

Registration with PSA:
extension of consultation on proposed
changes to information required

14 May 2018

1. Consultation period

PSA published its initial consultation on Registration in January 2018, with a closing date of 9th February 2018.

To date we have received 15 consultation submissions, encompassing a wide range of views from across the whole phone-paid services value chain: networks, Level 1 aggregators, Level 2 merchants and trade associations.

Following a review of these submissions, as well as informal discussions with different parties in the value chain, we have decided to extend the consultation period to allow for:

- clarification on various aspects of the initial consultation and some of the proposed changes
- a workshop to be held, to explore in more detail the exact nature of the information required
- existing submissions to be reviewed in the light of the clarification and workshop, and amended if required
- new submissions to be submitted.

This approach will allow for the fullest range of views to be considered.

2. Options

In considering changes to Registration, PSA assessed three alternative approaches:

- (a) to leave the current Registration requirements unchanged
- (b) to propose changes to Registration requirements such that each service provider is required to detail every aspect of individual services, and to maintain timely and accurate Registration alongside any change in service provision
- (c) to propose changes to Registration such that additional information requirements are balanced alongside the impact they may have on service providers.

PSA considers that option (a) will limit its ability to provide effective and efficient regulation; that option (b) is not proportionate in terms of the obligations and resource requirements it will place service providers under; and that option (c) is most likely to enable it to better deliver its mission. This consultation exercise is therefore undertaken with regard to option (c), and, subject to the clarifications below, with the aim of identifying and considering the impact of the proposed changes to Registration set out in the initial consultation document (section 4.4).

3. Clarifications

3.1. We proposed, for each service, that copies of contracts should be provided in two instances (consultation document section 4.4, last two main bullets):

- (a) where promotional companies are used to promote the service

(b) where companies are used for meeting consent to charge requirements.

Recent PSA investigations have shown that some non-compliant service providers have claimed agreements were in place when in fact they were not. Our intention through Registration, therefore, was to secure proof that such agreements were in place when services were being provided.

However, given the commercial sensitivities expressed by some service providers, we are now minded to only require at Registration the name(s) of the third parties being used. In doing so, we would remind providers of their Code obligations around consent to charge and performance of effective due diligence on contracted parties. Providers will need to be able to provide satisfactory evidence of compliance (including copies of contracts) with such requirements when required by PSA.

3.2. We recognise and understand the dynamic nature of the promotion of some phone-paid services to consumers. Our intention for requiring service promotion details at Registration (consultation document section 4.4, service promotion details bullet) is to enable a broad understanding of what consumers should expect to experience, rather than require notification every time an individual detailed aspect of a promotion is changed.

Our expectation, therefore, is for the promotion of a service to be described in terms of a framework, and for examples to be provided to illustrate how the service will be promoted in that framework. As a guide at this stage (and to be explored in more detail through the workshops described in section 4), we would broadly expect the level of detail to be consistent with that currently required:

- by Level 1 aggregators and Mobile Network Operators for PSMS, operator billing and voice shortcode services
- by Level 1 aggregators/terminating networks for 118, 09 and 087 services.

3.3. Similarly, for service flows (consultation document section 4.4, service flows bullet), our intention at Registration is for a broad overview of what consumers will experience when engaging with the service, backed up by illustrative examples.

We will only therefore require at Registration a level of detail for service flows that is broadly in line with existing value chain requirements (e.g. onboarding forms), and would only require Registration to be updated for material changes to service details and/or service flows.

While responsibility for Registration of services remains with the Level 2 merchant, we recognise that service flows may be partially or wholly controlled by the Level 1 aggregator. In practice we expect to work with both parties to ensure that required Registration is achieved.

3.4. It appears some assumptions have been made that PSA will continue to resource Registration in the same way as been historically perceived. However, our intention is to move to a much more pro-active and supportive approach, with an emphasis on working with providers to get things right at the point a new Registration is made or renewed. This is deliverable within our current resources: in the short-term we will ensure we have enough staff to manage over a transitional period, and longer-term, with around 2,000 service

providers currently registered, this equates to less than 10 organisations per working day on average, with many Level 2 merchants providing a single service only.

We will also respond positively to requests to find ways that minimise administrative effort, including bulk uploads (consultation document section 4.5)

3.5. We are clear that the information currently provided through Registration is no longer sufficient to support our regulatory purposes (consultation document section 3).

To help service providers better understand why changes to Registration are being proposed, we are happy to provide further detail:

3.5.1. Increased consumer confidence

We know from recent consumer research that consumer confidence in phone-paid services could be improved:

- there are general issues around trust and satisfaction, with 36% of consumers saying their trust has been compromised (Annual Market Review 2016/17)
- issues of consumer trust are worsened by poor complaint handling. Insights from the Futuresight customer care and complaint handling research include:
 - “in many cases, the experience of great difficulty [in resolving a complaint] tended to reduce their level of confidence and trust in the phone-paid service industry as a whole.”
 - in terms of complaint handling, “claims of loss of trust were very evident in the study.”
 - that consumers believe it should be easy to find and locate merchants. This adds confidence and certainty that their time and effort should not be wasted.

This problem is exacerbated by the relatively limited information able to be provided when a consumer tries to find out more from PSA e.g. such as through Number Checker. While Registered service numbers are linked to the merchant (and related party) contact details, any further detail (brand name, billing and cost information, description, service type etc.) is voluntary only and therefore usually not provided. The impacts of such a relatively limited database include:

- while successful use of Number Checker varies by payment mechanic, overall around 35,000 (20%) queries fail to provide a return. This is due primarily to the current database being unable to provide an exact match with the search term, but also because most services provided through operator billing are excluded (there is no number to Register) or the number has not been registered as required.
- PSA currently has to divert resource to handle over 15,000 telephone enquiries (i.e. not complaints, and not resolved by IVR) per year, of which around half are in relation to unrecognised charges on their phone bill.

The proposed changes to Registration requirements will create a more comprehensive database about services and the organisations that provide them. To maximise the use of this new database, we will develop our systems to both provide a broader range of interrogation functionality, and smarter, more user-friendly search functionality. The benefits will include:

- consumers receiving more accurate and comprehensive data when they base their search on a number or other information shown on their bill
- a reduction in the amount of information merchants will need to supply when PSA issues a request for information or informal enquiry
- consumers having the ability to access the same information from other search options e.g. brand name, service name, service description
- consumers being reassured if Registration information matches their experience e.g. the service flow summary/framework presented broadly aligns with their consumer journey
- a reduced level of unsuccessful online enquiries
- a reduced level of calls to merchants, achieved through consumers experiencing greater online recognition of the services they have engaged with
- a reduced number of telephone enquiries handled by PSA, freeing up resources to best support consumers when they provide us with complaint data, and ensuring the efficient and effective initial processing of complaint data and case creation (Business Plan and Budget section 4.1.3)
- consumers having the ability to better inform themselves about the phone-paid services market e.g. having the opportunity to better understand individual services before buying.

3.5.2. Effective market analysis

We currently collect service number and customer care details from service providers as part of the registration process, but information such as brand name, billing and cost information, description and service type is currently voluntary. While we therefore have a broad overview of the market, we believe we would benefit from more comprehensive information to support more effective market analysis. For example, when considering the risk profile of different service types, and the differing regulatory approaches we may take towards them, we do not have accurate information as to the number of services or service providers within that service type, or sufficient understanding of the differences between them.

The proposed new Registration requirements will create a more comprehensive database about services and the organisations that provide them. In conjunction with the new Annual Market Review categorisation (as set out in Appendix B of the consultation document), the benefits this will bring to our market analysis include a much better understanding of:

- the number and range of service providers for each type of service
- the differences in the services provided for each service type
- the payment mechanics and payment frequencies within each service type and across

the market

- the differences in service promotions for each service type.

The benefits this will bring to our regulatory approach and industry engagement include:

- an ability to link consumer harm with more accuracy to specific market factors (e.g. service type, payment frequency, promotional approach etc.)
- greater opportunities to work with industry value chains to address specific issues quickly and informally
- an ability to identify specific areas where exemptions may be considered and piloted
- a more detailed and nuanced approach to use of our risk assessment framework, leading to better defined and more targeted Special conditions
- better informed policy work e.g. consideration of differences in subscription services
- more accurate and granular data on which to base the Annual Market Review, leading to improved forecasting and understanding of consumer engagement with different phone-paid services.

3.5.3. Intelligent monitoring

We have stated in our Business Plan and Budget (section 4.3.1) that we will “maintain compliance across the large majority of the phone-paid services market and enforce against non-compliant behaviour where fair and proportionate to do so”.

However, with limited resources, it is essential that we monitor the market as effectively and efficiently as possible. Currently resources are wasted both through the need to undertake broad, sweeping searches for phone-paid services being delivered in the market, and in considering regulatory approaches based on often piecemeal intelligence.

The proposed new Registration requirements will create a more comprehensive database about services and the organisations that provide them. This will help with (although not eliminate) the need to monitor the phone-paid services market on a general basis, but in conjunction with the new Annual Market Review categorisation, the main benefits this will bring to our use of limited monitoring resources will include:

- better targeted monitoring to support policy work (e.g. evidence that service delivery within specific service types is wholly compliant)
- creation of more opportunities for early identification of issues, leading to informal resolution and market-based solutions, rather than individual case enforcement
- an ability to better support industry initiatives through proactive monitoring work e.g. identifying very early (and likely in advance of any complaints) any possible issues with new service offerings such as society lotteries
- with an increased ability to link consumer harm with more accuracy to specific market factors, we can pinpoint our monitoring activity to provide a better understanding of the issues and evidence of non-compliance.

We will of course continue to treat inadvertent Registration breaches fairly and proportionately, and we have no desire to seek to punish providers who are genuinely looking to provide services that consumers can engage with knowingly and willingly.

PSA staff will proactively support providers to achieve accurate Registration, and the proposed new Registration requirements will enable PSA to clearly identify through monitoring and other intelligence (e.g. MNO data) where providers are deliberately seeking to avoid regulation through non-Registration of services and/or themselves as providers.

3.5.4. Efficient application of Code processes

Under current Registration, organisations are currently required to provide a day to day contact and responsible person details. A review of the current database shows that many organisations are either not completing this accurately in the first place, or are not keeping it up to date. Our experience shows that where we need to make either informal enquiries or issue a formal direction, this has created undue admin delay.

The proposed new Registration requirements will include more detailed guidance as to what we expect from organisations, including clarity between:

- a day to day admin contact
- the person responsible for regulatory compliance
- the person(s) with control or day to day responsibility for the organisation (or its premium rate service operations), and therefore likely to be an 'associated individual' under para 5.3.9 of the Code.

N.B., we recognise that for many smaller providers the people may be the same in each area.

We are aware that some services are provided by separate legal entities that fit within group structure, and we wish to make sure that such a structure is expressed more clearly – both for our own regulatory understanding and for consumer support information. We will also work with such organisations to ensure Registration is as streamlined as possible.

3.5.5. Effective due diligence

PSA is currently investigating cases relating to potential Code breaches of due diligence requirements, and intend to use the outcome of these to develop our guidance in this area.

Due diligence reports are currently limited to information about:

- Registration with PSA
- organisation name, address, trading names and responsible person
- adjudication history.

The proposed new Registration requirements therefore create an opportunity to support an enhanced approach to due diligence, allowing L1 aggregators/terminating networks to demonstrate that they have considered a broader range of relevant factors in deciding whether to contract with relevant merchants. The creation of a more

comprehensive database about organisations and the services they provide will enhance due diligence reports through allowing for validation of data concerning:

- services provided
- how those services are promoted
- pricing and payment mechanics.

4. Workshop

PSA intends to hold two identical workshops at its offices, on:

- Wednesday 27th June, 2.00pm
- Thursday 28th June, 2.00pm

The objective of the workshops is to give service providers the opportunity to understand and collectively provide input in detail to the proposed new Registration requirements, and to help shape their final consultation submissions. To this end, the workshops will include:

- a prototype of new online forms
- how our pro-active and supportive approach to Registration will work in practice
- an overview of how we will apply fair and proportionate regulation to possible Registration breaches.

5. Timetable

We will extend the consultation period to Thursday 19th July (three weeks after the final workshop is held), to allow for existing submissions to be reviewed and amended if required, and new submissions to be submitted.

All consultation responses will be considered, with a Statement published at the end of July. We intend new requirements to be effective immediately following publication of the Statement, with a transition period of three months for existing Registrations only to enable them to be updated. In this period, we will not take enforcement action in respect of existing Registrations.