

Consultation response form

Consultation on Code 15 guidance

Please complete this form in full and return by email to consultations@psauthority.org.uk or by post to Barbara Limon, Phone-paid Services Authority, 40 Bank Street, London, E14 5NR.

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Representing	Self / Organisation (delete as appropriate)
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If you wish to send your response with your company logo, please paste it here:

We plan to publish the outcome of this consultation and to make available all responses received. If you want all or part of your submission to remain confidential, please clearly identify where this applies along with your reasons for doing so.

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Confidentiality

We ask for your contact details along with your response so that we can engage with you on this consultation. For further information about how the PSA handles your personal information and your corresponding rights, please see our [privacy policy](#).

<p>Your details: We will keep your contact number and email address confidential. Is there anything else you want to keep confidential?</p>	<p>Delete as appropriate: Nothing/your name/organisation name/whole response/part of the response (you will need to indicate which question responses are confidential).</p>
<p>Your response: Please indicate how much of your response you want to keep confidential.</p>	<p>Delete as appropriate: None/whole response/part of the response (you will need to indicate which question responses are confidential in the table with questions below).</p>
<p>For confidential responses, can the PSA refer to the contents of your response in any statement or other publication? Your identity will remain confidential.</p>	<p>Yes/No (delete as appropriate)</p>

Your response

Please enter your response to each of the consultation questions in the appropriate box below.

Consultation questions	Your response
Proposed Transparency Standard guidance	
<p>Q1 Is the proposed Transparency Standard guidance helpful and effective in supporting you to comply with the Transparency Standard and Requirements? If not, please specify what additional information you would find helpful.</p>	<p>Confidential? Yes/No (delete as appropriate)</p> <p>BT agrees that consumers should be empowered to make fully informed purchasing decisions and largely supports the expectations set out in the PSA's proposed guidance. However, there are some areas where we would welcome greater clarity and/or updates to the guidance to ensure consumers of premium rate services are better protected.</p> <p>Promotional Standards</p>

	<p>To balance the principles of prominence, clarity, legibility, and visibility it is sometimes necessary to use shorthand methods of communicating pricing information. The suitability of such methods will depend on context. For example, use of the oblique stroke to represent the word “per” on a banner advert optimised for the mobile screen.</p> <p>In its current form, the guidance suggests that use of the oblique stroke will always be considered to be unclear, even if paired with a clear description of the frequency of - or mechanics for - billing. This cannot be the PSA’s intention where use of shorthand methods of communication enhance rather than detract from consumer comprehension of the services promoted. We would welcome greater clarity from the PSA on its position in this regard and, where appropriate, include examples of acceptable shorthand communication tools that promote clear, legible, and visible pricing information.</p> <p>For ICSS we would also ask that the PSA clarify that service providers must clearly explain:</p> <ul style="list-style-type: none">(i) that the service is a connection service and not associated in any way with the company it connects to; and(ii) the company the service connects to can be contacted directly for no or lower cost. <p>Use of the word “should” in the proposed guidance suggests that such steps are optional. In light of the considerable risk of consumer harm caused by ICSS services, guidance should reinforce the clarity and transparency requirements set out in rule 3.2.2 (a) of Code 15.</p> <p><u>Point of Purchase Standards</u></p> <p>Although Code 15 rules are clear that the cost of making ICSS calls must be provided before onward connection, we ask that the guidance uses similarly clear language. As</p>
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	<p>such, we propose the guidance is amended as follows.</p> <p><i>“... the vast majority of ICSS connect consumers to other organisations, therefore a recorded alert upon connection to the ICSS must clearly state the cost for continuing the call and being connected....”</i></p>
<p>Proposed Fairness Standard guidance</p>	
<p>Q2 Is the proposed Fairness Standard guidance helpful and effective in supporting you to comply with the Fairness Standard and Requirements? If not, please specify what additional information you would find helpful.</p>	<p>Confidential? Yes/No (delete as appropriate)</p> <p>BT agrees that consumers should be treated fairly and equitably throughout their experience using phone-paid services. However, there are some areas where we would welcome greater clarity and/or updates to the guidance to ensure (i) ICSS consumers are better protected, and (ii) regulatory interventions are proportionate and relative to the roles played by each participant in the value chain.</p> <p><u>Treating Customers Fairly: misleading marketing</u></p> <p>The guidance relevant to Code Requirement 3.3.2, which states promotional material must make clear whether the service is free of charge or not, appears to have been paired with a worked example relevant to ICSS. However, whilst the example highlights how an ICSS providers might comply with the Transparency Requirement at rule 3.2.3 Code, neither the “compliant” nor the “non-compliant” examples explain whether the connection service is free or chargeable.</p> <p>To avoid inadvertent confusion, BT proposes that the general guidance for Code Requirement 3.3.2 does not use an ICSS based example and instead develops ICSS specific guidance that, holistically, demonstrates how such providers might comply with Code Requirements 3.2.3, 3.3.2 and 3.3.3.</p>

	<p>E.g. To ensure ICSS providers market their services to consumers fairly, preventing them from being misled or potentially misled in any way (Code Requirement 3.3.2), there is an expectation that all promotional material shall, in addition to the general guidance provided, ensure:</p> <ul style="list-style-type: none"> (i) the true nature of the service is abundantly clear; (ii) the cost of the service is clearly and prominently stated; (iii) the name of the service provider is clearly and prominently stated; (iv) the word “free” is not used in the service name or organisational branding; (v) any search engine marketing is clear that the service is a connection service and does not use key words or optimisation techniques that may mislead consumers into believing the service is associated with the organisation or organisations to which the service connects; (vi) only the logos and imagery associated with the merchant provider and service are used; and (vii) there is no use of URLs that include the name of the organisation or organisations being connected to within the domain name. <p>Taking such steps shall also indicate that the ICSS provider is also compliant with Code requirements 3.2.3 and 3.3.3.</p> <p>Non-misleading ICSS promotional material might be.</p> <p>URL: www.ICSS.callconnect.co.uk</p> <p>Headline & sub-header “Connection service operated by [ICSS LTD] connecting you to PSA for £3.60/minute plus your phone company’s access charge. Call free on 0800 xxx xxx”.</p> <p>Misleading promotional material might be.</p> <p>URL: www.freeconnect/PSAuthority.org.uk</p>
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“Click to call PSA customer services using Free Connect now.”

Ts&Cs “Calls cost £3.60/min plus your phone providers access charge. Call PSA direct on 0800 xxx xxx”.

Excessive Use

BT agrees that it is important to discourage excessive use of premium rate services that results in consumer harm. Indeed, it regularly reviews its processes and policies to minimise the risk of bill shock. In recent years, this has included assessing the success of voluntary interventions such as network bars that restrict access to higher cost services like roaming, international dialling, direct carrier billing SMS and voice short codes.

However, BT is concerned that the PSA guidance in respect of how consumers must be informed, and protected from, excessive use is overly paternalistic. The requirement for merchants to obtain additional “consent to consume” and satisfy themselves that the user is in control of their spending will introduce unwanted friction into the user experience for those customers that have knowingly and consciously altered their consumption habits to engage with a particular event. This is likely to be particularly frustrating where engagement with the premium rate activity is time sensitive.

For example, a bill payer allowing themselves or others to mass vote for their favourite contestant in the Strictly Come Dancing final will not want to engage with a text message, phone call or IVR in the final minutes of voting to make sure that they are aware of the cost of participation. This is particularly the case where the cost of participating (and the condition for entry being contingent upon receipt of bill payer’s permission) is made abundantly clear in the promotional material.

Also, proposals in the current guidance will load costs into the premium rate value

chain, without reducing excessive use or avoiding bill shock. This is because:

- (i) the guidance allows for consumers to use premium rate services - even after problematic usage has been identified- provided they are not billed until such time they **acknowledge** their usage and spend levels.

To support this kind of “deferred billing” system, network operators would be required to make substantial and costly changes to systems, processes and billing platforms. But from a customer perspective, this sort of approach could be easily ‘gamed’ to reduce spend while still allowing (particularly vulnerable users) to engage in potentially impulsive or harmful consumption patterns; and

- (ii) the guidance requires consumers to be contacted no more than 48 hours (rather than two working days) after potentially problematic usage has been identified. At this stage, any financial detriment will already be incurred. However, it would still require merchants to invest in new systems and processes to provide out of hours data analysis and customer support.

In light of the above and given the PSA has not presented evidence demonstrating that existing processes such as multi-factor authentication are insufficient to tackle bill shock for non-vulnerable customers

BT does not consider the PSA’s guidance or proposals to be proportionate.

Instead, BT considers that it would be simpler, more efficient, and less intrusive if the PSA’s vulnerable consumer guidance were updated to include a specific requirement that network operators, intermediaries and merchants devise policies, procedures, and risk controls (appropriate and relative to their role in the value chain) to mitigate excessive use that

	<p>could <u>cause or aggravate</u> consumer vulnerabilities.</p> <p>This approach would:</p> <ol style="list-style-type: none">1. Incentivise information sharing that could help merchants better identify and address pockets of harm. <p>While rule 3.3.5 requires merchant providers to take reasonable and prompt steps to identify excessive use of their service or services, it may not always be possible for individual merchants to spot trends or patterns of consumption that indicate there is excessive use of a particular service type. For example, users of adult entertainment may consume services within the modal range from a number of merchants but in aggregate, their pattern of use could indicate problematic consumption. In this scenario, the network operator (as it is required to comply with the Payment Services Regulations 2017), may be helpful in identifying users that are engaging with premium rate services in a potentially excessive way.</p> <p>That said, the network operators alone cannot be responsible for identifying and tackling excessive use, particularly where the consumption relates to high-risk services such as online gambling. They do not have the requisite skill or knowledge of additional sector specific regulation to understand whether an individual is engaging in problematic use when compared to other consumers with similar characteristics or preferences.</p> <p>But, by requiring all actors in the value chain to document risks and controls pertinent to vulnerable users, merchants could (subject to compliance with appropriate data privacy law and regulation) request this information on reasonable and commercial terms to help them better identify and assess genuinely problematic usage associated with their service or a specific user.</p>
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2. Focus the entire value chain on the role they can play protecting vulnerable consumers

Placing an obligation on the full value chain to consider how they can better protect vulnerable customers will ensure there is a holistic approach to preventing bill shock without the need to devise brand new processes and procedures. Tweaks to existing interventions could substantially improve the outcomes for consumers that today struggle to monitor or control their usage due to a characteristic or circumstance rendering them vulnerable.

For example, network operators could reflect upon whether network bars could be more effective if:

- customers were allowed to apply network bars independently via online account management tools, but removal could only take place with the support of a CS agent; or
- they were automatically applied to customers declaring a financial vulnerability.

App stores could consider whether to introduce additional authentication for apps with an age rating less than 16+ to avoid children inadvertently making in-app purchases.

Merchants could consider whether as part of their post-sale customer communications, to use electronic receipts to clearly and prominently state how much the customer has spent on the service that month.

3. Avoid duplication of regulatory guidance.

The excessive use guidance is geared towards avoiding financial detriment and distress. However, people suffering financial and emotional problems are deemed by Ofcom to be consumers in a vulnerable circumstance that should be afforded specialist support.

	<p>As such, maintaining separate guidance for excessive use and vulnerable customers is overly complicated and risks regulatory confusion.</p> <p>4. Maintain flexibility to devise fast and effective interventions that are appropriate to the service type and market trends.</p> <p>The previous regulatory approach and guidance offered a high degree of flexibility for premium rate service providers to implement risk controls relevant to their service type and emerging market trends.</p> <p>Indeed, industry itself introduced multi-factor authentication which (as already described) successfully reduced complaints relating to premium rate services. And EE Limited has, on numerous occasions, introduced rules into its own Code of Practice designed to swiftly tackle problematic merchant behaviour.</p> <p>However, if PSA guidance is too rigid, BT will be unable to quickly and efficiently introduce new merchant rules designed to address pockets of emerging harm. BT would be concerned that merchants would refuse to adhere to any measures that go above and beyond the prescribed PSA guidance.</p>
Proposed Customer Care Standard guidance	
<p>Q3 Is the proposed Customer Care Standard guidance helpful and effective in supporting you to comply with the Customer Care Standard and Requirements? If not, please specify what additional information you would find helpful.</p>	<p>Confidential? Yes/No (delete as appropriate)</p> <p>BT is broadly supportive of the proposed guidance.</p>
Proposed Vulnerable consumers Standard guidance	
<p>Q4 Is the proposed Vulnerable consumers Standard guidance helpful and effective in supporting you to comply with the Vulnerable consumers Standard and Requirements? If not, please specify what additional information you would find helpful.</p>	<p>Confidential? Yes/No (delete as appropriate)</p> <p>Save for the earlier suggestion to include a specific requirement that processes, and policies consider the impact of excessive use on vulnerable consumers (relative and proportionate to their role in the value</p>

	chain), to BT is broadly supportive of the proposed guidance.
Proposed DDRAC Standard guidance	
<p>Q5 Is the proposed DDRAC Standard guidance helpful and effective in supporting you to comply with the DDRAC Standard and Requirements? If not, please specify what additional information you would find helpful.</p>	<p>Confidential? Yes/No (delete as appropriate)</p> <p>BT is broadly supportive of the guidance published, save the view that <i>“if a merchant provider wants to operate a new service or new service type, we recommend that this be considered higher risk and monitored closely until there is sufficient data available to evidence that the service is operating effectively”</i>.</p> <p>Where there is sufficient information to undertake a risk assessment in relation to a service provider’s ability to operate the service effectively and compliantly, there should not be an automatic assumption that the service be deemed high risk.</p> <p>This ‘one size fits all’ approach (i) fundamentally conflicts with the PSA’s view risk assessments are dynamic and need to be responsive to information shared across the value chain, and (ii) will impose a compliance burden that may discourage the diversification of services and offering by good actors in the market known to operate responsibly and compliantly.</p> <p>BT is also concerned that the PSA has not set a proportionality threshold for its “incident response” guidance. As a result, there’s a substantial risk of over-reporting suspected or alleged instances of regulatory non-adherence with the Code. This risks all participants within the premium rate value chain, including the PSA, inefficiently using limited resources to investigate and deal with such matters.</p> <p>To mitigate this risk, BT proposes that the PSA supplement the current guidance with minimum thresholds (and articulate the incentives) for making referrals for confirmed or suspected instances of regulatory non-adherence.</p>

	<p>Suggested drafting has been set out below.</p> <p><i>To limit and address consumer harm, providers are encouraged to proactively alert us to any known or confirmed instances of regulatory non-adherence in respect of its own- or third-party services. We will consider this to be early and proactive cooperation with the PSA, qualifying as a mitigating factor should future enforcement action be deemed necessary.</i></p> <p><i>Where there is alleged or suspected instances of regulatory non-adherence, providers are encouraged to make a referral to the PSA where:</i></p> <ul style="list-style-type: none"> <i>• there is a disagreement between the parties as to whether the practice/incident in question is compliant with the Code or Guidance; or</i> <i>• there is a significant risk of consumer harm; and</i> <i>• it is reasonably suspected that the incident of regulatory non-adherence is ongoing or cannot be swiftly remediated or mitigated.</i> <p><i>Such referrals will be deemed to be early and proactive co-operation should future enforcement action be deemed necessary.</i></p>
Proposed Systems Standard guidance	
<p>Q6 Is the proposed Systems Standard guidance helpful and effective in supporting you to comply with the Systems Standard and Requirements? If not, please specify what additional information you would find helpful.</p>	<p>Confidential? Yes/No (delete as appropriate)</p> <p>BT supports rules and guidance that will ensure systems used to support premium rate services are robust and secure.</p>
Proposed guidance on service-specific Requirement 3.13.3	
<p>Q7 Is the proposed guidance on service-specific Requirement 3.13.3 helpful in clarifying the PSA's expectations and effective in supporting you to comply with that Requirement, including in relation to what constitutes "reasonable time"? If not, please specify what additional information you would find helpful.</p>	<p>Confidential? Yes/No (delete as appropriate)</p> <p>BT has no comment.</p>
<p>Further comment -anything to add:</p>	<p>Implementation</p>

	<p>BT is concerned that the PSA has underestimated the complexity of implementing a regulatory and compliance project of this size for premium rate service providers.</p> <p>While there are substantial similarities between Code 14 and Code 15, the network operators, intermediary and merchant providers will need to undertake a gap analysis between the two Codes (including applicable guidance). Once providers are clear on any gaps, resources will then need to be allocated to ensure there is good regulatory compliance. Generally, regulatory implementation projects of this kind cannot be mobilised before there are clear project requirements or the business will risk regrettable spend.</p> <p>At BT project and resource allocation is agreed in April each year. Regulatory projects, particularly those requiring updates to our IT systems and architecture, will require a minimum of 12 months to deliver. However, the PSA did not start its consultation process for Code 15 until 08 April 2021. BT does not believe it is reasonable or proportionate to expect industry to comply with Code 15 within the timescales set; to fund the required changes to business processes and policies within potentially a 5–6-week window is likely to require other commercial and compliance activities to be halted and de-funded.</p> <p>BT is happy to discuss, on a confidential basis, the more specific challenges it faces implementing Code 15 by 5 April 2022.</p> <p>Administrative</p> <p>BT would find it helpful for the PSA to publish all publicly available documents with a date stamp and version control data.</p>
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