

**Statement following consultation on
Service-Specific Requirements for
Competition and Voting services
under the 15th Code of Practice and
notification of other minor changes**

20 April 2022

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About the PSA

We are the UK regulator for content, goods and services charged to a phone bill. We act in the interests of consumers.

Phone-paid services are the goods and services that can be bought by charging the cost to the phone bill or pre-pay account. They include charity donations by text, music streaming, broadcast competitions, directory enquiries, voting on TV talent shows and in-app purchases. In law, phone-paid services are referred to as premium rate services (PRS).

We build consumer trust in phone-paid services and ensure they are well-served through supporting a healthy market that is innovative and competitive. We do this by:

- establishing standards for the phone-paid services industry
- verifying and supervising organisations and services operating in the market
- gathering intelligence about the market and individual services
- engaging closely with all stakeholders
- enforcing our Code of Practice
- delivering organisational excellence.

1. Introduction

1. In 2019 we embarked on a review of our regulatory framework – the Code of Practice. The Code of Practice (14th edition) (Code 14) has been in force since July 2016. However, it has evolved largely from the 12th Code of Practice (Code 12), which was introduced after our last comprehensive review of regulation in 2011. This review of the Code was, therefore, the first comprehensive one in more than a decade.
2. After setting out our initial approach in a discussion document in February 2020 we formally consulted on our draft 15th Code of Practice (Code 15) from April to July 2021. Throughout the development of the draft Code 15 we consulted widely with industry and consumer advocates holding 15 webinars and a number of 1-2-1 meetings. Following Ofcom’s approval, we published our [final statement](#) and [new Code 15](#) on 20 October 2021. Our consultation document and the final statement set out in detail our rationale for the proposals we made for draft Code 15 and our final decisions.
3. Code 15 came into force on 5 April 2022. We are committed to working with industry to assist them so that they are ready to operate services in compliance with the new Code.

About this document

4. Following the publication of our final statement and Code 15 on 20 October 2021, we received representations from several industry participants involved in the delivery of broadcast competitions and voting. They told us that service-specific Requirement 3.13.3 cannot be implemented by them as it requires them to know when a competition entry or vote is sent which they said is not possible.

5. Following discussion with the industry, we accepted that minor clarificatory changes are needed to the service-specific Requirements in section 3.13 of Code 15. We consulted on proposed changes as required under paragraph 6.4.3 of Code 15, from 12 January to 23 February 2022. However, we explained in the consultation document that any amendments we deem necessary would be subject to Ofcom approval and can only be made and brought into force after the entry into force of Code 15 on 5 April 2022.
6. In preparing for the implementation of Code 15 we also found a couple of minor points in the Code that we deemed would benefit from clarification. Being minor changes, they do not require consultation under paragraph 6.4.5 of Code 15, but we are taking the opportunity to publish these changes, as required by that paragraph, in this document in addition to responding to the consultation on section 3.13. The minor changes are set out in section 4 below.

Responses to the consultation

7. We received 8 responses to the consultation from broadcasters, intermediaries involved in the delivery of competition services and a trade association, including three confidential responses. The responses all raised concerns about revised wording of 3.13.3 and also sought clarification that service terms and conditions could be used to provide the notification required in requirement 3.13.5.
8. While the responses did not support the amendments as drafted there was agreement between the industry and PSA on the intention of requirements 3.13.3 and 3.13.5. as amended. We have made further amendments to these two requirements to clarify the intention and the amended text is published in this Statement.

Next steps – entry into force of amendments

9. Ofcom has now also approved the changes to Code 15 in accordance with paragraph 6.4.4 of Code 15. On the basis of the feedback that we have received from the industry, we will bring these amendments into force on 18 May 2022.

2. Service-specific Requirements for competition and voting services

10. One of the ways we have simplified Code 15 is through the removal of Special Conditions. These have either been incorporated into Code 15 where they remain relevant or dispensed with altogether. There are a few remaining service-specific Requirements which provide further details for all relevant providers on what additional requirements apply to particular categories of service so as to meet the Code Standards and protect consumers.
11. There is a set of service-specific Requirements relating to Competition Services, including broadcast services at section 3.13 of the Code. Code Requirement 3.13.3 currently reads as follows:

“All valid responses for entry into a competition within a TV or radio programme that are sent in by consumers within the timeframe set out in the promotional material must be entered into the competition and given equal consideration”.

12. Two responses to the consultation on the draft Code disagreed with the wording of Requirement 3.13.3 expressing a preference that the Requirement should refer to valid responses “received” by the provider rather than “sent” by the consumer based on an argument that this did not take account of entries delayed by technical issues such as network latency. While we recognised the issue, the PSA decided that in the interests of fairness to consumers such entries should be included, and the consultation wording was retained in the finalised Code published on 20 October.
13. After the publication of the finalised Code, industry providers put forward a new argument, that they could not technically comply with the Requirement on the grounds that providers have no way of knowing when an entry or vote is sent to them, only that it has been received and when it was received.
14. We have limited quantitative evidence about the scale of the issue that the original wording of 3.13.3 sought to address. Global, in its response to the consultation on draft Code 15 submitted data to the effect that in the months March to May 2021, between 0.0004-0.001% of entries were affected by technical issues. Informal consultation with other providers suggests that the problem is limited in scale.
15. We had hoped that it might be possible to provide sufficient clarity for providers of broadcast competition services through a guidance note setting out our expectations of providers. We included a draft guidance note on service-specific Requirement 3.13.3 in our [consultation on draft guidance](#) published on 27 October 2021. Our expectations as set out in that draft guidance note in relation to Requirement 3.13.3 were as follows:

“that competitions will be run such that there is reasonable time afforded between the closing time for entries to be submitted and the selection of winners, to allow for delayed entries to be received and entered into the competition. “Reasonable time” in this context will vary depending on the nature and terms of the competition, as well as the platform through which the competition is promoted and/or operated”

and

“that legitimate entries that are received by the provider outside of the reasonable time allowed for delayed entries, will not be charged” .
16. It subsequently became clear in discussion with broadcast competition and voting service providers that this proposed solution was unworkable. There is a risk in seeking to address the potential for unfairness to some consumers whose entries are received late, which is that entries sent outside the timeframe of the event (rather than sent within the timeframe but delayed) could be included as valid when they should be considered invalid. This would potentially be unfair to those consumers whose entries and votes were sent and received within the timeframes for the event. We have therefore decided not to proceed with the draft guidance note on service specific Requirement 3.13.3 and it was not included in the set of Guidance Notes published on 16 February 2022.
17. We understand from providers that in practice, late entries or votes are not charged i.e., the service charge for the service is not applied to late entries or votes. This would meet

our expectation that entries and votes delayed for technical reasons will not be charged. The current wording of the Requirements in section 3.13 does however allow for charging of late entries and votes where other conditions are met, although not in the case where entries and votes are delayed for technical reasons.

Changes proposed to service-specific Requirement 3.13.3

18. In view of the representations of the industry and the evidence of the limited scope of the potential for harm to consumers who have entries and votes within the timeframe for an event but whose entries and votes have not been received on time, we proposed to make changes to service-specific Requirements in section 3.13. Following informal consultation with the industry in November 2021, we proposed to amend Requirement 3.13.3 as below:

“All valid responses for entry into a competition or vote that are sent in by consumers within the timeframe set out in the promotional material must be entered and afforded sufficient time to be given full and equal consideration, except where such responses are received by the provider outside of the timeframe set out in the promotional material and the time that they were sent cannot reasonably be ascertained.”

19. The consultation document set out the reasoning behind the amended Requirement. The starting point is that all valid entries to a competition or votes sent in on time by consumers should be considered equally as a basic matter of fairness to the consumer. The drafting of the amended Requirement makes allowance for the technical limitations of the systems used to provide the service and restricts the pool of entries to be considered by excluding those entries received by the provider outside the timeframe of the event.

20. The final clause of the amended Requirement “and the time they were sent cannot be reasonably ascertained” was added to allow for the possibility that in the future providers might be able to determine reliably when an entry had been sent, while the consultation document recognised that this is not currently possible.

Responses to Q1 of the consultation

Q1 Do you agree that the proposed amendment to Requirement 3.13.3 clearly sets out what providers must do in respect of valid entries to competitions? If not, please give your reasons.

21. All of the respondents to the consultation said that the amended 3.13.3 did not clearly set out what providers must do in respect of valid entries to competitions.

22. Aimm, Channel 4, Global, Fonix, and two anonymous respondents all raise the concern that the Requirement as drafted might either now or in the future require them to consider entries that are received by the provider after the event has closed. Channel 4 and aimm add to this concern that in the event that if at some point providers are able to determine when a late entry has been sent the likely manual process of adding a late entry into the competition or vote adds risk of error and is potentially unfair.

23. An anonymous response states that “We do not understand the cause of the change” adding that it supports aimm and other broadcaster responses. MCOM said that it did not see a need for future proofing of the Requirement.

24. All of the respondents except MCOM expressed a preference for the Requirement to refer only to votes or entries being received by the provider. Those respondents suggested the same wording as an alternative either explicitly in their own response or by reference to the aimm response:

“All valid responses for entry into a competition or vote that are received by the Provider within the timeframe set out in the promotional material must be entered and afforded sufficient time to be given full and equal consideration.”

PSA consideration of responses to Q1

25. Several respondents have highlighted the fact that broadcast votes and competitions currently run successfully with very few complaints to the PSA. This is true but has not always been the case. The current controls that several of the broadcasters reference were put in place after the 2007 enforcement cases, most prominently against ITV but involving a number of the broadcasters. And the broadcasters’ controls are not infallible as the more recent 2020 Ofcom investigation into competitions run on various ITV programmes demonstrated.

26. The current Code 15 sector specific Requirement 3.13.3 is derived from [Code 14 special conditions applicable to Broadcasting PRS](#):

“BPRS1 All valid responses sent by viewers must be available in sufficient time to be fully considered and reflected in any outcome of an event. In circumstances where the consumer has been clearly informed of the time period in which responses will be valid, any responses received outside this time will be considered invalid and will not need to be considered in the outcome of an event”.

27. As we set out in our consultation document, we understand the concerns raised by the industry in relation to the current Requirement 3.13.3 and repeated in the responses to the current consultation by Global and an anonymous respondent – i.e., that the current wording of Requirement 3.13.3 cannot technically be implemented by providers as they have no way of knowing when a consumer has sent a vote or competition entry.

28. However, in view of the fact that broadcasters are currently required to comply with Special Condition BPRS1, and the informal consultation with the industry in November and December 2021 which failed to air concerns with the wording proposed in the current consultation, some aspects of the responses from industry are surprising.

29. The wording of the amended 3.13.3 proposed in the consultation does not introduce a requirement for providers to consider late entries or to amend the timing of competition or votes as some respondents have suggested. On the contrary, it returns to the position under BPRS 1 where responses received outside of the timeframe set out in promotional

material do not have to be considered – meaning that they do not have to be entered.

30. We understand from the responses from aimm, Fonix, Global, Channel 4 and an anonymous respondent that the most concern centres on the wording introduced with the intention of future proofing the requirement:

“and the time that they were sent cannot reasonably be ascertained”

31. We set out the reasoning for this addition in paragraph 26 of the consultation document. The intention of the wording was to allow for the possibility in the future that providers would be able reliably to determine when an entry or vote had been sent. The consultation document is clear that the PSA recognises that providers do not currently have a reasonable way to ascertain when an entry or vote has been sent. Respondents, including especially aimm, Channel 4 and Fonix argue that if it did become possible to ascertain when an entry was sent, then the risks associated with having to make manual entries would arise or alternatively according to an anonymous respondent that it would give rise to uncertainty as to how long a competition or vote would have to remain open.

Decision in relation to sector specific Requirement 3.13.3

32. Having carefully considered responses from industry, we believe, notwithstanding the objections to the wording raised in their responses that it is currently possible for the industry to comply with the wording of Requirement 3.13.3 as consulted on in this consultation. However, we accept that the wording introduced to future-proof the Requirement could give rise to risk of errors and/or uncertainty in the future if it does become possible to ascertain when an entry has been sent.
33. We have therefore decided to amend the wording by removing the words “and the time they were sent cannot be reasonably ascertained”. We are persuaded that the numbers of entries or votes sent on time but received late is low and acknowledge that the number of complaints to PSA on this issue is negligible. In view of the protection being codified in 3.13.5 that these late entries should not be charged we think that this outcome provides an acceptable balance between the interests of consumers and the industry.
34. The final revised wording is therefore
- “All valid responses for entry into a competition or vote that are sent in by consumers within the timeframe set out in the promotional material must be entered and afforded sufficient time to be given full and equal consideration, except where such responses are received by the provider (or a third party on its behalf) outside of the timeframe set out in the promotional material.”
35. We note that this wording is not the simplified wording offered as a co-ordinated proposal by industry respondents. The industry proposal includes all entries received by providers within the timeframe of the event, whereas the finalised wording excludes all entries received by providers outside of the timeframe of the event. Whilst both ostensibly achieve the same outcome in terms of ensuring that entries received out of time are

invalid, the finalised wording maintains the starting point mentioned in paragraph 19 above and remains consistent with the position under BPRS 1, as mentioned in paragraph 29.

36. In addition, some industry respondents have raised a concern in relation to the proposed deletion of Requirement 3.13.13 that this could lead to the risk of a very small number of consumers being charged for votes or entries made when lines are opened for testing but outside of the timeframe of the event. We address this point further in relation to Question 3 below but note that the effect of the industry's proposed wording would be that in the event that such entries were sent out of time but received by the provider during the timeframe of the event, they would be included in the event. For all of these reasons we have decided to keep to the PSA proposed wording as the finalised one for Requirement 3.13.3.

Changes proposed to Requirement 3.13.5

37. The intention of amended Requirement 3.13.5 was to provide protection for consumers against the detriment of being charged for a late entry by codifying what we understand to be the industry's practice of not charging late entries. In the interests of transparency and fairness we added the condition that the consumer must be informed that their late entry has not been entered into a competition or vote but that they have not been charged.

38. We understand that current industry practice is only to provide consumers with positive confirmation that an entry has been received and entered into a competition and that they will be charged. We consider that providing the additional negative confirmation to consumers whose entries have not been entered into an event and have not been charged is proportionate and fair. In our view it will help to manage consumers expectations of winning a competition, while also providing reassurance that they have not been charged for an invalid entry. We consider that this should be a minimal additional burden for the industry given the current practice as we understand it.

39. We propose to amend service-specific Requirement 3.13.5 as below:

“Competition and voting entries that are received by the merchant provider (or a third party on its behalf) outside of the times outlined in the promotion must be considered invalid. Any consumer who has sent such an entry must be informed that their entry is invalid and that they have not been entered into the competition or vote. The consumer must not be charged for an invalid entry. The consumer must be informed that they have not been entered and that they have not been charged or will be refunded where a charge has been incurred”.

Responses to Q2 of the consultation

Q2 Do you agree that the proposed amendment to Requirement 3.13.5 clearly sets out when an entry to a competition must be considered invalid and what providers must do to inform consumers? If not, please give your reasons.

40. Most of the respondents asked PSA to confirm or clarify that it was possible for providers to inform consumers that entries received outside of the timelines for a promotion within the terms and conditions of the competition or the event. Fonix, aimm, , Global Channel 4 and an anonymous respondent all asked for this clarification. Some of these respondents asserted that sending additional negative confirmation to consumers could be confusing and lead to an increase in complaints.
41. An anonymous respondent noted that while it does not make a service charge for late entries, SMS entries attract a standard network charge.
42. An anonymous respondent confirmed that it already operates an “invalid entry” receipt to consumers for SMS entries received out of time.
43. MCOM said that there is no timescale to the Requirement to inform consumers about an invalid entry and suggested this should be part of the Requirement.

PSA consideration of responses to Q2

44. We note that the industry accepts the intention of 3.13.5. We see it as positive for consumers that the industry accepts the codification of their current practice of not charging consumers for invalid entries or votes.
45. We welcome the fact that responses indicate that the industry practice seems to be to inform consumers that entries received out of time will not be entered or charged. Responses indicate that industry practice varies with some in the industry relying on terms and conditions to inform consumers and others also providing “invalid entry” receipt messages. We confirm that informing consumers in advance through terms and conditions or after an entry has been received by means of a receipt message are both acceptable means of informing consumers.
46. We note the anonymous response that SMS entries to their events attract a standard network charge and this would apply to late entries. The standard network charge for SMS (and the access charge for voice calls to premium rate numbers) is not within the remit of the PSA and we confirm that the requirement does not apply to the standard network charge.
47. We do not agree with MCOM’s suggestion that the requirement should include a timescale within which consumers should be informed that an entry is invalid and has not been charged. We consider that this would be overly prescriptive. MCOM’s suggestion is not supported by other responses or by evidence.

Decision in relation to sector specific Requirement 3.13.5

48. Most respondents did not ask for specific amendments to the proposed Requirement but did ask for clarification that terms and conditions are an acceptable means of informing consumers that their entry was invalid. Global suggested inserting a sentence to provide clarity: “Consumers must be informed either in advance of, or after submitting their entry, that any invalid entry into the competition or vote will not be entered.”.

49. In view of the industry responses, we consider that providing clarification in Requirement 3.13.5 would be helpful, including that where a consumer has been charged for an invalid entry, they should be refunded so that they are not left out of pocket. We also considered that providing additional clarification in the Requirement would support our view that a guidance note for these sector specific Requirements would not be needed. The finalised wording of Requirement 3.13.5 is as follows:

“Competition and voting entries that are received by the merchant provider (or a third party on its behalf) outside of the times outlined in the promotion must be considered invalid. The consumer must not be charged for an invalid entry or must be refunded where a charge has been incurred. Any consumer who has made such an entry must be, or must have already been, informed that such an entry is invalid and will neither be entered into the competition or vote, nor charged, or informed that they will be refunded where a charge has been incurred.”

Other changes proposed to section 3.13

50. The proposed amendments to Requirements 3.13.3 and 3.13.5 deal with the issue of entries received outside of the timeframe contained in the promotion for an event. In re-examining these Requirements, we considered that they should apply to competitions and to voting. We therefore looked again at Requirements 3.13.11 – 3.13.16 in Code 15. We consider that Requirements 3.13.11, 3.13.12, 3.13.13 and 3.13.15 duplicate elements of Requirements 3.13.1 – 3.13.10 and so we proposed to delete them. We proposed a minor addition to the current 3.13.14 to make it clear that the Requirement applies only to TV and radio competitions and voting. Minor clarificatory amendments were also proposed to 3.13.2 and 3.13.4. We believe that these amendments and deletions should make the Requirements in section 3.13 overall simpler to understand. All these changes were set out in a table in the consultation document.

Responses to Q3 of the consultation

Q3 Do you agree that the proposed deletion of Requirements 3.13.11, 3.13.12, 3.13.13 and 3.13.15 remove unnecessary duplication? If not, please give your reasons.

51. Respondents were all content with most of the deletions. Several respondents said that they thought there was a risk associated with the deletion of Requirement 3.13.13.
52. Aimm, Channel 4, , Fonix and two anonymous respondents said that there was a risk associated with the testing of lines for competitions and voting. They said that very small numbers of consumers make an entry during this time, and they are concerned that there is a risk that they will be charged. MCOM and an anonymous respondent on the other hand responded that they were happy with the removal of all of the deleted Requirements.

PSA consideration of responses to Q3

53. We understand respondents’ articulation of the risk associated with lines opened for testing and agree that it is likely to be very small. We do not agree that retaining the current Requirement 3.13.13 would mitigate or address this risk.

54. Requirement 3.13.13 is a modified version of the former special condition BPRS2. The first part now only deals with calls – i.e. voice calls – that are in progress when a closure announcement for an event is made. This is not the same situation as lines being opened for testing in advance of an event. The rationale for the deletion of the four Requirements is that their provisions are covered elsewhere. In the case of the first part of 3.13.13, it duplicates Requirement 3.13.6 in relation to calls in progress when a closure announcement is made.
55. The second part of Requirement 3.13.13 allows for the possibility that in certain circumstances consumers may still be charged for an invalid entry or vote. However, in proposing amendments to Requirements 3.13.3 and 3.13.5 it was our intention to align the Code with current industry practice and require that invalid entries should not attract a service charge. Requirement 3.13.5 makes it clear that votes or entries received by the provider outside of the timeframe for the event should not be charged or refunded where a charge has been incurred.
56. We considered whether deletion of any of the other Requirements might lead to the risk that respondents have raised. Requirement 3.13.12 seems to be a better fit for the concern raised as it deals with votes or entries received before lines are announced as open and states that they must be considered invalid. However, this duplicates Requirement 3.13.5 which deems all entries received by the provider outside of the timeframe of the event to be invalid and hence we decided to delete 3.13.12.

Decision in relation to other changes to section 13.3

57. We have decided to make all of the deletions and other minor amendments to Section 13.3 of the Code as set out in our consultation document. We note the concern about deleting Requirement 3.13.13 as raised by some respondents but as set out above consider that any risk identified is sufficiently covered by other Requirements including especially 3.13.5 and 3.13.6.

Responses to Q4 of the consultation

Q4 Do you agree that the amended Requirements 3.13.3 and 3.13.5 are sufficiently clear that a guidance note is not required? If not please give your reasons.

58. Responses to this question varied but were broadly in agreement. Fonix and an anonymous respondent agreed that a guidance note was not required. Aim, Channel 4 and an anonymous respondent agreed that a guidance note was not required as long as responses in relation to Requirements 3.13.3 and 3.13.5 were considered by PSA. Global said that a guidance note would be needed if clarification of Requirement 13.3.5 was not provided in the Code itself. MCOM said that no additional guidance would be needed provided that amendments introduce a timescale for responses to consumers.
59. An anonymous respondent said that it was not in agreement at present. It was uncomfortable with the lack of guidance in view of the redefined Requirements.

PSA consideration of responses to Q4

60. We welcome the broad agreement from respondents that a separate guidance note for this Section of the Code is not needed or not needed if responses to Requirements 3.13.3 and 3.13.5 are considered.
61. Our approach to Guidance was to simplify and streamline guidance notes so that they support compliance with the Code of Practice. We did not intend to publish guidance notes in support of Sector Specific Requirements as we intended these to be sufficiently clear and specific that guidance notes would not be required. We note an anonymous respondent's continuing wish for a guidance note but hope that the changes we are making as a result of this consultation will address their remaining concerns. We note that providers can seek specific compliance advice from the PSA if required.

Decision in relation to publication of a guidance note for Section 3.13

62. We have decided not to publish a new guidance note for Section 3.13.

3. Amending Code 15 and bringing the revised service-specific Requirements into force

63. We proposed to use the new code amendment provisions of Code 15 contained in section 6.4 of the Code to make the changes to these Requirements. We are publishing this Statement now as it was only possible to make changes to provisions once Code 15 was in force.
64. Having consulted on the amendments as required by paragraph 6.4.3 of the Code, we have also consulted Ofcom as required by paragraph 6.4.4 of the Code. We have considered Ofcom's comments and they have given approval.
65. We intend to bring these amendments into force as soon as possible. As we set out in our consultation, pending a reasonable implementation period for those changes, the PSA would not enforce against providers who may have breached the current paragraph 3.13.3 of Code 15. In any case, the approach we plan to take for Code 15 means that we would be engaging with providers to ensure compliance and not seeking to enforce immediately against providers who are clearly trying to comply with the Code. In this case, as noted above we accept that it is not possible for merchant providers to know when a competition entry or vote has been sent.
66. We consulted on the timing of bringing amendments into force suggesting 2 May 2022, which is four weeks after the date of entry into force of Code 15. All respondents except MCOM agreed that it was possible to bring the amendments into force on that date subject to concerns raised in the responses being addressed.
67. MCOM responded that the Code implementation should be delayed "until this updated Requirement has been approved by Ofcom". We would remind MCOM – as set out in the consultation document – that Section 3.13 of Code 15 cannot be amended until Code 15

has been brought into force. We also remind MCOM that the process does involve Ofcom approval of the amended requirements.

68. The amendments we have decided to make to Code 15 will therefore come into force on 18 May 2022. The finalised set of amendments to Section 3.13 of Code 15 are set out in the table in section 5 below and the clean text of the new Section 3.13 is set out in section 6 below.

4. Other minor clarificatory changes to Code 15

69. The new Code amendment provisions enable the PSA to make minor clarificatory changes that do not alter the substance and meaning of a provision and without the need for consultation or approval by Ofcom. Paragraph 6.4.5 requires the PSA to publish any such changes in order to bring them to the attention of those likely to be affected by them.

70. During preparation for the implementation of Code 15 we came across a small number of provisions that in our view would be of benefit to stakeholders and us to clarify and thereby decided to make small changes to these provisions accordingly as set out below. As the changes are minor and clarificatory they will take effect immediately.

Changes to paragraph 5.5.1

71. Paragraph 5.5.1 of Code 15 sets out the point at which a party being investigated by the PSA may seek to settle the case or matter. This paragraph currently describes this point as being after receipt of a formal notification that a case or matter is likely to be considered by a Tribunal or single legally qualified CAP member. However, there are some cases or matters, such as the need for interim measures, that may also be considered by Tribunals prior to the point that a formal notification is issued and therefore can also be settled. As such, we are making a change to paragraph 5.5.1 to clarify that a party can seek to settle at any appropriate point during engagement or enforcement under paragraphs 5.2 to 5.4 of Code 15.

72. The wording of paragraph 5.5.1 will now be as follows:

“At any point following commencement of engagement or enforcement under paragraphs 5.2 – 5.4 above but before the case or matter is placed before a Tribunal under paragraph 5.4.7 above or paragraph 5.6.3(b) or (c) below, or a single legally qualified CAP member under paragraph 5.4.8 above, the Relevant Party may, by reference to Procedures published by the PSA from time to time, engage with the PSA to settle the case or matter. This paragraph does not apply where an oral hearing is requested or required under paragraph 5.7.6 below.”

Changes to paragraph 5.6.1

73. Paragraph 5.6.1 of Code 15 sets out the point at which the PSA can seek the imposition of interim measures by a Tribunal on a party being investigated. Paragraph 5.6.1 currently describes this point as being any time during the PSA’s “enquiries or engagement with a

relevant PRS provider under paragraphs 5.2 – 5.4 [...]”. However, paragraphs 5.2-5.4 of Code 15 refer to the engagement and enforcement stages for investigations. We are therefore making a small change to paragraph 5.6.1 to align the description of the point at which interim measures may be sought with the Code 15 paragraphs referenced.

74. The wording of paragraph 5.6.1 will now be as follows:

“At any time during the PSA’s engagement or enforcement activity in respect of a relevant PRS provider under paragraphs 5.2-5.4 above when it appears to the PSA that a breach of the Code has taken place and the PSA considers, by reference to any criteria set out in its Procedures published from time to time, that:

- (a) the apparent breach is causing serious harm or presents a serious risk of harm to consumers or the general public and requires urgent corrective action; and/or
- (b) the Relevant Party cannot or will not comply with any sanction that may be imposed by a Tribunal pursuant to paragraphs 5.8.5(d), (i) or (j) below, or an administrative charge imposed by the PSA under paragraph 5.11.1 below,

the PSA may adopt the course provided for by paragraphs 5.6.2 and/or 5.6.3 below as appropriate, by (among other things) seeking interim measures from a Tribunal.”

5. Final table of amendments to Section 3.13 Requirements

75. The table below provides a side-by-side comparison of the current text of Requirements in section 3.13 of Code 15 and the amendments we have decided to implement, including revised numbering to reflect deletion of four Requirements.

Code 15 Requirement Number	Current text in Code 15	Proposed new Requirement Number	Suggested amendment for consultation
3.13	Competition Services (including Broadcast Services and Call TV Quiz Services)	3.13	Competition and voting services
3.13.1	Any promotion must make clear that winning is not a certainty.	3.13.1	None
3.13.2	<p>Prior to entry, the consumer must be clearly provided with:</p> <p>(a) a clear description of how the service works and instructions on how to use it</p> <p>(b) information on the prizes available (including where relevant the amount of money that consumers stand to win), the number of prizes available, and any restrictions on the number of prizes that can be won</p> <p>(c) the full cost of participation, including but not limited to the cost of entry</p> <p>(d) the date and time after which the consumer can no longer enter or participate</p> <p>(e) how and when winners will be contacted</p> <p>(f) how and when prizes will be received or money won will be paid</p> <p>(g) how prize winnings will be calculated, and</p>	3.13.2	<p>Prior to entry, the consumer must be clearly provided with:</p> <p>(a) a clear description of how the service works and instructions on how to use it</p> <p>(b) information on any prizes available (including where relevant the amount of money that consumers stand to win), the number of prizes available, and any restrictions on the number of prizes that can be won</p> <p>(c) the full cost of participation, including but not limited to the cost of entry</p> <p>(d) the date and time after which the consumer can no longer enter or participate</p> <p>(e) how and when any winners will be contacted</p> <p>(f) how and when any prizes will be received or money won will be paid</p> <p>(g) how any prize winnings will be calculated, and</p>

	(h) where relevant, any criteria for judging entries.		(h) where relevant, any criteria for judging entries.
3.13.3	All valid responses for entry into a competition within a TV or radio programme that are sent in by consumers within the timeframe set out in the promotional material must be entered into the competition and given equal consideration.	3.13.3	All valid responses for entry into a competition or vote within a TV or radio programme that are sent in by consumers within the timeframe set out in the promotional material must be entered and afforded sufficient time to be given full and equal consideration, except where such responses are received by the merchant provider (or a third party on its behalf) outside of the timeframe set out in the promotional material.
3.13.4	Consumers whose entries are valid must receive confirmation that they have been entered into the competition.	3.13.4	Consumers whose entries are valid must receive confirmation that they have been entered into the competition or vote.
3.13.5	Competition entries that are sent outside of the times outlined in the promotion must be considered invalid. Any consumer who sends such an entry must be informed that their entry is invalid and that they have not been entered into the competition. The consumer must also be informed whether or not they have been charged.	3.13.5	Competition and voting entries that are sent received by the merchant provider (or a third party on its behalf) outside of the times outlined in the promotion must be considered invalid. The consumer must not be charged for an invalid entry or must be refunded where a charge has been incurred. Any consumer who sends has made such an entry must be, or must have already been, informed that their such an entry is invalid and that they have not will neither be entered into the competition or vote, nor charged, or informed that

			they will be refunded where a charge has been incurred. The consumer must also be informed whether or not they have been charged.
3.13.6	Where the method of entry is via a phone call, any call that has commenced during the specified time period for entries must be considered valid. This includes calls that have commenced during the specified time period for entries, but have not been completed prior to the closure time.	3.13.6	None
3.13.7	Where a TV or radio programme is repeated, the route of entry must only remain open if the entries received will still be considered valid.	3.13.7	None
3.13.8	Where a service contains multiple routes of entry, all routes of entry must be presented and displayed with equal prominence.	3.13.8	None
3.13.9	All valid entries must have the same chance of winning.	3.13.9	None
3.13.10	Consumers must not be subjected to any additional costs in order to claim prizes once draws have been made.	3.13.10	None
	TV and radio broadcast voting		Deleted
3.13.11	All valid votes or entries	-	Deleted

	<p>sent by the audience must be available in sufficient</p> <p>time to be fully considered and reflected in the outcome of an event. In circumstances where the consumer has been clearly informed of the time period in which votes or entries will be valid, any votes or entries received outside this time will be considered invalid and will not need to be considered or reflected in the outcome of an event.</p>		
3.13.12	<p>All valid votes or entries received before lines have been announced as open, or after an announcement that lines are closed, must be considered invalid and must not be counted.</p>	-	Deleted
3.13.13	<p>Calls that have already commenced at the time of a closure announcement must be completed, considered valid and counted. Invalid votes or entries may only be charged where:</p> <p>(a) the risk of being charged for invalid votes or entries has been clearly communicated to the audience;</p> <p>(b) consumers whose votes or entries are invalid are clearly informed that their vote or entry is invalid and whether a charge has been applied; and</p> <p>(c) the receipt of invalid votes or entries after lines have been announced as closed is not due to</p>	-	Deleted

	technical failure.		
3.13.14	Where a PRS provider has made arrangements for the handling of excess peak traffic by third parties, these arrangements must ensure that all valid votes or entries so handled are treated the same as those received by the provider.	3.13.11	Where a PRS provider has made arrangements in relation to TV and radio competitions or votes for the handling of excess peak traffic by third parties, these arrangements must ensure that all valid votes or entries so handled are treated the same as those received by the provider.
3.13.15	Phone lines must not remain open when programmes are repeated, except where votes or entries will still be considered valid.	-	Deleted
3.13.16	There must be no amendments to the operational systems or procedures relating to the service without senior management authorisation. Any such operational systems or procedures must identify persons in senior management positions within the relevant organisation who have the power to authorise such changes.	3.13.12	None

6. Final text of Section 3.13

3.13	Competition and voting services
3.13.1	Any promotion must make clear that winning is not a certainty.
3.13.2	<p>Prior to entry, the consumer must be clearly provided with:</p> <ul style="list-style-type: none"> (a) a clear description of how the service works and instructions on how to use it (b) information on any prizes available (including where relevant the amount of money that consumers stand to win), the number of prizes available, and any restrictions on the number of prizes that can be won (c) the full cost of participation, including but not limited to the cost of entry (d) the date and time after which the consumer can no longer enter or participate (e) how and when any winners will be contacted (f) how and when any prizes will be received or money won will be paid (g) how any prize winnings will be calculated, and (h) where relevant, any criteria for judging entries.
3.13.3	All valid responses for entry into a competition or vote that are sent in by consumers within the timeframe set out in the promotional material must be entered and afforded sufficient time to be given full and equal consideration, except where such responses are received by the merchant provider (or a third party on its behalf) outside of the timeframe set out in the promotional material.
3.13.4	Consumers whose entries are valid must receive confirmation that they have been entered into the competition or vote.
3.13.5	Competition and voting entries that are received by the merchant provider (or a third party on its behalf) outside of the times outlined in the promotion must be considered invalid. The consumer must not be charged for an invalid entry or must be refunded where a charge has been incurred. Any consumer who has made such an entry must be, or must have already been, informed that such an entry is invalid and will neither be entered into the competition or vote, nor charged, or informed that they will be refunded where a charge has been incurred.
3.13.6	Where the method of entry is via a phone call, any call that has commenced during the specified time period for entries must be considered valid. This includes calls that have commenced during the specified time period for entries, but have not been completed prior to the closure time.
3.13.7	Where a TV or radio programme is repeated, the route of entry must only remain open if the entries received will still be considered valid.

3.13.8	Where a service contains multiple routes of entry, all routes of entry must be presented and displayed with equal prominence.
3.13.9	All valid entries must have the same chance of winning.
3.13.10	Consumers must not be subjected to any additional costs in order to claim prizes once draws have been made.
3.13.11	Where a PRS provider has made arrangements in relation to TV and radio competitions or votes for the handling of excess peak traffic by third parties, these arrangements must ensure that all valid votes or entries so handled are treated the same as those received by the provider.
3.13.12	There must be no amendments to the operational systems or procedures relating to the service without senior management authorisation. Any such operational systems or procedures must identify persons in senior management positions within the relevant organisation who have the power to authorise such changes.