

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.

Full name	Katherine Herbert
Contact phone number	██████████
Representing	Organisation
Organisation name	Customer Calls Ltd.
Email address	██

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.

Personal data, such as your name and contact details, that you give/have given to the PSA is used, stored and otherwise processed, so that the PSA can obtain opinions of members of the public and representatives of organisations or companies about the PSA's subscriptions review and publish the findings.

Further information about the personal data you give to the PSA, including who to complain to, can be found at psauthority.org.uk/privacy-policy.

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</p>
<p>Your response: Please indicate how much of your response you want to keep confidential.</p>	<p>Delete as appropriate: None</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</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? No</p> <p>CCL welcomes this opportunity to respond to the PSA's consultation on its proposed guidance to Code 15. In close liaison with our long-standing lawyers who act for us on regulatory compliance matters, we have reviewed the consultation document and proposed guidance in detail, and we wish to make the following points set out on this response form.</p> <p>Presentation of pricing information The guidance on 'Presentation of pricing information: font and colour' states that: <i>'The font size used to display pricing information also needs to be considered in comparison to the font size of the call to action – ideally the same or a comparable size font should be used.'</i></p> <p>In our view, the words <i>'Ideally the same or a comparable size font'</i> are unhelpful and should not be included within the guidance.</p>

The PSA has set a number of specific regulatory requirements as to the content and location of information that must be displayed with a PRS call to action before a purchase is made by a user. In the case of ICSS, there is limited room above the page fold on a mobile device (i.e. what can be seen 'at a glance' on the landing page without the user scrolling). This means that font sizes must necessarily differ to effectively display the relevant information in a prominent and proximate manner, and in a way that effectively serves the purpose of the ICSS.

The preceding paragraph in the guidance states that pricing information should be 'presented in a font size that does not require close examination by a reader with average eyesight'. We believe this is a clear and readily-understood requirement that is focused on achieving pricing clarity and is an appropriate safeguard against consumers using PRSs without first fully understanding the cost of doing so. It is unhelpful for the guidance to express the prominence and clarity standard of pricing information in a different and possibly conflicting way — and stating it must be in a comparable font size to the call of action risks eroding the clearness of the 'average eyesight' requirement and in turn the pricing information obligations more generally.

The PSA may recall that a third party was commissioned to carry out independent consumer research into the ease with which users of its ICSS who had 'average eyesight' could view the pricing information displayed on a typical smartphone screen, and this research was shared with the PSA in August 2018. The overwhelming majority of participants in the research (over 90%) could easily identify the cost of calling the PRS number when presented with the landing screen.

As the PSA identifies within the guidance, different mediums will have to use different sized fonts, depending on the application and nature of the medium in question. Regulatory requirements should go no further than ensuring that pricing information is clearly displayed to a user (and is proximate to the call to action) so that the user can decide whether or not to proceed with using the service. We believe it is an unnecessary step to mandate the font size for pricing information, as this reduces the scope of PRS design (such as the landing page in the case of ICSSs). In turn, this diminishes the opportunity for service providers to innovate and differentiate their designs from each other — and risks cluttering the user interface which may adversely impact user experience and the utility of ICSSs for users looking for information quickly and conveniently.

We believe transparency is best and most effectively achieved by the pricing information being clear and proximate to the PRS number, and existing PSA rules already address this sufficiently.

Promotion

The new Code of Practice requires that consumers must

	<p>be fully and clearly informed <i>‘that the charge will be added to the consumer’s phone account (mobile or otherwise)’</i>.</p> <p>While we support measures which aim to promote charging clarity, the guidance document does not make it clear how this requirement will apply to voice-based premium rate services. Certain PRSs, including ICSSs, are necessarily charged by means of a conventional phone call and that arrangement is obvious, well-established, and self-evident. In fact, stipulating that the charge will be added to the customer’s phone account may <u>generate</u> confusion and uncertainty as it may suggest the user will be billed <u>in addition to</u> the phone call charge. This is unhelpful, unnecessary and risks reducing regulatory effectiveness. Accordingly, we believe the guidance should make it clear that for voice-based services this information requirement is not applicable, or that the application is limited to add-on or connected purchases made by PRS rather than the cost of the phone call itself.</p>
--	--

Proposed Fairness Standard guidance

<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? No</p> <p>Excessive Use CCL actively monitors services to identify high use of our service. Once repeated use has been identified, CCL ensures that consumers are made aware of their use, are provided with the direct number for the end organisation they are looking to contact and are recommended to use that number in future instead of re-dialling CCL’s PRS number. After the PRS call ends, mobile users of our service (making up the vast majority of users) are automatically sent an SMS message featuring the direct number of the end organisation they are seeking — thereby allowing users to easily recontact the organisation without dialling the PRS number again.</p> <p>Within the guidance, the PSA recommends <i>‘that the provider of the phone-paid service should not continue to bill the user or offer access to the service until the user has acknowledged their usage and associated spend level to the provider directly. The purpose of this recommendation is to mitigate against any financial harm resulting from the excessive use’</i></p> <p>In our view, this requirement should not apply to all PRSs. If it were applied to ICSSs, it would amount to over-regulation that insults users’ intelligence and seeks to unreasonably constrain their freedom of choice when deciding how to contact an end organisation with whom they’d like to speak. In turn, this risks adversely impacting competition</p> <p>Once a user has been informed of their high or repeated usage of an ICSS, it is <u>their</u> responsibility and choice whether to continue using it (in full knowledge and acceptance of the cost of using the service). It should not be dictated by the PSA or merchant providers and we do</p>
--	--

	<p>not feel it is appropriate for the PSA to unduly constrain a user's choice to make use of an ICSS on more than one occasion.</p> <p>Unlike some other forms of PRS, such as voting, gaming or adult services, there is no addictive or compulsive aspect to using the service. ICSSs are focused on providing information and call connections services to users who prize convenience and speed in contacting to end organisations. In addition, unlike subscription services, there is no ongoing charge to customers; for a customer to incur a repeat charge they must take the deliberate and active step of redialling the number. As a result, it should be assumed that repeat users have deliberately chosen to use the ICSS again and they shouldn't be prevented from doing so by excessive and unwarranted regulation.</p> <p>Regulation seeking to assume what a person wants to buy and what is 'good' for them is not generally found in other sectors — such as requiring fast-food restaurants to turn away customers who buy fast-food meals several times a week.</p> <p>For these reasons, we believe that the PSA's statement we call out above should not be included within guidance; ultimately, it is not for PSA to dictate what consumers can buy and when. The requirements for identifying high or repeat use and informing customers are sufficient in mitigating against the risk of financial and other harm that might arise. Stopping a consumer permanently from being able to access a service after they've been made aware of their repeat use is draconian, unfair and an example of over-regulation.</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? No</p> <p>Customer Care CCL agrees that all providers should take responsibility for putting in place and following a robust and effective customer care process, and there are a couple of aspects of customer care that would benefit from greater guidance being provided in our view.</p> <p>Specifically, paragraph 3.4.8 of the Code of Practice states <i>'Intermediary providers and merchant providers must, upon request, provide the PSA with all information that allows examination of how they have handled any customer care or consumer enquiry or complaint.'</i></p> <p>We believe the guidance should expressly identify what types of information the PSA might request. This would assist providers in devising and implementing appropriate data retention policies.</p> <p>CCL currently keeps a log of all consumer contacts and enquiries for 12 months, after which they are securely erased for data protection reasons. Our log contains the consumer's name, telephone number, method of contact,</p>
--	--

enquiry outcome and the correspondence chain. Any collection and retention of personal data must be consistent with applicable law, and must necessarily balance serving the relevant lawful purpose which the data was retained and the individual's privacy and data protection interests. We believe our policy (the information and retention duration) to be reasonable and sufficient to satisfy an information request that the PSA might make, but it would be helpful for the guidance to provide some further details as to the PSA's expectations in this area.

Refunds

On the rare occasion that a customer is not entirely satisfied with the service they have received, CCL refunds the full service charge incurred and directs the customer to seek a refund of any access charges from their relevant network operator.

The guidance omits any reference to the refund of consumer access charges. We think the guidance would benefit from explicit clarification that any refund issued by the PRS provider does not include the relevant access charge that is imposed and collected by the caller's network operator.

It is right and proper that any refund of access charges must come from the relevant network provider rather than the PRS provider. It is not fair and reasonable to require a PRS provider to refund to a customer charges beyond those it has set and collected itself. Consumer law's general approach to refunds (including the relevant provisions within the Consumer Rights Act 2015) are focused on the retailer paying back to the customer the charge they have made for the goods or services in question — and it would be inequitable and illogical to ask a retailer to also refund to a customer charges imposed by a third party with whom it has no connection.

While the network provider is a distant third party to the PRS provider, the same cannot be said of the customer, where there is a close and direct contractual relationship between those parties. Dissatisfied customers therefore have the ability to seek a refund of access charges directly from their network operator.

The nature of the access charge being set by network providers and Ofcom's responsibility for the NGCS regime was expressly identified by the PSA during the consultation process for the 15th Code of Practice, where it said:

'We also received a number of responses in relation to how refunds should apply in the context of ICSS. One suggestion was that where refunds are due in relation to ICSS, access charges should be refunded by network operators. While we are sympathetic, this is not something the PSA has the power to require – this is a matter for Ofcom.'

	<p>CCL understands and acknowledges the statement that the PSA does not have the power to require network operators to provide access charge refunds, and that Ofcom is responsible for implementing and managing the NGCS regime. As the PSA has identified the NGCS regime is 'a matter for Ofcom', we would urge the PSA to explore this issue with Ofcom so that the issue of access charge refunds from network providers can be addressed and put on a clear regulatory footing. CCL has noted to the PSA previously that we believe access charges are responsible for the overwhelming majority of complaints about ICSSs, and the problem remains. Some mobile network operators are now imposing access charges as much as 65p per min. Such charges require appropriate and urgent regulation.</p> <p>The disparity between service and access charges are demonstrated by the example CCL call below:</p> <table border="1" data-bbox="699 801 1385 913"> <thead> <tr> <th data-bbox="699 801 922 846" rowspan="2">20-minute call</th> <th data-bbox="922 801 1149 846">Merchant</th> <th data-bbox="1149 801 1385 846">Network</th> </tr> <tr> <th data-bbox="922 846 1149 880">Service Charge</th> <th data-bbox="1149 846 1385 880">Access Charge</th> </tr> </thead> <tbody> <tr> <td data-bbox="699 880 922 913">Cost</td> <td data-bbox="922 880 1149 913">£6.00</td> <td data-bbox="1149 880 1385 913">£13.00</td> </tr> </tbody> </table> <p>We believe that the issue of access charges has not been properly addressed in the guidance and Code. We do not believe that it's fair and reasonable (or lawful) for merchant providers to be required to refund network providers' access charges, and we feel this should be made clear in PSA's refund guidance.</p>	20-minute call	Merchant	Network	Service Charge	Access Charge	Cost	£6.00	£13.00
20-minute call	Merchant		Network						
	Service Charge	Access Charge							
Cost	£6.00	£13.00							

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? No</p> <p>Vulnerable Consumers We believe the guidance on vulnerable consumers requires reconsideration and amendment in certain respects.</p> <p>CCL provide call connection to many UK organisations with whom individuals wish to speak routinely. CCL do not use targeting methods such as gender, age or ability when advertising or devising advertising campaigns. As a responsible PRS provider, CCL also actively avoids advertising services in relation to 'sensitive' organisations or ones which are more likely to be contacted by vulnerable persons or those in difficult circumstances, such as government departments like HMRC and Child Benefit).</p> <p>The guidance gives ICSS as an example of a service which is '<i>attractive to people in difficult circumstances which could lead to them being vulnerable</i>': '<i>some services attractive to people in difficult circumstances which could lead to them being vulnerable, e.g. ICSS for people seeking to make insurance claims or trying to contact public services or officials</i>'</p> <p>CCL do not believe that the inclusion of insurance</p>
--	--

	<p>industry as an example within the guidance is appropriate or helpful. People contact insurance providers for all sorts of reasons, including taking out insurance, renewing their policy, asking the insurer to match or beat a quote from a competitor, or to change policy or other details. It is by no means confined to persons making insurance claims. ICSS merchant providers cannot identify if a user is contacting their insurance company to make a claim or for some other reason; they will potentially use the same search tactics and reach the same landing page / promotion regardless of the reason for making contact.</p> <p>In any event, it does not follow that a person seeking to make an insurance claim ought to be categorised as vulnerable. Insurance is a very common service with which the vast majority of adults in society will have dealings; indeed, in the case of motor vehicles, having at least third party insurance is a legal requirement for a person to lawfully drive a car in the UK. Insurance itself is a highly regulated sector and there are no sound or objectively justifiable reasons to treat a person calling an insurer as being vulnerable. The strict promotion regulations on ICSS merchant providers set by the PSA ensure that consumers are clearly informed of the nature and cost of a service upon viewing a promotion prior to connection.</p> <p>CCL believes that this section of the guidance should be amended to remove the insurance sector as an example. CCL agrees that examples such as Child Benefit or HMRC should be included due to the nature of the sector and the likely circumstances in which individuals may be contacting those organisations.</p> <p>Vulnerability Policies & Procedures The guidance states that ‘<i>The PSA expects providers to be able to demonstrate how they are using their policies and procedures effectively in the promotion and delivery of phone-paid services</i>’. While this may be very appropriate for some PRS services, we believe it has no application or utility for others. Voice-based services, such as ICSS, do not have access to or are able to collect detailed data on a user’s vulnerability — meaning that no meaningful reporting can be carried out. To recognise this, we would like to see ICSSs and other voice-based services carved out from the application of this section of the guidance, or that it is qualified by the words ‘where feasible’ or similar.</p>
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>

Proposed Systems Standard guidance

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.

Confidential? Yes/No (delete as appropriate)

Proposed guidance on service-specific Requirement 3.13.3

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.

Confidential? Yes/No (delete as appropriate)

Submit your response

To send your responses to the PSA please email this completed form to consultations@psauthority.org.uk or by post to Barbara Limon, Phone-paid Services Authority, 40 Bank Street, London, E14 5NR.