by ICSS3 is often found below the fold or obscured by 'click to call' buttons.

The PSA proposed the following updated wording for ICSS3:

**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.

Question 3 asked:

**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.

### Responses to question 3

61. The PSA received a range of responses to this question. Three respondents, a Network operator, an ICSS provider and a Government department, fully agreed with the proposal. One of these respondents remarked that often the information required by

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<sup>11</sup> <https://psauthority.org.uk/-/media/Files/PSA/00NEW-website/Research-and-consultations/Consultations/2019/ICSS-consultation/ICSS-consultation-edited-on-03-05-2019.pdf?la=en&hash=8992A02F53A0296D6F2785F0DACFE2AF50BBC50B>

Special condition ICSS3 is deliberately placed lower on mobile websites, so consumers click on the call buttons before they have an opportunity to read the alternative information.

62. Several respondents, including network operators, individuals and Government departments suggested the PSA could go further and include additional requirements within the condition such as the cost of the service including details of the access charge, requiring the information to be presented in large font and bright colours, and prohibition on the use of clickable call buttons. One of the respondents stated that the inclusion of “where such a website exists” within the condition offers ICSS providers a ‘loophole’ and they may say that no such website exists, instead the PSA should require ICSS websites to prominently provide the actual number the consumer is looking for.
63. Two respondents suggested that the revised condition will not assist in preventing consumers from unintentionally calling an ICSS, as offending providers purposefully design their websites in way which catches consumers out. Some respondents agreed with the suggestion that revising ICSS3 is not necessary and will not assist in preventing harm, stating that the main issue is non-compliance and the simple solution is to ensure that current ICSS3 is adhered to through enforcement work rather than repositioning the information.
64. Many respondents stated that the PSA should not explicitly specify where certain information should be situated and that doing so would be disproportionate when compared with requirements for other types of phone-paid services. One respondent commented that it is the internet standard to have terms and conditions below the call to action. Respondents also stated that the positioning of information should be at the providers discretion giving them freedom to design their websites as this wish. Providing the required information is prominent and proximate the exact location should not be relevant, and it is the PSAs role is to ensure the information is displayed in a way that consumers can be reasonably expected to see it.
65. Two respondents suggested that placing the information above the call to action will make the page too ‘wordy’, particularly on a mobile handset, which may result in consumers ignoring the information completely and scrolling past to find the prominent calling buttons or premium rate number. One also went on to state that ICSS3 ignores the fact that organisations conceal their contact numbers on their websites which makes requiring a link to the relevant homepage counterintuitive for consumers.
66. A further respondent who also stated that current ICSS3 is sufficient and that it is inappropriate for the PSA to restrict design choices, commented that the requirement is burdensome on providers as they will have to constantly monitor the numbers which they connect to. This is in order to verify that the target organisations’ numbers are present on the relevant homepages and that these numbers definitely cost less to call than the ICSS (with access charges making it difficult to determine the exact consumer cost). The respondent felt it is more appropriate for the condition to state that the information, advice or assistance provided by the ICSS “may be available” directly at no or lower cost.

67. In relation to the inclusion of the statement “*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*”, two respondents disputed the inclusion of this statement and alleged that services which offer call recording do not fit into the definition of ICSS as such services are not specifically about call connection, they only connect to other organisations in order to provide the recording service.

### **PSA assessment of responses to question 3 and decision**

68. The PSA can confirm that the fundamental intention of Special condition ICSS3 has not changed: ICSS3 has always required providers to state clearly and prominently within their promotional material that the information (including the number), advice or assistance provided by the service is available direct from the relevant organisation at no or lower cost. The Special condition has always required the presentation of this information, including the link to the relevant homepage (where such a website exists) to be in a manner which is clear, prominent and proximate to the premium rate number being advertised.

69. We believe the amendment to ICSS3 provides clarity on what constitutes prominent and proximate positioning of this key information. We also believe it is a necessary update given that ICSS are now heavily promoted through mobile websites where there is less friction in the consumer journey due to click to call technology, and to ensure that ICSS which also offer call recording are fully captured.

70. The PSA does not agree with the assertion that call recording services which operate via call connection do not fit into the definition of ICSS. The definition is very clear that ICSS are premium rate services, that provide connection to specific organisations, businesses and/or services located or provided within the UK. Furthermore, evidence from monitoring, complaints and requests for compliance advice clearly demonstrates that connection services which offer call recording such are promoted as ICSS with call recording as an additional feature. This feature is sometimes not prominent within promotional material.

71. In relation to the requirement to provide a link to the relevant organisations homepage, we disagree that stating “where such a website exists” creates any ambiguity, if a provider was to claim that the organisation their ICSS connects to does not have a website containing a direct number, this could very easily be disproved by performing a search on the relevant organisation. It is however, appropriate to include this statement within the condition in case there is ever a situation where such a website truly does not exist, and as such the requirement does not disregard or ignore that some organisations conceal their contact numbers, as one respondent suggested.

72. Given that the information required by ICSS3 has not changed we do not believe that positioning the information prominently and proximately above the call to action will make promotions any more ‘wordy’ or unclear as some respondents have suggested. Nor do we consider that amended ICSS3 will place any additional burden upon providers. The PSA believes it should always be cheaper for consumers to contact the organisations they are seeking directly given that majority of ICSS will connect to 0800,

01, 02 or 03 numbers which are free to call or included within packaged minutes or charged at local rate without the additional service charge or access charge.

73. With regard to providers who may purposefully design their websites in a way that has potential to mislead consumers by obfuscating key information as some respondents have suggested, we believe the amended ICSS3 will enable the PSA to enforce more effectively against those providers.

### Decision

74. We do not believe it is disproportionate or restrictive to specify that the required information should be presented clearly, prominently and proximately above the premium rate number or clickable call button and therefore we have decided to proceed with Special condition ICSS3 as originally proposed without further amendment:

**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.”

### Question 4 and 5

75. The focus of questions four and five was proposed Special condition ICSS4. This amended condition combines existing Special conditions ICSS4 and ICSS5, given that both conditions addressed the same issue associated with the risk of ‘passing off’. As well as combining the two conditions the updated condition explicitly prohibits the use of official logos or marks that belong to organisations to which ICSS connect and logos or marks which imitate or may be perceived to imitate such organisations.

The proposal for Special condition ICSS4 was as follows:

**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.

Questions 4 and 5 asked:

- 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?

### Responses to questions 4 and 5

76. The majority of respondents agreed or did not comment on the proposal to combine existing conditions ICSS4 and ICSS5. Many respondents also agreed with the amendment to include reference to the use of logos and marks.
77. One respondent who agreed with the proposal stated that they would like to see the providers full address alongside the provider name and contact details clearly visible within the promotional material and that any legitimate business should be transparent with this information and easily contactable.
78. Another respondent who agreed with the proposal commented that the use of official logos within ICSS promotions falsely legitimises the services, this respondent is aware of instances where providers have used or imitated logos and colour schemes of Government departments.
79. One respondent stated that they fundamentally object to ICSS using their company logo and will continue to take legal action against those who do. This respondent felt that PSA regulations are failing to combat opportunistic behaviour and the proposal for ICSS4 will not reduce the risk of consumers being misled into using ICSS.
80. Some respondents who agreed in general with the proposal raised some concerns about how the PSA may interpret a providers use of colour, suggesting that providers should not be expected to avoid 'default' colour schemes and typeface just because they may be similar to other organisations. One respondent stated that an ICSS provider may use one colour palette across their website regardless of who they connect to. Which means it is inevitable there could be unintentional, vague similarities between the ICSS site and an organisation the service connects to. A further respondent also suggested it would be unfair to compel providers to expend resource changing their corporate colours without notice.
81. Another respondent stated that any perception of imitation should be reasonable. For example, listing an organisations name in a valid way in a standard typeface should not constitute a breach. Names themselves can constitute trademarks and attract intellectual property rights protection separately from particular graphical expressions.
82. The respondent suggested additional wording should be added to the condition which states that promotions should not use colour, typeface, logos or marks "*when considered as a whole*", imitate, or may be "*reasonably*" perceived to imitate the organisation the

consumer is seeking, along with a confirmatory statement “*any legitimate and straightforward use of an organisation name featured in the standard typeface used by the promotion solely for the purpose of specifying the organisation in question shall not constitute a breach of this Special condition*”. The respondent explained that the additional wording they proposed will enable ICSS4 to operate fairly and sensibly, whilst confirming that use of a mark through the act of listing an organisation name in ordinary text would not constitute a breach of the Special condition.

83. Three respondents suggested that the use of recognisable logos and marks are helpful tools as they can act as signposts to direct consumers to the ICSS they are looking for. One respondent commented that screenshots containing images or details relating to target organisations should be allowed as consumers will understand that such images are not associated to the ICSS provider. One respondent did, however, recognise that seemingly compliant ICSS do not use logos or marks that belong to or imitate the organisations they connect to. A further respondent stated that it is not the role of the PSA to prohibit the use of logos and marks as the trademarking process exists for this reason.

#### **PSA assessment of responses to questions 4 and 5**

84. The intention of the proposal to include particular reference to the use of official and imitative logos or marks within Special condition ICSS4 was to provide clarity to providers, particularly the newly regulated providers, that the practice is not acceptable. Given that by the very nature of the service type there is a higher risk of consumers being misled through passing-off, using official or imitative logos or marks can only increase this risk.
85. The PSA does not agree with the view that the use of official logos and marks, or screenshots which contain them, can act as useful tools to signpost consumers to the ICSS they are looking for. It is questionable that a consumer is ever actively seeking an ICSS and for the reasons outlined above it is our opinion that by using such logos, marks or screenshots the risk of consumer harm is greatly increased. In relation to the comments made about the existence of the trademark process, it should be understood that the primary role of the PSA is consumer protection. As trademark infringement sits outside of this role it does not offer immediate protection for consumers. Therefore, the existence of the trademark process does not negate the need for PSA regulation.
86. Regarding the use of colour within ICSS promotions; we recognise that vague, unintentional colour similarities between ICSS promotions and the organisations in which the ICSS connect may occur. However, we believe there is a distinct difference between intentional passing-off and vague resemblances. In determining whether an ICSS promotion is perceived to be passing-off or not, the promotion would be considered as a whole and assessed along with other factors such as, but not limited to, complaint volumes and complainant reports.

## Decision

87. The PSA does not believe it is necessary to further amend the wording of proposed ICSS4 to enable fair and proportionate regulation as the Code of Practice and our processes and procedures already enable this. Furthermore, it would not be appropriate to state within any Special condition what does or doesn't constitute a breach. This is the function of a PSA Tribunal and only it determines whether a service is in breach or not.
88. Having considered all responses in full and given the vast majority of respondents agreed with the proposal, the PSA has decided to proceed with amended Special condition ICSS4 without further amendment.

## Question 6

89. The focus of this question was Special condition ICSS7. This condition relates to ICSS that provide the actual number for the organisation the consumer is seeking followed by the option to connect to that number. The proposal was to amend the wording of the condition so that all ICSS regardless of tariff type are captured. The proposal was as follows:

**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.

Question 6 asked:

**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?

## Responses to question 6

90. Many respondents initially misunderstood the intention of the proposal for ICSS7, believing that a free pre-call announcement would be required before any onward connection is made. As such many respondents commented that it would not be technically possible to only commence charging once the caller is connected to the organisation they are seeking. We can confirm that this was not the expectation of the proposal.
91. Aside from the initial misunderstanding many respondents, including Network operators, Government departments, consumer interest groups and ICSS providers who operate per minute tariffs, agreed that Special condition ICSS7 should require pricing information regardless of the tariff.
92. Several respondents commented that access charges should be included within the pricing information as in some instances this charge may be greater than the cost per

minute, particularly where ICSS are operating on 087 and 084 number ranges, and may be greater cumulatively than per call service charges.

93. Some respondents believe that per call tariffs have been utilised because current Special conditions relating to pricing information are specific about the cost 'per minute', rather than the cost in general. One also stated that current special condition ICSS7 is sufficient, with appropriate safeguards already in place to manage risk, and should therefore be retained in its current form.
94. One respondent suggested that acceptance of call costs should be triggered by positive action by the consumer, for example asking the caller to press a key on the phone keypad to accept. Acceptance should not be assumed if no caller action is taken.

### **PSA assessment of responses to question 6 and decision**

95. The PSA can confirm that Special condition ICSS7 only applies to those ICSS which provide the number for the organisation the consumer is seeking on the call before onward connection to the organisation is made.
96. We can also confirm that the intention behind the proposal for ICSS7 is not for ICSS providers to implement a free pre-call announcement and only commence charging when the consumer is connected to the organisation they are seeking. Rather the intention is that callers are informed of the cost before onward connection is made and given the opportunity to refuse before they are charged further for the onward connection. This requirement mirrors Directory Enquiry (DQ) Special condition DQ2 given that this particular form of ICSS operates similarly to a DQ service in so far as the number the consumer is looking for is provided before onward connection. However, it should be noted that ICSS and DQ services are not similar in all respects – for example DQ services have been subject to an Ofcom price cap of £3.65 per 90 seconds since April this year. Ofcom set out the key differences between how consumers engage with DQ and ICSS in their 'Review of the Premium rate services Condition' statement published in December 2018<sup>12</sup>.
97. In any event the PSA recognises that current Network capabilities do not ubiquitously allow free pre-call announcements. Particularly where per call tariffs are utilised, as the service charge is applied immediately upon connection to the service. Therefore, the PSA is not proposing any form of free pre-call announcement at this time.
98. We also recognise that the overall cost of ICSS calls which operate with per call tariffs can be lower than those where the service charge is applied on a per minute basis. This is in part because access charges can contribute significantly to the overall cost of the call, and so consumers should be advised that this charge will also apply.
99. The PSA has decided to retain Special condition ICSS7 with the additional notification about the access charge, and confirmation that this information plus the opportunity to

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<sup>12</sup> Ofcom's statement on the [Review of premium rate services Condition](#)

refuse should be provided before any charge for that onward connection is made. Updated Special condition ICSS7 is as follows:

**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 informed clearly of the cost **per minute** of doing so **followed by the words “plus your phone company’s access charge”** and be given the opportunity to refuse before incurring any charge for that direct connection.

## Question 7

100. Special conditions ICSS8, ICSS9 and ICSS10 were the focus of question 7. These three conditions apply to ‘type 2’ ICSS that obtain personal data. The PSA proposed to retain these conditions in full, with minor updates which ensure they are consistent with the General Data Protection Regulation (GDPR) and the Data Protection Act 2018 (DPA 2018). The proposed updated conditions were as follows:

**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.

Question 7 asked:

**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.

### Responses to question 7

101. All respondents agreed or had no comments about the proposal. However, three respondents who agreed provided some comments in general about type 2 ICSS.
102. Two respondents raised concerns regarding ICSS and the collection of personal data. One of these respondents stated that they do not consider it appropriate for ICSS to collect personal data at all and they would prefer to see the Special conditions strengthened to prohibit the practice entirely.
103. A third respondent stated that it would be helpful if the PSA could provide clarity around how these particular conditions will be enforced. They asked if the PSA plans to work with the ICO to determine whether type 2 ICSS are GDPR and DPA 2018 compliant or not, and what role the ICO will play in enforcing against these conditions.

### PSA assessment of responses to question 7 and decision

104. Type 2 ICSS are not currently prevalent in the phone-paid market and have not been for some time. This coincides, we believe, with the introduction of GDPR and DPA into UK law during 2018.
105. However, it is possible for this type of ICSS to exist under GDPR and DPA 2018 providing that a provider has a lawful basis to process a consumer's data, including consent where this complies with the law. It is not the role of the PSA to prohibit Type 2 ICSS where it is possible for the services to comply with the Code and other relevant legislation.
106. Where the PSA has concerns regarding a type 2 ICSS and compliance with data protection legislation we will refer our concerns to the ICO. We have a Memorandum of Understanding (MoU) in place with the ICO which sets out how we work together, which covers cases like this. The ICO would not enforce against these Special conditions but rather any breach of data protection laws. The PSA will enforce against any breach of its Code and Special conditions and not aspects falling within data protection law.
107. The PSA considers ICSS8, ICSS9 and ICSS10 to remain appropriate and necessary in preventing consumer harm and has therefore decided to proceed with the proposal to retain the conditions in their updated form.

### Question 8

108. Question 8 addressed the proposal for Special condition ICSS11. This condition requires specific information to be provided to consumers within an alert upon connection to an ICSS. The PSA proposed what it considered to be a minor amendment to this condition and that was to require the cost of the call to be stated within the alert

regardless of whether the ICSS is charged per minute or per call and include the statement “plus your phone companies access charge”.

The proposal was as follows:

**ICSS11** Consumer 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

Question 8 asked:

**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 tariff type? If not, why not?

### Responses to question 8

109. The PSA received varied input to this question. Many respondents, including ICSS providers that operate with per minute tariffs, did agree that the pricing information should be provided within the alert upon connection regardless of the tariff type to create consistency for all ICSS. However, respondents who are providers that operate ICSS with per call tariffs strongly disagreed believing that stating a per call cost after the charge has already occurred was futile and may prompt callers to hang up, therefore not receiving any service at all, without realising that they have already been charged.

110. One such respondent suggested an alternative method which it currently operates and believes to be more effective in reducing consumer harm from repeat calling and offers the consumer better value and a better experience. The method involves sending the consumer a free to receive SMS containing the direct contact number of the organisation they are seeking after completion of the ICSS call.

### PSA assessment of responses to question 8 and decision

111. Based on the very detailed response and recommendation of an alternative option from the respondent who strongly disagreed with the proposal, the PSA’s initial view is that an alternative to the wording we originally proposed is required. Because respondents have not yet had the opportunity to consider any alternative wording, the

PSA has decided to re-consult on proposals for ICSS11. This re-consultation consists of a short consideration, and then a variation on the original proposal in light of that consideration, with a single question asking if respondents agree or not. It can be found at Annex B of this statement, with the closing date for responses being 26 November 2019.

112. Until this re-consultation has closed, and the PSA has made a final determination based on any responses we receive, the existing Special condition ICSS11, with the inclusion of *'followed by the words "plus your phone company's access charge"'* at ICSS 11(i), will remain in force and can be found within the Notice contained in Annex A.

### Question 9

113. Question 9 of the consultation addressed existing Special condition ICSS12. This condition outlined what providers who process and collect personal data must do by law in relation to the Data Protection Act 1998.

114. The PSA proposed 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. The PSA believes that most, if not all, providers will be aware of the GDPR which came into effect across Europe in May 2018, as well as the DPA 2018 which supplemented the GDPR.

### Responses to question 9 and decision

115. All respondents who provided a response to this question agreed with the proposal to remove existing Special condition ICSS12. One respondent agreed but did wish to reiterate its concerns regarding ICSS that collect personal data, and once again stated that they would prefer to see prohibition of this type of ICSS. This respondent did, however, agree that Special conditions ICSS8, ICSS9 and ICSS10 appear to provide sufficient clarity and protection.

116. The PSA has decided to go ahead with its proposal to remove current Special condition ICSS12.

### Question 10

117. This question concerned current Special condition ICSS13 which addresses requirements upon providers to notify the PSA of all applicable telephone numbers or access codes used for the service within 48 hours of making the service accessible to the public.

118. The proposal for this condition, which would become ICSS12, was to simplify the wording so that it is concise and consistent with our new service registration system which was launched earlier in September.

The proposal was as follows:

**ICSS12** 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.

Question 10 asked:

**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.

### Responses to question 10

119. Most respondents which included ICSS providers, Government departments, Network operators and consumer interest groups, agreed with the proposal. However, many respondents raised questions about how service registration will work in practice and a few respondents commented that it was difficult to respond in full without seeing or testing the new service registration tool.
120. Some of these respondents advised that ICSS can operate with many different domains on many different numbers, and under many brands, and so to fulfil the requirement could be time consuming and difficult. They also expressed concern that the proposal for ICSS12 is 'over regulation', and disproportionate as the information the condition requires to be registered is not required for other phone-paid services.
121. One respondent also stated that it is unclear what the PSA means by "*make clear that such services are ICSS when declaring that the service(s) are subject to Special conditions*" and that it is not clear whether "*who the service is connecting to*" is referring to the ICSS provider or the target organisation to which the ICSS connects. The respondent also pointed out that this latter phrase is not suitable for application to a type 2 ICSS.
122. Some respondents mentioned that it will not be possible to ensure that the domain registered on the service checker is the one the consumer saw. This is because domains are not constant and can change over time, so a publicly available archive of URLs showing who they connected to and when would be required.
123. One respondent who agreed commented that the PSA's registration is far from complete as a record of all phone-paid services. Another respondent who supported the proposal stated that they believe consumers should have access to clear, unambiguous and up to date information about ICSS and their promotional websites on the self-serve portal and that this information should be publicly available on the PSA website.
124. A further respondent suggested that ICSS providers should also be required to register the actual number of the organisations they are connecting to. And lastly one respondent stated that the proposal may only be helpful for consumers who are already familiar with either the concept of an ICSS or the PSA's service checker and that it will do little to protect the most vulnerable.

## PSA assessment of responses to question 10 and decision

125. We would like to reassure those respondents who are ICSS providers that the new service registration tool has been designed to be more user friendly and intuitive than its previous iteration. Also, for those providers who operate a large number of services under different brands with large number ranges, a bulk uploading facility is available upon request to make the process less time consuming and burdensome. The PSA has published a Notice to Industry<sup>13</sup> along with a help guide<sup>14</sup> to notify and assist providers with service registration.

126. We would also like to remind providers that should they experience any difficulties with service registration, the registration helpdesk is on hand to assist and can be contacted via email or phone<sup>15</sup>. Since the closing date of this consultation, the PSA has also hosted industry workshops about the new service checker. Given the system has been live since the beginning of September<sup>16</sup>, we hope that some concerns that were raised during the ICSS consultation have already been addressed.

127. One of the objectives of the new service registration system is that better service information is provided to the PSA and consumers who use the checking facility across all service types. The requirement to register domains and brand names is not unique to ICSS, nor is the requirement to declare that a service is subject to special conditions and confirming the appropriate category of Special conditions. The information provided will be publicly available on the PSA website.

128. Providers can declare that their services are subject to Special conditions by selecting the relevant option on the webform followed by the service category during the service registration process. For the avoidance of doubt, where ICSS12 requires providers to state who the service is connecting to this means the name of the target organisation in which the ICSS connects to.

129. Having considered all responses to this question in full the PSA has decided to proceed with the proposal with an amendment to the final sentence to ensure the wording accommodates Type 2 ICSS as follows:

**ICSS12** 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 **or, providing advice or assistance on.**

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<sup>13</sup> <https://psauthority.org.uk/-/media/Files/PSA/00NEW-website/News/News/Notice-to-industry-on-registration.pdf?la=en&hash=CE882481A54FE9A122C910F131E0D25DD47BD364>

<sup>14</sup> <https://psauthority.org.uk/for-business/registration-help-guide>

<sup>15</sup> Contact details for the registration helpdesk can be found within the service registration help guide and on the 'contact us' page of the PSA website here <https://psauthority.org.uk/for-business/contact-us-for-businesses>

<sup>16</sup> [Registration with the PSA Statement published September 2018](#)

## Question 11

130. This question addressed the proposal for a brand new Special condition which addresses clarity and positioning of key information within promotional material containing the call to action<sup>17</sup>, and which would become new ICSS5. Findings of the eye tracking study performed by the University of Nottingham helped form the basis for this proposal as the study found that most consumers primarily consider the information present in the top left of webpages<sup>18</sup>.

The proposal was as follows:

**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”

Question 11 asked:

**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.

## Responses to question 11

131. The input received in response to this question and proposal was varied. Exactly half of all respondents agreed with the proposal, those who agreed included Network operators, Government departments, consumer interest groups and some ICSS providers. One respondent stated that they consider the value of the proposal to be without question, but the PSA should continue to review the benefit and impact of the requirement should it be introduced.

132. One respondent who supported the proposal suggested that it will help to prevent some consumers from calling an ICSS when they did not intend to. However, they believe that many consumers negotiate webpages so fast they won't stop to read a disclaimer and may scroll past them in the same way that many consumers will not read terms and conditions.

133. Another respondent agreed with the proposal but suggested it could go further. This respondent cited that their own research of ICSS websites indicated very little consistency in how and where ICSS providers display the appropriate service notifications, and expressed concern that a lack of consistency and prominence of key information about the service may contribute to consumers being misled overall. They suggested the PSA should implement minimum requirements for font size, font type and

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<sup>17</sup> The appearance of the premium rate number or clickable call button constitutes the 'call to action'.

<sup>18</sup> Page 16 [Consumer behaviour and ICSS: Exploring how consumers respond to Information, Connection & Signposting Services](#)

font colour to ensure the information is prominent and contrasts against the background colour of the page. They also suggested that search engine advertising and search results should lead consumers directly to an accurate description of the true nature of the service and call cost information which includes the potential different ranges of access charge costs - for example *'your phone company's access charge may be up to 55p per minute'*.

134. A further respondent mirrored this suggestion by stating that they would like to see the accurate description of the true nature of service and pricing information in a larger font than the rest of the text on the ICSS website. They added that the font colour should be mandated to ensure prominence.

135. One more respondent who agreed stated that they believe the ICSS should have to advise callers that the organisation they are being connected to will not be aware that they have been connected via an ICSS, perhaps to enable the consumer to control the length of the call.

136. Some respondents agreed that displaying the provider name, an accurate description of the true nature of the service and the cost will be effective in preventing consumers who do not wish to use an ICSS from dialling. However, they disagreed with displaying this information in the top left corner of the screen. They believed the exact positioning of the information is not important and that provided the cost and service description is prominent, and in close proximity to the premium rate number or call to action, providers should be allowed to design their websites as they choose to ensure they are distinct from their competitors.

137. A further respondent stated that it would be difficult to present the information required by the proposal in a clear way particularly on a mobile handset. The top left could become cluttered and 'wordy' which could result in the information being missed completely. This respondent suggested that the top left is where the service description should feature, and the pricing information should be alongside the premium rate number or call to action.

138. Many respondents, including ICSS providers, did not agree with the proposal. They stated that the requirement is excessive, overly controlling and restrictive of a company's right to freely design their promotional material. Some also stated that the proposal was disproportionate regulation of ICSS compared to the regulation of other categories of phone-paid service.

139. Some questioned the validity of the research conducted by the University of Nottingham stating that meaningful conclusions cannot be drawn from a limited sample size of participants and that the PSA may have interpreted the study incorrectly. They believed the study shows that people will look at logos that are in the top left and not necessarily that they will always consider the top left.

140. One respondent who did not agree questioned how the proposal will work alongside other pricing prominence requirements of Special conditions and the Code. If PSA's intention was to duplicate information, then this could unfairly discriminate against

ICSS providers. Another respondent echoed this sentiment, stating that the proposal is overkill given the requirements of ICSS3 and ICSS4, and that a review of ICSS3 in practice should be carried out before disproportionate regulation is applied. This respondent also commented that the term 'top left' is too ambiguous and could be interpreted in many ways.

141. Lastly, one respondent commented that the proposal appears to be asking ICSS providers to discourage consumers from using the service with the assumption that consumers don't want to use ICSS. They went on to state that if a consumer chooses to interact with a service but is warned at every stage instead of receiving confirmation that this is the service they require, then it's likely they will be discouraged. Their view was that the PSA should not confuse discouragement with protection.

### **PSA assessment of responses to question 11 and decision**

142. The basis for this proposal was the findings of the eye tracking experiment conducted by the University of Nottingham. The PSA stands by the research conducted by the University of Nottingham as a robust piece of qualitative, behavioural research undertaken to better understand consumer behaviour when responding to ICSS. However, it does clearly demonstrate issues that consumers may have in identifying ICSS and distinguishing them from the actual contact numbers for the organisations they are seeking.

143. We appreciate and understand the feedback from respondents suggesting the findings of the eye tracking experiment do not conclusively show that placing key information in the top left of webpages will guarantee that consumers are better informed. We also understand that the requirements of this proposal may be difficult to achieve in the manner intended on a mobile webpage, which is pertinent given that evidence suggests ICSS are commonly accessed via a mobile phone.

144. With regards to the suggestions that ICSS5 should go further and require the colour, typeface and font size of specific information such as the cost to be mandated, the PSA does not consider these recommendations to be consistent with outcome based regulation. We believe that prescription such as this can eventually have a detrimental effect, and in our view there is no evidence to support that one font size, typeface or colour will be more prominent than another when typeface, font size and colour would not be mandated across the entire promotional webpage. The PSA believes that to mandate typeface, font size and colour would be disproportionate for what we are seeking to achieve.

145. It is not the intention of the PSA to unfairly discriminate against ICSS providers. The intention is solely to protect consumers by ensuring that they are fully informed about ICSS. However, some respondents make comparisons between our regulation of ICSS and DQ services, and we do not believe that such comparisons are appropriate or helpful. There is no evidence that consumers deliberately set out to use an ICSS when searching for an organisation's contact details online in the same way that they may actively seek a DQ service. If consumers were actively seeking to engage with an ICSS the search terms used would be quite different. For this reason, it is essential that

promotional material is clear about the cost, true nature of the service, provider details and where to find the direct contact number for the organisation being sought. We do not consider the provision of such information to be discouragement if it simply enables informed decision making.

146. The PSA has taken on board all respondent feedback. In particular feedback suggesting that provided the key information is prominent and proximate to the premium rate number or call to action there should be no need to reposition or repeat the information in the top of the screen. We also understand that 'top left corner' is ambiguous and therefore may cause confusion and have a detrimental effect.

147. As such the PSA has decided to retain new Special condition ICSS5 in part without requiring that certain information (such as the cost) be repeated in the top left corner of the webpage. New Special condition ICSS5 is largely repetition of what is required by rule 2.2.7 of the Code regarding pricing prominence. We believe it is beneficial to providers to have the Code requirement reiterated in ICSS Special conditions, so that all requirements regarding the promotion of ICSS are easily accessible in one Notice. This may be particularly helpful for those ICSS providers that have only provided ICSS on the 084x range, and so are new to PSA regulation.

New Special condition ICSS5 is as follows:

**ICSS5** 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 followed by the words "plus your phone company's access charge", and provider name prominently and in the top left corner of the page close proximity to the call to action, e.g. "call connection service, calls cost £X.XXp per minute or £X.XXp plus your phone companies access charge, operated by XXX Ltd".

### Question 12 – Applying updated Special conditions to all ICSS

148. The PSA proposed to apply all the Special conditions to all ICSS. Question 12 asked respondents to comment on applying updated ICSS Special conditions to all ICSS, now that the PRS Condition has been altered by Ofcom to include all ICSS regardless of number range.

**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?

### Responses to question 12

149. Most respondents agreed with this proposal. Those who agreed included ICSS providers, Government departments, Network operators, consumer interest groups and individuals.

150. One respondent who agreed with the proposal commented that they agree with the PSAs and Ofcom's view that lower cost tariffs alone do not guarantee greater consumer protection. They and one other also stated that without consistent regulation across all ICSS providers, some may seek to circumvent regulation by operating on number ranges which are outside of scope. Indeed, one respondent commented that they have witnessed this prior to the modification of the PRS Condition.
151. Some respondents who agreed that consistency in regulation of ICSS is important did however warn that this may encourage providers to move to number ranges with higher tariffs than those they presently operate on. This could in turn increase the risk of harm caused by financial detriment to consumers.
152. Some respondents who agreed in part suggested that applying Special conditions to all ICSS will do little to prevent 'bill shock' as access charges can be up to 80% of total call costs from calls made via a mobile phone. Some of these respondents suggested that the PSA should await the outcome of Ofcom's future numbering review,<sup>19</sup> which will re-examine NGCS, before applying Special conditions to all ICSS. This is because one outcome of that review could be that 087 and 084 number ranges no longer exist. One respondent also suggested that it is too soon after the modification of the PRS Condition for providers to implement updated Special conditions.
153. Some respondents who did not agree suggested that it is not necessary to regulate entire service type regardless of number range, as lower cost tariffs do not cause consumer harm and that the PSA does not regulate any other services in this way. One went on to suggest that by doing so it will damage the ICSS sector.
154. One respondent commented that the introduction of a common regulatory framework for all ICSS will not prevent consumer harm, as it did not do so with the introduction of 087 ICSS. This respondent stated that the very nature of ICSS leads to consumer harm suggesting that ICSS are inherently misleading and PSA regulations are failing to combat opportunistic behaviour of providers offering services with little value at high price points.

### **PSA assessment of responses to question 12 and decision**

155. The PSA understands concerns that a common regulatory framework across all ICSS regardless of tariff may encourage providers to utilise maximum tariffs for their services. In fact, current PSA data on revenue figures and recent consumer complaints suggests that this may already be happening. However, the PSA is of the view that if updated Special conditions are implemented correctly by providers overall consumer harm should decrease, and where Special conditions are not adhered to the updated Special conditions should make enforcement more effective.
156. The PSA also notes respondents' frustration regarding costly access charges. However, access charges are only a component of consumer harm, and are not the trigger for it.

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<sup>19</sup> <https://www.ofcom.org.uk/consultations-and-statements/category-1/first-consultation-future-of-telephone-numbers>

Access charges associated with an ICSS are only incurred, along with premium rate costs, when a consumer dials an ICSS. Whilst it may be that access charges contribute to detriment that triggers some consumers to complain, it remains the consumer's lack of clarity about the service they are calling that has led them to incur these charges.

157. We do not agree that it is too soon after the modification of the PRS Condition to implement updated Special conditions. We believe it will offer newly regulated ICSS providers greater clarity and assist them in achieving compliance with the Code. Furthermore, we do not believe the updated Special conditions will place a burden on established ICSS providers. The implementation date of 4 December 2019 will be 11 months since the modification of the PRS condition came into force.

158. The PSA can confirm that it does not intend to regulate and apply Special conditions to non-premium rate numbers. ICSS which operate on 084 number ranges are now captured by the PRS Condition and are therefore within the PSA's regulatory remit, which was confirmed in Ofcom's final statement on the modification of the PRS condition back in December 2018. We would also like to confirm that all Notices of Special conditions have to date applied to service types or categories as a whole (where they are premium rate phone-paid services), and not only to certain, specified number ranges. Therefore, the assertion that no other service types are regulated in this way is simply incorrect.

159. Given that most respondents agreed to the proposal for the new Special conditions to be applied to all ICSS, and the justification for doing so as specified in the consultation and above, the PSA is proceeding with the proposal as set out.

## **Next steps and implementation**

160. Following the consultation, and our consideration of the responses as detailed in this statement above, we have decided to publish a revised Notice of Special conditions for ICSS incorporating the changes we have outlined above. The revised Notice can be found at Annex A.

161. The PSA is allowing 2 months for providers to implement any necessary changes and the revised Notice will come in to force on 20 December 2019.

162. The PSA is re-consulting on updated proposals for ICSS11, the consultation, including how to respond can be found at Annex B. The closing date for responses is 26 November 2019.

## ANNEX A

### Information, Connection and Signposting Services

#### 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 services<sup>20</sup>, 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

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<sup>20</sup> 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" or "Call connection service" for Type 1 ICSS, and "Information assistance service" 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 includes (but is not limited to) the domain name and any subdomain.

**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 followed by the words “plus your phone company’s access charge”, and provider name prominently in close proximity to the call to action, e.g. “call connection service, calls cost £X.XXp per minute or £X.XXp plus your phone company’s 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 followed by the words “plus your phone company’s access charge” 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 followed by the words “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

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

~~**ICSS 12** 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.~~

*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 notify the Phone-paid services Authority, register their services 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, 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 or providing advice or assistance on.

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’

## ANNEX B

### Consultation on a variation to ICSS11 for providers who operate with per call tariffs

This Annex sets out a variation of Special condition ICSS11 for ICSS which charge on a per call basis.

The proposal is that providers of per call tariff ICSS can either state the service charge within the alert upon connection, or send the consumer a free to receive SMS following completion of the ICSS, which would provide both a receipt for the call and also the actual number of the organisation being sought.

The updated proposal for Special condition ICSS11 is as follows:

#### ICSS11

- (a) 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 followed by the words “*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.

- (b) Where the service is charged on a per call basis as an alternative to fulfilling the requirement at paragraph (a) above the consumer may be sent a free to receive SMS in the form of a receipt upon completion of the ICSS call which states how much the call has cost followed by the words “*plus your phone company’s access charge*”, and provides the actual phone number of the organisation the consumer is seeking.

For example: “*Thank you for using XXXX call connection service, you have been charged £X.XXp plus your phone company’s access charge. The direct contact number for XXXX is 0800 XXX XXX freephone / local rate*”

### Consultation question

Do you agree with the proposal to offer ICSS which operate with a per call tariff an alternative to pricing within the alert upon connection, in the form of a free to receive SMS receipt which states the cost and the actual contact number of the organisation the consumer is seeking? If not, why not?

## Responding to this consultation

We plan to publish the outcome of this re-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 26 November 2019. Where possible, comments should be submitted in writing and sent by email to [consultations@psauthority.org.uk](mailto: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.