

# Consultation on new Special conditions for Directory Enquiry Services

PSA review of Directory Enquiry services

13 June 2018

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## Executive Summary

In recent years, there have been significant changes to the Directory Enquiry (DQ) sector of the phone-paid services market. From a high point around 2009-11, DQ sector revenues have declined steadily. This decline has been caused largely by the widespread availability of alternatives to DQ services, including smartphones and other devices from which consumers can search the internet for the contact details of organisations at no cost and whilst on the move. During the period that the market has declined, the average cost of a DQ call (including from the providers with the largest market shares) has risen significantly.

Previous distinctive advertising had established strong brand awareness among consumers of a small number of DQ providers/numbers. However, as the market has declined, providers with already established brands have greatly reduced promotion, especially via broadcast media. This in turn has reduced the likelihood that consumers will have seen promotions with clear and up to date pricing information enabling them to understand the changes in prices over recent years.

It is likely that these changes in the market have contributed to the number of reports to PSA where consumers have experienced significant bill shock following a call to a DQ service. There has also been negative press coverage highlighting individual instances of bill shock.

Ofcom announced its review into the DQ sector in May 2017<sup>1</sup> and sought participation and assistance from PSA. Our review has uncovered two distinct underlying issues, supported as relevant by research Ofcom has undertaken during its review and by our investigations into complaints about specific services. These are:

- lack of consumer awareness of the current cost of calling a DQ service, and the cost of being connected through to the number they have requested
- use of misleading techniques, designed to induce consumers into calling DQ numbers.

This document sets out our findings and considerations and consults on proposals to introduce two new Special conditions which will apply to DQ services. In summary these are:

- a requirement that DQ services promoted using Interactive Voice Response (IVR) messages, or other means, on geographic numbers only use numbers that are active and already in use for purposes other than such promotions
- a requirement that DQ services provide the consumer with the cost of any onward connection, giving them reasonable time to consider and decline, before any such onward connection takes place.

These proposals are intended to reduce the incidence of consumer harm through misleading practices and improve consumers understanding of DQ service pricing when calls are

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<sup>1</sup> <https://www.ofcom.org.uk/about-ofcom/latest/media/media-releases/2017/telephone-review-value-callers>

connected via the DQ service. They are also intended to complement proposals from Ofcom arising from its review published on 13 June 2018.

## About the PSA

1. The Phone-paid Services Authority is the UK regulator for content, goods and services charged to a phone bill. Our primary function as a regulator is consumer protection. Our vision is of a healthy and innovative market in which consumer can charge content, goods and services to their phone bill with confidence.
2. Our mission is two-fold:
  - To protect consumers from harm in the market, including where necessary through robust enforcement of our Code of Practice and
  - To further their interests through encouraging competition, innovation and growth in the market.

## Background

### History of the directory enquiry sector

3. Competition in the directory enquiry (DQ) services<sup>2</sup> market was introduced in August 2003 to enable new providers to compete with the existing services operating on two numbers provided by BT: 192 for domestic DQ and 153 for international DQ.
4. There are approximately 213 numbers in active use<sup>3</sup> within the 118x number range and 86 providers as at publication of this paper. This includes provision of DQ by consumer-facing telephone networks such as BT and Vodafone. Despite the large number of services available, over 90% of the DQ market share (by revenue) is currently held by only a small subset of providers. The two numbers with the largest share of revenue are operated by The Number UK Ltd (118118) and by BT (118500). Both brands advertised extensively in previous years and especially in the case of 118118, distinctive advertising helped to establish strong brand awareness among consumers.
5. Other numbers of note are provided by Enable Media (118606) Yell (118247) and by Maureen (118212), followed by various ‘in-house’ services offered by mobile phone or landline networks to primarily their own customers.
6. In the Annual Market Review (AMR) commissioned by the PSA, revenue spend is tracked over time for different sectors. The DQ market size measured by revenue shows the following:

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<sup>2</sup> Directory Enquiry (DQ) services are defined by the Phone-paid Services Authority as those premium rate services which provide the consumer with telephone numbers of other individuals, companies or services by searching one or more sources of information, based on information given by the consumer to the provider.

<sup>3</sup> There are a maximum of 1000 possible numbers in the 118 range – from 118 000 through to 118 999.

- £108.8m in 2014/15
  - £82.72m in 2015/16 and
  - £65m in 2016/17.
7. This highlights that currently the DQ market is in sharp decline and has been for several years. Through 2016/17 DQ Services have held 9% of the overall phone-paid market share, which is a decline of 21.4% from the previous year in revenue terms.
8. This trend of decline is consistent with a more general decline in the use of voice services and is also likely to be in part due to the rise in smartphone use which allows consumers who would previously have used DQ services to look up required numbers or contact details via the internet. The existence of such free substitutes is highly likely to have impacted on the use of DQ services.
9. We understand from conversations with service providers during pre-consultation that they consider that DQ services will continue to be used by certain groups of consumers in at least the short term. For example, the older demographic who either do not own smartphones or are not confident in using them. The providers we consulted as part of our review all indicated that they see this decline as irreversible, and all have either ceased, or significantly downgraded, DQ specific advertising since 2012. Broadcast advertising of at least some DQ services that was formerly widespread, has all but ceased.
10. Over time, as the overall size of the DQ sector has reduced, for most if not all DQ services, the cost of calling 118 numbers has risen. As an example, the cost of calling “DQ service A” in 2003 was a 30p connection charge and 9p per minute, whereas the current charge for the same service is £8.98 connection plus £4.49 per minute after the first minute. The cost of calling “DQ service B” in 2003 was 30p upon connection and 30p per minute, and the current cost for that service is £5.50 connection with a per minute charge after the first minute of £2.75<sup>4</sup>.
11. Following the wider review by Ofcom of Non-Geographic Call Services, a set of 100 available service charge price points was released in 2016 for all ‘voice-based’ phone-paid services. DQ services were allocated a specific set of price points higher than the cap imposed for other service types, with the maximum price point for DQ being £15.98 upon connection and £7.99 per minute thereafter. The majority of providers charge in the range of between 50p and £4.49 per minute. A very recent development is the announcement by BT that it would reduce the price of its best known 118 500 service to 77p per call plus £1.55 per minute from 1 June 2018<sup>5</sup>.

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<sup>4</sup> Current pricing quote is not inclusive of network access charges.

<sup>5</sup> <https://www.btplc.com/news/#/pressreleases/bt-slashes-the-cost-of-calling-118500-directory-enquiries-2514557>

## **Regulation of DQ services**

12. When the 118 number range was first introduced, ICSTIS (as PSA was then known) introduced additional regulatory provisions (known as Prior Permission) for all DQ services. Prior Permission was used to require providers to meet additional requirements to those set out in the Code of Practice for services which qualified as presenting a higher risk to consumers before such services were operated. At the time the potential effects of market-based competition were unknown, so the conditions attached to the prior permission for DQ providers focussed on information accuracy and pricing transparency. The conditions including requiring:
  - providers using the OSIS system<sup>6</sup> for number look-ups to ensure look-ups were of appropriate quality
  - providers to inform consumers of the cost of any onward connection to the number they were looking for, so that they could choose to decline an onward connection before that connection took place
  - that once consumers had given clear directions as to the number they were looking for, they be provided with the answer without delay (so that calls were not extended without justifiable reason).
13. PSA generally received a low level of complaints relating to DQ services following introduction of Prior Permission. Complaints remained low until the general review of phone-paid service regulation that led to the introduction of the 11<sup>th</sup> Code of Practice in 2006. As part of that general review, it was determined that DQ services should no longer have to seek Prior Permission. The key Prior Permission requirements were instead inserted into the Code itself. With the introduction of the 12th Code in 2011, DQ was assessed as not being a higher risk service type and the prescriptive 11<sup>th</sup> Code rules directed at DQ services were considered duplicative and unnecessary. Therefore, the general Code provisions were considered sufficient for DQ, with our expectations added into service-specific guidance on DQ services.

## **Recent market developments and emerging issues**

14. In recent years, pricing transparency has become even more important, due to the potentially greater impact that higher costs could have on consumers. In 2014, two DQ providers (The Number UK and BT) were found to have breached rules in the PSA Code of Practice around pricing transparency in promotions. At the same time, an adjudication against another provider (Numbergrp), found issues with the promotion and also with the service being operated in a misleading way. Despite this, the overall number of complaints against DQ services remained low, and so at the time it was

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<sup>6</sup> OSIS stands for Operator Services Information System. Operated by BT, this resource is a central database of around 27 million UK telephone numbers, and is used by some, but not all, DQ providers to look up numbers based on names and addresses provided. The use of the system carries a cost, which is charged on a rental basis by BT.

reasonable to determine that appropriate enforcement had addressed these as isolated issues.

15. Since 2015, absolute number of complaints about DQ services to the PSA has remained relatively constant. One larger DQ provider calculates complaints as around 0.4% of total calls during each of the last three years. PSA complaint data and the AMR data on numbers of users allow us to calculate complaints to the PSA at around 5.6 per 100,000 users of DQ for each of the years 2015 to 2017. However, this has been accompanied by a significant rise in the average spend per complainant. PSA data indicates that the average spend per complaint has risen from £38.86 in 2015 and £41.48 in 2016 to £53.00 in 2017.
16. This rise may be as the result of several factors (considered below from paragraph 18 onwards). However, the same period has seen a continued rise in the overall cost of calling a DQ service. In addition, given the level of average spend per complaint to the PSA is well above that which a consumer could be charged for requesting and obtaining a number, this increase suggests more complaints are coming from consumers who are either choosing onward connection to the number they requested, or in isolated instances claim to have been misled into or in relation to calling a 118x number. At the same time, well-publicised reports in the press cite individual consumers who experienced significant bill shock after being put through to the number they were seeking by the DQ service they had called.
17. Ofcom announced its review into the DQ sector in May 2017 and sought participation and assistance from PSA. PSA and Ofcom both have responsibility for aspects of the DQ market. PSA regulates the content, promotion and operation of DQ services as it does other controlled premium rate services. Ofcom and PSA have worked together to ensure that our respective proposals for change are coordinated and will create better outcomes both for consumers and the market.

## **Consumers' current experience of DQ services**

18. During 2017 and 2018, the PSA has been gathering evidence about the way in which DQ services operate and how consumers interact with them. Ofcom has also published research findings which support our analysis and policy development. We have identified a number of underlying concerns as follows:
  - generally poor awareness of the cost of DQ services; 1 in 5 users knew the cost of their last call to a 118 number before making it, falling to 1 in 10 in the DE social grade<sup>7</sup>
  - little current advertising of DQ services, meaning that consumers are unaware of generally rising costs

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<sup>7</sup> Social grade is a classification system based on occupation. The DE groups include semi-skilled and unskilled workers (D) and pensioners, casual workers and unemployed people (E) – the DE groups account for around 25% of the UK population.

- generally low awareness of DQ numbers and services beyond the two market leaders; 57% of DQ users call the first number that comes to mind, or the only number they are aware of
- the majority of consumers did not understand pricing or onward connection to the number they were looking for misleading promotional practice by a minority of DQ service providers.

19. The following section sets out our consideration of these concerns in more detail.

### **Generally poor awareness of the cost of DQ services**

20. DQ services are information based and not designed for entertainment purposes, meaning their use by consumers is likely to be driven by necessity rather than for experience or enjoyment. Service usage is rarely a pre-planned activity, but far more likely to be when a consumer is in need of a number or information. Research carried out by Ofcom for its review indicates that consumers tend to call the first number that comes to mind, or the only number they know (57% of DQ users), rather than other factors such as the current pricing of that number or the availability of any other providers of essentially the same service. As little as 3% of users surveyed chose a service based on their view that it was the cheapest. A similarly small number chose a DQ service based on ancillary features, such as the ability to be connected to the destination number, or operator knowledge.
21. Branding has often played a major part in associated promotion, for example The Number UK's use of its principle number, 118118, as a brand name. Extensive promotion by BT 118 500 and 118118 in the years immediately following deregulation of the DQ market (and the introduction of different, competing Directory Enquiry services) has helped establish these as memorable numbers when consumers do need a DQ service, which is reflected in the market shares held by these numbers.

### **No current advertising of DQ services**

22. During the period that the DQ market began to decline, DQ providers have significantly reduced advertising. While there is limited TV advertising by some of the service providers, this generally promotes non-telephone services linked to the original brand, using the same brand identity. While the specific advertisements may be for other services or products, the brand identity also reminds consumers that the DQ number exists.
23. During the same time period, as advertising has reduced, leading providers have steadily raised the cost of their services. We believe this has had the effect of reducing the impact of lessening call volumes on the overall service revenue – some DQ providers have also pointed out that their underlying costs do not fall as quickly as the size of the market does, and so prices would also need to rise to maintain the viability of the service. The combined effect of the reduction in advertising and a steady increase in price, both upon connection and per minute, has been to leave consumers in a position of often being largely unaware of the current price of a call unless they choose

to be connected to their destination number (where the DQ operator should remind them of the cost per minute) or review their telephone bill.

#### **Generally poor awareness of the availability of DQ services beyond the two best known numbers**

24. We have established through our review to date that providers generally have stopped promoting DQ services because the declining market reduces the value of any investment they make in new promotions.
25. It is reasonable to assume that less well-known DQ services are less likely, at this stage in the life of the DQ sector, to have available capital to promote their services widely or effectively against already established brands. Following this assumption through the effect of this is that currently consumers who have need to call a DQ service are far more likely to use services they already have an awareness of.
26. In identifying that there may be cheaper alternatives of which a consumer is unaware, we also understand that there may be differences in the quality of service between different DQ numbers. During pre-consultation discussions with DQ providers, some of them have told us that they guarantee instant answer and connection to their service, and some providers have told us that they have a comparatively greater number of operators available. Whilst the majority of larger DQ providers, including those outside the two largest, use BT's OSIS database to reference requested numbers, not all DQ providers do and we are aware this may be reflected in differences in service cost. Lastly, we are aware that some DQ providers whose services are among the cheapest do not offer multiple number requests as part of the same call, or onward connection to a number.

#### **Incomplete understanding among consumers that onward connection is charged at a high rate**

27. Ofcom's Review of Non-Geographic Call Services split the price of phone calls on certain number ranges into a service charge (set by the provider) and a network access charge (set by the consumer's network provider<sup>8</sup>). DQ service tariffs are often further split into two elements – an initial connection fee and a per minute service charge. The result is that DQ tariffs are often comprised of up to of three different variable elements set by two different companies (see table below).

DQ tariff component	set by
Connection fee	Service provider

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<sup>8</sup> See Ofcom's Final Statement on Simplifying non-geographic numbers, 12 December 2013:  
<https://www.ofcom.org.uk/consultations-and-statements/category-2/simplifying-non-geo-no>

<i>Per Minute Service Charge</i>	Service provider
<i>Per Minute Network Access Charge</i>	Network provider

28. Longer calls made on a 118 number are most likely to be the result of onward call connection, i.e. where the DQ service provides the facility to connect the consumer to the desired number. Research conducted for Ofcom's review of DQ services showed that there was considerable confusion among consumers about the pricing of onward connection with 22% of survey respondents stating that they did not know how call connection is priced at all and wide variation in understanding of which components (if any) applied to onward connection.<sup>9</sup> Among respondents over 65 years old, 35% did not know the cost of onward connection.
29. Ofcom's research results indicate that DQ users don't understand the costs of using demonstrate the importance of clear pricing being given to consumers at the point of onward connection. At present, PSA guidance is that consumers should be clearly informed of the cost of onward connection or given the opportunity to hang up. Most providers follow this guidance, but we do have anecdotal evidence from complaints to us that there are some providers who may not be following the guidance.

#### **Misleading promotional practice by a minority of DQ providers**

30. Since higher maximum tariffs for DQ services became available to providers we have observed, either through consumer complaints or through our own-initiative monitoring, and are investigating some misleading practices in relation to some individual DQ services. These practices have not been observed previously in the DQ sector and have not been reported or observed in relation to any of the established DQ providers. They are however, similar to practices which have previously been observed in relation to other types of voice services
31. Examples of these practices include:
- “squatting” on currently unused geographic numbers, with voice recordings which suggest consumers should call a 118x number. Consumers often reach the geographic numbers by misdialling a different number.
  - Potential “missed call scams”, where consumers receive a one ring call from an 070x “follow-me” number (which appears to be a mobile number) and then call it back to be played a similar message suggesting they call a 118x number.
32. We believe that these practices are at present relatively rare although our Code Adjudication Panel Tribunal recently adjudicated a case of the first type (see paragraph 51 below). While the numbers of complaints are not necessarily high in any particular

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<sup>9</sup> See survey data conducted for Ofcom for its June 2018 review of DQ services

case (albeit high relative to the number of complaints we normally receive about DQ services), we understand that the DQ providers have tended to use the higher available tariffs with the risk of high levels of harm to individual consumers, even where the absolute number of consumers affected is not high.

## Assessment of pricing transparency and bill shock

33. In general, PSA receives a low number of complaints about DQ services. Discounting complaints relating to misleading practices, complaints, both to PSA and the DQ providers themselves, most often concern a lack of price awareness, followed by a failure to be provided with the number the consumer requested.
34. A wide range of DQ services currently exist, varying considerably in price, but also in functionality. There may be variation in terms of speed by which a call is answered, or the quality of lookups, or even the number of lookups they are allowed, in addition to price variation. Some numbers are offered by networks to their customers only, but some appear to be universal. The cheapest per minute charges we found on a 118x number in our preliminary survey were 50ppm and 55ppm, whilst the cheapest call is 35p. Most revenue is generated on services with costs which range between £2.75 and £4.49 per minute with call charges of £5.50 and £8.98 respectively with the highest permitted tariff being the £15.98 call charge plus £7.99 per minute charge previously mentioned.
35. As this document has previously referenced, providers of DQ stopped most of their advertising some time ago. The lack of advertising in recent years has likely contributed to a lack of consumer awareness about the significant rise in prices over the same period. Research carried out for the PSA by Analysys Mason in 2014 concluded that even at that point, consumers generally underestimated the cost (both in terms of connection charges and price per minute) of calling a DQ. The latest research conducted by Ofcom in support of its review evidences the current level of consumer knowledge regarding pricing and tariff structure.
36. Lastly, the PSA has analysed data from the two leading DQ providers. This analysis indicates that between 4% and 6% of all calls to these services go over 5 minutes in length, and between 1% and 2% go over 10 minutes. This would result in total charges of between approximately £16 and £27 for a five-minute call, and £30 to £50 for a ten-minute call. These charges are significant although we recognise that they would affect only a small percentage of consumers. In addition, we note that charges at those levels would almost certainly apply only where a consumer had elected to be put through to the number they had requested, and statistics from the two providers concerned suggest only 25% of consumers choose this option.
37. Our consideration generally points to a sector where most DQ providers remain compliant with our Code. However, it is clear that a number of factors have led to instances of “bill shock” which, whilst low in number, are significant to the consumers concerned.

38. We have concluded that there is scope for action from the PSA complementing proposals that Ofcom will make in its review that has the potential to reduce consumer harm through improving consumer awareness of pricing, and by prohibiting practices that have the potential to mislead consumers. Our proposals are set out in the next section of this document.

## Proposals for PSA Action

39. We have developed proposals to address some of the issues set out above. These are intended to be complementary to Ofcom's proposals arising from its review. Our proposals in the form of Special conditions are intended to reduce the incidence of consumer harm through misleading practices.

### Special conditions for DQ Services

40. Section 3.11 of the Code of Practice sets out the PSA's basis for imposing Special conditions on a service type. We impose Special conditions in circumstances where we are satisfied that a specific service type presents or is likely to present a risk of

- a significant level of consumer harm or
- unreasonable offence to the general public.

41. In responding to the risk, it is important that we apply regulation proportionate to the risk of harm posed by individual service types. When considering whether or not Special conditions would be an appropriate regulatory risk, we assess against a taxonomy of risk. The PSA taxonomy of risk is used to test whether a service category would be considered to be higher-risk in respect of any of the six separate characteristics it contains. The risk characteristics are set out in the table below.

Risk Characteristic	Examples
Financial Harm	<ul style="list-style-type: none"><li>• High one-off cost</li><li>• High cumulative cost</li></ul>
Passing Off	<ul style="list-style-type: none"><li>• Unauthorised use of trusted brands or marks</li><li>• Misleading representation of trusted brands or marks</li><li>• Lack of Professional Qualifications or Membership</li></ul>
Uninformed Consent	<ul style="list-style-type: none"><li>• Confusing consumer journey</li><li>• Complexity of proposition</li><li>• Overall presentation lacks clarity</li></ul>

<b>Unauthorised Consent</b>	<ul style="list-style-type: none"> <li>• Lack of appropriately robust consent to data use</li> <li>• Lack of appropriately robust consent to charge</li> <li>• Inadequate technical systems lead to charge without consent</li> </ul>
<b>Vulnerable Groups</b>	<ul style="list-style-type: none"> <li>• Underage access</li> <li>• Lack of allowance for needs of vulnerable</li> <li>• Targeting of vulnerable</li> </ul>
<b>Unreasonable Offence</b>	<ul style="list-style-type: none"> <li>• Indecent, e.g. sexual</li> <li>• Offensive or menacing, e.g. disability, gender, race, religion, sexuality</li> <li>• General, e.g. pro-anorexia</li> </ul>

42. The purpose of any risk assessment is a precursor to mitigating those risks, thereby establishing a healthy market in which consumers can use any services with confidence. If services are considered to pose a risk, compliance with PSA regulations, including any Special conditions adopted under 3.12 of the Code, should reduce those risks and increase confidence in the operation of phone-paid services.

#### Assessment of relevant factors

43. This section sets out the PSA's initial considerations based on the risk taxonomy. The proposed response in this table is subject to consultation, with further details set out below.

Risk	Apparent	Why	Evidence	Proposed PSA response
Financial Harm	Yes	High tariffs are available Many consumers are not aware of DQ pricing	Evidence of bill shock from complaints to PSA, Ofcom survey data and reports in the media relating to high bills from individual calls Ofcom survey data and complaint data evidences poor consumer awareness of pricing	Prior to any onward connection, requirement for consumer to be informed of the cost and have the option of opting out of the connection
Passing Off	No			Code provisions sufficient

Uninformed Consent	Yes	Consumers landing on inactive or unallocated numbers are confused by IVRs directing them to use 118 numbers	Evidence from complaints to PSA and Ofcom and media reports of consumers being misled into using 118 numbers having misdialled geographic numbers. One case adjudicated in March 2018 where this method was being used	Where DQ services are promoted using IVR or other means on geographic numbers, only numbers that are active and in use for other purposes must be used
Unauthorised Consent	No			Code provisions sufficient
Vulnerable Groups	Yes	Specific groups may be more susceptible to risk of harm than others	Ofcom survey data shows that over 65s are more likely to be unaware of onward connection pricing than the general population	Prior to any onward connection, requirement for consumer to be informed of the cost and have the option of declining connection
Unreasonable Offence	No			Code provisions sufficient

44. We propose the introduction of a new Special conditions regime, containing just two Special conditions to be applied to Directory Enquiry Services. The proposed conditions are:

**DQ1** Where DQ services are promoted using IVR messages, or other means, on a number classed as geographic in Ofcom's numbering plan, only numbers that are active and already in use for purposes other than such promotions must be used.

**DQ2** Prior to any onward connection being made by a DQ provider, the consumer should be clearly informed of the cost, and have the opportunity to decline the connection, whether by hanging up before they are connected or otherwise. If the consumer declines this option, they should be provided with the requested number at no additional charge.

45. In respect of the first condition, we have had complaints from consumers which suggest that some providers have placed IVR messages on specific ranges of geographic numbers, to take advantage of circumstances where the consumer has misdialled the actual number they were looking for, often by a single digit.

46. We have had cases reported to us where the IVR states that the number is “out of service” and suggests that the consumer calls a 118x number – usually owned by the provider who has placed the IVR on the geographic number. We regard this practice as misleading or potentially misleading in a number of ways:
- The consumer is not given information that would allow them to identify that they had misdialed a number.
  - A geographic number that is genuinely “out of service” as opposed to inactive or unallocated would not normally have an IVR attached.
47. The PSA Code Adjudication Tribunal has recently adjudicated in a case of this type. In this case, the Level 2 provider Call the 118 113 Helpdesk Limited (Ireland) was found to have breached the Code of Practice in respect of pricing (Rule 2.2.7), among other breaches of the Code. The provider had initially sought to deny the breach arguing that its IVR provided pricing sufficiently proximate to the premium rate number to meet the requirements of the Code. While in this case the breach was upheld, other providers have made similar arguments in respect of IVRs.
48. We consider that the potential for consumer harm will be significantly reduced by requiring promotions of 118x numbers by means of an IVR on geographic numbers to only be on those that are actively used. In line with Code obligations on Level 2 providers, it will be for providers of DQ services to ensure this requirement is met whether or not they are the ones that place the IVR message or other promotional means. We also consider that the elimination of any doubt that we consider this practice to be misleading will assist some providers to provide a DQ service that consumers can use with greater confidence and less likelihood of being misled into using it. While we acknowledge that this practice is rare and that the majority of DQ service providers do not and have never used it to promote their numbers, we consider that the potential for reputational damage to the sector, resulting from these rare cases means that it is a necessary measure to protect both consumers and the legitimate DQ sector.

**Q1 Do you agree IVR-based promotions of DQ services on geographic numbers should only be done on numbers that are active and used for other purposes? Do you agree that the proposed requirement will not impact on the promotion of legitimate DQ services? If not, are you able to provide evidence to demonstrate an impact on legitimate DQ services?**

49. In respect of the second proposed Special condition, it is clear from Ofcom’s consumer research that a significant number of consumers do not properly understand the current cost of a call to a DQ service. We want to ensure as far as possible that this lack of understanding cannot be exploited to mislead consumers.
50. There are various points at which a consumer may be informed of pricing. The first point would be in any promotional material. We consider that the Code of Practice rules relating to pricing and specifically rule 2.2.7 are generally sufficient. As a practical consideration, as noted above, there is little promotion of DQ services in the context of

the declining market. As such we consider that additional requirements in relation to promotional material would have little or no practical effect on consumer awareness.

51. We initially considered whether requirements in relation to pre-call announcements might be helpful to consumers. We understand that Ofcom has considered pre-call announcements in its review and have therefore not proposed any measures relating to pre-call announcements.
52. The final point where a consumer may be informed of pricing is prior to onward connection, where that is offered as part of the service. As noted at paragraph 13 above this has been either a formal requirement or part of our service specific guidance for DQ services for several years. We consider that in addition to the general risk of financial harm to consumers resulting from higher tariffs and poor understanding of DQ pricing, there is a specific risk to consumers seeking onward connection:
  - the evidence that we have from providers about call duration suggests that only a few are longer than 5 minutes. Where a consumer is only making a call to receive a number the duration is unlikely to be more than 1-2 minutes. Onward connection necessarily lengthens call duration and a priori increases the risk of financial harm.
  - The evidence from the Ofcom consumer survey suggests that there is poor understanding of the pricing of onward connection as an issue distinct from overall lack of understanding of DQ pricing.
53. In the rare cases we have identified where consumers have been misled into calling 118 numbers (e.g. through the use of an IVR placed on a geographic number), there is an additional risk of more significant financial harm to consumers in the absence of any indication of the pricing of onward connection. We consider that introducing a formal requirement to inform consumers of the price of onward connection as per the second proposed condition is justified based on this evidence.
54. We also consider that it should have little impact on service providers. In addition, a similar requirement to the second proposed condition already exists within PSA's Guidance on DQ Services. Whilst it is not binding, the majority of DQ providers who offer onward connection already do inform consumers of the cost and give them the opportunity to decline – this proposal therefore has the additional benefit (however marginal) of levelling the playing field for DQ service providers.

**Q2 Do you agree that mandated provision of pricing information upon onward connection will not impact ongoing provision of either DQ services or the consumer experience when using them? If not, please provide supporting information**

## **How to respond to this consultation**

55. We welcome responses to the following questions, along with any views respondents have relating to our ongoing considerations linked to this review:

Q1 Do you agree IVR-based promotions of DQ services on geographic numbers should only be done on numbers that are active and used for other purposes? Do you agree that the proposed requirement will not impact on the promotion of legitimate DQ services? If not, are you able to provide evidence to demonstrate an impact on legitimate DQ services?

Q2 Do you agree that mandated provision of pricing information upon onward connection will not impact ongoing provision of either DQ services or the consumer experience when using them? If not, please provide supporting information

56. 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.

57. The closing date for responses is **22 August 2018**. Where possible, comments should be submitted in writing and sent by email to [consultations@psauthority.org.uk](mailto:consultations@psauthority.org.uk)

58. Copies may also be sent by mail to:

Mr. Terry Armstrong  
Policy & Development Team  
Phone-paid Services Authority  
25<sup>th</sup> Floor, 40 Bank Street  
Canary Wharf  
London  
E14 5NR

59. If you have any queries about this consultation, please email using the above contact details.

## **Annex 1**

### **Directory enquiry Services**

#### **Notice of Special conditions**

This Notice is being issued to inform all providers involved, or intending to be involved, in the provision of directory enquiry services that Special conditions apply. Level 2 providers are required to comply with [the Phone-paid Services Authority's Code of Practice](#), and the Special conditions set out below, which are imposed under paragraph 3.11.1 of the Code.

Under paragraph 3.11.3 of the Code, “*a breach of any special condition in respect of a high risk service imposed under paragraph 3.11.1 shall be a breach of the Code*”.

Directory enquiry (DQ) services are defined by the Phone-paid Services Authority as those premium rate services which provide the consumer with telephone numbers of other individuals, companies or services by searching one or more sources of information, based on information given by the consumer to the provider.

*Imposed under Annex 2, Paragraph 1.1 (b) and (k):*

*(b) requirements as to the mechanism and processes used to deliver services to, and to enable exit from services by, consumers.*

*(k) information that is required to be given to callers in promotional material or at various stages before and during provision of a high risk service (including as to receipts).*

**DQ1** Where DQ services are promoted using IVR messages, or other means, on a number classed as geographic in Ofcom’s numbering plan, only numbers that are active and already in use for purposes other than such promotions must be used.

*Imposed under Annex 2, Paragraph 1.1 (k): information that is required to be given to callers in promotional material or at various stages before and during provision of a high risk service (including as to receipts).*

**DQ2** Prior to any onward connection being made by a DQ provider, the consumer should be clearly informed of the cost, and have the opportunity to decline the connection, whether by hanging up before they are connected or otherwise. If the consumer declines this option, they should be provided with the requested number at no additional charge.

## Annex 2

Complaints received by PSA vs complaints received about all other services:

Year/month	118 Complaints	All other services
2015-04	46	3142
2015-05	43	3559
2015-06	42	3763
2015-07	18	2869
2015-08	25	2019
2015-09	17	2008
2015-10	21	1723
2015-11	18	1479
2015-12	15	1700
2016-01	11	2348
2016-02	11	2488
2016-03	14	2342
2016-04	12	2681
2016-05	11	2490
2016-06	14	3069
2016-07	8	3042
2016-08	23	3646
2016-09	23	3856
2016-10	15	3569
2016-11	39	3551
2016-12	20	2282
2017-01	28	2378
2017-02	24	1567
2017-03	30	1230
2017-04	18	1048
2017-05	10	1222
2017-06	3	1174
2017-07	12	1167
2017-08	10	1192
2017-09	7	1406
2017-10	13	1679
2017-11	7	1428
2017-12	1	1121
2018-01	3	1513
2018-02	1	1425
2018-03	3	1299
2018-04	5	1234
2018-05	8	1057