

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	Open Mobile Global
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:</p> <p>Personal name, company name is fine.</p>
<p>Your response: Please indicate how much of your response you want to keep confidential.</p>	<p>Delete as appropriate:</p> <p>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 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.	Confidential? Yes/No (delete as appropriate)
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.	Confidential? Yes/No (delete as appropriate)
Q3 Do you agree with our proposed regulatory approach relating to Guidance? Please provide an	Confidential? Yes/No (delete as appropriate)

explanation as to why you agree or disagree.	
Q4 Are there any areas where you consider that Guidance would assist with compliance with the standards and requirements?	Confidential? Yes/No (delete as appropriate)
Q5 Do you agree with our proposed regulatory approach relating to compliance support? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
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.	Confidential? Yes/No (delete as appropriate)
Q7 Are there any areas where you consider that Best Practice information would be helpful?	Confidential? Yes/No (delete as appropriate)
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.	Confidential? Yes/No (delete as appropriate)
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.	Confidential? Yes/No (delete as appropriate)
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.	Confidential? Yes/No (delete as appropriate)
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?	
Q12 Do you agree with our proposed regulatory approach to prior permissions? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
Standards and requirements	
Q13 Do you agree with our proposed Integrity standard and requirements? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
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?	Confidential? Yes/No (delete as appropriate)
Q15 Do you agree with our proposal to introduce a new transparency standard? Please provide an explanation as to why you agree or disagree?	Confidential? Yes/No (delete as appropriate)
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?	Confidential? Yes/No (delete as appropriate)
Q17 Do you agree with our proposal to introduce a new fairness standard? Please provide an explanation as to why you agree or disagree?	Confidential? No We do not agree with the PSA's assessment against the general principles which they set out in the discussion document. We believe charities should be exempt from the requirement to re opt-in regular givers every 12 months or other sectors should be encouraged to adopt the approach taken by charities for the following reasons.
Q18 Do you agree with our assessment against the general	Confidential? No

principles which we set out in the discussion document? Do you have any further information or evidence which would inform our view?

1. Part of the reason for the PSA looking at this area is the work being done by the CMA on “loyalty penalties” and the problem of hidden “auto-renewals”. However, this work is not intended to be looking at ongoing subscriptions that are set-up by the consumer and have clear terms with an ongoing mandate. **There is no loyalty penalty or auto renewal in charitable donations since supporters are not signing it up for a fixed period, they can opt-out at any point and their donation amount is never increased unless instructed by the donor.** The notion of a loyalty penalty or fixed period is alien to a donors’ understanding of the relationship they have entered into with a charity, which is an ongoing gift until such time that they choose to cancel it. **There is no auto-renewal.**

2. The existing mechanic for charity subscriptions is very clear at sign up and is clear on how to cancel. When supporters sign up to a regular gift via PSMS they receive messages as covered in the existing Special Condition for Recurring Donations. This includes a double opt-in at sign up. Each month the supporter then receives two messages, the first before their donation is due giving them the option to SKIP and a receipt for their donation the following day, assuming they did not SKIP. **The process is transparent and the supporter is fully aware of the fact that they are donating each month and have the opportunity and details to stop their donation at any time.**

3. If the CMA were to introduce any requirement that went beyond “auto renewals” and covered all subscriptions then this requirement would apply to all regular giving through all payment mechanics. There is therefore no need for the PSA to require this for PSMS payments in the meantime. Instead, **the PSA should wait for any changes from the CMA and then align their code accordingly. Making changes that are not mirrored in other payment methods will cause confusion in the market place amongst donors,** especially as it is introducing a concept that does not make sense in charitable giving.

	<p>4. There are very low levels of complaint in charity PSMS, both with single and regular donations. There are no known complaints or issues with recurring donation services continuing. There have been approximately 700,000 supporters signed up to subscription PSMS since 2012 and in that time there has never been a single complaint about a subscription period not coming to an end. As this is not a transaction relating to the delivery of a service with a set time period, it is the expectation of the donor that it continues until they cancel and the cancellation mechanic is very transparent and easy to exercise.</p> <p>5. The supporter's expectation is that they will continue to donate unless they take action not to (ie to skip a month). It will be counter-intuitive to supporters to receive additional messages asking them to take action in order to continue a service, when their expectation is that it was ongoing in the first place. Donors are likely to view messages as spam and be concerned that by responding they will be setting up a second gift and double billed. This is likely to create confusion and damage the credibility and trustworthiness of SMS marketing.</p> <p>6. Sending a message requiring re-optin could constitute marketing and breach GDPR for most donors that have not consented. There is therefore no mechanism for those donors to continue the subscription that they wanted to give to in the first place, it would create a misleading default cancellation that the donor did not want or agree to, having been told initially that their donation would continue until they choose to stop it.</p> <p>7. The current proposal is impractical and could not work. It requires a double opt-in to be captured every 12 months. For most regular givers, only a mobile number is held, so this requirement would involve sending supporters an SMS asking them to reply YES in order to continue their donation, and if they do so, then sending an additional message asking them to reply YES a second time for double opt-in.</p> <p>8. Any change is likely to have an outsized impact on charities. Unlike a commercial product</p>
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	<p>or service that would end as a result of inaction from the consumer, for charity donors there is no impending need for the consumer to re-opt in. They will not experience any loss of 'service' as they are not receiving any product or service and as a result inertia will affect any re opt-in process.</p> <p>9. Charities are dependent upon subscriptions for their SMS fundraising. It takes over 12 months for a charity to recoup its investment on recruiting a donor. These changes would destroy the charity subscription market and wipe out millions of pounds for charities. Marginal negative changes in performance would make the fundraising model unviable. By making these changes the PSA would be needlessly reducing charity income and removing a sector from the PSMS market which has no consumer issues or complaints in this area. It is a solution in search of a problem that will have profound impacts for charities and the broader market.</p> <p>10. The loss of highly trustworthy and reputable charity subscriptions in the PSMS market is likely to have a more negative effect on the broader mobile payments market. The PSA should focus its efforts on markets and bad actors and ensure existing rules are being followed with clear directions on how to cancel services. If there are issues in other markets then they should be encouraged to mirror the approach taken by charities.</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?	Confidential? Yes/No (delete as appropriate)
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	Confidential? Yes/No (delete as appropriate)
Q21 Do you agree with our proposal to introduce a new vulnerable	Confidential? Yes/No (delete as appropriate)

consumers standard? Please provide an explanation as to why you agree or disagree?	
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?	Confidential? Yes/No (delete as appropriate)
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?	Confidential? Yes/No (delete as appropriate)
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?	Confidential? Yes/No (delete as appropriate)
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?	Confidential? Yes/No (delete as appropriate)
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?	Confidential? Yes/No (delete as appropriate)
Q27 Do you agree with our proposal to introduce a new organisation and service information standard? Please	Confidential? Yes/No (delete as appropriate)

provide an explanation as to why you agree or disagree?	
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?	Confidential? Yes/No (delete as appropriate)
Q29 Do you agree with our proposal to introduce a new DDRAC standard? Please provide an explanation as to why you agree or disagree?	Confidential? Yes/No (delete as appropriate)
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?	Confidential? Yes/No (delete as appropriate)
Q31 Do you agree with our proposal to introduce a new systems standard? Please provide an explanation as to why you agree or disagree?	Confidential? Yes/No (delete as appropriate)
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?	Confidential? Yes/No (delete as appropriate)
Supervision	
Q33 Do you agree with our proposed general approach to supervision? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
Q34 Do you agree with our proposed compliance monitoring methods?	Confidential? Yes/No (delete as appropriate)

Please provide an explanation as to why you agree or disagree.	
Q35 Do you agree with our proposals on reporting and notification requirements? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
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?	Confidential? Yes/No (delete as appropriate)
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.	Confidential? Yes/No (delete as appropriate)
Q38 Do you agree with our proposed changes to settlement? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
Q39 Do you agree with our proposals to strengthen the existing interim measures regime? Please provide an explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
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.	Confidential? Yes/No (delete as appropriate)
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	Confidential? Yes/No (delete as appropriate)

explanation as to why you agree or disagree.	
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	Confidential? Yes/No (delete as appropriate)
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 explanation as to why you agree or disagree.	Confidential? Yes/No (delete as appropriate)
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?	Confidential? Yes/No (delete as appropriate)
Other general Code considerations	
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?	Confidential? Yes/No (delete as appropriate)
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?	
Q47 Do you agree with our proposal to retain the rules of the current Notice of specific service charges and	Confidential? Yes/No (delete as appropriate)

<p>durations of calls within Annex 1 of Code 15? Please provide an explanation as to why you agree or disagree.</p>	
<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>	
<p>Impact assessment</p>	
<p>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>	<p>Confidential? Yes/No (delete as appropriate)</p>
<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.</p>	<p>Confidential? Yes/No (delete as appropriate)</p>
<p>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.</p>	<p>Confidential? Yes/No (delete as appropriate)</p>
<p>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.</p>	<p>Confidential? Yes/No (delete as appropriate)</p>

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? Yes/No (delete as appropriate)
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?	

Submit your response

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