

# Consultation response form

## Consultation on Code 15 guidance

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

Full name	Joanna Cox
Contact phone number	██████████
Representing	Self / Organisation (delete as appropriate)
Organisation name	AIMM
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](https://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: <del>Nothing/your name/organisation name/whole response/part of the response (you will need to indicate which question responses are confidential).</del></p>
<p>Your response: Please indicate how much of your response you want to keep confidential.</p>	<p>Delete as appropriate: <del>None/whole response/part of the response (you will need to indicate which question responses are confidential in the table with questions below).</del></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><del>Yes/No (delete as appropriate)</del></p>

## Your response

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

## Introduction to aimm

The Association for Interactive Media and Micropayments (aimm) is the specialist UK-based trade organisation representing the commercial and regulatory interests of member companies involved in the interactive media and micropayment industries - where consumers interact or engage with services across converged media platforms and may pay for those services or content using a variety of micropayment technologies including premium rate. We are a not-for-profit organisation, funded by our members, run for our members. We create conditions for growth and protect the regulatory environment in which our Members operate.

aimm has a membership that represents the entire value chain – from the providers and promoters of information to the network operators and technical service providers that deliver and bill them to customers. No other organisation has such reach or representation. Members of aimm work collaboratively to address key industry issues and to build a trusted business environment, encouraging investment, creating new opportunities, and developing business partnerships.

aimm promotes excellence in the world of interactive media and micropayments. The purpose of aimm is to create an environment of consumer confidence and trust within which our members' commerce can flourish. aimm promotes and abides by the philosophy that consumers who are accurately and openly informed of the nature, content, and cost of

participation in an interactive service experience should be perfectly placed to exercise their freedom of choice and thereby enjoy the most effective form of consumer protection.

## Membership input

aimm welcomes the opportunity to respond to the 15th Code Guidance Consultation. To assist aimm in providing a comprehensive input to the Phone-paid Services Authority, aimm communicated with its Members in the following manner;

- Whole Membership workshops (moved online due to Government advice on social distancing)
- Membership sector specific workshops (moved online due to Government advice on social distancing)
- Written input from Members
- One-to-one telephone discussions
- Conference calls
- Individual meetings

Information gathered from all those who attended meetings/submitted feedback in all these ways is presented below.

aimm Members who operate in the Phone Paid Services markets are broadly split into seven categories although there is some overlap inside individual Member businesses.

- Fixed Line Networks who are often Fixed line L1
- Mobile Networks
- Mobile L1 aggregators
- L2 providers of traditional PRS services (fixed line, PSMS, and DCB)
- Broadcasters (who are often L2 providers)
- Charities and Charity enablers (who are often L2 providers)
- Industry Support companies

aimm sought responses from Members across the Network Operators, L1 community, L2 community, Third Party Verification and Anti-Fraud Specialists, Broadcasters and Charities and in this paper varying views are represented.

Some of aimm's Members may input their response directly to the PSA through their regulatory staff or regulatory representatives. Wherever possible, we ensure that views of members made through independent responses are in synergy with aimm's collective views.

As our response is guided and supported by Members' input, and where the term "Members" is used this refers to those Members who engaged with us during the consultation process. Some views may be expressed that are not necessarily those of the aimm Executive or aimm's Board of Directors.

Consultation questions	Your response		
<b>Proposed Transparency Standard guidance</b>			
<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? <del>Yes</del>/No (delete as appropriate)</p> <p>Members agreed that the Guidance was generally helpful however made the following points;</p> <ol style="list-style-type: none"> <li>1) The Promotion guidance, specifically that relating to pricing being prominent and proximate, is skewed towards web-based services. There is no “buy now” button for some Broadcast or Charity services, and these services do not appear to be considered here</li> <li>2) Broadcast and Charity service providers note that: <p><i>“The most common example of pricing information being proximate is when it is provided immediately before or above the call to action.”</i></p> <p>They seek reassurance that they are not expected to place the price of placing a vote, making a competition entry or giving a donation ahead of the Call To Action.</p> </li> <li>3) Within the table of appropriate examples of pricing, it was suggested that there might be a requirement for standard network rate messages to be included in some subscription types, which is not included here: <table border="1" data-bbox="687 1391 1377 1458" style="width: 100%; border-collapse: collapse;"> <tr> <td style="width: 50%; padding: 2px;">Subscription services</td> <td style="width: 50%; padding: 2px;">State the cost in “£” clearly plus the billing frequency for example £[x] per week; £[x] per month</td> </tr> </table> </li> <li>4) Members discussed the following guidance note: <p><i>“Providers should ensure that their mechanisms are able to respond to any other exit trigger words used. Where a consumer has legitimately tried to cancel a service and failed (either because they have mis-typed “STOP”, or because they have texted some other variation such as “please stop”, “stop texting me”), then once this becomes clear to the provider, consumers should be retrospectively refunded for any charges subsequent to their first clear attempt to opt out, and immediately removed from the service.”</i></p> </li> </ol>	Subscription services	State the cost in “£” clearly plus the billing frequency for example £[x] per week; £[x] per month
Subscription services	State the cost in “£” clearly plus the billing frequency for example £[x] per week; £[x] per month		

	<p>Members would like to make the PSA aware that they receive all sorts of messages into shortcodes, and it is not feasible to manually read through these to ensure all messages are responded to. These are automated systems which have many variations and mistypes accounted for but cannot possibly respond to all nature of input. Responding to all variations sent in is an impossible task to place on the provider, especially considering that the instructions to the consumers about how to submit a legitimate cancellation are very clear.</p> <p>Some Members cited the ability to send an alternative bounceback when a message is received into a service that does not fit any of the automated parameters. If acceptable, this could potentially be used to try and guide the consumer to the correct instructions; the onus would then be on the consumer to follow that guide.</p> <p>5) Finally, Members note the Guidance which states:</p> <p><i>“Pricing information should be very easy to locate within a promotion, it should be bold and displayed close to the phone number, shortcode, button, or other means by which a charge may be triggered.”</i></p> <p>Members have questioned whether this refers to a bold font type or simply that it should stand out. We requested clarity on this from the PSA and have been informed that it means “to stand out” rather than any type of font type. Members ask that this be made clear in the statement.</p>
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**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? <del>Yes</del>/No (delete as appropriate)</p> <p>The Fairness guidance was generally agreed to be helpful, however we would like to bring to your attention the following issues/concerns;</p> <p>1) Excessive Use; Guidance; Whilst all Members want to discourage excessive use which would lead to consumer harm or financial distress, Members believe that excessive use is personal to the individual. £3 to one person could be excessive use but it may be £240 for another. As such, blanket guidance does not work here.</p>
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	<p>Members suggest that each individual business be responsible for determining their own profile of excessive use and associated risk assessment, within the already detailed PSR17 regulation without being guided to utilise a “one size fits all” method which does not actually fit all Industry areas.</p> <ol style="list-style-type: none"> <li>2) All MNOs have customer accessible bars for prevention of spend on PRS and fixed line have means of preventing calls to premium numbers.</li> <li>3) Members believe that the PSD2/PSR regulations already cover this area and as such the PSA does not need to apply ultra-detailed guidance in this area. Controls such as spend levels and limits are already in place.</li> <li>4) It’s important to note that the PSA already has a detailed Annex 1 “Specified services charges and duration of calls” which highlights the area of concern. This element of guidance is an example of old guidance superseded by other regulation. As such, some Members believe that PSA should drop “Excessive Usage” guidance for businesses operating inside PSR17.</li> <li>5) The PSA should retain guidance for businesses outside of PSR17 regulation however Members generally do not all agree with the proposed Modal method of assessing average use or spend. Members are concerned that using the Modal average will falsely flag up a large number of potential examples of excessive use. For instance, a charity event may well see the majority of participants donating once to the campaign, as one would expect. This then means that the Modal average will be one, and as such any donations over two could be potentially seen as excessive. Members suggest that each individual business be responsible for determining their own profile of excessive use, method of establishing it and associated risk assessment.</li> <li>6) Some providers in particular industry areas already use spend reminders/limits to good effect. They seek clarification that they would not need to abandon these tried and tested methods (familiar to consumers) to assist users in managing their spend, in favour of this untried approach.</li> <li>7) In the event of excessive use being identified, some Members were very concerned about the rigid “no later than 48 hours” deadline</li> </ol>
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proposed in the consultation document. To reach users, (not by receipting), and:

*“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”*

.. is a huge undertaking both technically and in resource, and is not achievable in 48 hours, particularly should the event be prior to a weekend. Often the only contact detail a provider will have is a CLI. When trying to contact consumers using the CLI, many will not answer calls from numbers they don't recognise, it takes several attempts over several days to reach them and in some cases they never answer the phone. When calls are answered, some think it's a scam and refuse to engage. Some consumers withhold their CLI, in these cases the CLI is not visible to providers, nor can it be under the CLI Guidelines, so there is absolutely no chance of them being contacted. In addition to this, Members are concerned that there may be consumer harm caused and increased complaints that arise from automatically barring users from accessing a service, which feels like a knee-jerk reaction.

- 8) Members are confident -but seek reassurance - that MFA will not be required for charity services that do not fall under the recurring donation or society lottery headings.
- 9) Members are aware of their responsibilities around proving consent with records that evidence the process and are happy to do so. However they note the below statement regarding auditable records and ask for clarification on how long these records are required to be kept for.

*“The PSA would generally regard the consumer's consent as being informed if it can be demonstrated via genuine, easily auditable records, that a consumer has seen all the key information that is likely to influence their decision to purchase the service. Providers should be able to demonstrate that such records show genuine consumer consent and have not been tampered with in any way since they were created. The provider should be able to provide the PSA with raw opt-in data (access to records, rather than Excel sheet of records which have been transcribed)*

	<p><i>and real time access to this opt-in data on request. This may take the form of giving the PSA password-protected access to a system of opt-in records.”</i></p> <p>In some instances for example, where the user has made a voice call, keeping the audio for such a recording for two years is prohibitive due to their size, and there are also concerns of the GDPR ramifications of doing so.</p> <p>In any case, data storage as is being proposed in this document is prohibitive, costly both in financial terms and staff resource (in some cases new staff will need to be hired to satisfy this Guidance) and dangerous in terms of security. This has not been properly thought through in terms of impact assessment by the PSA.</p> <p>The PSA suggest that they may need direct access to systems to establish that data is not tampered with. This goes beyond the powers in CoP as section 4 Supervision which requires reports not direct system access. Members question how the PSA are going to provide and fund the “skilled person” to understand a proprietary system?</p> <p>Members generally agreed that once a request is received from the PSA then the pertinent data would be ringfenced until no longer required. However, if data has been stored for a reasonable amount of time, and then deleted before that request comes in, then they cannot be held accountable for this, as it is simply not possible to store data for an indeterminate amount of time. Where data has been kept for a reasonable amount of time before being deleted, Industry would not expect to be penalised for this and seek assurance that this would not happen.</p>
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**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? <del>Yes</del>/No (delete as appropriate)</p> <p>Members are generally satisfied that the Customer Care guidance proposed is helpful. However, we would like to raise the following comments:</p> <p>1) It is stated that:</p> <p><i>“Whether or not a consumer contact is an enquiry or a complaint (defined in Code paragraph D.2.17) is determined by the consumer. If a consumer makes an</i></p>
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	<p><i>expression of dissatisfaction, this should be considered as a complaint.”</i></p> <p>Some Members are happy with this approach, as they feel that this may drive down escalations to the PSA, but do not feel it would be appropriate to classify every query as a complaint as this would give a false picture of consumer satisfaction (which could then drive further unnecessary regulation).</p> <p>2) Some Members are concerned that some areas of the value chain will see an increase in costs to meet these requirements that is not sustainable.</p> <p>3) Mobile Network Operators note that in the Code there is the following requirement:</p> <p><i>“3.4.9 Network operators and intermediary providers that interact with consumers in relation to a PRS must provide clear information to them about how to contact the merchant provider, including the merchant provider’s: (a) name as registered with the PSA and details of the service the consumer has been charged for where such details can be reasonably obtained; and (b) contact details and hours of operation (including customer care details and website).”</i></p> <p>In the guidance, Mobile Network Operators also note that:</p> <p><i>“The PSA expects that: • consumers should have to make as few calls/contacts as possible in order to find and receive redress”.</i></p> <p>Mobile Network Operators agree that ideally the consumer should have to make as few calls as possible to achieve redress. MNOs may be able to publish the expected hours of operation of the primary support provider (as 3.4.2) but all businesses are entitled to use other routes to support high demand or out of hours support and it would be an impossible task to expect all of this information to be available.</p> <p>4) Some Members requested - in the Code 15 consultation - that calls to helplines should be “free or low-cost” (Q19), rather than at no cost (i.e., free call). This position appeared to be supported by the PSA in its final decisions (paragraph 539), which states:</p>
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	<p><i>“we have also amended this Requirement to clarify that basic rate (costing no more than UK geographic numbers) phone numbers can be used for customer care...”</i></p> <p>However, the published code states:</p> <p><i>3.4.1 Intermediary providers and merchant providers must ensure that consumer enquiries and complaints are responded to and resolved promptly, easily and fairly, at no cost to the consumer</i></p> <p>Members ask for clarity in the guidance to ensure that the position on being able to utilise low-cost helplines is clear.</p>
<p><b>Proposed Vulnerable consumers Standard guidance</b></p>	
<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? <del>Yes</del>/No (delete as appropriate)</p> <p>Members welcome efforts to ensure that vulnerable consumers are considered when using phone-paid services and generally agree with the sentiment behind the Standard. However, some concerns have been raised which are listed below.</p> <p>1) Members note that the PSA state:</p> <p><i>“The Code (paragraph D.2.79) defines a vulnerable consumer as: <b>A consumer who is less likely to make fully informed or rational decisions due to a specific characteristic, circumstance or need and may be likely to suffer detriment as a result.</b> This definition is deliberately broad and recognises that all consumers could potentially be vulnerable.”</i></p> <p>In general the guidance explains the obligations set out in the code which are clear and specific. The PSA should not attempt to widen the definition of vulnerability in Guidance so far as to expose all elements of the value chain to a subjective charge of failing to support vulnerable customers.</p> <p>The PSA should remove the section: <b>“The particular Characteristics of the phone paid services market”...</b> as this describes any payment service and is not the specific to phone-paid services.</p> <p>In deciding the policies that are to be utilised to assist in identifying and mitigating against harm for vulnerable consumers, Members are wary that they must not be discriminatory towards their users. For</p>

	<p>instance, whilst vulnerable, a consumer may be using a number of phone-paid services in the manner for which they are intended, and well able to make the decisions to participate. As such, it would be discriminatory to restrict access to those consumers based on their vulnerability.</p> <p>Members agree that customer care agent training is paramount to handling customer enquiries as well as complaints of customers who are identified as being vulnerable, and that should be based on a businesses accepted pre-defined vulnerability policy. In dealing with Vulnerable Consumers, who are in contact post-purchase, each business must ask how much the consumer owes and why they feel they cannot pay, but this has to be judged on a case by case basis. One size again does not fit all here and must be based on each business' own policy.</p> <p>There is much manual work involved in this Standard and the Guidance that supports it. As such, Members feel the PSA should acknowledge the use of industry standard DDRAC and process documentation in effort to contain costs in an area that is already being considered in detail.</p>
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**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? <b>Yes/No</b> (delete as appropriate)</p> <p>1) We note that DDRAC policies and procedures should set out:</p> <p><i>“who in the organisation has the overall responsibility and oversight for reviewing DDRAC information, including the authority to take decisions including sign-off – a director or the equivalent person with responsibility for DDRAC within the organisation”.</i></p> <p>In some of the very large Member organisations, it will not be a Director – or a Director equivalent - who is in control of the sign-off of phone-paid service DDRAC. The Director or Director equivalents in some of the organisations simply do not have experience of this environment and as such have recruited specialists that can manage it confidently and competently for them. Those are the people – and rightly so – that should be signing off on these processes. Those Members seek reassurance that they will not be penalised for the size and organisational structure of their business.</p>
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	<ol style="list-style-type: none"> <li>2) Members generally agreed that a suspected breach should be investigated quickly and established as being a definite breach before being reported, to save undue time wasting and use of resource, but seek assurance that this approach is acceptable to the PSA.</li> <li>3) It was discussed as to whether a template issued by the PSA guiding the value chain on the retention and storage of data would be useful to standardise the process and make clear to Industry what is being asked of them. It was thought that this could also be of benefit to the PSA in that data that was then requested would be uniform in its presentation.</li> <li>4) Additionally, some Members suggested that it could save duplication of work (and hence time and resource), if as a group, the MNOs could choose a representative to request and review the DDRAC documents in Annex 2 on their behalf annually. This would save the Intermediaries having to send documents to all MNO's individually and would also save all MNOs having to do the same checks on the same documents. We ask for the PSA's feedback on this suggestion.</li> <li>5) Members discussed and questioned whether - through new Supervisory and Engagement Code 15 procedures - there was a way in which the PSA could share information with the value chain which would help inform DDRAC practices and reduce consumer harm? They would appreciate further clarification on what could be done in this area.</li> <li>6) Again, Members questioned why the PSA found it unreasonable that they be asked to incorporate a level of data validation in the Registration process. If the PSA completed a reasonable level of verification at the Registration stage this would greatly reduce the burden on the value chain in this area, whilst also reducing the risk of consumer harm.</li> <li>7) Finally, it was agreed that the DDRAC requirements are not without cost, and that this has not been fully impact assessed. Requirements on the value chain are sizeable however the PSA suggest that any additional</li> </ol>
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	<p>verification on their part will cost even more than the £4 million budget which they currently operate on. To those businesses who have significantly lower budgets, this does not feel like parity. Members would like the PSA to share the responsibility of DDRAC by taking responsibility for not letting bad actors register in the first place – without placing a further onerous financial burden on the value chain.</p>
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**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? <del>Yes</del>/No (delete as appropriate)</p> <ol style="list-style-type: none"> <li>1) Members are already familiar with many of the Systems Standards through the Security work that has been done by Industry over the last few years. Members also have concerns that there is not enough expert technical knowledge to be able to test security properly annually.</li> <li>2) Members do question whether there is a potential conflict of interest here. If a Network Operator or Intermediary Provider submit their platform security tests to the PSA, Members question what will be done with those submissions? Is there an intention to do this in house, and will the PSA recruit, train and manage a team? If the PSA determine to use external Crest Accredited companies then the number of suitable companies is small and the PSA must guard against using companies already selected to provide consultation to the PSA.</li> <li>3) Giving ‘raw data’ access to someone who is not suitably trained could pose a real issue regarding misinterpretation of that data; it also has GDPR implications that MSISDN searches may be undertaken by the regulator when not part of a regulatory investigation. Some guidance on how the requests for access and their limitations to ‘case investigation’ matters only would be useful.</li> <li>4) Members also would like to ask for reassurance that the PSA would work with them if supervisory interventions fell during a period of high activity in order to reduce the risk of operational failure caused by technical or human error interrogation during a period of</li> </ol>
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	<p>high activity (such as a launch or televised event for example).</p> <p>5) In terms of thematic reviews, Members are concerned (based on the scarcity of the detail provided) that these could be onerous and problematic in terms of resource and confidentiality and would like to know what reasonable and justifiable KPIs would trigger a review of this nature. Members note that thematic reviews appear in other Codes of Practice but are usually accompanied by KPIs.</p>
<p><b>Proposed guidance on service-specific Requirement 3.13.3</b></p>	
<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? <del>Yes</del>/No (delete as appropriate)</p> <p>Members note that the PSA are due to consult on a Code change to Code 15 regarding 3.13.3 which will render this guidance obsolete.</p> <p>As it currently stands the guidance suggests an approach to including "sent" entries which is not technical feasible and cannot be complied with.</p>
<p>Further comment -anything to add:</p>	<p>Some Members are very concerned about the timeline for implementation of the Code and Guidance. With the Guidance statement expected in February 2022, Industry may have between 5 and 9 weeks to implement some huge changes to the way in which they operate, for a consultation that will have taken over a year to complete. They believe this is not feasible.</p>

**Submit your response**

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