

Consultation response form

Consultation on draft Code 15

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	██████████
Contact phone number	██████████
Representing	Organisation
Organisation name	BT Plc
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>1. Your name: [REDACTED] 2. Commercial data contained in the covering response, confirmed below.</p>
<p>Your response: Please indicate how much of your response you want to keep confidential.</p>	<p>[REDACTED]</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	BT Response
Proposed regulatory approach	
Q1 Do you agree with our proposed regulatory approach relating to regulatory standards and requirements? Please provide an explanation as to why you agree or disagree.	<p>Confidential? No</p> <p>We are generally supportive of the PSA's new proposals to establish a set of Standards and Requirements for the Provision of premium rate services.</p> <p>However (as by design) these are not prescriptive rules, and require a supporting framework of guidance and best practice, the Standards and Requirements should be open to re-consultation in the event proposals published as part of the supporting framework alter the prima facie interpretation of the proposed rules.</p>
Q2 Do you agree with our proposed regulatory approach relating to service-specific requirements? Please provide an explanation as to why you agree or disagree.	<p>Confidential? No</p> <p>We welcome, and agree with, the PSA's proposed regulatory approach to premium rate services that pose a higher risk of harm to consumers. The consolidation of relevant rules helps simplify the standards expected of providers operating such services and removes any redundant requirements.</p>
Q3 Do you agree with our proposed regulatory approach relating to Guidance? Please provide an explanation as to why you agree or disagree.	<p>Confidential? No</p> <p>We support the publication of Guidance that will offer insight into the practical application of the Code and the standards expected of industry.</p> <p>As there will be extensive changes to the new Code, it would have been preferable to evaluate the entire framework holistically. However, we look forward to consulting on the guidance in the Autumn, and as mentioned above, we request that where we identify potential conflicts or tensions between the Guidance and our analysis of the new Code, relevant sections be open to re-consultation where there is a material risk of harm to consumers or to industry.</p>

<p>Q4 Are there any areas where you consider that Guidance would assist with compliance with the standards and requirements?</p>	<p>Confidential? No</p> <p>We agree with the areas proposed for draft Guidance, as outlined in Annex 3 of the consultation document.</p> <p>We think the PSA should consult on an approach document for its new Supervision framework, including its proposed regular reporting requirements for the purposes of compliance monitoring.</p>
<p>Q5 Do you agree with our proposed regulatory approach relating to compliance support? Please provide an explanation as to why you agree or disagree.</p>	<p>Confidential? No</p> <p>We agree with the PSA's approach to compliance support. The existing compliance advice service is a helpful tool for industry, providing support, guidance and insight into the standards expected by the PSA.</p> <p>However, we believe clearer signposting on the PSA's website, as well as enhancements to the Tribunal Adjudication search functionality, could improve industry's ability to 'self-serve' some of the more common compliance queries issued to the policy advisory team, overall supporting a more efficient operating model.</p> <p>The PSA should also consider adding service level agreements for compliance support. This would help ensure the provision of consistent service standards and also help manage firms' expectations in respect of the timelines/outcomes regarding the compliance support function.</p>
<p>Q6 Do you agree with our proposed regulatory approach relating to Best Practice information? Please provide an explanation as to why you agree or disagree.</p>	<p>Confidential? No</p> <p>Yes, we agree with the principle of issuing Best Practice information, we see this as a useful lever to raise market standards. However, we would expect sufficient flexibility to ensure standards are not static and keep pace with changes within industry and technology.</p>
<p>Q7 Are there any areas where you consider that Best Practice information would be helpful?</p>	<p>Confidential? No</p> <p>Yes, we would like to see Best Practice information published in respect of rule 3.2.1.</p> <p>UK consumers should be empowered to make well informed purchasing decisions; clear and transparent pricing is a particularly important part of this decision making process for premium rate services.</p>

	<p>We note the PSA likely intends to issue revised Guidance for Promoting premium rate services; we think it would be helpful for the PSA to include visual examples of what is considered best practice to raise standards in this area.</p>
<p>Q8 Do you agree with our proposed regulatory approach relating to supervision and verification? Please provide an explanation as to why you agree or disagree.</p>	<p>Confidential? No</p> <p><u>Supervision</u></p> <p>We agree in principle with the broad Supervisory objectives outlined in the consultation document, although we would welcome greater clarity on the PSA’s proposed “light-touch approach”. We ask that the PSA issues an approach document for its Supervision framework similar to that published by the FCA. We believe the approach document should clearly explain:</p> <ul style="list-style-type: none"> i. how the PSA will supervise in practice; ii. any risk or other frameworks which will be used for prioritisation and decision-making; iii. parameters for compliance monitoring and regular reporting. <p>Market Entry Verification</p> <p>We would like to see the PSA undertake a more proactive role in the validation of new market entrants to ensure barriers to entry are not too low and new providers meet their registration obligations under the Code.</p> <p>The PSA should also undertake in-life monitoring of the Register, to ensure it is kept up to date which makes it easier for the providers in the value chain to better understand their customers, the services offered and associated risk profile. There are limitations of the value chain being solely responsible for upkeep of the Register, for example errors and omissions can lead to unregistered services in the market place, naturally leading to consumer harm. The PSA should also consider a review of its registration system to make it more user-friendly, especially in respect of large uploads of information.</p> <p>Due Diligence Risk and Control (“DDRAC”)</p> <p>We agree with the DDRAC rules outlined, however are unable to comment on the entire framework until the associated Guidance is published. Within the Guidance,</p>

	<p>we would welcome formal confirmation of the PSA's current view that, while responsibility for DDRAC sits across the value chain, regulatory liability should be limited to those parties with a direct contractual relationship.</p>
<p>Q9 Do you agree with our proposed regulatory approach relating to Code compliance: engagement and enforcement? Please provide an explanation as to why you agree or disagree.</p>	<p>Confidential? No</p> <p>Yes, we agree in principle with the PSA's proposals regarding engagement and enforcement and are supportive of the more streamlined approach leading to quicker decision-making and resolution. We agree these will lead to better consumer outcomes.</p> <p>However, we would welcome greater clarity on how the PSA plans to use its extended investigative information gathering powers in a proportionate way.</p>
<p>Q10 Do you agree with our proposal to tailor our approach to regulation, including introducing Bespoke and General permissions as part of the draft Code? Please provide an explanation as to why you agree or disagree.</p>	<p>Confidential? No</p> <p>We have no objection to the use of bespoke and general permissions where the PSA can satisfy itself that providers can comply with the Code by alternative means.</p> <p>We agree with the PSA's plans to (i) publish details of any bespoke permission prior to it coming into effect; and (ii) provide notification of the applicability of any general permissions for providers. We see this as a helpful way of ensuring market players understand the standards expected of them.</p>
<p>Q11 Do you have any comments about the existing permissions and exemptions under Code 14 and/or our proposed approach to ensuring certainty and clarity on their status under Code 15?</p>	<p>Confidential? No</p> <p>We have no further comment in respect of existing permissions and exemptions under Code 14.</p> <p>We welcome the PSA's intention to set out those existing Code 14 permissions and exemptions which will continue to apply under Code 15.</p>
<p>Q12 Do you agree with our proposed regulatory approach to prior permissions? Please provide an explanation as to why you agree or disagree.</p>	<p>Confidential? No</p> <p>We have no objection to the PSA's retention of the existing prior permissions regime in the new Code.</p> <p>We agree the PSA must give reasonable notice of any prior permission granted and the category of service to which it applies. It should also publish a list of such service categories on its website, perhaps every three months or earlier if required.</p>

Standards and requirements	
<p>Q13 Do you agree with our proposed Integrity standard and requirements? Please provide an explanation as to why you agree or disagree.</p>	<p>Confidential? No</p> <p>Yes, we consider these to be central to upholding the reputation of the market.</p> <p>We are particularly supportive of the new Standard at 3.1.1 to codify honesty for PRS providers in all interactions with the regulator and consumers. The PSA should also consider extending this standard to interactions between all PRS providers.</p> <p>We also agree with the new Standard at 3.1.2 not to bring the PRS market into disrepute and agree that the criteria being extended to include acting “recklessly” is appropriate in respect of negligent action which might lead to poor conduct and cause harm as a result.</p>
<p>Q14 Do you agree with our assessment against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?</p>	<p>Confidential? No</p> <p>Yes.</p>
<p>Q15 Do you agree with our proposal to introduce a new transparency standard? Please provide an explanation as to why you agree or disagree?</p>	<p>Confidential? No</p> <p>We are supportive of transparency standards that will ensure consumers are able to make well informed purchasing decisions.</p> <p>Rule 3.2.5</p> <p>In respect of rule 3.2.5, third party provision of promotional activities, we agree that there should be appropriate oversight of marketing affiliates and they should be contractually bound to comply with the PSA Code.</p> <p>Rule 3.2.8 (b)</p> <p>However, in respect of voice-based services, particularly ICSS, we are concerned the proposed Transparency rules will not protect consumers from harm because of tendencies (particularly with smartphone users due to the operating systems, click to call functionality and device size) to bypass key information.</p> <p>In respect of the Point of Purchase explicit acknowledgement of the obligation to pay by the</p>

	<p>consumer, the PSA should provide further clarification with regard to how the mechanic will operate and how it will address the risk of uninformed consent.</p> <p>We note the PSA is of the view that a free call announcement prior to incurring a charge is not thought to be technically feasible for all providers. If it is the case that a small number of providers are unable to update their systems to include a free call announcement, we recommend further discussion in respect of how industry could help facilitate those other operators deliver such a solution.</p> <p>In respect of the Transparency rule the PSA should test the effectiveness of the proposed rule in a control environment with consumers. In the event the requirement does not adequately protect consumers from harm, we strongly encourage cooperation with Ofcom and DCMS to evaluate further options to address this issue, in advance of introducing the new rule.</p>
<p>Q16 Do you agree with our assessment of the transparency standard against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?</p>	<p>Confidential? No</p> <p>We agree transparency across the entire customer journey is important, but third party affiliates and Merchants require greater support complying with the Code, as evidenced by BT's compliance sampling which has discovered promotional flows which do not meet the standards we expect to be achieved.</p> <p>We are also of the view that the Transparency standard will not tackle the harm caused by ICSS as consumers are generally unaware they are using this type of service resulting in an outcome which amounts to uninformed consent.</p> <p>We therefore think the proposed Transparency standard does not meet the PSA's assessment criteria of being effective and transparent for the reasons outlined above.</p>
<p>Q17 Do you agree with our proposal to introduce a new fairness standard? Please provide an explanation as to why you agree or disagree?</p>	<p>Confidential? No</p> <p>We agree that fair treatment of consumers should be at the heart of all PRS providers' business models and consumers should only be charged for services where their informed and explicit consent has been provided.</p> <p>We welcome the expansion of Multi-Factor Authentication ("MFA") for all online services, which</p>

	<p>will act as a further layer of protection to ensure consumer consent in respect of single charging outside of regular subscriptions.</p> <p>However, we do not agree that there is a need for the introduction of a 're-opt' in for phone-paid subscription services after 12 months as proposed in 3.3.11. The new Code already provides consumers with an immediate right of exit for a PRS under 3.2.17. Furthermore, the revised General Condition auto-prolongation rules which take effect in December 2022 do not require express customer consent for rolling 30 day contracts after expiry of the fixed commitment term, providing the customer can terminate at any time without paying an early termination charge.</p> <p>The PSA should also provide further guidance on what PRS levels would be deemed “excessive use of...service” under rule 3.3.5. While the PSD2 regime falls under the remit of the FCA, further guidance should also reference the impact of PSD2 on PRS and how the associated payment transaction caps under the electronic communications exclusion should be interpreted alongside levels of PRS usage deemed to be “excessive”.</p>
<p>Q18 Do you agree with our assessment against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?</p>	<p>Confidential? No</p> <p>We broadly agree, however raise a number of issues in respect of the proposed 12 month opt-in rule. We view the 12 month opt-in rule as unnecessary and disproportionate as referenced in our response to Question 19. If brought into force this rule potentially has a number of unintended consequences, including providers exiting the market and putting charge to bill at a competitive disadvantage to other payment methods, which could ultimately impact consumer choice and enjoyment of subscription services.</p> <p>We are therefore of the view that the 12 month opt-in rule is not balanced, fair or proportionate in respect of the PSA’s assessment criteria.</p>
<p>Q19 Do you agree with our proposal to introduce a new customer care standard? Please provide an explanation as to why you agree or disagree?</p>	<p>Confidential? No</p> <p>We agree with the proposed standard that consumers should receive excellent and timely customer care. The approach aligns with existing BT enquiries and complaints handling policies, procedures and staff training which aim to resolve issues promptly and effectively. These are based on Code 14 rules,</p>

	<p>complaints guidance, and more broadly BT's Complaints Codes of Practice and requirements under Ofcom's General Condition C4.</p> <p>We have no objections in respect of the newly proposed requirements which further define some procedural elements of customer care and provide further clarity regarding minimum standards and the PSA's expectations. We agree that customer care and complaints policies and procedures must meet the needs of all consumers, including those who are vulnerable and may require a higher level of care.</p> <p>In respect of the PSA's upcoming Guidance for Refunds and Customer care we seek clarification for the following areas.</p> <ol style="list-style-type: none"> 1. Responsibility for customer care requirements in the PRS value chain in respect of App Store business models. This will also address any potential for duplicative reporting of complaints which are already submitted to Ofcom. 2. Confirmation of the PSA's view that the resolution period will start at the initial consumer contact with the PRS provider in the value chain who has primary responsibility for customer care.
Q20 Do you agree with our assessment of the proposed new customer care standard against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view	<p>Confidential? No</p> <p>We broadly agree with the PSA's general principles assessment for Customer care. As per Q19 we seek further clarity regarding customer care and App Store business models, and the initial customer contact point for the complaints lifecycle in terms of the resolution period.</p>
Q21 Do you agree with our proposal to introduce a new vulnerable consumers standard? Please provide an explanation as to why you agree or disagree?	<p>Confidential? No</p> <p>Yes, we agree that the promotion and provision of PRS services must not cause harm to vulnerable customers. Along with customer fairness, doing the right thing for vulnerable customers is embedded in our culture and policies and processes. In addition to existing Code compliance, BT has a Vulnerability policy, reflecting the requirements in line with Ofcom General Conditions C5 1-5.5 and there is an ongoing programme of work to continually improve in this area.</p> <p>We agree with the new Requirements which build on existing Code rules on vulnerability and Special</p>

	Conditions linked to age verification for particular service and children's services.
Q22 Do you agree with our assessment of the proposed new vulnerable consumers standard against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?	<p>Confidential? No</p> <p>We generally agree with the PSA's assessment of the Vulnerable customers Standard against its general principles.</p>
Q23 Do you agree with our proposal to introduce a new consumer privacy standard? Please provide an explanation as to why you agree or disagree?	<p>Confidential? No</p> <p>We agree that consumer privacy must be protected and providers should comply with all applicable privacy and data protection laws.</p> <p>We note the PSA are not proposing to introduce any additional customer privacy rules beyond Code 14 requirements under the new Code.</p>
Q24 Do you agree with our assessment of the proposed new consumer privacy standard against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?	<p>Confidential? No</p> <p>We generally agree with the PSA's assessment of the Consumer privacy standard against its general principles.</p>
Q25 Do you agree with our proposal to introduce a new prevention of harm and offence standard? Please provide an explanation as to why you agree or disagree?	<p>Confidential? No</p> <p>We agree that PRS should not cause harm or unreasonable offence to consumers or the general public.</p> <p>We note the PSA are not proposing to introduce any additional prevention of harm and offence rules beyond Code 14 requirements under the new Code.</p>
Q26 Do you agree with our assessment of the proposed new prevention of harm and offence standard against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?	<p>Confidential? No</p> <p>We generally agree with the PSA's assessment of the Prevention of harm and offence standard against its general principles.</p>

<p>Q27 Do you agree with our proposal to introduce a new organisation and service information standard? Please provide an explanation as to why you agree or disagree?</p>	<p>Confidential? No</p> <p>The PSA's proposals for organisation and service information mostly builds upon existing registration requirements, previously uplifted in September 2018 following a review of PSA registration details. We agree with the proposed registration enhancements in the new Code including the need for information prior to service "go live" for consumers, broader identification of contractual parties involved in service promotion and delivery, and for registration updates to be completed within five working days.</p> <p>A comprehensive database of services is an essential resource for the PRS market. It enables the PSA to analyse the market and take well informed regulatory decisions, supports the DDRAC work undertaken by providers and underpins the service checker used by consumers. However, the Register is dependent on timely and accurate market information and the PSA should do more to ensure the integrity of registration information</p> <p>MNOs also maintain their own registers and search tools for CTB services which reflect how charges are displayed on the customer's bill. Due to different technical capabilities for providers there is some variation in how services are displayed. There are also some discrepancies between MNO's own registers and the information displayed on the PSA's central Register. For example, a search for Spotify on EE's service checker yields the company name, service cancellation details and contact information for the intermediary; where the same search does not return any results for the particular service on the PSA's Register. Industry should come together to discuss how information can be standardised across MNO registers and also align with the PSA's own register to achieve the best outcome for both consumers and industry.</p> <p>The following measures should be considered:</p> <ol style="list-style-type: none"> 1. PSA should perform a greater role in verifying the accuracy of registration information for instance by checking information for new market entrants, and by conducting sample testing of in-life registration information. The PSA should also undertake more investigation and enforcement action to resolve registration gaps, which would also act as a deterrent for non-compliance.
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	<p>2. We welcome the PSA's plans to enhance the registration extranet to support industry in complying with the new Code. This should facilitate easier upload/checking of information and standardisation of service information recorded. However, we encourage the PSA to engage with industry in respect of this matter in advance of the target date of winter 2021/22, and ideally in advance of commencement of the new Code.</p> <p>We are supportive of the PSA's proposals to introduce new senior management responsibilities which will contribute to embedding a culture of compliance and help build trust in the industry. In respect of those areas proposed for an accountable individual under 3.8.3 we would like the PSA to provide further clarity in respect of the level of seniority expected, any reporting requirements for the regime and the potential consequences for non-conformance.</p>
Q28 Do you agree with our assessment of the proposed new organisation and service information standard against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?	<p>Confidential? No</p> <p>We agree with the PSA that an effective Register is an essential resource for the PRS market. Investment in the system supporting the Register and accuracy of the database will help providers discharge their DDRAC responsibilities; and easier sharing and upload of information benefits the overarching objectives of market analysis and monitoring. We are therefore of the view this Standard does not meet the PSA's effectiveness and proportionality criteria.</p>
Q29 Do you agree with our proposal to introduce a new DDRAC standard? Please provide an explanation as to why you agree or disagree?	<p>Confidential? No</p> <p>Yes, we agree with the principles underpinning newly proposed DDRAC standards.</p> <p>However, we would welcome greater clarity as to how the PSA plans to strengthen accountability for DDRAC across the value chain, with the Guidance providing certainty on the parameters of DDRAC roles and responsibilities for the various parties across the value chain.</p> <p>We would like to see clarity in respect of the DDRAC responsibilities in respect of App Stores and related parties in the value chain.</p> <p>In respect of 3.9.11 the PSA should also further define what constitutes "reasonable steps" in respect of</p>

	<p>ensuring contracting parties are discharging their DDRAC responsibilities.</p> <p>As raised in our response to Questions 27-28 on organisation and service information, we would like to see the PSA undertake checks of due diligence information at market entry and on an ongoing basis for the Register, for example validation of publicly available third party information. The PSA's verification of information would act as a further check and balance to ensure accuracy, and assist the value-chain with its DDRAC responsibilities.</p>
<p>Q30 Do you agree with our assessment of the proposed new DDRAC standard against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?</p>	<p>Confidential? No</p> <p>We broadly agree with the PSA's assessment of the DDRAC Standard against its general principles based on the consultation materials provided, although would welcome further clarity as to the practical application of those principles within the DDRAC Guidance.</p>
<p>Q31 Do you agree with our proposal to introduce a new systems standard? Please provide an explanation as to why you agree or disagree?</p>	<p>Confidential? No</p> <p>We agree with the objective of the Systems Standard for all systems used in the provision of PRS to be technically robust and secure, although for Network Operators we would welcome PSA confirmation that they are excluded from scope of rule 3.10.7 where they are already compliant with Ofcom's TBEST scheme. At present the type of information to be disclosed under rule 3.10.7 is only provided within the strict protocols and controls operated by Ofcom DCMS and NSC. Information of this type is not shared more widely, including with our customers, as there is a risk this information could be leaked (whether maliciously or under duress) to third parties.</p> <p>3.10.13 proposals for a Coordinated vulnerability disclosure scheme requires further information regarding the scope of the scheme and how it would operate. However BT will be able to meet this requirement under its Responsible Disclosures Policy found on the BT site here. We welcome investigative work into security vulnerabilities carried out by well intentioned and ethical security researchers which help assess potential security risks in respect of our network, systems, and services.</p>

Q32 Do you agree with our assessment of the proposed new systems standard against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?	<p>Confidential? No</p> <p>We broadly agree with the PSA's assessment of the Systems Standard against its general principles.</p> <p>However, as discussed at Question 31 we are of the view that the requirement to share security test results should not extend to Network Operators.</p>
Supervision	
Q33 Do you agree with our proposed general approach to supervision? Please provide an explanation as to why you agree or disagree.	<p>Confidential? No</p> <p>We refer to our response to Question 8 on the PSA's approach to Supervision and Verification above.</p>
Q34 Do you agree with our proposed compliance monitoring methods? Please provide an explanation as to why you agree or disagree.	<p>Confidential? No</p> <p>We have no particular objections to the broad compliance monitoring methods proposed by the PSA under 4.3. However, we are unable to effectively assess each compliance method without further context in respect of the Supervisory framework and the triggers and parameters relating to each method beyond those broadly drafted under the new Code.</p>
Q35 Do you agree with our proposals on reporting and notification requirements? Please provide an explanation as to why you agree or disagree.	<p>Confidential? No</p> <p>We are broadly supportive of the PSA's stated intention of gathering suitable information to assess the PRS market and value chain in support of the newly-proposed Supervision model.</p> <p>However, as mentioned above it is difficult to assess the PSA's proposals on reporting and notification where it has not specified the scope, frequency and methodology for collation of the reporting and notification requirements.</p> <p>We agree that suitable mechanics should be in place regarding complaints reporting and notification to the PSA of serious issues such as security or data breaches. We welcome the PSA's intention to consult further on this matter and obtain agreement with industry in respect of proportionate reporting and notification requirements. Any reporting information should be gathered in a uniform and accessible format to allow comparative industry analysis and notification requirements should be unambiguous so all providers</p>

	meet their disclosure responsibilities in a consistent manner.
Q36 Do you agree with our assessment of our proposed new supervisory function against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?	<p>Confidential? No</p> <p>We are unable to answer this question without further discussion with the PSA in respect of the proposed approach, triggers and procedures.</p>
Engagement and enforcement	
Q37 Do you agree with our proposed approach on engagement and enforcement? Please provide an explanation as to why you agree or disagree.	<p>Confidential? No</p> <p>As stated in our responses to Questions 8-9, we think the PSA should consult on a Supervisory approach document, which should include how such powers would be used during the investigations lifecycle and the Engagement and Enforcement process.</p> <p>The PSA also plans to publish updated Supporting Procedures which will cover the updated investigations process, and we see benefit in consulting with industry to ensure a fit for purpose document.</p>
Q38 Do you agree with our proposed changes to settlement? Please provide an explanation as to why you agree or disagree.	<p>Confidential? No</p> <p>We agree with the approach to settlement which it is consistent with the approach used by Ofcom.</p> <p>Where a party admits to breaches, the proposal to follow a more streamlined enforcement process is wholly positive and will result in a more efficient use of resource for both the PSA and provider subject to investigation.</p> <p>It is also positive that settlement can now be used at the earlier enforcement stage of the investigation process, and not confined to the later Warning Notice stage in the current Code.</p> <p>We further support the use of discounted fines to incentivise early resolution and settlement of investigations into regulatory non-adherence.</p>
Q39 Do you agree with our proposals to strengthen the existing interim measures regime? Please provide an	<p>Confidential? No</p> <p>Yes, we agree.</p>

<p>explanation as to why you agree or disagree.</p>	<p>The proposed use of interim measures earlier in the investigatory process will prevent further, and avoidable consumer harm. It will also be a useful intervention in respect of non-cooperative market participants who seek to avoid payment of financial sanctions and act as a safeguard against unnecessary financial loss.</p>
<p>Q40 Do you agree with our proposals to introduce a new “single decision maker” as an alternative to the full Tribunal for more straightforward cases? Please provide an explanation as to why you agree or disagree.</p>	<p>Confidential? No</p> <p>Yes, we agree it is appropriate for a single legally qualified Code Adjudication Panel member to decide a case in respect of less serious administrative breaches. The decision-making process for investigations also has a number of integrated safeguards in terms of oversight and peer review on the investigations team, IOP review in terms of case management and quality control and in-house legal advice. This streamlining will lead to greater process and cost efficiencies.</p> <p>The PSA should also design a suitable mechanic which would give providers a right to appeal, in the event they wish to challenge the decision of the single decision maker.</p>
<p>Q41 Do you agree with our proposal to reduce the range of circumstances in which a provider can request an oral hearing? Please provide an explanation as to why you agree or disagree.</p>	<p>Confidential? No</p> <p>Yes, we agree that this is appropriate for less serious or complex matters. We would, however, like clarity on the thresholds for an oral hearing.</p>
<p>Q42 Do you agree with our proposal to expand the test for prohibiting a relevant individual from the industry? Please provide an explanation as to why you agree or disagree</p>	<p>Confidential? No</p> <p>Yes, we agree with the PSA’s proposals to broaden the test for prohibiting a relevant individual from industry. The expanded criteria of being “knowingly involved” in serious breach(es) and/or if an individual “failed to take reasonable steps to prevent such breaches” is appropriate in terms of good governance and from an accountability/oversight perspective. Relevant individuals will not be able to rely on a defence of being uninformed to avoid sanctions.</p>
<p>Q43 Do you agree with our proposal to strengthen and expand our information gathering powers (including for the purpose of supervision/engagement and enforcement)? Please provide an</p>	<p>Confidential? No</p> <p>We are not opposed in principle to the PSA’s expansion and strengthening of information gathering powers providing they are used in a proportionate way.</p> <p>We welcome further guidance in this area and clarity on how the PSA will use its Supervisory framework to</p>

<p>explanation as to why you agree or disagree.</p>	<p>prioritise and evaluate its strategic priorities. We see benefit in PSA publication of Supervisory areas of strategic focus and thematic review in order for industry to opine and assist the PSA in tackling areas of harm which matter the most.</p>
<p>Q44 Do you agree with our provisional assessment of our proposals relating to: (i) engagement and enforcement proposals; and (ii) additional powers, responsibilities and obligations – against the general principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?</p>	<p>Confidential? No</p> <p>We generally agree with the PSA's assessment of its engagement and enforcement proposals, general funding requirements and additional powers, responsibilities and obligations.</p> <p>There are further questions of proportionality and transparency in respect of how some of the enforcement and information gathering powers will be used, pending further clarification of the Supervisory framework and Supporting Procedures.</p>
<p>Other general Code considerations</p>	
<p>Q45 Do you agree with our proposals on general funding arrangements? Do you have any further information or evidence which would inform our assessment of our proposals on general funding arrangements?</p>	<p>Confidential? No</p> <p>Yes, we agree with the PSA's proposals to retain the existing general funding model designed to recover the annual budget in full through a levy on outpayments to industry.</p> <p>We note that the consultation question is confined to the mechanic of the funding model, as opposed to the amount of the PSA's annual budget or the calculated levy as a percentage of the estimated market size confirmed in the PSA's Statement on its Business Plan and Budget 2021/22.</p> <p>We therefore look forward to consulting on the PSA's budget for the following financial year towards the end of 2021.</p>
<p>Q46 Do you agree with our proposals on amending our current terminology to better reflect the current phone-paid services value chain? Please provide an explanation as to why you agree or disagree?</p>	<p>Confidential? No</p> <p>Yes, we agree with the proposals to amend terminology for providers in the value chain involved in the provision of phone-paid services. The term Intermediary provider in place of L1 provider, and Merchant provider in place of L2 provider, are better descriptions for their respective positions in the value chain, and will be more easily understood by stakeholders.</p>

	<p>However, the PSA should use this opportunity to clarify the position of all providers in the value chain, including third parties who interact with or facilitate players in the value chain in the provision of PRS.</p> <p>One example already cited is in relation to App Stores and the value chains involved in the purchase of digital content from app marketplaces. We would welcome further clarity from the PSA in respect of the parties involved in the end-to-end process for the provision of content from an App Store, where these parties sit in the value chain and their respective roles and responsibilities relative to the Code.</p>
Q47 Do you agree with our proposal to retain the rules of the current Notice of specific service charges and durations of calls within Annex 1 of Code 15? Please provide an explanation as to why you agree or disagree.	<p>Confidential? No</p> <p>Yes, we agree with the proposal to retain the specified service charges and call durations for particular service types as stated in Annex:1 of the new Code.</p>
Q48 Do you agree with our proposal to include a broad amendment power in Code 15 to facilitate more efficient amendments to single or small numbers of specific Code provisions? Please provide an explanation as to why you agree or disagree.	<p>Confidential? No</p> <p>No, we do not agree with the PSA's proposal for a broad amendment power in respect of updates or minor clarifications to Code 15 provisions under 6.4.5. We propose the PSA should not make new amendments without prior publication and an opportunity for industry to scrutinise changes within a reasonable timescale, for example 30 days.</p> <p>We also wish to clarify the discrepancy between the Code 15 consultation document's proposal for a narrow consultation, and where 6.4.5 appears to remove the requirement for consultation and Ofcom approval under 6.4.3 and 6.4.4. What might constitute a minor clarification or if the substance of a provision is altered is unclear, therefore we are of the view that public consultation on such changes is preferred.</p>
Impact assessment	
Q49 Are there other impacts which we have not considered in relation to our proposal to move from a regulatory approach based on outcomes to one based on standards? If so, please provide appropriate evidence of the likely impact of the change.	<p>Confidential? No</p> <p>No further comments.</p>

Q50 Are there other impacts which we have not considered in relation to our proposal to focus on prevention of harm rather than cure? If so, please provide appropriate evidence of the likely impact of the change.	Confidential? No No further comments.
Q51 Are there other impacts which we have not considered in relation to our proposal to move to a new Code which is simpler and easier to comply with? If so, please provide appropriate evidence of the likely impact of the change.	Confidential? No We agree with the PSA's steps to simplify the relatively complex and somewhat piecemeal structure of the existing code with supporting special conditions, exemptions and guidance which has built up over time. A central rulebook will be an easier point of reference to navigate.
Q52 Are there other impacts which we have not considered in relation to our proposed changes to our investigations and sanctions policies and procedures? If so, please provide appropriate evidence of the likely impact of the change.	Confidential? No No further comments.
Equality impact assessment	
Q53 Do you agree with our provisional assessment on the impact of our proposals in relation to equality? Do you have any further information or evidence which would inform our view?	Confidential? No Yes, we agree that the proposals should not have a detrimental impact on people with protected characteristics.
Next Steps	
Q54 Do you agree with our proposal to set out transitional arrangements that allow the new Code procedures to apply from the commencement date to all investigations and/or complaints or monitoring which commenced under Code 14?	Confidential? No Yes, we agree in principle with the PSA's proposal to allow the new Code procedures to apply from the commencement date to all investigations and/or complaints or monitoring which commenced under Code 14. We understand that the PSA is seeking to take advantage of new procedural flexibility under Code 15, and has a preference not to run concurrent enforcement processes. We also note the safeguard where the PSA has confirmed that Standards or Requirements will not apply retrospectively. We trust the PSA will take a sensible and pragmatic approach to

	any investigations/complaints during the transition period from Code 14 to Code 15, and seek confirmation that providers would not be in a worse position as a result of agreeing to the PSA's proposals in this regard.
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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