

# Consultation response form

## Consultation on Service-Specific Requirements for Competition and Voting Services

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

|                      |  |
|----------------------|--|
| Full name            | Joanna Cox   |
| Contact phone number | [REDACTED]   |
| Representing         | <del>Self</del> / Organisation (delete as appropriate) |
| Organisation name    | aimm   |
| Email address        | [REDACTED]   |

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 [psaauthority.org.uk/privacy-policy](https://psaauthority.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](#).

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| <p>Your details:<br/>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>Nothing/<del>your name/organisation name/whole response/part of the response (you will need to indicate which question responses are confidential).</del></p>    |
| <p>Your response: Please indicate how much of your response you want to keep confidential.</p>   | <p>Delete as appropriate:</p> <p>None/<del>whole response/part of the response (you will need to indicate which question responses are confidential in the table with questions below).</del></p> |
| <p>For confidential responses, can the PSA refer to the contents of your response in any statement or other publication? Your identity will remain confidential.</p> | <p>Yes/<del>No (delete as appropriate)</del></p>  |

## Your response

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

## Introduction to aimm

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

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

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

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

## Membership input

aimm welcomes the opportunity to respond to this consultation. To assist aimm in providing a comprehensive input to the Phone-paid Services Authority, aimm communicated with its Members in the following manner;

- Membership sector specific meetings
- Written input from Members
- One-to-one telephone discussions
- Conference calls
- Individual meetings

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

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

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

aimm sought responses from Members across the Network Operators, L1 community, L2 community, Broadcasters and Charities and in this paper varying views are represented.

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

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

| Consultation questions | Your response |
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| <p>Q 1. 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.</p> | <p>Confidential? <del>Yes</del>/No (delete as appropriate)</p> <p>Members believe that using the word 'received' rather than 'sent' (in terms of messages to be included) would be clearer and easier to understand. As such 3.13.3 would read as follows:</p> <p><i>"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".</i></p> <p>Indeed, in our initial response to the Code 15 consultation we said the following:</p> <p><i>"As the PSA are aware, not all entries that get sent in are actually received and paid for, due to latency issues or other technological issues that can occur. As such we would ask that the words 'sent in' are amended to something more accurate, such as 'received and paid for'".</i></p> <p>However, Members note in point 17 of this consultation that the PSA wish that:</p> <p><i>"17. The aim of this Requirement is to ensure the fair treatment of consumers wishing to enter competitions within TV or radio programmes. Where consumers have sent a legitimate entry response to a competition before the time specified in the promotion for the competition, it should be entered into the competition and given equal consideration".</i></p> <p>Members note that the amended proposal at 3.13.3 addresses the issue of Providers being unable to identify when entries are sent in by the consumer. They feel that the proposed 3.13.3 is more accurate than originally proposed in Code 15.</p> <p>There are concerns however about the final sentence shown in bold below:</p> <p><i>"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</i></p> |
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|  | <p><i>provider outside of the timeframe set out in the promotional material <b>and the time that they were sent cannot reasonably be ascertained.</b></i></p> <p>In point 26 the consultation states that this choice of wording has been included so as to future proof this Requirement, should there come a time where it is possible to ascertain the time when messages are sent.</p> <p>However, – should there come such a time – it will still not be feasible to include entries that are sent on time but received late (for instance perhaps due to network latency).</p> <p>Once competition or vote lines are closed and the winner picking/counting and verifying has commenced, there would be a substantial risk in including entries into that process that have arrived late – for whatever reason.</p> <p>Vote counting/verifying and winner picking are very precise audited processes, and the inclusion of late entries should be viewed with extreme caution as it would come at a massively increased risk. Better to not enter and not charge the consumer than risk the integrity of the winner picking/counting and verifying process by forcing in late entries.</p> <p>Equally, should it become possible to ascertain when late entries have been sent, when would the cut-off point be for including those entries? How long should that window be?</p> <p>To try and explain this point, we'd like to provide a (simplified) process on operating competition or voting services below, which is as follows:</p> <p>Lines (voice/SMS etc) open at the start of the promotion. Responses that come in once the lines open are counted and considered. If you liken it to a funnel, the funnel is opened up at the start of a promotion.</p> <p>Lines close the end of the promotion. When this happens, the service is closed. No entries are directed to that service after this</p> |
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|  | <p>time. So the funnel (so to speak) is shut off. The only way to direct entries to a service after the close time is to reopen the service (reopen the funnel). Any entries that arrive with the Provider after the close time do not hit the service at all as they do not go down the funnel. This is so that there can be no integrity breakdown between valid and invalid entries.</p> <p>Should there come a time when the sent time of entries can be ascertained, there is still no technical way of including entries that have arrived after the close of the service without (a) reopening the service (reopening the funnel), or (b) manually shoehorning them in. We have looked at both of those scenarios.</p> <p>(a) Reopening the lines would breach the Terms and Conditions.</p> <p>Competition and Voting Terms and Conditions have to state the date and time that the service closes and <b>must not</b> veer from that close time/date. In Code 15, 3.13.2 it is stated:</p> <p><i>"Prior to entry, the consumer must be clearly provided with: d) the date and time after which the consumer can no longer enter or participate".</i></p> <p>Reopening the service (funnel) would breach this Requirement. It would also mean that new entries that happened to be sent when the lines were engineered back open would be counted – even though they were sent in late - as there is no way to limit entries to an open service. This means that invalid entries could be included.</p> <p>(b) Manually shoehorning entries into a service opens up a world of potential human error, audit headaches, possible fraudulent activity and a real risk of vote results/winner picking integrity being compromised. Services have been automated - particularly around winner-picking – to avoid these exact scenarios. To</p> |
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|  | <p>open up the possibility of manually adding in entries would be removing 15 years of innovation designed to ensure integrity and reduce consumer harm. It would be like ignoring the funnel all together and just manually putting extra entries in the pot underneath the funnel.</p> <p>If providers are to use one of these methods to allow late entries into a service, there is also a question about how long they allow them for? Generally, votes are counted and verified immediately (particularly in a live show environment). This means that allowing late entries would hold up that process making phone-paid voting untenable as a method for audiences to interact.</p> <p>For competitions, winner picking begins once all lines of entry are closed. How long should Providers wait to allow the inclusion of possible late entries?</p> <p>Once winner picking has begun, as per the service Ts and Cs, if late entries arrive should the picking be delayed and potentially restarted for those entries? Across both voting and competitions, if we allow the inclusion of late entries, there will have to be a cut-off point to allow counting/verifying/winner picking to commence. Once this has commenced, should it be stopped and restarted again if a late entry arrives? When winner picking has finished, should it be rerun again if a late entry arrives? What about if the winner has been contacted or awarded their prize and a late entry arrives? Should the whole promotion be rerun?</p> <p>If we allow <b>any</b> late entries it will become very difficult to explain (as it is above) why some consumers late entries (up until that point) have been included but some (after that point) have not.</p> <p>Allowing “reasonable time” for late entries is also not the answer, as what is reasonable for one provider running a quick turnaround service will absolutely vary from another Provider running a different service.</p> |
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|   | <p>“Reasonably delayed” late entries would cause even more confusion as – for example – Mr Smith won’t understand why his entry that was 20 minutes late has not been included when Mr Jones’ entry that was a day late has been included on another service.</p> <p>Rather than muddy the waters by allowing late entries at all, Members believe that any late entries must not be counted or charged, as per the current practice, which receives negligible complaints. This is so much simpler for consumers to understand and hugely reduces the risk of incorrect vote counts or winner picking which will threaten the integrity of these service should we ever allow late entries.</p> <p>Once again, as per our original response to the Code 15 consultation, Members suggest the following alternate wording:</p> <p><b><i>“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.”</i></b></p> <p>Entries not received can then be dealt with as per the requirements and suggested proposals from Industry in 3.13.5 below.</p> |
| <p>Q 2. 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.</p> | <p>Confidential? <del>Yes</del>/No (delete as appropriate)</p> <p>3.13.5 makes it clear that:</p> <p><b><i>“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”.</i></b></p> <p>Members would like more clarity about the next section of this requirement which states:</p> <p><b><i>“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</i></b></p>   |



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|  | <p><i>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”.</i></p> <p>In preparation for his consultation, the PSA, Broadcasters, Intermediary providers and aim met (virtually) to discuss the technicalities around this area of consultation.</p> <p>At the meeting it was verbally agreed that informing customers about late entries that have not been included could be done within the Providers Terms and Conditions, rather than by directly replying to the late message. Members seek assurance that this is still the case as this is not specified in this consultation.</p> <p>It is not wholesale practice to inform consumers that their late entry has not been included - though some Providers do this.</p> <p>Where competitions or votes have a short duration, there may be harm and confusion caused to consumers from telling them their entry hasn't been included because it's been received late.</p> <p>The majority of consumers probably don't understand the technical processes in place and thus would argue that they had sent their entry in time and so it should have been counted.</p> <p>By asking Providers to send a 'your entry wasn't included' message, complaints may increase unnecessarily for those competitions and votes with quick turnaround times.</p> <p>These services have negligible complaint numbers and as such Broadcasters would like to be able to exercise their discretion in handling entries in the way that will cause least confusion for their specific audiences.</p> <p>As such, we seek clarity that the current process used by Broadcasters at their discretion (and with negligible complaint</p> |
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|   | <p>rates) can remain, i.e., either replying to the late message or by using the Terms and Conditions to advise consumers of this process, as this has not been addressed in this consultation.</p>  |
| <p>Q 3. 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.</p> | <p>Confidential? <del>Yes</del>/No (delete as appropriate)</p> <p>Members generally agree with the deletion of most Requirements, but have a concern over the deletion of Requirement 3.13.13. This reads:</p> <p><i>3.13.13 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:</i></p> <p><i>(a) the risk of being charged for invalid votes or entries has been clearly communicated to the audience;</i></p> <p><i>(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</i></p> <p><i>(c) the receipt of invalid votes or entries after lines have been announced as closed is not due to technical failure.</i></p> <p>Members would like the PSA to note that there is still a small risk that an invalid vote or entry may be charged. An example of this would be where lines are opened for testing - which is a fundamental part of running Broadcast competitions and votes - and someone calls in at that time. At that point their vote would be charged, as the service is open and must be set to the same operational level as it would be when it is live to test all elements of it (including that it is being charged at the correct amount).</p> <p>This can and does occasionally happen despite warnings given only to enter when lines are open and as such, should be considered in the Code.</p> |
| <p>Q 4. Do you agree that the amended Requirements 3.13.3 and 3.13.5 are</p>  | <p>Confidential? <del>Yes</del>/No (delete as appropriate)</p> <p>Members agree that if the responses that they have given to this consultation are</p>   |

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| sufficiently clear that a guidance note is not required? If not please give your reasons.   | considered and implemented then no guidance note is required.   |
| Q 5. Do you agree that the proposed revised Requirements in section 3.13 could be implemented by the industry by 2 May 2022? If not, please propose an alternative date setting out your reasons. | Confidential? <del>Yes</del> /No (delete as appropriate)<br><br>Members agree that if the responses that they have given to this consultation are considered and implemented then the 2 <sup>nd</sup> May is a realistic timeframe. |

### Submit your response

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