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Dear Sarah-Louise

Thank you for granting an extension to the Code 15 Discussion Document. We are grateful for the opportunity to share our thoughts on the PSA's approach to the upcoming Code 15 consultation. We hope our input will be useful as the PSA develops its regulatory strategy.

BT supports measures that will raise standards within industry. We agree with the PSA's assertion that a small part of the market engages in bad practices that cause consumer harm and that these undermine trust in premium rate services. As such we are particularly supportive of proportionate measures that will verify and supervise new market entrants, and help streamline PSA investigations.

However, there are four areas that we believe require more clarity or that the PSA should reconsider. Our comments, which are subject to review of the final consultation document, can be summarised as follows:

1) Further trend & market analysis is needed

While we largely agree with the PSA's analysis of future trends, we believe that the PSA should further examine how consumers use and engage with Information, Connection or Signpost Services (ICSS). Industry has long been concerned that the PSA's rules do not go far enough to prevent sharp or unethical practices that lead to bill shock and consumer harm. This is a timely opportunity to examine, with Ofcom, the appropriate regulatory framework for ICSS.

2) Greater clarity regarding the PSA's preferred regulatory approach is needed

While we recognise that an outcomes-based approach to regulation makes it more difficult for the PSA to predict how premium rate service providers will interpret the Code, we would welcome clarity on the resulting harmful practices referred to in paragraph 201 of the Discussion Document and how these would be better addressed using an alternative regulatory approach.

We are very supportive of raising market standards but are concerned that this may mean a return to a more prescriptive regime. Such a move would not only stifle market innovation but is just as likely to lead to harmful practices. We believe that inflexible Code rules will make it difficult for the PSA to respond quickly and effectively to 'bad behaviours' as they emerge in the market.

3) Many of the operational requirements appear disproportionate and unnecessary for tackling poor behaviour by a small number of market players

We would particularly welcome clarity on the PSA's views on how it would implement automatic refunds on a 'no quibble basis'. Such an approach is likely to place significant costs on network operators and may be subject to abuse or exploitation.

4) Evidence demonstrating the ineffectiveness of existing sanctions is required to help industry to assess the proportionately of proposed changes.

We are supportive of more streamlined approaches to investigations provided there are appropriate checks and balances to ensure that the quality of decision-making by the PSA is consistent and reasonable. However, we would welcome further clarity on the proposed changes to PSA sanctions, particularly:

- The penalty guidelines and relevant evidence demonstrating the current fine thresholds do not act as an appropriate deterrent. We would contend it is not the scale of the fine that impacts the efficacy of PSA sanctions but gaps in enforcement powers that allow a small number of premium rate service providers to evade liability, ultimately undermining consumer confidence in the market.
- Proposals to "extend liability to other parties in the value chain".

BT is supportive of the policy intent articulated within the Discussion Document. However, the consumer harm trends identified by the PSA could be tackled more effectively using targeted measures that limit the ease with which premium rate service providers can enter and exit the market. We believe that some small adjustments to the existing outcomes-based approach to regulation are all that are required to support future market trends and that a radical overhaul of the regime is not needed.

Should you wish to engage further on these matters we would be happy to arrange a follow up meeting.

Kind regards

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Principal, Regulatory Affairs

Replies to Discussion Document Questions

PSA Questions	BT Response
Background	
<p>Q1 Do you agree with our proposed overall approach to the review? Please provide an explanation as to why you agree or disagree.</p>	<p>BT welcomes the PSA seeking early input from industry stakeholders to inform its thinking on the scope of its powers, remit, role and responsibilities.</p>
<p>Q2 Is there anything else we should be considering?</p>	<p>The PSA may wish to consider two additional matters.</p> <p>First, whether Brexit affords any new flexibility or opportunity to stop harmful practices used by some providers marketing and selling services to UK customers while located in EU Member States.</p> <p>As an example, in 2016/2017 we became aware of a Cyprus-based premium rate service provider marketing a £4.50/month subscription on social media. The quality of the subscription did not meet the standards expected by the consumer or comply with the Code. Within three weeks the service provider had dissolved. It took 6–8 weeks to make the appropriate referral to the Cypriot regulator, leaving UK customers without meaningful recourse.</p> <p>Although we have taken steps to prevent this sort of behaviour on our own network, we know that such behaviour persists.</p> <p>Second, the evolution of the market to accommodate new ‘hybrid’ players in the value chain. For example, those actors who can provide billing and marketing solutions. We would welcome the opportunity to discuss a specific example of a hybrid type organisation that can</p>

	provide exceptional customer experiences and journeys but prohibited from doing so under the current framework.
Market context	
Q3 Do you agree with our assessment of the market? If not, why not? Is there anything else you think we need to consider?	Although a declining market, we would encourage the PSA to build on and extend the research that it commissioned from the University of Nottingham to inform its review of ICSS last year, which focused on consumer behaviour in relation to online search results containing ICSS and their responses to ICSS websites.
Q4 Do you have any evidence of the market to share with us that you think would support our assessment?	<p>We have previously provided the PSA with examples of ICSS advertising that demonstrates non-compliance with the Code. While there have been improvements to the promotion of ICSS advertising, they continue to be a source of consumer harm.</p> <p>Should the PSA extend its ICSS research, we would be willing to contribute our own evidence of consumer usage to assist with its assessment.</p>
Consumer expectations and experience	
Q5 Do you agree with our assessment, based on research, of consumer behaviours, experience and expectations?	We largely agree that there is an opportunity to improve consumer experiences within the digital payments sector. However, although subscription services have historically been problematic, we consider that the Special Conditions for Subscription Services now provide significant improvements to the customer journey. We would urge the PSA to carefully consider how to balance the interests of consumers and industry in this regard to avoid any negative unintended consequences for market innovation.

<p>Q6 Do you have any other evidence in this area that we need to consider?</p>	<p>Not at present.</p>
<p>Likely future trends</p>	
<p>Q7 Do you agree with our assessment of what the future holds? Please provide an explanation as to why you agree or disagree.</p>	<p>We largely agree with the PSA's analysis.</p>
<p>Q8 Are there are market developments which we have not factored into our assessment? How do you see these influencing the phone-paid services sector and associated regulatory challenges?</p>	<p>No.</p>
<p>Assessment framework</p>	
<p>Q9 Do you agree with our proposed assessment framework? Please provide an explanation as to why you agree or disagree.</p>	<p>We agree with the principal objectives underpinning the assessment framework and recognise that the three-stage approach is intended to promote predictable and proportionate regulation.</p>
<p>Q10 Are there are factors we have not taken account which we should?</p>	<p>No.</p>

Initial Thinking	
<p>Q11 Do you agree with our proposed initial thinking in terms of proposed changes to our regulatory strategy and approach? Please provide an explanation as to why you agree or disagree.</p>	<p>We support an increased focus on preventing, rather than curing, consumer harm within the market. We agree that smarter engagement with key parts of the value chain, as well as providing advice and education, is critical to achieving this result.</p> <p>Should the PSA choose to adopt a more proactive approach to monitoring the market and intelligence gathering, we would welcome a discussion about the pros and cons of using the levy to fund the PSA’s efforts. The outputs of this could be shared with the rest of the industry to avoid duplication of efforts.</p> <p>However, the proposed “moving from broad outcomes to a regulatory approach based on market standards” raises concerns that the PSA will move to a more prescriptive regime that has negative unintended consequences for industry and consumers. For example, this could stifle innovation and make regulation less responsive to new or novel ‘bad behaviours’ that emerge in the market.</p> <p>Furthermore, while it is important to consider the range of sanctions available to the PSA, we consider that it is more important for the PSA to assess how effective its powers are to compel industry to comply with designated sanctions.</p>
<p>Q12 What are your views with regards to how we can best ensure that all firms operating in phone-paid services sector will follow, and be held to, the same</p>	<p>We agree that increased standards are required during the pre-operational stage and that they should be set sufficiently high to encourage good behaviour.</p> <p>We consider Director accountability proposals to be positive and believe that they will contribute towards embedding a culture of</p>

<p>standard of professionalism?</p>	<p>accountability and compliance that will help build trust in the industry. However, while we are supportive of financial viability checks such as credit scoring, as an additional tool in the ‘credibility kit’, requirements to provide bonds could present an over burdensome market entry criteria with the potential effect of distorting the competitive dynamics of the market.</p> <p>We would suggest that, during the pre-operational stage, the PSA adopts greater accountability for validating registrations.</p>
<p>Potential Code 15 options</p>	
<p>Q13 What are your views with regards to developing appropriate ‘Pre-purchase standards?’</p>	<p>We agree that all promotional activity must fully and clearly inform consumers about the service. However, this must be balanced with the risk that too much information may cause ‘information overload’ - impairing decision-making or affecting the ability of consumers to engage effectively with a promotion.</p>
<p>Q14 What are your views with regards to developing appropriate ‘Purchase standards?’</p>	<p>In BT’s experience, consumers are generally well engaged with mobile payments.</p> <p>However, we think that there is room for improvement and that at present there are rules within the PSA Code of practice that inhibit the evolution of customer experience and engagement tools that deliver efficient and effective authentication and fraud prevention solutions.</p> <p>Further, we have some concerns at the suggestion two-factor authentication should be introduced for all services charged to a mobile phone, as industry standard. While two-factor authentication is appropriate for products such as online services, we are concerned that it would introduce severe customer experience friction in the</p>

	<p>premium short message service (PSMS) market. There is a risk that this would ultimately lead to a decline in a market that at present causes no, or limited, consumer harm. Customers understand that when they pick their phone up and type a message and send it to a short code number, they are committing to a charge that will then subsequently appear on their phone bill. The same is true of voice short codes where a customer has to dial a voice short code to access a service or to vote for a television show competition, such as X-Factor.</p>
<p>Q15 What are your views with regards to developing appropriate 'Post-purchase standards?</p>	<p>In principle we are supportive of higher standards of complaint handling and after sales support. However, should the PSA wish to use information about complaints handling to monitor consumer experience, a proper framework must be implemented to ensure data amongst industry firms is comparable and tracked appropriately. Further, given the different methods available to consumers to register a complaint, there should be a mechanic in place to avoid duplicate reporting across the value chain.</p> <p>We would also welcome clarity on how the PSA envisages implementing a 'no quibble' refund. Applying a refund direct to bill risks the consumer circumventing the Level 2 provider and approaching their mobile operator directly to request a refund. The processing of refunds for network operators is also likely to be problematic and will require careful consideration to understand how this affects the flow of money within the interconnect model.</p>
<p>Q16 What are your views with regards to how we can</p>	<p>We are supportive of streamlining the procedural elements of the investigation. However, we would welcome clarity on the ways in</p>

<p>make our investigations and enforcement procedures more effective?</p>	<p>which the PSA intends to “hold the value chain to account” and extend liability to networks and Level 1 providers.</p> <p>Extended liability would require network operators to undertake a material increase in their market surveillance work which, when considering network operators can distribute 10,000 numbers to just one Level 1 provider, would pose a significant change and add significant cost to operating models.</p> <p>However, we would be supportive of changes to Due Diligence, Risk Assessment and Control (DDRAC) that require an upward or downward exchange of DDRAC information in the contractual chain to better understand risk and appropriate control.</p>
<p>Q17 What are your views with regards to how we might achieve better outcomes for consumers and uphold the reputation of the market through more effective deterrents by considering the range of sanctions available to us.</p>	<p>We require further information to assess alternative ways of achieving better outcomes for consumers and upholding the reputation of the market.</p>
<p>Other general Code considerations</p>	
<p>Q18 What are your views on our existing funding model? Does it remain an effective model? Or do you think</p>	<p>We are supportive of the existing funding model. Should the PSA consider alternative models, particularly those that would create a more direct relationship with service providers (e.g. through a registration fee proportionate to turnover) we would welcome early</p>

<p>alternative funding models may provide a more sustainable approach going forward?</p>	<p>visibility and engagement to discuss the benefits relative to risk of malfeasance.</p>
<p>Q19 Do you consider the current categories of defined providers capture all relevant providers involved in the provision of phone-paid services and appropriately spreads regulatory responsibility throughout the value chain? Please provide an explanation as to why you agree or disagree.</p>	<p>Yes.</p>
<p>Q20 Do you think the current regulatory framework remains fit for purpose? Please provide an explanation as to why you agree or disagree.</p>	<p>The current framework, while not perfect, is largely fit for purpose. However, we would welcome any change that promotes innovation within the market.</p>
<p>Q21 Are there any areas of potential change proposed in this document which may have an impact which you believe should be considered? If so, please let</p>	<p>No.</p>

us know, including any evidence you have as to the likely impact.	
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