

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	Alan Partington
Contact phone number	██████████
Representing	Organisation
Organisation name	Telecom2 Ltd
Email address	████████████████████

If you wish to send your response with your company logo, please paste it here:

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

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

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

Confidentiality

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

<p>Your details: We will keep your contact number and email address confidential. Is there anything else you want to keep confidential?</p>	Nothing
<p>Your response: Please indicate how much of your response you want to keep confidential.</p>	None
<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>	Yes

Your response

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

About Telecom2

Telecom2 are a voice network carrier with offices in London and Spain. Through the group of companies our focus is to at the forefront of technology, specialising in VoIP B2B and call centre solutions. T2 also specialise in micro payments across mobile, card services and age verification.

Telecom2 has a broad spectrum of clients including a number of Contact Centres, Print media companies, Charities, TV companies and a Premiership Football club.

We also still have some of the traditional clients on 09 PRS running Adult, Psychic and Competition services.

We have achieved PCIDSS and ISO27001 certification

We welcome this opportunity to contribute to the formal consultation exercise. Our comments are based on internal knowledge and discussions with clients

This consultation is extremely long and the timescale for response is restricted so we have had to concentrate on the issues of most importance and relevance to us.

If PSA would like anything clarified or needs more information please feel free to contact us.

Response to PSA questions

We don't provide a platform for some phone paid services and so have not commented on all the questions as although we may have opinions we could not give informed answers. There are three general points we would like to make.

The first is that some of the new measures and powers sought by PSA are derived from the powers available to the FCA and ICO. We do not feel that these are proportionate to the regulation of phone paid services. The potential for harm from Phone Paid Services is far exceeded by the actual harm that has been caused, in particular in the Financial Services sector, where many cases that incurred harm involved thousands of people and tens of millions of pounds.

The second point is that the role of consumer's Phone Service Providers has not been addressed. These providers are often best placed to identify bad practices before any other part of the value chain but there is no obligation on them to take any action or notify any other part of the value chain. In fact, there is a perverse incentive for them to at least permit the bad services to continue as, whatever happens, they will be able to raise access charges that are often in excess of the service charges and if they raise AIT cases on the traffic they will retain the service charges as well. These retained service charges could in appropriate situations be used to in part settle fines that might otherwise be unpaid, simply because the service charges that would have been received by the L1 or L2 providers have been retained.

We are aware that one large communications Service Provider causes complaints to PSA to be artificially inflated. PSA are aware of this but still acts on the complaints, raising investigations on compliant services where they wouldn't otherwise do so and incurring additional costs that Industry has to bear.

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.	<p>Confidential? No</p> <p>We feel that moving from Outcomes to Standards is a welcome move and in principle are very happy with it. Outcomes have proved to be too open to individual's interpretation of their application, causing uncertainty in the industry and deterring investment.</p> <p>We can only agree with the principle because the standards themselves with the supporting guidance and best practice have not been published and we have concerns that they may be so prescriptive as to stifle innovation and make existing services so difficult to run that they are no longer viable.</p>
Q2 Do you agree with our proposed regulatory approach relating to	Confidential? No

service-specific requirements? Please provide an explanation as to why you agree or disagree.	<p>Again we support this in principle, although it is difficult to see a meaningful difference between Service Specific Requirements and Special Conditions.</p> <p>Much will depend on the quality of the information that supports them, without visibility of any of this we cannot give a full answer</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>There is nothing to agree with Guidance has not been included in the document so it cannot be evaluated.</p>
Q4 Are there any areas where you consider that Guidance would assist with compliance with the standards and requirements?	<p>Confidential? - No</p> <p>Without understanding the form that Guidance will take it is not possible to give feedback on areas that would benefit from it. That said, unless the standards and requirements are very explicit and prescriptive we would have thought that all areas would benefit from guidance as to how they might be achieved.</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>Confidential? No</p> <p>If Standards and guidance are comprehensive and clear there should be less need for compliance advice</p> <p>While compliance advice is freely given, it is always with a caveat that appears to make it unreliable. We would like to see compliance advice that PSA will stand by even if it later differs from the view of another member of PSA.</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>Confidential? No</p> <p>No.</p> <p>No examples of best practice are given so it is difficult to evaluate.</p> <p>We would expect Best Practice to be in integral part of and supporting guidance</p> <p>We would also question the basis for the best practice, has it been based on research among real consumers or the opinion of the consumer panel? The consumer panel is made up of consumer advocates who will not have a "Real World" view of what is desirable and achievable.</p>

	<p>We note that PSA has viewed other sectors, such as Financial Services. Consumer expectations in these sectors are markedly different to those of consumers of phone paid services and would not be a good basis for standards</p>
<p>Q7 Are there any areas where you consider that Best Practice information would be helpful?</p>	<p>Confidential? No</p> <p>As with Guidance, Best Practice could be applied to all standards but in particular with promotion of services, which seems to be where most of the perceived issues lie.</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>Supervision and verification are necessary tools to use when preventing bad actors from entering the industry.</p> <p>We would like to see PSA undertaking initial verification of registrant's details, this would give some comfort to consumers and industry that simple registration doesn't provide, particularly when there are so many flaws in the current system. If registration is a simple box ticking exercise then it has no real value.</p> <p>We note the intention to provide, amongst other things, timely regulatory action. Current timescales for investigations are excessively long and providers and platforms are left with a great deal of uncertainty. If there is genuine harm it can continue, which rather defeats the object. We would like to see much faster investigations, there is no good reason for the current delays, and clear information about the perceived issues so that L1s and L2s can take action to quickly resolve them</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>In general, the move to the proposed new structure is welcome, if it provides the hoped for clarity and a significant improvement in timescales. Providers are given very tight timescales to respond to PSA, days or a couple of weeks, but PSA then take a long time, sometimes over a year, to respond to providers and requests for updates are effectively ignored.</p>

	<p>We would like to see limits on how long the PSA can take to perform investigations, two months should be more than long enough in most cases as the majority are almost a yes/no situation.</p> <p>We also have concerns about the level of industry knowledge within the Tribunals and CAP members, being legally qualified and possibly a consumer champion is not enough.</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 are wary of this approach. General and bespoke permissions risk drifting away from standards and so devaluing them. It would almost be a return to Outcomes based regulation.</p> <p>There has to be clear information as to why the permissions have been granted, how they support the standards and with bespoke permissions, why the specific providers have qualified for those permissions.</p> <p>We wouldn't want larger providers with more influence to be given permissions that are then denied to smaller providers operating in the same way.</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>Certainty and clarity are definite requirements for granting permissions.</p> <p>We cannot comment further without more information on how this is to be achieved.</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 don't see any advantage to be gained by having a prior permissions regime if the standards and advice combined with good verification of providers on registration and effective DDRAC are all in place.</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>Acting with integrity is simply good business practice if a provider is to retain the trust of consumers and stay in business so we broadly agree with the standard.</p>

	<p>We have concerns about PSA's requirements when it comes to identifying providers who have been sanctioned, for example, how far back is a provider meant to look?</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>We broadly agree with the assessment. We do have concerns about drawing on the FCA requirements. Companies in the financial services sector tend to be larger than PRS providers with an ability to appoint different people to be accountable for various aspects of the company's operations.</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>It is clear that transparency is vital for consumers to fully understand at least the basic terms and conditions for any service they take and how to contact customer services, so a transparency standard is a good addition.</p> <p>3.2.5 places obligations on providers that would consume large amounts of resource and make many low cost services uneconomic to operate, consumers would either lose this services or have to pay more for them. We already have this provision in our contract but large scale monitoring would be impractical</p> <p>We aren't clear about 3.2.6 and would like more information about how and when it would occur</p> <p>We do have a major issue with 3.2.8, which is impossible technically for voice services to implement.</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>Effective</p> <p>No, some of the requirements are not technically possible</p> <p>Holding providers liable for the behaviour of all the parties they contract with is not viable</p> <p>Potentially unbalanced</p> <p>Adaptation from code 14 is not a guarantee that the standard is balanced. The inclusion of additions such as 3.2.8 will make it impossible for voice services to be compliant</p>

	<p>Fair and Non-discriminatory</p> <p>No. There is a clear difference of approach, whereby voice services are exempted from the receipting issues on technical grounds but not exempted from 3.2.8 even though the same grounds apply.</p> <p>Proportionate.</p> <p>No. Again we refer to 3.2.5, which will cause a large increase in the regulatory burden, particularly on small providers, for very little actual effect.</p> <p>3.2.8 is also disproportionate as it is not possible for voice services to comply</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>Again we are broadly in agreement with the standard but feel that more clarity on some points is needed.</p> <p>One that stands out is “excessive use”. How it this to be measured? Different services have different levels of use, some are seasonal. Some relate to particular events such as TV programmes and sports events.</p> <p>Objective measurement of excessive use is problematical and subjective measurement based on one individual’s view would be unfair</p> <p>While we don’t have any subscription services on our network we don’t understand why they are being treated differently to other recurring charge/rolling contracts. Opting in every twelve months or any other interval is not required for music and newspaper subscriptions so why should be required here?</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>Much of this concerns areas that are not appropriate to voce services.</p> <p>We do have an issue with the comment in 2.1.5, “Our experience since the introduction of the new ICSS special condition is that complaint levels have remained disproportionately high despite reductions in other areas.”</p>

	<p>This is due to the activities of one Phone service Provider who actively encourages any of their consumers who have called an ICSS to complain to PSA. It is not reasonable or fair to include these complaints in any decision making</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>A customer Care standard is long overdue, it will help to improve some of the poor care that exists and damages the industry.</p> <p>The definition of a complaint needs clarifying though. We would be happy with spontaneous complaints addressed to providers or PSA but the comments on social media and forums should not be counted. Often they are technically impossible or simple buyer's remorse with no substantial grounds.</p> <p>Timescales would be difficult to measure with any consistency across the industry, there are too many variables, but it would be useful to have something to aim at.</p>
<p>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>	<p>Confidential? No</p> <p>effective</p> <p>Not entirely. There will need to be a strong consumer education programme to ensure that consumers know how to take advantage of the care that is available to them. Without this then any standard will fail.</p> <p>Balanced</p> <p>Yes provided any variables in how complaints are reported are resolved and only proper complaints are considered when assessing compliance.</p> <p>fair and non-discriminatory</p> <p>Only if providers are held to the same standards as merchants in other industries. PRS is too open to false and malicious complaints on social media and forums</p> <p>Proportionate</p>

	<p>The consultation says:</p> <p>“they will benefit industry by ensuring clarity and consistency improving consumer outcomes. “This will only be the case if there is consistency in how the standard is applied, starting times and points of entry into the customer care system for example, and takes account of what can be a complicated process through the value chain</p> <p>Partly transparent</p> <p>Confirmation of the above points is required before this standard can be considered transparent</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>We agree in principle to a vulnerable consumers standard but it has to be realistic in industry’s ability to identify such consumers, particularly prior to seeing a complaint or other communication. Clearly there are some services that are more likely to attract vulnerable consumers but this by no means indicates that every user of those services is vulnerable. The main issue is how those customers are identified and how they are looked after once they have been identified. It would be wrong to prevent access to services based on a potential situation.</p>
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>In general we agree but it would not be proportionate if the need to document procedures and complaints was set too high by PSA</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>There are already regulations and legislation around privacy that Industry has to follow.</p> <p>We wouldn’t want PSA to encourage or even compel providers to breach such regulation and legislation, even where it has the right to do so. For example, information that is “potentially relevant” is not adequate for a privacy policy, we have to specify the items of data we keep and for how long</p>

	<p>PSA has a data retention schedule, we have an issue with one part of it that has already been notified to PSA but otherwise it's a good workable document and should be kept</p> <p>Some of the proposed standard and requirements duplicates the GDPR/DPA, we see no value in this and if the two become out of step providers will have to make a choice as to who they may be fined by.</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>The assessment takes no account of the conflict between UK data protection legislation and the requirements of the 15th code. As such we feel that none of the criteria in the assessment are met.</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>Yes. To behave in any other way would be detrimental to the PRS industry</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>The assessment is a fair one, although there is a degree of subjectivity that will need to be guarded against</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>Confidential? No</p> <p>Registration of providers is essential to regulating the industry and assisting consumers but the current system isn't working correctly, with flaws and failures. We are concerned that introducing a new standard before the old one is working correctly will cause massive problems and bring the industry into disrepute.</p> <p>Even where the system works correctly, without PSA validating the data it is of only limited value. PSA must take responsibility for validating new entrants data</p>

	<p>Some of the data required will not be appropriate to SMEs entering the market. Equally, new entrants, because of their very nature, may not be able to meet some of the financial requirements, it would be wrong to bar them from the market based solely on this aspect.</p> <p>The wording “<i>about any other person contracted for or otherwise involved in, the promotion and delivery of the service</i>”. Is too wide ranging and will draw in people that aren’t relevant to the actual management and operation o the service. We would like to see this tightened up</p> <p>The requirement to notify PSA of changes within five days is not feasible, there are many factors that could make this impossible</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>effective</p> <p>This standard cannot be effective unless PSA take responsibility for verifying the details provided by new entrants on registration and any subsequent changes.</p> <p>balanced</p> <p>The standard is not balanced. All the responsibility for the standard is placed on L1s and L2s</p> <p>PSA are not accountable for anything but they are paid to do the work.</p> <p>fair and non-discriminatory</p> <p>The standard discriminates against SMEs who may not have the data or the structure demanded.</p> <p>Proportionate</p> <p>It is not proportionate in that the code places the entire burden data on industry, again, PSA has no accountability</p> <p>Transparent</p> <p>This transparent but in being transparent if points up all the flaws in the standard.</p>
Q29 Do you agree with our proposal to introduce a new DDRAC standard?	Confidential? No

<p>Please provide an explanation as to why you agree or disagree?</p>	<p>DDRAC is an essential component in safeguarding consumers and no one would argue that it shouldn't be carried out.</p> <p>The DDRAC requirements in the new code however are onerous and in some cases ambiguous.</p> <p>Again we see the influence of the FCA regulations.</p> <p>Some of the data being sought will not apply to SME providers who may be very small or even "one man bands"</p> <p>Where individual officers are to be nominated does this mean that they will have responsibility and even personal liability if there is a failure?</p> <p>This could be considered to be too high a risk for the provider to remain in the industry and deter others from entering it</p> <p>There is also the question of DDRAC on companies that the provider is not directly contracted with and has no control over. While there can be contractual provisions requiring everyone in the value chain to comply with the 15th Code a company cannot be held accountable for one they have no direct control over</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>effective</p> <p>No, because much of the data will simply not be available in SMEs</p> <p>balanced</p> <p>No because it requires providers to be responsible for entities they have no control over</p> <p>fair and non-discriminatory</p> <p>No, again because SMEs will not have data to comply with DDRAC and won't have the resource to maintain such a high level of DDRAC on their clients, the cost would be prohibitive</p> <p>Proportionate</p>

	<p>No The new standard will massively increase the workload of providers with little if any additional benefit</p> <p>Transparent</p> <p>No, too much is not clear, particularly the levels or responsibility and liability of nominated officers</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>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>	<p>Confidential? No</p>
Supervision	
<p>Q33 Do you agree with our proposed general approach to supervision? Please provide an explanation as to why you agree or disagree.</p>	<p>Confidential? No</p> <p>The overall principle, of pre-emptive regulation, is a good one but the standard falls down on detail.</p>
<p>Q34 Do you agree with our proposed compliance monitoring methods? Please provide an explanation as to why you agree or disagree.</p>	<p>Confidential? No</p> <p>No</p> <p>As previously mentioned the monitoring methods and powers that PSA are seeking are more appropriate to other industries where the actual harm that has been caused far exceeds the potential harm from phone paid services and as such are not justified.</p> <p>One area of specific concern is the thematic reviews. There is no detail on what would initiate them. We would like to see the KPIs that would do this. We are aware that these KPIs are published in other regulated industries. The reviews could be resource heavy, we would expect PSA to understand this and not set unreasonable deadlines.</p>

	<p>We also have concerns over the assessment of the reviews, would the person doing the final assessment have the necessary qualifications and experience, could this better be done by two or three people?</p> <p>We note that PSA is proposing to use “skilled persons” Who will they be? Again, what qualifications and experience will they have to be given that title?</p> <p>If, for whatever reason a provider does not consent to a visit, will this be held against them? What can be gained by a visit that cannot be gained from an RFI or interview?</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>In principle we agree with the standard and the information being sought but much will depend on the level of detail and the timescales, together with the provider’s ability to produce the information, it may not be held in a way that makes it easy to extract to meet the PSA requests.</p>
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>Effective</p> <p>These have potential to be effective but there are several key areas where there is insufficient information to be able to judge</p> <p>Balanced</p> <p>Again, potentially</p> <p>There is insufficient detail around many aspects of the standard. Reviews and Audits in particular are causing concern. There is no indication of what will initiate them and how they will be assessed</p> <p>The supervision may be consistent with the approach of the FCA and the Pensions Regulator but they are much larger industries with more scope for harm.</p> <p>Fair and non-discriminatory. To the extent set out in the assessment we agree.</p> <p>Proportionate This may disproportionately increase the burden on industry, however the level of detail provided does not</p>

	<p>allow us to make an informed view. Again, clarity on thematic reviews and their contents, including the KPIs that will trigger a thematic review are needed. Clarity on Audits and their contents, including the KPIs that will trigger an Audit are needed. Clarity on Reporting and Notification Requirements and their contents, including the KPIs that will trigger Reporting and Notification Requirements are needed.</p> <p>Members do not deny that these maybe very useful safeguards for industry however they are fearful that these powers have the potential to be used disproportionately against those in Industry trying to do good, and not just for those bad apples who are unlikely to co-operate with the PSA anyway.</p> <p>Not transparent The level of detail in the expectations is not clear in relation to the proposed new supervision functions.</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>We welcome any improvements to engagement, We have an account manager and this has been useful for day to day matters but there is no collaborative engagement when dealing with complaints and any subsequent investigations.</p> <p>That said, the proposals in the consultation seem more to do with enforcement than engagement outside the area of enforcement, this is disappointing as we feel that more is to be gained for preventing harm by a collaborative approach than enforcement after the harm has occurred.</p> <p>Action plans are a good idea but they must be formulated in collaboration with the provider and not imposed.</p> <p>We would welcome timescales for the various parts of the enforcement process and for PSA to be accountable for their deadlines as providers are now.</p>
Q38 Do you agree with our proposed changes to settlement? Please	<p>Confidential? No</p> <p>Fines are now so large that they are rarely collected. This is due in part to how they are calculated, using</p>

provide an explanation as to why you agree or disagree.	<p>gross revenue rather than revenue after costs have been deducted, so the money simply isn't there. This approach is a deterrent to entering the market.</p> <p>Settlement needs to be operated fairly, we need more detail before we can comment fully. There is a danger that settlement could be used to encourage payment of a large amount instead of an even larger fine.</p> <p>We also have concerns about enforcement across the value chain. People in the value chain can have contractual conditions requiring compliance but they have no direct control over other members of the value chain, it would be unfair to penalise them for something they had no real influence over.</p>
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.	<p>Confidential? No</p> <p>We agree with the proposals but are unclear as to what constitutes a relevant party. We feel that where an AIT case has been raised the consumers phone service provider should be required to pay over the service charges they have retained. This is a windfall profit for them and will not harm them but will benefit PSA.</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>Confidential? No</p> <p>We agree in principle to this proposal where the case is straightforward, a simple yes or no decision. We would expect the decision maker to have strong industry knowledge as well as legal knowledge. We would not agree to a single decision maker where there is some argument over the facts and their interpretation.</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>Confidential? No</p> <p>No, we feel that the present circumstances in which an oral hearing can be requested are the minimum. Oral hearings can cause delays but the main delays seem to be the PSA investigations which take far too long.</p> <p>Mention is made of providers using the oral hearing route to gain more favourable settlements but this can only happen if PSA allow it.</p>
Q42 Do you agree with our proposal to expand the test for prohibiting a relevant individual from the industry?	<p>Confidential? No</p>

<p>Please provide an explanation as to why you agree or disagree</p>	<p>We understand PSA's concerns in this area but really need the detail that has been promised before we can comment fully.</p> <p>People that deliberately breach the code will not, in general, have done so in collusion with management in a company and will have taken great care to hide their actions. It would be unfair to penalise innocent people when they have no experience in identifying such individuals. The PSA could do a lot to stop this by verifying the details supplied on registration.</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 explanation as to why you agree or disagree.</p>	<p>Confidential? No</p> <p>As it stands this is unworkable. Providers will have to make an uninformed judgement on what might be potentially relevant to an investigation when they have no expectation that there might be an investigation in the future. This may also place providers in breach of GDPR if they retain information for which there is no stated definite need. Providers need a list of data required to be retained and when this retention should begin</p> <p>We would also like guidance on just how far outside the value chain providers are required to perform DDRAC on, the wording in the code isn't clear and could result in resource being wasted.</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>Effective</p> <p>The speed of investigations is a known issue but PSA themselves are the main delay and none of the measures will impact on this. These delays cause uncertainty and impact badly of providers who may not have done anything wrong. We would like to see PSA tied to formal timescales as they do to providers.</p> <p>Balanced</p> <p>We have concerns over settlement, there is potential for it to be misused and to imply guilt when there had been no admission of such</p> <p>Fair and non-discriminatory</p> <p>We do not feel that the proposals are fair as they place obligations and potentially liability on people who have no direct control over the operation of PRS or the</p>

	<p>people providing it, Bad actors in particular will take care to hide their part in operating PRS. PSA has some responsibility in this area, it should validate the data provided on registration. The proposal also appears to draw in people that are not part of the value chain, placing regulatory burdens on people that aren't regulated.</p> <p>We also have concerns around restricting the right to Oral hearings, we aren't convinced that the problems outlined by PSA are significant enough to warrant to damage the ability of the majority of providers who simply want the chance to represent themselves.</p> <p>We need more details about the single decision maker, before we can comment fully but we feel that industry experience should be given as much prominence as legal qualifications.</p> <p>Proportionate</p> <p>We do not feel that this is proportionate. The proposal draws in people who have no control over the operation of PRS. The data retention requirements are onerous and could cause providers to breach GDPR/DPA</p> <p>Transparent</p> <p>The code is obscure in that the data requirements aren't specified, this leaves providers open to being in breach of the code based on the subjective opinion of PSA</p>
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?	<p>Confidential? No</p> <p>The current method of funding works well but the level of funding is causing concern.</p> <p>The cost of accommodation may be lower than the previous location but Canary Wharf is still an expensive area. We would like to see PSA move to a less expensive but still central location. Another area that bears examination is the potential for efficiency savings. The level of complaints is falling but investigations still take far too long, there should be an examination of the process to identify what is causing the delays and if it is necessary or can be stopped</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?	Confidential? No We are very happy with this, it is much clearer although we would have liked more parts of the value chain to be identified as well
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.	Confidential? No Yes, this is a useful document that provides clarity
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.	Confidential? No This would be a useful change provided that the changes are properly notified to industry and consumers and open to challenge if there is significant opposition
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.	Confidential? No Not that we can think of, in principle we are very happy with this proposal. We will be able to comment more when the guidance and other supporting documentation is available
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 We are disappointed that there is no mention of the data submitted in the registration process being verified by PSA, the impact of this is to allow bad actors to more easily enter the market We would have liked the role of consumer's phone service Providers to be addressed in the code. The impact of not doing this is to delay identification of bad practice and extending consumer harm.
Q51 Are there other impacts which we have not considered in relation to	Confidential? No

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.	It is hoped that the new code will be simpler and easier to comply with but much depends on information which has yet to be published
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>Confidential? No</p> <p>The biggest omission is the lack of control of PSA's part in investigations. Without timescales investigations will still be able to drag on, increasing consumer harm, delaying resolution and causing uncertainty for providers.</p> <p>We feel that fines in particular are too high and this is not addressed in the code or consultation document. These are known to deter entry into the market even by overseas providers. OFCOM have stated that 5% of revenue is a suitable deterrent to poor practice yet PSA go for 100%, which is unreasonable and leaves providers in deficit as they will have had costs to be paid out of the revenue</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?	<p>Confidential? No</p> <p>There are many examples of inequality given in our responses, these will deter entry into the market.</p>
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?	<p>Confidential? No</p> <p>We do not believe this is an equitable way of dealing with investigations even if there is a precedent. Sanctions should be based on those in force at the time of the alleged poor practice. These arrangements are a disincentive to PSA closing investigations in a timely manner</p>

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.

