

**Consultation on society lottery
services and adoption of special
conditions**

Closes on 17 April 2018

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1. Summary

About the Phone-paid Services Authority

The Phone-paid Services Authority's (PSA) primary function as a regulator is consumer protection. Our vision is a healthy and innovative market in which consumers can charge content, goods and services to their phone bill with confidence.

Our mission is two-fold:

- to protect consumers from harm in the market, including where necessary through robust enforcement of our Code;
- to further their interests through encouraging competition and growth in the market.

Part of the PSA's activities involve tracking industry developments and supporting innovation in the operation and use of phone-paid services. Previously, while there was no bar on the use of phone-paid services for society lottery services, there were commercial reasons why operators of such lotteries appeared to choose other payment facilities.

In 2017, industry developments highlight a growing interest in using phone-paid services for society lottery services, and this paper considers the PSA regulations that are relevant in this sector. The PSA wants to encourage innovation in use of phone-paid services by making the regulations that do exist clear and straight-forward. The PSA seeks to establish a regulatory framework that delivers accurate promotional material for consumers, a clear point of purchase and robust consent to charge. This will give confidence to new consumers who come to use phone-paid services to pay to participate in society lottery services.

Market developments

Since the growth of charitable donation services paid for via your mobile began to gather momentum, the phone-paid services industry has explored other options to monetise fundraising campaigns. Based on experience industry members indicate the demographic of users of mobile payments to make charity donations is broader and younger than for card-based payments. The Annual Market Review¹ (AMR) commissioned each year by the PSA indicates a broad demographic uses text donations, including a significant proportion – 39% – of users being over 55 years old. However, cash remains the favoured option across the board according to CAF research, which finds that the 25-44 age group is where text and online donations are highest.²

Society lottery services are considered to be a sector of the gambling industry that may benefit from use of phone-paid services based on recent trends away from paper-based ticketing to online society lottery management facilities. Linked to this shift is the growing number of External Lottery Managers (ELMs) who operate services on behalf of non-commercial societies. Currently the market leaders in this sector rely on card payments or direct debits for repeat purchases of tickets. However, there is interest in phone-paid services for both the

¹ See the PSA website for research publications: <https://psauthority.org.uk/for-business/research>

² See 'CAF UK Giving 2017' report: <https://www.cafonline.org/docs/default-source/about-us-publications/caf-uk-giving-web.pdf>

payment and information requirements associated with online lottery services, with short message service (SMS) and rich communication services having the potential for e-ticketing.

To facilitate the use of phone-paid services for society lottery services, industry members have sought specific arrangements with the UK Treasury and mobile operators. Mirroring the success of the 70XXX shortcodes for charitable text donations, phone-paid society lottery services will benefit from the same HMRC exemption from VAT and the industry has designated the 72XXX shortcode range for purchases of society lottery tickets.

Assessing effective regulations

Society lottery services have characteristics that mean they fall within a range of service categories based on current definitions found in the PSA Code of Practice and additional regulations. One of the objectives of this review of this new service type is to increase clarity and make it easier for service providers to understand and comply with these regulations, including by putting all of the requirements in one place.

The PSA supports the use of 72XXX shortcodes for society lottery services and wants to make sure consumers get the best experience when using mobile payment facilities to access these services. Following initial discussions with industry members, we have decided to place our rules (other than Code based) relating to society lottery services in one place and consider any appropriate refinements in relation to society lottery services to align with wider gambling regulations.

Consulting on adoption of special conditions

Special conditions are helpful in establishing clear standards for businesses to deliver services that are accessed and used by consumers with confidence. Based on an assessment of current regulations, which are set out in section 2 below, the PSA considers the need to retain Special conditions applicable to society lottery services. To make as clear as possible to providers, some of whom we expect to be new to phone-paid services, and to assist in the event of enquiries into any complaints and any investigatory action, the PSA proposes to adopt a single set of Special conditions for society lottery services and issue a notice which consolidates all relevant non-Code provisions in one place.

This consultation tests our risk assessment of these services and the proposed Special conditions set out in a draft notice annexed to this paper. Section 3 sets out our risk taxonomy and the PSA assessment of society lottery services. Section 4 proposes the adoption of eight Special conditions to enable providers to manage the identified risks and give consumers and service providers confidence when using phone-paid services in this sector.

The deadline for responses to this consultation is **Tuesday, 17 April 2018**, and a full list of questions can be found in Section 5 below. We look forward to written submissions and are happy to discuss these proposals during this consultation – please contact us with any enquiries.

2. Society lottery services – definitions and current regulations

Definition of society lottery services

Society lotteries are a subset of lottery services defined in the Gambling Act 2005 (the 2005 Act). Lotteries are defined at Section 14 of the 2005 Act and take one of two forms – a simple lottery or a complex lottery.

A simple lottery involves a payment for entry by participants, where there are one or more prizes allocated to one or more participants, and the process for allocating the prize(s) is based on chance (Section 14(2) of the 2005 Act).

A complex lottery involves the above elements but has more than one process for allocation of the prize(s), the first of which is based on chance (Section 14(3) of the 2005 Act).

For a lottery to be defined as a society lottery – a short-form title denoting it benefits a non-commercial society – it must meet the criteria set out in Section 19(1) of the 2005 Act, which states:

For the purposes of this Act a society is non-commercial if it is established and conducted—

- (a) for charitable purposes,*
- (b) for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity, or*
- (c) for any other non-commercial purpose other than that of private gain.*

For the purposes of this consultation and the regulation of phone-paid services, the PSA does not explore the benefits or distinctions made between commercial lotteries and those that are run for a non-commercial society. It is sufficient for us to recognise that a distinction is made and that operators of society lottery services in the UK have sought the use of designated shortcodes beginning 72XXX for the purpose of making phone-paid service payments.

The PSA has tracked the development of this new payment facility for society lottery services and seeks to clarify what PSA regulations must be met by such service operators. By doing so, we hope these new services will be introduced to the phone-paid services market effectively, with consumer protection made a central feature of any service and its promotion.

Society lottery services are defined as follows for the purpose of PSA regulation:

A premium rate service ('PRS') that enables consumers to participate in a "lottery" operated by, or for the benefit of, a "non-commercial society". Such lotteries and societies meet the respective definitions set out in the Gambling Act 2005.

Q1: Does this definition of society lottery services suitably align with the gambling legislation and assist in identifying only the relevant phone-paid services that may be subject to specific PSA regulations?

How society lottery services fit within current rules and guidance

Society lottery services have characteristics that mean they currently must comply with the PSA Code of Practice and various additional rules contained in different sets of Special conditions. One of the objectives of this review of this new service type is to increase clarity and make it easier for service providers to comply with these rules. The PSA intends to separate out provisions for society lottery services. As such, we will amend relevant notices of special conditions to indicate that they no longer apply to society lottery services once the new set of special conditions for society lottery services is in place.

We start this process by setting out the various requirements currently applicable to society lottery services below:

Remote gambling services

The PSA has regulations applicable to remote gambling services, in the form of a notice of Special conditions. Given the nature of phone-paid services, even if an element of the promotion of services is in person, the participation and payment for gambling products and services facilitated by this payment mechanic means the services are defined as remote gambling under UK legislation. In the relevant notice of Special conditions, the PSA defines remote gambling services as:

A premium rate service ('PRS') that enables gaming or betting to take place remotely– i.e. delivered at a distance, electronically or by voice telephony.

Any society lottery service as defined will fall within this definition.

The PSA considers that its starting point is to retain current measures for remote gambling services as part of any specific notice of Special conditions for society lottery services. However, we will assess whether any specific elements of these services justify any changes to those measures, and whether any are redundant in all the circumstances.

Subscription payments via phone-paid services

The PSA Code of Practice states at paragraph 5.3.37 that “*subscription services’ are services which incur a recurring premium rate charge*”. Requirements relating to transparency and pricing, under section 2.2 of the Code, and on method of exiting a service, at rule 2.3.11 of the Code, are particularly relevant to subscription services even though this service type is not named explicitly in those provisions. Furthermore, specific actions are required in relation to subscription services at certain spend thresholds as a result of a notice issued under paragraph 3.12.6 of the Code.

It is recognised that one business model for society lottery services involves recurring payments for tickets in a weekly or monthly lottery draw. The PSA considers that its starting point is to retain current measures for society lottery services operating on a subscription model. However, the PSA has considered the issuance of tickets as a central feature of any society lottery service and will assess whether this justifies any changes to those measures.

The PSA has issued a notice of Special conditions in relation to subscription services where a charge of over £4.50 is taken in any seven day period. These measures seek to make sure that

higher cost subscription services operate in a way that gives consumers greater visibility of the cost of the service and how to exit the subscription service.

The PSA intends to apply these standards to all society lottery services charged on a subscription basis without any price threshold. This is based on the need for adequate protection measures surrounding gambling products and services, and the need for gamblers to be in control of their spending. The rationale for this approach is set out in more detail in section 3 below.

Online competition services

Another category of service that some society lottery operators may need to consider is online competition services, which are defined in the relevant notice of Special conditions:

‘Online competition services’ are those premium rate competition services (PRS) that are provided fully or partially online, including services that initiate a PRS transaction online, where the primary promotion is online and presents a consumer with a chance to win a prize by competing with other entrants, and which is paid for on a pay to enter or subscription basis.

The notice makes it clear that lotteries fall within this definition³ and goes on to explain what is meant by ‘online’ – it states:

‘Online’ refers to those products or services consumed on personal computers or mobile devices (such as smartphones, tablets, etc.) and are provided or accessed directly through an internet gateway.

The PSA recognises some society lottery services operate in the online arena, which are currently operated with a card payment system. While the 72XXX shortcodes have been designed for multiple use cases, including on location promotions, where online services do switch to using phone-paid services, the PSA wants consumers to have a robust and consistent payment experience across online competition services.

The PSA considers that its starting point is to retain current measures for online competition services as part of any specific notice of Special conditions for society lottery services. However, it will assess whether any specific elements of these services justify any changes to those measures, and whether any are redundant in all the circumstances.

PSA guidance for consideration

The PSA recognises that guidance may need to be amended as a result of new services coming to market, and these new proposed regulations taking effect. We have seen guidance being prepared by the Gambling Commission, and advice being given by trade bodies in the industry. As such, we will consider the necessity for any additional guidance from the PSA in due course.

³ The notice points to the General Guidance note on ‘Competitions and other games with prizes’ which makes clear that lotteries fall within the definition of competition services.

Potential guidance that may require our consideration, alongside industry, includes the following topics:

- Promoting Premium Rate Services (PRS)
- Competitions and other games with prizes
- Enabling consumer spend controls
- Method of exit from a service

To avoid confusion as we proceed with this consultation process, the PSA intends to make any refinements necessary once provisions are ready to be implemented. This will avoid any duplication of work in relation to society lottery services.

Q2: Do you agree with this approach to guidance development in relation to society lottery services?

Q3: Are there any other pieces of PSA guidance that you consider will require consideration that does not appear in the list above?

3. Assessment under the PSA risk taxonomy

Risk taxonomy

Within an outcomes-based framework such as the PSA's, it is important that we are able to apply a level of regulation proportionate to the risk of harm posed by individual service types. Particular categories of service defined by specified content, a set of promotional practices, payment, or other promotional or operational mechanic may present a higher level of risk than normal.

The PSA taxonomy of risk contains separate risk characteristics which is used to test whether a service category would be considered to be higher-risk in respect of any of the six.

Risk Characteristic	Examples
Financial Harm	<ul style="list-style-type: none">• High one-off cost• High cumulative cost
Passing Off	<ul style="list-style-type: none">• Unauthorised use of trusted brands or marks• Misleading representation of trusted brands or marks• Lack of Professional Qualifications or Membership
Uninformed Consent	<ul style="list-style-type: none">• Confusing consumer journey• Complexity of proposition• Overall presentation lacks clarity
Unauthorised Consent	<ul style="list-style-type: none">• Lack of appropriately robust consent to charge• Lack of appropriately robust consent to data use• Inadequate technical systems lead to charge without consent
Vulnerable Groups	<ul style="list-style-type: none">• Underage access• Lack of allowance for needs of vulnerable• Targeting of vulnerable
Unreasonable Offence	<ul style="list-style-type: none">• Indecent – e.g. sexual• Offensive or menacing – e.g. disability, gender, race, religion, sexuality• General – e.g. pro-anorexia

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.

There are several reasons why it is sensible to assess society lottery services, including:

1. Gambling services pose a risk of financial detriment to participants;
2. There is a risk of addiction to gambling, which is linked to risk-taking and competition;
3. Gambling legislation sets age restrictions based on risks associated with under-age use, and mobile payments are seen to attract younger demographics.

Assessment of relevant factors

This schedule 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 in section 4 below.

Risk	Apparent	Why	Evidence	Proposed response
Financial Harm	Yes	<ul style="list-style-type: none"> - Subscription based services likely; - No restriction on ticket price 	<p>Industry actively exploring recurring charges for society lottery services on 72XXX shortcodes;</p> <p>Subscription model used currently in other formats;</p> <p>Gambling Commission guidelines specifically state no ticket price restrictions exist</p>	<p>Requirements for a receipt sent to the consumer by an appropriate means, such as email or text message – SOL6;</p> <p>Ticketing information to make sure key details are provided in a durable medium – SOL7</p>
Passing Off	Yes	<ul style="list-style-type: none"> - External Lottery Managers (ELMs) exist in the market; - Charities and other non-commercial societies branding may be emphasised without direct association; - Potential for non-registered charities to be viewed as holding charitable status 	<p>GC has consulted on increasing transparency around revenue share going to the society;</p> <p>Currently ELM platforms and varied infrastructure in the market;</p> <p>Some evidence of interest from charities to have direct control over the payment mechanic and service</p>	<p>ELMs regulated and licensed by GC; GC guidelines call for transparency in promotional material;</p> <p>Promotional material must include key information – SOL3;</p> <p>Ticketing information to make sure key details are provided in a durable medium – SOL7</p>
Uninformed Consent	Yes	<ul style="list-style-type: none"> - Historically other competition services have attracted affiliate marketing; - Complexity of proposition, in terms of process for selection of winners, and revenue sharing arrangements with societies; - Greater propensity to enter because of link to charity 	<p>Online competition services;</p> <p>Terms and conditions of society lotteries;</p> <p>Popularity of society lotteries in other formats</p>	<p>Society lottery services are regulated by GC;</p> <p>Promotional material must include key information – SOL3;</p> <p>Include a clear point of purchase in the consumer journey when entering the services – SOL4;</p> <p>Requirements for a receipt sent to the consumer by an appropriate means, such as email or text message – SOL6</p>

Unauthorised Consent	Yes	<ul style="list-style-type: none"> - Potential for non-bill payers to instigate charges; - Historically other competition services have attracted affiliate marketing 	Online competition services; Services available to over 16s	Society lottery services are regulated by GC; Use of robust consent to charge process – SOL5
Vulnerable Groups	Yes	<ul style="list-style-type: none"> - Gambling services; - Underage use restrictions apply; - Adverse reactions to poor quality ad placement 	Gambling services are known to pose some users problems relating to debt management or addiction; Legislation in place imposing age restrictions	Society lottery services are regulated by GC; Align regulations with remote gambling provisions, recognising age restriction is at 16 years, not 18 – SOL1 and SOL 2; Adoption of a clear point of purchase and robust consent to charge reduces scope of harm arising from entries by non-bill payers and under-age users – SOL4 & SOL5
Unreasonable Offence	No			Code provisions sufficient to respond to any market issues

4. Proposed special conditions

Responding to the risk assessment

The PSA recognises all services that are defined by Ofcom as ‘controlled premium rate services’ hold some degree of risk, leading to the regulation of such phone-paid services under the PSA Code of Practice. Regulations that are imposed are designed to equip businesses to deliver services to market effectively, offering consumers choice and innovation, while maintaining standards consumers expect when using these payment facilities.

Society lotteries are popular, in part because they offer entertainment, competition, and the prospect of winning valued prizes; and, in part because entrants are involved in fundraising for a non-commercial society or charity. They are equally popular services for the beneficiaries of those fundraising campaigns, offering additional revenue streams from a wider customer base.

The popularity of society services is reflected in the successful partnerships established in the phone-paid services market that have led to designated shortcodes, beginning 72XXX, being set aside for the purpose of society lottery services. These arrangements include a VAT exemption on revenue agreed with the UK Treasury and the mobile network operators.

The following risk assessment seeks to identify areas where regulations can assist with strengthening consumer protection, giving lottery entrants and the societies benefiting from the ticket sales confidence when using phone-paid services.

Q4: To what extent do you agree with the PSA risk assessment as set out above in section 2? Please give evidence in support of your submissions.

Gambling legislation and age restrictions

When the Gambling Act 2005 broadened the scope for legalised gambling products and services in the UK, it recognised that these entertainment services carried risks. Part of the entertainment itself comes from the sense of risk-taking when making a bet or paying to enter a game of chance. There are also significant risks of financial detriment and addiction to game play.

On the 14 September 2017, there was a debate in the UK House of Lords led by Lord Chadlington exploring the effects of gambling advertisements on children⁴. The debate was effective at looking at the societal impacts on young people and communities that can be invoked by gambling opportunities and the dreams or ambitions that the services inspire. The normalisation of gambling alongside sports, the blurring of messaging around taking up sport and enjoying it to the full, and the heightened emotions associated with personal winnings as your team wins, all contribute to increased concerns for young people.

This debate reflects the current concerns that exist in relation to gambling products and services. And yet society lotteries are relied upon by local charities, sports clubs, and cultural

⁴ The debate is available online [here](#) by selecting ‘11:40:54 Debate: Effect of gambling advertisements on children’

societies to raise money, some of which will benefit young people and highlight the fundraising opportunities linked to such gambling activities.

The 2005 Act sets out key requirements to establish safeguards, including the need for information about addiction and ‘responsible gambling’ as well as robust age verification processes.

Evidence provided to the PSA in recent years associated with charitable donations via text giving highlights that these mobile payment facilities are popular and reach a broad demographic including younger donors. This indicates that a shift by society lottery operators to include phone-paid services as a means to pay for entry tickets alongside card payments, etc. may pose a risk of under-age users accessing these gambling services.

To align with gambling legislation, and current PSA regulations relating to remote gambling services, we propose to issue a new notice of Special conditions for society lottery services. In this notice, we propose to have three provisions dealing with these risks associated with vulnerable users:

SOL1 Persons under the age of 16 years are not permitted to use the service.

SOL2 If a consumer is found to be under 16, they must be refunded and blocked from using the service.

There is a provision in the notice of Special conditions for remote gambling services that considers access to a users’ playing history, and the PSA has considered whether it was necessary to include this as a condition for society lottery services. The PSA recognises that society lotteries rely on the issuance of tickets to help entrants track their playing history. Where there is an online element to the society lottery it may be advantageous for society lottery services to give users access to their ticket purchases in one place. However, on reflection the PSA considers that compliance with wider gambling regulations and the requirements relating to tickets are sufficient.

Q5: To what extent do these provisions, SOL1 and SOL2, mitigate any risks associated with under-age use of gambling services and address?

Q6: Do you agree with our assessment that ticketing requirements and wider gambling regulations are sufficient for users, including any vulnerable groups, tracking their usage?

Clarity around what society benefits

In 2017, the Gambling Commission consulted on measures to improve the transparency of information relating to the beneficiaries associated with society lotteries⁵. The Gambling Commission stated in its published report following consultation that this was aimed at achieving one of its wider objectives of openness:

⁵ See the Gambling Commission website: <http://www.gamblingcommission.gov.uk/news-action-and-statistics/Consultations/Closed-consultations-with-response/Have-your-say-on-changes-to-society-lottery-codes-of-practice.aspx>

"[The proposals] reflect the commitment ... to improve transparency to consumers across the whole gambling industry."

In the PSA Code, 'transparency and pricing' information is one of six key consumer outcomes. Given the reasons behind the Gambling Commission consultation, the improved guidelines for society lotteries, and the fact that new requirements are coming into force on 4 April 2018, it is appropriate to ensure consumers are clearly informed of the society that will benefit from funds raised by the sale of lottery tickets.

Requirements associated with promotional material, based on a similar provision found in the notice of Special conditions for remote gambling services, are proposed in the following terms:

SOL3 The promotional material for the service must include the following information:

- An adequate description of how the service works and clear instructions on how to use it;
- Payment options, where relevant, should clearly indicate PRS payment places charges on the user's phone account (mobile or otherwise);
- Any significant terms and conditions, including details of the society who will benefit from the running of the lottery;
- Clear identification of the provider of the society lottery service if separate from the society that will benefit from the running of the lottery;
- Prominent warnings about restrictions on use, such as access restrictions based on regional regulations imposed on gambling services⁶, and prevention of underage use;
- The prize or amount of money that consumers stand to win or an adequate explanation of how prize winnings will be calculated;
- A clear explanation of how winnings will be paid or winners will take ownership of prizes;
- Information about responsible gambling or links to sources of such information;
- Instructions on how to stop the service where entrants incur recurring charges.

By increasing transparency, the market can take steps to reduce the risk of passing off, which is likely to achieve a higher level of consumer confidence when using these new phone-paid services. It is likely to reduce the risk of uninformed consent to charge as well.

Q7: Does the list in SOL3 contain the right types of information needed to give consumers adequate information associated with society lottery services? Please provide an explanation regarding any additional or amended requirements where you have suggested changes.

⁶ Society lotteries licenced by the Gambling Commission must only be promoted within Great Britain. Separate regulations apply to services operating in Northern Ireland.

Clear point of purchase and robust consent to charge

In 2016, research from Craft Realities commissioned by the PSA highlighted consumer engagement with online competition services could leave some users unaware of purchases made using phone-paid services. Informed by that research, the PSA consulted on and adopted some Special conditions to improve clarity at the point of purchase and ensure robust consent to charge methodology was used prior to any charge being made.

The impact of these measures saw a rapid and sustained decline in complaints relating to such services.

As mentioned earlier the definition of online competition services covers lotteries, and by extension society lotteries. While society lottery services have not previously been operated in the UK using phone-paid services, meaning there is no data associated with consumer complaints when using them, the risks identified⁷ in the consumer research do remain relevant for society lottery services.

Furthermore, given the need for robust age verification checks to be made, it is appropriate that some degree of friction exists in the sign up process. Having considered the purchase experience involved in some online society lotteries relying on card payments, the measures adopted in the notice of Special conditions for online competition services are not considered onerous [especially when compared with some of the current methods of entering a society lottery], and the likely benefits to consumers are significant.

1. The use of passwords, text-based confirmation, or PIN loop authentication methods greatly reduces the impact of affiliate marketing on under-age users and non-bill payers;
2. There is greater clarity at the point of purchase increasing consumer choice and reducing complaint levels post-transaction;
3. Where complaint levels and under-age use are reduced, there is less burden on the value chain to resolve consumer disputes (including offering refunds) or meet obligations under proposed 'SOL2' (see above).

In keeping with provisions found in the notice of Special conditions for online competition services, the PSA proposes the following measures in relation to society lottery services:

Point of purchase

SOL4 The point of purchase must be separated from service interaction, including its promotion, in a clear and effective way to allow the consumer to consider their purchase. At the point of purchase, PRS providers must:

⁷ Based on the research and consumer interviews undertaken, Craft considered that it was quite possible for consumers to unintentionally consent to an online competition service; that opt-out processes needed to be more robust and made transparent to consumers; and the purchase experience posed a higher risk to consumers when compared to other digital payment systems. Craft made recommendations on the basis of their findings to help improve the purchase experience. See <https://psaauthority.org.uk/-/media/Files/PhonepayPlus/Research/2016/Summary-report-on-A-study-of-consumer-journeys-relating-to-online-competition-and-adult-PRS.ashx?la=en>

- (a) clearly signpost the point of purchase by making it distinctive from other aspects of the service (such as by design and colour scheme) and take all reasonable steps to make that distinction clear, avoiding any confusion between service promotion and the point of purchase;
- (b) ensure that consumers, when committing to a purchase, explicitly acknowledge that the purchase implies an obligation to pay;
- (c) ensure that consumers are made aware, in a clear and prominent manner and directly before the consumer commits to a purchase, of the cost of the service, and the frequency of charges; and
- (d) indicate that the PRS payment will be added to the consumers phone account.

Consent to charge

SOL5 At the point of each purchase and prior to delivering the PRS charge, including an initial charge of a subscription service, providers are required to obtain consent to charge from the consumer in the form of a positive, recorded and auditable response where the costs and name of the premium rate service have been presented clearly to the consumer.

PRS providers must establish such consent via one of the following means of consumer interaction.

- (a) use of a secure PIN loop system to confirm each transaction initiated and confirmed by the Level 1 provider⁸ through interaction with the consumer, whether the transaction is a one-off purchase or the initial agreement to enter a subscription; or,
- (b) use of a password system, the password being selected and controlled by the consumer, to confirm each transaction, whether the transaction is a one-off purchase or the initial agreement to enter a subscription; or,
- (c) use of a secure, consumer controlled, mobile originating short message service (MO SMS) system for consumers to notify the Mobile Network operator and Level 1 provider(s) of confirmation of the charge request.

Where an MO SMS system is used for obtaining information to assist with age verification, the service provider may rely on such engagement as part of the opt-in process, so long as it is before any charges are made and it is clear to the consumer that they consent to future charges as a result of that engagement. This is consistent with other services that are subject to age restrictions and age verification processes.

Q8: To what extent do SOL4 and SOL5 offer clarity at the point of purchase and achieve a requisite level of consent to charge in relation to society lottery services?

⁸ This function may be undertaken by a Network operator where it contracts directly with a Level 2 provider, in the absence of a Level 1 provider.

Financial detriment

During the development of proposals for the new 72XXX shortcodes to be made available for society lottery operators, industry members have identified a number of potential business models including:

- one off ticket sales;
- subscription payment schemes for week entries;
- subscription payment schemes for multiple tickets over a relevant period.

Gambling regulations make it clear that each ticket must have equivalent costs of entry, which prevents discounting of books of tickets. However, a scheme where £5 pounds is paid every 5 weeks on a recurring basis is considered equivalent to the sale of individual tickets at £1 each. Regardless of these requirements, there is no restriction on the cost of tickets.

There is a risk that consumers will have some difficulty tracking phone-paid service transactions, and the frequency of those charges where the service operates as a subscription. To address this risk, the PSA proposes that receipts be issued to entrants each time a payment is made via phone-paid service facility.

Given there are gambling regulations associated with the issuance of lottery tickets, and there may be some overlap in terms of the information requirements expected in relation to payment receipts and tickets, the PSA proposes two provisions to be considered in combination with each other.

The notice of Special conditions will include a footnote to highlight the ability for providers to consider ways of meeting these requirements without excessive numbers of messages being issued to entrants. If the frequency of payments matches the issuance of tickets then relevant information may be supplied to entrants by appropriate means. The PSA notes guidance issued by the Gambling Commission emphasises the need for tickets to be in a format that can be saved or printed by the user, and this should be duly considered when designing relevant phone-paid services.

The following provisions are proposed for the notice of Special conditions for society lottery services:

Receipts and ticketing

SOL6 Each time the consumer incurs a charge to participate in a society lottery whether this involves a single charge or a recurring charge, a receipt must be sent to them in either SMS or email formats as soon as is reasonably practicable. This receipt must detail the name of the service, the cost of using the service or products purchased, and the name and contact details of the provider.

SOL7 For each and every draw entered, once payment has been made, consumers must be issued with a valid ticket of entry to the society lottery, containing all relevant ticketing information as required in law⁹. Each ticket issued in conjunction with a subscription charge should include information about the method of exiting the phone-paid service, including instructions on the use of the STOP command.¹⁰

These receipts and / or lottery tickets are designed to raise awareness of consumer spend and equip consumers as they manage their use of these gambling services. Where subscription services are operated, normally there would be an expectation for spend reminders to be issued every month or after £20.45 (inclusive of VAT) is spent. The PSA has considered whether this requirement is necessary in conjunction with the issuance of tickets in compliance with SOL7 above.

The overlap in terms of required information contained within any lottery ticket, based on gambling regulations, and the information presented in any spend reminders is significant. This reduces the benefit of the additional reminder messages, which may cause some confusion to entrants. It would be unhelpful if consumers sought to reduce the messages held on their device and found it difficult to distinguish between a lottery e-ticket and a spend reminder.

The PSA intends to amend the notice of specified service charges and durations of calls issued under paragraph 3.12.6 to clarify that paragraph 8.2 of that notice does not apply to society lottery services.

The PSA has considered whether it is appropriate to introduce any spend limits associated with society lotteries; however, at this time the PSA considers the information requirements at SOL6 and SOL7 will be effective in protecting consumers from financial detriment.

Q9: To what extent do SOL6 and SOL7 give consumers awareness of their use of phone-paid services and an ability to track spending over time?

⁹ All tickets in a society lottery licensed by the Gambling Commission or registered with a local authority must state:

- the name of the society on whose behalf the lottery is being promoted
- the price of the ticket
- the name and address of the member of the society responsible for the promotion of the lottery.
- In the case of a small society lottery run under local authority registration, the name and address of the ELM if there is one may be given as an alternative
- the date of the draw, or the means by which the date may be determined
- the fact, where that is the case, that the society is licensed by the Commission
- the website address of the Commission, if licensed by the Commission.

Tickets that are issued through a form of remote communication or any other electronic manner must specify the information above to the purchaser of the ticket and ensure that the message can be either retained (saved) or printed.

¹⁰ Where tickets are issued at the same frequency as payments, services can be operated in such a way that the ticket satisfies the obligations under **SOL6**.

Q10: Do you agree that compliance with SOL7 reduces the need for a separate provision relating to subscription spend reminders? Please provide evidence in support of your submissions.

Q11: Do you agree that spend caps are not required for society lottery services based on the information provided under SOL6 and SOL7 and that the notice issued under paragraph 3.12.6 should be amended accordingly?

Notification to the PSA

As set out above, society lotteries are governed by gambling regulations and appropriate licences must be obtained by service providers. In alignment with the notice of Special conditions for remote gambling services, the PSA proposes a notification provision within the notice of Special conditions for society lottery services¹¹:

Notification requirements

SOL8 PRS providers operating these services are to notify the Phone-paid Services Authority within 48 hours of launching the service, if not done before. On notification, PRS providers must provide information relating to:

- (a) brand identification associated with the provider of the society lottery;
- (b) confirmation that all licences required by law have been obtained from relevant bodies, such as the Gambling Commission and / or local authorities;
- (c) PRS numbers used for the service, including the dedicated number chosen for STOP and STOP ALL requests;
- (d) customer care services details;
- (e) identity of all Level 1 providers involved in the provision of the PRS, including those managing the method of exit.

This provision will act as a reminder to new society lottery operators to seek the relevant licences prior to using a phone-paid services facility.

Q12: Does the list in SOL8 contain the right types of information to support the regulation of society lottery services and equip the PSA to handle any complaints and enquiries that may arise?

¹¹ The PSA is consulting on changes to its registration requirements, which can be found on our website (<https://psauthority.org.uk/-/media/Files/PSA/For-Businesses/Our-role-in-the-industry/Public-consultations/2018/Registration-Consultation-9-January-2018.ashx?la=en>). If in due course it becomes clear that the new registration measures are effective in achieving higher levels of visibility in relation to the operation of these services, the PSA will review this notification requirement and may remove it if it is no longer considered necessary.

5. Consultation questions and next steps

Questions

Here is the full list of consultation questions:

Q1: Does this definition of *society lottery services* suitably align with the gambling legislation and assist in identifying relevant phone-paid services that may be subject to specific PSA regulations?

Q2: Do you agree with this approach to guidance development in relation to society lottery services?

Q3: Are there any other pieces of PSA guidance that you consider will require consideration that does not appear in the list above?

Q4: To what extent do you agree with the PSA risk assessment as set out above in section 2? Please give evidence in support of your submissions?

Q5: To what extent do these provisions, SOL1 and SOL2, mitigate any risks associated with under-age use of gambling services and address concerns associated with vulnerable groups?

Q6: Do you agree with our assessment that ticketing requirements and wider gambling regulations are sufficient for users, including any vulnerable groups, tracking their usage?

Q7: Does the list in SOL3 contain the right types of information needed to give consumers adequate information associated with society lottery services? Please provide an explanation regarding any additional or amended requirements where you have suggested changes.

Q8: To what extent do SOL4 and SOL5 offer clarity at the point of purchase and achieve a requisite level of consent to charge in relation to society lottery services?

Q9: To what extent do SOL6 and SOL7 give consumers awareness of their use of phone-paid services and an ability to track spending over time?

Q10: Do you agree that compliance with SOL7 reduces the need for a separate provision relating to subscription spend reminders? Please provide evidence in support of your submissions.

Q11: Do you agree that spend caps are not required for society lottery services based on the information provided under SOL6 and SOL7 and that the notice issued under paragraph 3.12.6 should be amended accordingly?

Q12: Does the list in SOL8 contain the right types of information to support the regulation of society lottery services and equip the PSA to handle any complaints and enquiries that may arise?

Next steps

Please submit your written responses to this consultation by the deadline, **17:00 on Tuesday 17 April 2018**. They can be sent via email to consultations@psauthority.org.uk or via post to:

Terry Armstrong
Phone-paid Services Authority
25th Floor, 40 Bank Street,
London,
E14 5NR

If you have any enquiries about this consultation, please contact our office switchboard and ask for a member of our Policy Team – telephone number 02079407474.

The PSA will consider submissions and issue a statement following this consultation. Subject to feedback we receive, at that time we will make all relevant amendments to current notices of Special conditions and launch the new notice of Special conditions for society lottery services. This is likely to include changes to definitions found in the following notices to make it clear that they do not apply to society lottery services:

- remote gambling services;
- online competition services;
- subscription services charged at more than £4.50 in any 7-day period; and,
- specified service charges and durations of calls, under paragraph 3.12.6.

The PSA will also look to introduce any renewed guidance required to assist with the implementation of these regulatory changes.

Annex

Society Lottery Services

Notice of Special Conditions

This Notice is being issued to inform all providers involved, or intending to be involved, in the provision of society lottery 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*".

A lottery is a kind of gambling that has three essential elements:

- payment is required to participate
- one or more prizes are awarded
- those prizes are awarded by chance.

Society lottery services are defined as follows:

A premium rate service ('PRS') that enables consumers to participate in a lottery operated by, or for the benefit of, a non-commercial society. Such lotteries and societies meet the respective definitions set out in the Gambling Act 2005.

A society is non-commercial if it is established and conducted:

- for charitable purposes
- for the purpose of enabling participation in, or of supporting, sport, athletics or a cultural activity
- for any other non-commercial purpose other than that of private gain.

Given the nature of phone-paid services, society lottery services governed by this notice will be remote gambling services as defined at Section 4 of the Gambling Act 2005¹².

¹² Section 4 of the [Gambling Act 2005](#): **Remote gambling**

(1) In this Act "remote gambling" means gambling in which persons participate by the use of remote communication.

(2) In this Act "remote communication" means communication using-

- (a) the internet,
- (b) telephone,
- (c) television,
- (d) radio, or
- (e) any other kind of electronic or other technology for facilitating communication.

Information about Gambling Commission and society lotteries can be found at:

<http://www.gamblingcommission.gov.uk/for-gambling-businesses/Compliance/Sector-specific-compliance/Lotteries/Society-lotteries.aspx>

Information about the Department for Communities, Northern Ireland can be found at:

<https://www.communities-ni.gov.uk/topics/law-and-legislation/betting-gaming-lotteries-and-amusements#toc-4>

Special conditions

Imposed under Annex 2, Paragraph 1.1(g): the denying of access by users under the age of 18 years old to a high risk service or by all users where the relevant handset is not verified as being owned by someone aged 18 years old or over¹³;

SOL1 Persons under the age of 16 years are not permitted to use the service.

Imposed under Annex 2, Paragraph 1.1(e): specified action required in order to and as a consequence of verifying or a failure to verify the age of callers;

SOL2 If a consumer is found to be under 16, they must be refunded and blocked from using the service.

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);

SOL3 The promotional material for the service must include the following information:

- An adequate description of how the service works and clear instructions on how to use it;
- Payment options, where relevant, should clearly indicate PRS payment places charges on the users phone account (mobile or otherwise);
- Any significant terms and conditions, including details of the society who will benefit from the running of the lottery;
- Clear identification of the provider of the society lottery service if separate from the society that will benefit from the running of the lottery;
- Prominent warnings about restrictions on use, such as access restrictions based on regional regulations imposed on gambling services¹⁴, and prevention of underage use;
- The prize or amount of money that consumers stand to win or an adequate explanation of how prize winnings will be calculated;
- A clear explanation of how winnings will be paid winners will take ownership of prizes;
- Information about responsible gambling or links to sources of such information;
- Instructions on how to stop the service where entrants incur recurring charges.

¹³ Special Conditions are made under the broad conditions set out in Annex 2. Paragraph 1.1(g) of Annex 2 enables relevant conditions to be imposed that apply in respect of any age limit up to 18. As relevant age restriction measures associated with society lottery services do not apply to 16 and 17 year olds under relevant gambling legislation SOL 1 and SOL 2 only set conditions that apply in respect of those aged under 16.

¹⁴ Society lotteries licenced by the Gambling Commission must only be promoted within Great Britain. Separate regulations apply to services operating in Northern Ireland.

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

(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);

(n) requirements for caller agreement before a high risk service proceeds before the caller is charged.

Point of purchase

SOL4 The point of purchase must be separated from service interaction, including its promotion, in a clear and effective way to allow the consumer to consider their purchase. At the point of purchase, PRS providers must:

- (a) clearly signpost the point of purchase by making it distinctive from other aspects of the service (such as by design and colour scheme) and take all reasonable steps to make that distinction clear, avoiding any confusion between service promotion and the point of purchase;
- (b) ensure that consumers, when committing to a purchase, explicitly acknowledge that the purchase implies an obligation to pay;
- (c) ensure that consumers are made aware, in a clear and prominent manner and directly before the consumer commits to a purchase, of the cost of the service, and the frequency of charges; and
- (d) indicate that the PRS payment will be added to the consumers phone account.

Consent to charge

SOL5 At the point of each purchase and prior to delivering the PRS charge, including an initial charge of a subscription service, providers are required to obtain consent to charge from the consumer in the form of a positive, recorded and auditable response where the costs and name of the premium rate service have been presented clearly to the consumer.

PRS providers must establish such consent via one of the following means of consumer interaction.

- (a) use of a secure PIN loop system to confirm each transaction initiated and confirmed by the Level 1 provider¹⁵ through interaction with the consumer, whether the transaction is a one-off purchase or the initial agreement to enter a subscription; or,
- (b) use of a password system, the password being selected and controlled by the consumer, to confirm each transaction, whether the transaction is a one-off purchase or the initial agreement to enter a subscription; or,
- (c) use of a secure, consumer controlled, mobile originating short message service (MO SMS) system for consumers to notify the Mobile Network operator and Level 1 provider(s) of confirmation of the charge request.

¹⁵ This function may be undertaken by a Network operator where it contracts directly with a Level 2 provider, in the absence of a Level 1 provider.

Receipts and ticketing

SOL6 Each time the consumer incurs a charge to participate in a society lottery whether this involves a single charge or a recurring charge, a receipt must be sent to them in either SMS or email formats as soon as is reasonably practicable. This receipt must detail the name of the service, the cost of using the service or products purchased, and the name and contact details of the provider.

SOL7 For each and every draw entered, once payment has been made, consumers must be issued with a valid ticket of entry to the society lottery, containing all relevant ticketing information as required in law¹⁶. Each ticket issued in conjunction with a subscription charge should include information about the method of exiting the phone-paid service, including instructions on the use of the STOP command¹⁷.

Imposed under Annex 2, Paragraph 1.1(m) and (x):

(m) the provision of defined information to the Phone-paid Services Authority and the intervals at which it is to be given and the manner to which it is provided;

(x) providers of higher risk services to notify the Phone-paid Services Authority at commencement of such services and provide any related information required by the Phone-paid Services Authority within a specified time period.

Notification requirements

SOL8 PRS providers operating these services are to notify the Phone-paid Services Authority within 48 hours of launching the service, if not done before. On notification, PRS providers must provide information relating to:

- (a) brand identification associated with the provider of the society lottery;
- (b) confirmation that all licences required by law have been obtained from relevant bodies, such as the Gambling Commission and / or local authorities;
- (c) PRS numbers used for the service, including the dedicated number chosen for STOP and STOP ALL requests;

¹⁶ All tickets in a society lottery licensed by the Gambling Commission or registered with a local authority must state:

- the name of the society on whose behalf the lottery is being promoted
- the price of the ticket
- the name and address of the member of the society responsible for the promotion of the lottery.
- In the case of a small society lottery run under local authority registration, the name and address of the ELM if there is one may be given as an alternative
- the date of the draw, or the means by which the date may be determined
- the fact, where that is the case, that the society is licensed by the Commission
- the website address of the Commission, if licensed by the Commission.

Tickets that are issued through a form of remote communication or any other electronic manner must specify the information above to the purchaser of the ticket and ensure that the message can be either retained (saved) or printed.

¹⁷ Where tickets are issued at the same frequency as payments, services can be operated in such a way that the ticket satisfies the obligations under **SOL6**.

- (d) customer care services details;
- (e) identity of all Level 1 providers involved in the provision of the PRS, including those managing the method of exit.