

**Consultation on Code 15
amendments to Requirement 3.2.10
and Annex 1: Specified service
charges and durations of calls
1 March 2023**

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About us

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 by supporting a healthy, innovative, competitive, and competitive market. 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.

Executive Summary

The PSA is consulting on changes to its Code of Practice to address consumer detriment in the Information, Connection, Sign-posting Services (ICSS) market. ICSS, commonly known as connection services, are third-party services that connect consumers to well-known public and private sector customer services numbers.

The PSA conducted a thematic review of the sector to understand the consumer experience of ICSS and associated detriment and non-compliance. The review found that consumer detriment is widespread.

We are therefore proposing amendments to our Code to:

- reduce detriment associated with consumer misunderstanding
- limit detriment caused by high call costs
- reduce the risk of forced cut-offs that result in consumer detriment.

Given the limited nature of the proposed Code changes and the scope of the ongoing detriment set out, we have decided that a 7-week consultation is appropriate, and stakeholders have until 19 April 2023 to respond to this consultation.

Background

1. Information, Connection and Signposting Services (ICSS) are voice-based phone-paid services that:
 - connect consumers to specific contact numbers or helplines that they are seeking, usually at a much higher charge than calling directly, or
 - provide advice or information about how to access or use public or commercial services.
2. ICSS have been prevalent in the phone-paid services market since 2011/12, particularly those which offer call connection. The regulation of ICSS has changed over time. In 2013 prior permission was introduced; prior permission was then superseded by Special Conditions. Special Conditions¹ for ICSS were introduced in 2015 under the 13th edition of the Code of Practice. These applied to ICSS which operated on number ranges within the PSA's remit at that time including those operating on lower cost 087 premium rate number ranges.
3. In 2019, ICSS Special conditions were strengthened and applied to ICSS operating on all number ranges. This was following Ofcom's modification of the Premium Rate Services (PRS) Condition which extended the definition of Controlled Premium Rate Services (CPRS) to include all ICSS². In 2021, Code 15 came into force, incorporating the previous Special conditions directly into the Code of Practice.
4. Despite strengthened regulation, complaints about ICSS have persisted at significant levels. Both ICSS that are compliant with current PSA Requirements and non-compliant ICSS are the cause of disproportionate numbers of consumer complaints to the PSA. ICSS account for less than 5% of the phone-paid services market by revenue, yet they are one of, if not the most complained about service type. While complaints about phone-paid services in total have fallen significantly in recent years, ICSS complaints have remained high³.

	Total complaints received by the PSA	ICSS complaints received by the PSA
2019/20	13,900	510
2020/21	5,400	580
2021/22	2,100	460

¹ Special Conditions applied to services which were deemed to be high-risk by presenting: a) a significant level of consumer harm; or (b) unreasonable offence to the general public, arising from a particular category of Premium Rate Service ("a high-risk service").

² https://www.ofcom.org.uk/data/assets/pdf_file/0015/131046/Statement-Review-of-the-premium-rate-services-condition.pdf

³ Data accurate as of February 2023. Please note complaint data can fluctuate slightly over time.

5. Organisations that ICSS connect to also complain to the PSA about ICSS, including various Government departments, such as the Department for Work and Pensions (DWP), His Majesty’s Revenue and Customs (HMRC) and the Driver and Vehicle Licensing Agency (DVLA). Some of these organisations receive contact from consumers who may be considered to be vulnerable due to personal and/or financial circumstances. Since 2019, the PSA has received 85 referrals about ICSS from HMRC alone, with each report often raising concerns about multiple different services that offer connection to HMRC.
6. Private sector organisations have also complained to the PSA, including financial institutions, travel companies, online shopping sites and marketplaces as well as phone, TV and internet service providers, and more recently (particularly since the pandemic) delivery companies.
7. Search engines, where ICSS are generally marketed, are aware of the issue too. Google have a policy that prohibits the advertising of ICSS on their platform⁴, although numerous ICSS are able to evade the policy and continue to use paid advertisements on Google search.
8. The PSA also receives complaints from ICSS providers reporting other ICSS which they believe are not complying with the Code of Practice. The issues identified by these organisations generally relate to misleading promotions, passing off⁵, and pricing and transparency. The number of complaints and referrals the PSA receives from these organisations also suggests that many complaints about ICSS are unreported to us by consumers.
9. We have seen high levels of non-compliance in this sector of the phone-paid services market, with ICSS featuring disproportionately in adjudicated cases relative to their share of the overall market.

	Proportion (%) of adjudicated cases about ICSS (excluding prohibitions and breach of sanctions)
2019/20	18
2020/21	38
2021/22	13

Thematic review

10. The thematic review was launched because the PSA remained concerned that the consumer experience of ICSS may be poor and that detriment is widespread. The review sought to better understand the consumer experience and possible detriment in

⁴ Google Advertising policies: Other restricted businesses, Call directory, forwarding and recording services <https://support.google.com/adspolicy/answer/6368711>

⁵ Passing off – where the promotion or website of the service provider suggests either through wording or use of logos, fonts and images or otherwise that the service provider is the official organisation the consumer is seeking.

relation to ICSS and potential levels of non-compliance by providers in the market to assess whether further regulatory action was necessary.

11. To do this, the PSA wrote to all providers registered as being involved in the provision of ICSS. Providers were directed to provide transactional data, Interactive Voice Response (IVR) messages, complaint data, promotional and marketing data and revenue data for a complete 12-month period. The period requested was 1 July 2021 to 30 June 2022.
12. Having collected this data from registered ICSS providers, we then compiled and analysed it over a period of three months. Summary findings were published on 2 February 2023.

Summary findings

13. Consumers made 2,198,176 calls to ICSS over the twelve-month period, spending £18.9m on these calls. Total consumer spend was higher than previously estimated, being approximately 30% more than the Annual Market Review had estimated for the 2021/22 financial year⁶. £18.9m is the equivalent of just over 3% of the total amount spent by consumers on phone-paid service in the 2021/22 financial year⁷. The average call cost was £8.58.
14. 22 ICSS providers were active during the twelve-month period of the review. However, the market concentrated around six larger ICSS providers. During the review period, the six largest ICSS providers accounted to 79% of calls and 81% of consumer spend. The largest two ICSS providers accounted for 47% of total consumer spend.
15. Two pricing models dominated the market. 99% of all calls were charged at either £3.60/minute or at a fixed cost of £6/call ('drop charge'), despite the availability of lower price points on a per minute or drop charge basis. These price points are the highest available on the 09 number range. These price points do not include any additional access charge that a consumer's phone company charges in addition to the service charge. There was no evidence of ICSS providers competing with each other on price as part of the offer to consumers.
16. Of the 2.2m calls made to ICSS, 84% of calls were made from mobile numbers. The majority of calls were relatively short. 64% of calls were ended within 60 seconds of connection. Consumers spent a total of £6.1 million on calls that were ended within 60 seconds.
17. The review found that call costs can escalate quickly. At the maximum per minute price point available (£3.60/min), it would take just over 11 minutes for a call to cost £40 and

⁶ The 2021/22 Annual Market Review estimated that UK consumers spent £14.6 million on ICSS, although this figure considers the period from 1 April 2021 to 31 March 2022.

⁷ The total revenue for phone-paid services in 2021/22 was £588.7m according to the Annual Market Review. £18.9m would be 3.2% of that figure.

just under 28 minutes for a call to cost £100^{8, 9}. The review found that 63,910 calls exceeded a cost of £40 and 18,003 calls exceeded £100. Consumers spent a total of £5.66m and £2.72m on these calls respectively. The highest call cost recorded was £1,078, with 1,056 calls costing more than £240.

18. The review also found that both regulatory and self-imposed price caps can impact on the market and consumer experience. 19,368 calls were artificially cut off at either £40 or 1,500 seconds (equivalent to ~£90). Consumers spent a total of £0.8m on calls that were artificially ended.
19. The review found that ICSS merchants connected consumers to a wide variety of organisations, both public and private sector. The most commonly sought after organisations were HMRC (or variations of, including Child Benefit helpline) and DVLA.
20. The review also sought to assess the level of consumer complaints in the market. ICSS providers reported to us that they received a total of 2,622 complaints from consumers over 12 months. This compares to 389 that the PSA received over the same period.

Calculating detriment

21. Our view is that the thematic review data demonstrates that there are widespread issues in the ICSS market resulting in significant consumer detriment. We have quantified detriment in relation to calls ended within 30 and 60 seconds, calls ended at call caps and high call costs.
22. We have used the Organisation of Economic Co-Operation and Development's (OECD) definition of consumer detriment to calculate the level of financial detriment in this market using the data provided to us by ICSS providers. The OECD states that,

*“Consumer detriment” means the harm or loss that consumers experience, when, for example, i) they are misled by unfair market practices into making purchases of goods or services that they would not have otherwise made; ii) they pay more than what they would have, had they been better informed, iii) they suffer from unfair contract terms or iv) the goods and services that they purchase do not conform to their expectations with respect to delivery or performance...”*¹⁰

Detriment incurred through calls ending within 30 and 60 seconds

23. The high proportion of consumers ending calls within 30 or 60 seconds is highly likely to be in response to the IVR message. In many ways, this is a sign that current regulation is working to some extent, although this still means that consumers are paying a charge. Consumers are hearing the requisite information to make an informed choice - notably

⁸ According to the personal tax app Untied, the average wait time for HMRC's self-assessment contact number was 11 minutes in 2021. <https://www.untied.io/untied-newsroom/hmrc-call-waiting-times-longer-than-last-year>

⁹ Through this review, we found that a significant proportion of the market were able to go beyond the £40 threshold detailed in the telecoms exemption to PSD2. Those merchants were either directly registered as small payments providers or had registered their small payments agents with the Financial Conduct Authority.

¹⁰ OECD. Measuring Consumer Detriment and the Impact of Consumer Policy [https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DSTI/CP\(2019\)13/FINAL&docLanguage=En](https://www.oecd.org/officialdocuments/publicdisplaydocumentpdf/?cote=DSTI/CP(2019)13/FINAL&docLanguage=En)

that they are calling an ICSS, not the organisation they wish to speak to directly and the call will cost them a fee - and deciding not to proceed with the call.

24. However, and despite previous regulatory efforts to improve transparency and understanding, it also very strongly suggests that consumers continue to be unaware of the existence of or cost of using an ICSS when searching for a contact number and prior to making the call. This is supported by past research and PSA complaints data – many complainants to PSA say that they have not realised that they have called an ICSS, were not aware of the price or did not understand the pricing.
25. Regardless of whether callers have fully understood the nature of ICSS upon connection or after hearing the IVR, all 1,411,489 calls that ended within 60 seconds have incurred a charge for a service they have not received¹¹. Consumers have paid a total of £6.1m without being actually connected to an organisation they wish to speak to. In this scenario, we conclude that the vast majority, if not all of this, is financial detriment as it meets i) and ii) of the OECD definition.
26. Over half of these calls (793,072) were charged on a drop charge basis, meaning the caller incurred the full service charge despite not continuing with the call. In these instances, UK consumers were charged a total of £4.76m over the course of 12 months.

Detriment in relation to call caps

27. The thematic review found that 0.88% of calls were ended because of a cap. In these instances, a consumer will have been cut off mid-call and will not have received the full service they engaged in. This therefore meets iv) of the OECD's definition of detriment.
28. We appreciate that an unintended consequence of capping call charges at £40 is that calls may be cut off before the consumer has completed their call. Calls that are cut off in this manner result in an unsatisfactory outcome for the consumer. The caller may then seek to contact the end organisation again. We are aware of consumers using an ICSS multiple times as a result of calls being cut off.
29. We consider any consumer financial outlay in relation to a call being cut off before it reaches a natural conclusion, whether as a consequence of regulation or self-imposed by the providers involved, as financial detriment. During the review period, UK consumers spent £0.8 million on calls that were ended because of a cap.

Detriment in relation to high call costs

30. Some of the call charges related to ICSS are stark. More than 18,000 calls cost over £100 to connect to a number that, in the majority of cases, would be free to call directly. Two calls incurred service charges of more than £1,000.
31. It may be argued that any additional charge above the cost to call the end organisation sought by the consumer can be considered detriment. Indeed, this would meet ii) of the OECD's definition. Many complainants to the PSA believe that ICSS are illegitimate. A

¹¹ The equivalent number of calls ended after 30 seconds was 1,237,710. The total charges incurred for these calls was £5.27m.

number of other stakeholders, including network operators and trade associations, have made similar arguments in past consultation responses, stating a view that ICSS should be banned¹².

32. We have sought to assess financial detriment felt by consumers who incur charges above two thresholds, £100 and £40. Such charges are considered excessive. £100 is a high threshold representing approximately 12 times the mean service charge of £8.58, whereas the £40 limit already exists as a consumer protection measure in PSA and FCA (Financial Conduct Authority) regulation.

33. UK consumers spent a total of £0.92 million on charges above £100 for one call (out of a total of £2.72m on these calls). UK consumers spent a total of £3.08 million on charges above £40 (out of a total of £5.66 million on these calls).

Total detriment

34. Given these calculations, we have arrived at a lower and higher estimation of financial detriment in the ICSS market attributable to the causes we have outlined above.

	Consumer detriment, lower estimate (£ million)	Consumer detriment, higher estimate (£ million)
In relation to calls ended within 30 (lower estimate) or 60 seconds (higher estimate)	5.27	6.11
In relation to calls ended at a cap	0.8	0.8
In relation to high call costs above £100 or £40	0.92	3.08
TOTAL	6.99	9.99
As a proportion of total consumer spend	37%	52.9%

35. At the very least therefore, more than a third of consumer spend in this market can be considered detriment using this model. A more realistic estimate places this figure at over 50%. As noted above, it can be argued that any ICSS that leads to a consumer spending more on a call than they would if they had used the official number of the organisation connected to is inherently detrimental and that therefore all or nearly all of the £18.9m spent by consumers in this market could be considered as financial detriment.

¹² <https://psauthority.org.uk/-/media/Files/PSA/00NEW-website/Research-and-consultations/Consultations/2021/Draft-Code-15/responses/UKCTA.ashx>
<https://psauthority.org.uk/-/media/Files/PSA/00NEW-website/Research-and-consultations/Consultations/2019/ICSS-consultation/2020-reconsultation/responses/TUFF>
<https://psauthority.org.uk/-/media/Files/PSA/00NEW-website/Research-and-consultations/Consultations/2019/ICSS-consultation/responses/BT.ashx>

Other considerations

36. Many merchants and ICSS providers argue that because complaints are relatively low compared to call volumes further regulatory action is unwarranted. As a regulator, we are required to look at issues in the round. While complaints are an indicator of consumer engagement and detriment, they are clearly not our only consideration.
37. It has also been argued that all market issues and detriment are caused by non-compliance alone. Our assessment of detriment sets out the rationale that a change of regulation is necessary in the consumer interest. The issues set out spread beyond simple non-compliance.

Proposals

38. The relatively high level of complaints about ICSS despite the strengthening of regulatory requirements has led us to believe that there were issues with ICSS beyond the non-compliance that we regularly see in our monitoring and enforcement action. The thematic review has given us compelling evidence of market failures that help to explain the levels of complaints and indicate the need for further regulation to ensure that consumers are adequately informed and protected when they use ICSS.
39. Provision 6.4.2. of Code 15 enables us to amend existing Code provisions and/or any other instrument that forms part of the Code. There are two areas of the Code that we are proposing to amend in order to address the three key issues demonstrated by the findings of the thematic review.
40. Key issues the review has identified are:
- consumer misunderstanding, leading to financial detriment within the first minute of a call
 - financial detriment caused by high call costs
 - consumer detriment caused by calls cutting off mid-call or before the consumer gets to speak to the organisation they are seeking¹³

Summary of proposed remedies:

Issue	Proposal	Code provision PSA proposes to amend
Consumer misunderstanding leading to financial detriment	<p>1. Alert to be provided at the beginning of the call</p> <p>State within the alert that:</p> <ul style="list-style-type: none"> • the organisation to which the service connects can be contacted directly for no or lower cost and provide the organisations official/direct contact number to assist consumers in contacting them directly • the amount that has been charged for the call (drop charge model) or the maximum charge for the call (per minute model) 	Transparency Requirement 3.2.10

¹³ Many calls are terminated once a £40 service charge is reached. This is where calls are subject to the £40 per transaction limit set out in paragraph 2(l) in Part 2 of Schedule 1 to [the Payment Services Regulations 2017](#).

	<ul style="list-style-type: none"> the cost to receive an SMS (where applicable). <p>2. Obtain positive opt-in to continue with onward connection and/or receive a chargeable SMS (where applicable)</p>	
Financial detriment caused by high call costs	Maximum services charge capped at £40.	Annex 1: Specified service charges and durations of calls
Calls cutting off mid-call or before the consumer gets to speak to the organisation they are seeking	Consumers must be advised at the beginning of a call and before connection to the organisation that calls will cut off once the maximum charge is reached.	

Proposal to amend Transparency Requirement 3.2.10

41. Our proposal to amend Requirement 3.2.10 is formed of three key elements that are intended to work together. Firstly, to reduce financial detriment that can occur within the first minute of calls to ICSS, and secondly to ensure that callers understand they are using an ICSS and are able to confirm that they wish to continue using the service.

Alert to be provided at the beginning of the call, connection only after positive opt-in

42. The findings of the thematic review show that almost two-thirds of consumers who call an ICSS hang up within the first 60 seconds of the call after listening to the alert upon connection, resulting in £6.1m of financial detriment¹⁴. This is consistent with data provided to the PSA by network operators. In 2019, BT reported that 48% of calls to ICSS ended within 15 seconds¹⁵. Although this demonstrates that having an alert upon connection containing the cost of continuing the call and other key information supports informed decision making, a caller would have already incurred a charge.
43. Code 15 requires promotional material for phone-paid services to provide consumers with all information that would reasonably be likely to influence their decision to purchase a service before any charge is incurred¹⁶. Our efforts to strengthen the regulation of ICSS have, to date, focused on ensuring transparency and awareness. However, the number of consumers ending a call after hearing an IVR underlines that consumer misunderstanding still persists.

¹⁴ The equivalent number of calls ended after 30 seconds was 1,237,710. The total charges incurred for these calls was £5.27 million.

¹⁵ BT Plc response to 2019 consultation on changes to regulatory framework for ICSS See also UKCTA Response [UKCTA.ashx \(psauthority.org.uk\)](https://psa.gov.uk/consultations/2019/ukcta-response-to-2019-consultation-on-changes-to-regulatory-framework-for-icss) to Code 15 Consultation. UKCTA reported that a member had seen 58% of calls ended within 30 seconds.

¹⁶ See Transparency Requirement 3.2.2 of [Code 15](#)

44. ICSS have the potential to confuse consumers because of the way they are promoted and discovered through search engine marketing. In our experience as a regulator, consumers rarely, if ever, actively seek out ICSS. In most instances, consumers discover ICSS when searching for an organisation's contact number and, logically, they expect to find a direct contact number for that organisation rather than an ICSS. The rate at which consumers hang up during the introductory message supports this notion and suggests that the fully informed decision is not made at the point of seeing an ICSS promotion. Instead, in the majority of cases, it is made once the purchase has already begun.
45. This conclusion is also supported by research conducted by the University of Nottingham in 2018¹⁷. This research told us that consumers make the decision to utilise the number set out in an ICSS promotion quickly, based on first impressions drawn from graphics, layout, and overall "slickness" of a website. The research also stated that consumers often do not consider any disclaimer, the URL, or the phone number that appears on the page.
46. To address the issues of financial detriment within the first 60 seconds of calls made to ICSS resulting from consumer misunderstanding, we propose that there should be an alert immediately upon connection to the service that provides consumers with specific information to inform their decision to continue with the call or not. We also propose the consumer must provide positive confirmation that they wish to be connected to the end organisation they are seeking.

Other options considered: free alert upon connection

47. We considered that consumers would be best served if the alert on connection to the ICSS was free of charge. This would support their ability to make an informed choice to use a service before they incur any cost. We considered whether it would be technically possible or proportionate to require the alert on connection to be free of charge.
48. Some responses to past consultations relating to ICSS and Code 15 criticised our decision not to pursue a requirement for a free pre-call announcement. This was on the basis that such technology has been available in the market for some time and could be implemented through network operators.
49. Other past consultation responses commented that the technology to provide free pre-call announcements/alerts on connection was not ubiquitously available and therefore it would be disproportionate to require this. Previously, however, the PSA was unable to scope and quantify the level of detriment caused by consumer misunderstanding.
50. We note that at least one network operator already provides a free pre-call message that alerts their customers when they dial a premium rate number (09) before the service commences. This gives callers the opportunity to hang up before incurring any charges. We support this practice as it provides consumers with helpful information before they incur any charges. We would like to use this consultation to understand whether there are any similar measures that could be introduced that would support

¹⁷ [University of Nottingham in 2018 researched consumer behaviour and ICSS exploring how consumers respond to ICSS](#)

consumers. In particular it would be helpful to understand whether other networks can provide free pre-call announcements and how these could be applied - i.e., whether they can be applied to specific services or service types or have to be applied to whole number ranges.

51. One way for ICSS providers to be able to provide the required alert free of charge to consumers would be to use a price point with a zero-rated service charge for the first minute. However, we understand that there are only two permitted service charge price points with a zero-rated service charge for the first minute – SC 001 – which is zero rated for both the first minute and charging thereafter (i.e., is free for the entire duration of the call) and SC 073 which is zero-rated for the first minute and charged at £2.50 per minute thereafter.
52. We have concluded for the purposes of this consultation that it would not be possible to require providers to make the alert free of charge to consumers at this time, as it would effectively force providers to use a single price point. We note that in any case this price point is not available for use on the 084 and 087 number ranges.
53. It is not within the PSA's remit to be able to specify service charge price points that would facilitate the provision of a free alert to consumers in advance of connection to an ICSS. We understand that there are a number of service charge points that are not currently allocated. We recommend that industry should use these currently unallocated service charge price points to make it possible to introduce a free alert on all number ranges used for ICSS. If and when such price points become available, it would then be possible for the PSA or Ofcom to introduce a requirement for the alert on connection to be free of charge.

Obtaining positive opt-in to continue with onward connection and/or receive an SMS

54. We are also proposing that onward connection can only happen after the alert and a positive opt-in. We anticipate that this would be achieved through the use of an IVR system that required the consumer to press a number on their handset to confirm they would like to be connected¹⁸.
55. Some ICSS services send follow-up SMS at additional cost to the consumer. The follow-up SMS contains the official direct number for the organisation that the consumer is seeking along with other details about the service and provider. In addition to the positive opt-in proposal, we propose to require positive opt-in from consumers to any additional follow-up SMS, again via an IVR. The IVR should contain pricing information for the follow-up SMS.
56. Stakeholders, including ICSS providers, have noted the similarity between directory enquiry services ('DQ') and ICSS in the past, in that they both offer onward connection. Requiring opt-in to both onward connection and receiving an SMS where such functionality is used, would align ICSS with the consumer 'in-call' experience of services. DQ callers are given the opportunity to decide whether they want to be connected or

¹⁸ We believe this is a well-understood mechanism. DWP, BT and TUFF for example, suggested this proposal in their [2019 ICSS consultation responses](#).

not during the call. The consumer is only connected to the number they are seeking if they provide positive consent.

57. However, a key difference between ICSS and DQ is the way consumers engage with the services. In our view, consumer understanding of DQ is greater than their understanding of ICSS. DQ services are a well-established service type that has existed in various forms prior to the existence of internet search engines. A consumer will actively choose to dial a DQ service via the designated 118 number range to find a number or be connected to it.
58. Requiring consumers to opt in to onward connection as well as to receiving any additional SMS is also consistent with two-factor requirements in other parts of the phone-paid services market as well as adjacent markets. Two-factor opt-in has been effective in reducing consumer detriment in other phone-paid sectors where inadvertent engagement/uninformed consent was an issue. The introduction of this requirement in the subscriptions market has not impacted on consumers engaging with services that they actively seek. Entertainment services and app store purchases, for example, have continued to perform well¹⁹. We broadened the services required to use two-factor opt-in with the introduction of Code 15. For example, all online-based services are now required to obtain double opt-in. In our view the consumer journey for ICSS is quite similar to that for online services as they are only discovered online and the call to action at the point of purchase is similar as well.
59. Indeed, consumers are used to, and often welcome, some additional friction at the point of purchase. Research conducted for the PSA by Jigsaw suggested that consumers like to have two separate 'activation' and 'confirmation' steps when engaging a mobile payment²⁰. Multi-factor authentication is now common in many low-cost financial transactions.

Additional key information to be included within the IVR/alert upon connection

60. To aid consumer understanding prior to onward connection, we propose that the IVR message must include all information that would realistically ensure consumers were able to make a fully informed decision.
61. Therefore, the IVR should state that the organisation being sought can be contacted directly for no or lower cost and provide the organisation's direct contact number.
62. The purpose of this proposal is to further enable consumers to make an informed decision on whether to continue using the service or not. The wording will ensure consumers are aware that it will be considerably cheaper to contact the organisation they are seeking directly and assist them in finding direct contact details.

¹⁹ https://psauthority.org.uk/-/media/Files/PSA/00NEW-website/Research-and-consultations/Research/Analysys-Mason_PSA_annual_market_review_for_2021_2022.ashx

²⁰ <https://psauthority.org.uk/-/media/Files/PSA/00NEW-website/Research-and-consultations/Research/Jigsaw-consumer-research-19-Feb-2019.ashx> Indeed, it can be argued that a 'click to call' ICSS has a consumer journey that is more akin to a mobile payment journey than a traditional phone call.

63. The PSA considers this information to be essential for ICSS. We already expect the information to be provided within ICSS promotional material as we have set out in [guidance that supports Transparency Requirement 3.2.2](#). However, as we have explained earlier in this document in paragraphs 39 and 40, evidence suggests that consumers may overlook the majority of the key information presented within promotions.
64. Code Requirement 3.2.10 currently already requires providers to inform consumers of the cost of continuing a call. We consider that consumers will benefit from being informed of the cost of the call prior to connection as well – whether that charge is per call or per minute. Where the onward connected call is charged on a per-minute basis, consumers should be informed that the maximum charge for the call is £40.
65. If a call is subject to a forced cut-off because of a price cap (or other reason), consumers must be made aware of the likelihood of this prior to onward connection. As set out, we found that 0.88% of calls were subject to a forced cut-off during the period covered by the thematic review. In some, if not most instances, consumers may not have been aware that their call would have been ended. Indeed, some callers end up redialling.
66. It is not acceptable for a consumer to be unaware that a service will be subject to a forced cut off. Therefore, we are proposing that providers make clear in any IVR that a call will need to end after the maximum call charge has been reached. Indeed, we note that some ICSS providers do make this clear in their promotional material. However, for the same reasons set out, we believe this should also be placed in the IVR.
67. In our view, the inclusion of this information within the IVR will ensure consumers are fully informed prior to opting into onward connection. The proposal will also enable providers to be confident that consumers who are using their services are doing so knowingly.

Proposed amendment to Requirement 3.2.10

3.2.10

Where a voice service connects the consumer to another organisation, **the cost of the call and the cost of continuing the call, including information about access charges and any additional chargeable element of the service such as a premium SMS, must be clearly stated in an alert before onward connection. Where the service is an Information, Connection, and Signposting Service the alert upon connection must:**

- i) state that the organisation to which the service connects can be contacted directly for no or lower cost and provide the organisation's direct contact number**
- ii) state the maximum call charge**
- iii) seek and obtain positive opt-in from the consumer to continue the call and be connected to the organisation they are seeking**
- iv) where the service provides any additional chargeable element, such as a premium SMS, seek and obtain separate positive opt-in from the consumer for that element of the service.**

Impact assessment of proposed amendments to Requirement 3.2.10

68. This assessment considers the impact of the proposed amendments to Requirement 3.2.10 for both consumers and providers. We believe that a second positive opt-in following an IVR will bring significant benefits to consumers and some benefit to the market at limited costs.
69. In the 12-month period covered by the thematic review, we estimated that consumer detriment in the first 60 seconds that is directly attributable to consumer misunderstanding was £6.1m²¹. If the market is set to decline in line with Analysys Mason's Annual Market Review predictions for the 09 number range (-5.4% CAGR) and no further regulatory action was taken, this detriment figure is expected to be in the region of £16.4 million over a period of three years and £25.9 million over a period of five years expressed in cash terms.
70. We do not have data on the revenue generated by premium SMS for those ICSS providers who use premium SMS as part of the service, so we are not able to estimate the level of detriment to consumers, but it is reasonable to assume that there is a level of detriment arising from this practice. The requirement for a positive opt-in for this element of the service should eliminate detriment arising from ICSS providers sending additional premium SMS as part of the service.
71. We anticipate that improved transparency and consumer understanding will improve consumer confidence in both ICSS and the wider phone-paid services market. Indeed, the Annual Market Review shows that ICSS has consistently suffered from above average levels of consumers reporting that they have had problems with a service²².
72. We have also considered whether some consumers might benefit more than others. We do not have the data to be able to quantify whether vulnerable and especially financially vulnerable consumers might benefit more than other consumers. However, we are aware that at least some organisations connected via ICSS would be more likely to be sought by vulnerable consumers – e.g., organisations such as DWP dealing with benefits including Universal Credit. Previous research also tells us that less tech-savvy consumers would be less likely to understand ICSS. We consider that the amendments to Requirement 3.2.10 would be especially likely to benefit these groups of consumers.
73. The PSA acknowledges that requiring consumer consent to onward connection through a second opt-in will have implementation costs for most providers. However, we consider that these would be one-off implementation costs and we do not consider these would exceed the ongoing consumer benefits set out.
74. As noted above, we considered the option of requiring the alert to consumer to be free before connection. While we have not proposed this should be taken forward at this time, we note that there is the potential to reduce or even remove up to £6m a year of

²¹ The equivalent number of calls ended after 30 seconds was 1,237,710. The total charges incurred for these calls was £5.27m.

²² Annual Market Review 2021/22, 2020/21, 2019/20: <https://psauthority.org.uk/Research-and-Consultations/Research-Articles>

consumer detriment should this become a viable option. That is the main reason we have recommended that the industry should use currently unallocated service charge price points to introduce more that are zero-rated for the first minute.

75. In terms of positive opt-in, this is also already widely deployed in the market, both for online and voice-based services. Live entertainment services, for example, are required to seek positive confirmation from the consumer that they wish to continue a call. DQ services are required to seek consumer consent to onward connection. Indeed, IVRs are well understood by consumers and commonly used for a variety of purposes. We have therefore reached the conclusion that these proposals are possible and should be able to be implemented in a cost-effective manner.
76. Including critical additional information within the alert and IVR should have minimal impact on providers in terms of technical implementation and costs, as it is simply amending recorded wording that already exists.
77. These proposals may also have some benefit to providers. Requiring consumers to provide positive confirmation will enable providers to be confident that consumers who are using their services are doing so knowingly. Consumers will have actively opted into onward connection and to receive an SMS where the service offers such functionality. This will contribute significantly to preventing use of ICSS without understanding of pricing and will in turn improve consumer understanding of and confidence in the sector. They should also result in reduced complaints and associated costs.

Questions

Q1. Do you agree with our proposal to require a positive opt-in prior to connection by the ICSS provider to the sought organisation?

Q2. Do you agree with the information that we propose be required to be included in the consumer alert prior to opt-in to ensure transparency and consumer awareness?

Q3. Do you have any information that would inform our assessment of the impact and especially the financial costs and benefits of our proposals in relation to Requirement 3.2.10?

Q4. We welcome input on whether there are any other measures that could support consumer understanding of ICSS. We would like to understand if all network operators are able to provide free pre-call announcements and whether these can be applied to specific service types. It would also be helpful to understand what other technology is available to support free alerts upon connection to ICSS.

Proposed amendments to Annex 1: Specified service charges and duration of calls

Capping service charges at a maximum cost of £40

78. To address the issue of financial detriment caused by high call charges, we propose that all ICSS calls are capped. The findings of the thematic review revealed that during the 12-month period from 1 July 2021 to 30 June 2022, 63,910 calls exceeded £40 in total,

resulting in £3.08m of detriment. Indeed, consumers would not incur a charge greater than £40 if they were to contact the organisation they are seeking directly if indeed they incurred any charge at all.

79. We considered whether to impose a total cap on the cost of the service charge element of the call²³ at £100, £40 or an amount lower than £40. We immediately discounted a cap at £100 because of the level of detriment below this figure.
80. We did consider proposing a cap lower than £40 given the argument that consumer spend of £40 and under can also be considered as financial detriment. Indeed, the PSA Consumer Panel has advocated for any proposed cap to be lower than this amount. Some ICSS providers have argued that a one-off per call service charge is a more transparent and therefore fairer charging mechanism.
81. We have sympathy with the idea of a lower cap, given that it is reasonable to assume that it would lead to lower bills for consumers. However, we have also considered the maximum charges permitted for other service types and we have concluded that ensuring the proposed cap is aligned with adjacent regulation and consistent with spend caps set out in Code 15 for other service types is the most appropriate and proportionate course of action. In coming to this conclusion, we note that we are considering price caps and that in a competitive market there should be the possibility of price competition and lower price models.
82. Providers of phone-paid services are required to limit single phone-paid transactions to a maximum cost of £40. This is due to an exemption set out in the Payment Services Regulations 2017 (PSR)²⁴ which allows such providers to operate without the need to be regulated by the FCA. However, where a provider is registered with the FCA, for example as a small payments institution (SPI), they are able to exceed the single transaction limit of £40. A significant proportion of the ICSS market are registered agents of an SPI and are therefore able to charge beyond £40 per call.
83. The thematic review showed that a minority of ICSS providers charging on a per-minute basis imposed the required cap on the service charge at £40. However, these ICSS also cut off the call once this threshold is reached.
84. The PSA has had in place maximum service charge restrictions for certain categories of service for many years. All existing specified services charges and durations of calls are set out in Annex 1 of Code 15. Services that are currently required to cap the service charge at a maximum are:
- Sexual entertainment
 - Live entertainment
 - Chatline

²³ We are unable to include other chargeable elements in the cap.

²⁴ www.legislation.gov.uk/ukxi/2017/752/pdfs/ukxi_20170752_en.pdf

- Professional advice.

85. The maximum service charges set out in Annex 1 of the Code for the categories of service listed above, are required regardless of whether or not the provider is a registered SPI or an agent of a registered SPI.
86. The PSA has not previously consulted on imposing a service charge cap for ICSS, as until this point we did not have sufficient evidence which demonstrated that a significant amount of ICSS calls went beyond £40. We also considered that the PSR £40 exemption threshold would be sufficient enough to protect consumers from the risk of significant financial detriment arising from a single phone call. However, the thematic review has shown that this is not the case. Therefore, we are now proposing that ICSS be included in Annex 1 of the Code.
87. As part of our proposal development, we also considered whether there were other alternative means to improve consumer awareness of potentially high spend. Live services, for example, are currently required to provide spend reminders to callers at £15 and £30 (and seek active consent to continue at £30). However, we concluded that this was difficult to implement because ICSS providers cannot take any action once the call has been connected other than to terminate the call.

Additional measures and transparency around the £40 service charge cap

88. To help guard against the risk of further instances of detriment resulting from forced cut offs, we are proposing changes to the transparency requirement detailed earlier in the consultation. We believe callers should be made aware of the maximum call charge before charging commences as this may influence their decision to proceed.
89. The majority of ICSS calls that are charged on a per minute basis are charged at the maximum tariff available which is £3.60 per minute, and, in some cases, calls are charged at £3.60 per minute plus £3.60 per call (known as a hybrid tariff). This means that where a cap of £40 is adhered to, calls can only last approximately 11 minutes (or less where hybrid tariffs are used).
90. This can cause detriment as calls can be cut off mid conversation or while the consumer is on hold, waiting to speak to a call handler. Evidence from consumer complaints and engagement and enforcement work has shown that this is particularly prevalent where ICSS are connecting to government services that can have long hold times of over 11 minutes.
91. Where calls are cut off whilst the consumer is on hold in a queuing system, it can be argued that they are being charged without receiving any service at all. It is also may result in the consumer redialling and incurring further charges. Notably this was a feature of the enforcement case against Salvatet Inversiones SL in 2020²⁵.
92. Introducing a blanket £40 cap for all ICSS without additional transparency measures increases the risk and likelihood of further forced cut-offs and therefore loss of service

²⁵ <https://psauthority.org.uk/-/media/Files/Tribunal-adjudications/2020/Salatet-Inversiones-SL-161587.ashx>

and detriment. Therefore, it is imperative that consumers do not suffer an unintended consequence arising from a consumer protection measure designed to limit their financial exposure.

93. We considered whether to require providers to continue the call, free of service charge after the cap had been reached, until either the consumer or end organisation terminates the call. However, we have concluded this would be difficult to implement and disproportionate because it would likely need to be applied across the entire 09 number range, which would have additional implementation costs.

Proposed amendment to Annex 1

Requirements for Information, Connection and Signposting Services

1.12

When a Service Charge of £40 (inclusive of VAT) for a call has been reached the call must be terminated.

1.13

At the beginning of a call and before connection to another organisation consumers must be informed that the call will be terminated once the maximum Service Charge of £40 (inclusive of VAT) is reached.

Impact assessment of proposed introduction of a £40 price cap

94. This assessment considers the impact of the proposed amendments to 'Annex1: Specified service charges and durations of calls' for both consumers and providers. We believe that introducing a maximum service charge spend cap will bring significant cost saving benefits to consumers who choose to use ICSS.
95. The total amount of all call charges in excess of £40 was £3.08m. Capping calls at this particular point would remove this detriment from the market and would be a direct benefit to consumers. Over a three-year and five-year period (assuming no further intervention and a -5.4% compound annual growth rate (CAGR) as predicted by Analysys Mason), this would amount to approximately £8.3m and £13.1m respectively in cash terms.
96. The same analysis of potential benefit to different groups of consumers that we set out at paragraph 67 above applies to our analysis of the benefits of price caps. It is likely that vulnerable consumers and especially financially vulnerable consumers would be among those benefitting from price caps. We consider that this measure would be particularly valuable in protecting financially vulnerable consumers from exceptionally high costs of a single phone call. Numerous complainants to the PSA have noted the sense of distress that high call charges have caused, many saying they simply couldn't afford to pay their bill. Some have been in potentially vulnerable circumstances, either being retirees, carers or unemployed.

97. We do not believe there will be significant implementation costs. This cap exists elsewhere in the market and is consistent with wider regulatory obligations that telecoms providers already adhere to. The proposals should reduce bill shock and consequently reduce costs to providers associated with complaints and complaint handling processes.
98. The thematic review revealed that almost all ICSS charged on a per minute basis on the 09 number range are charged at the maximum permitted rate of £3.60 per minute. ICSS merchants are able to offer services at a range of other per minute price points. The absence of price variation among services and providers is an indicator of market failure, which is in itself a reason to consider regulatory intervention. Where consumers' awareness or understanding of pricing is limited or absent, providers have no incentive to compete on price. A more competitively priced offering using one of the lower per minute price points could significantly reduce the risk of forced cut-off.

Questions

Q5. Do you agree with us that it is appropriate and proportionate to cap the service charge of all ICSS calls at £40? Should a lower figure be considered?

Q6. Do you agree that consumers should be informed before onward connection that calls will be terminated once a maximum charge of £40 (inclusive of VAT) is reached?

Q7. Do you have any information that would further inform our analysis of the costs and benefits of our proposals in respect of caps on service charges?

Other necessary changes

99. ICSS are not currently defined in Code 15, this is because the Code in its current form does not feature any service specific requirements for this service type.
100. Under the previous regulatory regime (Code 14), Special conditions for ICSS were in place. However, Special conditions do not form part of Code 15. As we have explained in paragraph 3 of this consultation, existing special conditions were incorporated directly into the new Code. It was not necessary to incorporate ICSS Special conditions into Service-specific Requirements in Code 15 as all the previous ICSS provisions related to aspects of transparency and fairness and were therefore included within those Standards. ICSS are defined in the Ofcom PRS Condition (part of which has been replicated in the Code (paragraph [D.1.2. Key definitions](#))). On this basis it was not necessary to define ICSS within section D.2 General definitions of Code 15.
101. However, as the proposed Code amendments specifically reference ICSS, it is now necessary to refer to the Ofcom PRS Condition definition of ICSS within section D.2 General definitions. Therefore, we propose to include the following:

Information, Connection and Signposting Service has the meaning given to it set out in the Condition issued by Ofcom under section 120 of the Act effective from time to time.

102. The definition would become D.2.38 of Code 15 and the numbering of all subsequent general definitions would be amended accordingly to reflect this addition.

103. This amendment will have no discernible impact on providers or consumers.

Next steps

Responding to this consultation

104. We would welcome feedback on the matters raised in this consultation document up until 19 April 2023.
105. Where possible, we would encourage respondents to frame their responses through specifically responding to the questions asked in this document.
106. We plan to make available all responses received. If you want all, or part, of your submission to remain confidential and/or anonymous, please clearly identify where this applies along with your reasons for doing so.
107. Personal data, such as your name and contact details, that you give or have given to the PSA is used, stored and otherwise processed, so that the PSA can obtain your views, and publish them along with other views.
108. Further information about the personal data you give to the PSA can be found on our [privacy policy](#) page.
109. Comments should be submitted in writing using [this response form](#) and sent by email to consultations@psauthority.org.uk. If you have any queries about this consultation, please email them to consultations@psauthority.org.uk.
110. Following the consultation period, we will publish a statement and final decision as soon as is reasonably possible.

ANNEX A

Draft amended Transparency Requirement 3.2.10

3.2.10

Where a voice service connects the consumer to another organisation, the cost of the call and the cost of continuing the call, including information about access charges and any additional chargeable element of the service such as a premium SMS, must be clearly stated in an alert before onward connection. Where the service is an Information, Connection, and Signposting Service the alert upon connection must:

- i) state that the organisation to which the service connects can be contacted directly for no or lower cost and provide the organisation's direct contact number
- ii) state the maximum call charge
- iii) seek and obtain positive opt-in from the consumer to continue the call and be connected to the organisation they are seeking
- iv) where the service provides any additional chargeable element, such as a premium SMS, seek and obtain separate positive opt-in from the consumer for that element of the service.

Draft amended Annex 1: Specified service charges and durations of calls

1.1

The rules set out in this Annex apply to all PRS providers involved, or intending to be involved, in the provision of the relevant service types set out at paragraph 1.3 below.

1.2

Failure to comply with the actions specified in relation to any service type will amount to a breach of the Code in accordance with paragraph 6.2.14 of the Code.

1.3

The rules set out in this Annex apply to the following service types:

- i. Sexual Entertainment Services
- ii. Live Entertainment Services
- iii. Chatline Services
- iv. Professional Advice Services
- v. Virtual Chat Services
- vi. Counselling Services

vii. Children's Services

viii. Information, Connection and Signposting Services

Rules for Sexual Entertainment, Live Entertainment, Chatline and Professional Advice Services

1.4

When a service charge of £15 (inclusive of VAT) has been spent on the call, callers must be notified that such a charge has been incurred.

1.5

When a service charge of £30 (inclusive of VAT) has been spent on the call, the call must be terminated immediately unless the consumer positively confirms a wish to continue to use the service.

1.6

When a service charge of £40 (inclusive of VAT) has been spent on the call, the call must be terminated immediately.

Requirements for virtual chat services

1.7

All Virtual Chat Services must, as soon as is reasonably possible after the consumer has spent £10 (inclusive of VAT), and after every £10 (inclusive of VAT) of spend thereafter:

- (a) inform the consumer separately from the service or any promotion that £10 (inclusive of VAT) has been spent; and
- (b) terminate the service promptly if the consumer does not interact further with it following the provision of the message sent in accordance with (a) above.

Requirements for counselling services

1.8

Counselling Services offered on a one-off basis must terminate after 20 minutes.

1.9

Where a pre-arranged number of counselling sessions is offered, each call must terminate after 60 minutes.

Requirements for Children's Services

1.10

Children's Services must not charge more than £5 (inclusive of VAT) per call in a single transaction or per month for a subscription.

1.11

Children's Services must not charge more than £20 (inclusive of VAT) over a single monthly billing period.

Requirements for Information, Connection and Signposting Services

1.12

When a Service Charge of £40 (inclusive of VAT) for a call has been reached the call must be terminated.

1.13

At the beginning of a call and before connection to another organisation consumers must be informed that the call will be terminated once the maximum Service Charge of £40 (inclusive of VAT) is reached.

Annex B

Access charges and service charges

This consultation refers throughout to access charges and service charges. After extensive consultation, Ofcom's December 2013 statement set out its decision to introduce an unbundled tariff on the 084, 087, 09 and 118 number ranges with effect from 1 July 2015.

The unbundled tariff split the retail price payable by the consumer into an **access charge** and a **service charge**:

The access charge is payable to the phone company which originates the call (i.e., the consumer's phone company)

The service charge is paid to the phone company which terminates the call, and which may be shared with the company providing the service.

The access charge is set by the phone company and at the time of writing ranges between 8p per minute and 73p per minute. The PSA is not responsible for the regulation of access charges.

The service charge is determined by the service provider (i.e., the merchant). Ofcom has set rules for the service charge which include maximum charges for each number range. Ofcom has a guide to call costs on its website²⁶. The PSA's 15th Code of Practice allows the PSA to set a maximum service charge for a single phone call or calls made within a 24-hour period or monthly billing cycle (Code Requirement 6.2.14).

²⁶ [Call costs guide - Ofcom](#)