PSA
Phone-paid Services Authority

Consultation on proposals to enhance the effectiveness of sanctions imposed by PSA Tribunals on non-compliant providers

Deadline for responses 18 May 2017

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Executive Summary

The Phone-paid Services Authority's primary function as a regulator is consumer protection. Our vision of the phone-paid services market is of 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 of Practice; and
- To further their interests through encouraging competition, innovation and growth in the market.

To further our mission, we will take enforcement action against providers where they have breached our Code of Practice. Where a breach of the Code is upheld by a Code Adjudication Tribunal ("Tribunal"), they can impose a range of sanctions in order to achieve an outcome that is effective, reasonable, fair and proportionate.

The current edition of the Supporting Procedures was published in July 2016 together with the latest edition of the Code. The procedures adopted by the Tribunal when imposing sanctions are currently set out at Parts 12 and 13 of those Supporting Procedures. Parts 12 and 13 remained largely unchanged from the earlier Investigations and Sanctions Procedures which supported the 12th and 13th editions of the Code.

We have been reviewing the effectiveness of our approach to sanctioning in light of our experience. In particular we have reviewed whether our current approach effectively achieves our goals of preventing consumer harm, protecting the reputation of the market and creating a level playing field for industry.

Our view is that sanctions should be sufficient to ensure that the minority of providers who engage in non-compliant conduct do not benefit financially. In addition they should be sufficient to, where necessary, punish and deter future non-compliance – not only by the party in breach, but also by any other members of industry intent on operating similarly non-compliant services. We have concluded that our processes relating to Tribunal decision-making, as set out in Parts 12 & 13 of the Supporting Procedures, require amendment so that they better enable the imposition of sanctions by the Tribunal which achieve these aims. Where any procedural changes are made, the Supporting Procedures must be updated to reflect them.

We believe that if our aims are achieved there will be increased effectiveness in addressing non-compliant behaviour, as well as greater clarity and certainty regarding the CAP's approach to sanctioning together with other benefits for industry as a whole, such as:

- Costs savings in the reduced number of cases being investigated and/or re-investigated due to the deterrent effect of robust sanctions resulting from the proposed changes;
- Efficiency savings in post-adjudication work arising as a result of clearer and more enforceable non-financial sanction outcomes; and

- Efficiency savings arising from a decrease in consumer complaints received by the PSA due to the general and specific deterrent effect of more robust sanctions resulting from the proposed changes.

Having now completed the review we have set out our proposals in this consultation paper. We have decided to formally consult on these proposals given the potential impact they may have on providers who are subject to enforcement action in future. This consultation also pursues our values of being open and of seeking fair and proportionate outcomes through the application and enforcement of the Code. Stakeholders should note that the consultation does not extend to the Code or its provisions, nor is it a consultation on the Supporting Procedures as a whole

We are inviting stakeholders to respond to the questions relating to the proposed procedural changes outlined in this consultation document, and to consider the relevant sections of the draft Supporting Procedures that seek to reflect these proposals. The deadline for responses is **18 May 2017.**

A copy of the proposed revisions to Parts 12, 13 and 14 (with the amended sections highlighted) is attached at Annex A.[1]

[1] Parts 1-11 of the Supporting Procedures were only launched in July 2016, and so we are satisfied that there has been no material change in circumstances since then which would bring into question those Parts. For this reason we have not reviewed, or proposed changes to, any of those provisions (save for necessary re-numbering of cross references).

Section One - Background

1.1 The Phone-paid Services Authority (PSA)'s 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 interest through encouraging competition, innovation and growth in the market.

1.2 To further this mission, PSA often takes enforcement action against providers within its remit where it has grounds to believe that they have breached our Code of Practice. Upon a breach of the Code being upheld by a Tribunal, there are a range of sanctions which Tribunals can impose. These are set out at Code paragraph 4.8.3. The Tribunal seeks to ensure sanctions are imposed effectively and appropriately, so that any regulatory action is targeted and that the minority of providers who cause consumer harm bear the cost of regulation.

1.3 Sanctions may only be applied in cases where a Tribunal has determined that a Network operator, Level 1 provider or Level 2 provider has conducted its business, or operated a service, in breach of one or more rules or responsibilities set out in the Code. Each case is decided on its own merits and sanctions applied may vary depending on the Tribunal's analysis of impact and culpability, service revenue data, potential for consumer harm and any mitigating and/or aggravating factors. Some, or all, of the sanctions can be applied in any case, depending on the circumstances. The Tribunal takes into consideration the principles of good regulation when imposing sanctions.

1.4 The Tribunal is assisted in its assessment of the severity of the case and the appropriate sanctions by reference to Parts 12 and 13 of the Supporting Procedures. The Supporting Procedures are published pursuant to paragraph 4.1.4 of the Code of Practice (14th Edition) and were first published in July 2016 with the coming into force of the 14th Edition of the Code.

1.5 We have been reviewing the effectiveness of our current procedure and approach to sanctioning in light of our experience. In particular we have reviewed whether our current approach effectively achieves our goals of preventing consumer harm, protecting the reputation of the market, and creating a level playing field for industry.

1.6 The PSA has recently taken enforcement action in a number of cases, resulting in breaches being upheld by the Tribunal. In some of these cases, very high levels of revenue were generated as a result of the non-compliant conduct. However, in many cases the fines imposed by the Tribunal represented only a small proportion of the service revenue generated.

1.7 In addition, following the imposition of these fines (together with other sanctions) the PSA in some cases continued to receive a significant number of consumer complaints. This suggested that the sanctions imposed by the Tribunal in these cases did not have the intended effect of deterring further non-compliance. In particular we are concerned that the financial penalties may have been treated as a "cost of business" in that the potential fines had already been accounted for as part of the non-compliant provider's business costs.

1.8 The introduction of higher rate PRS[2] use of higher price point mobile short codes and promotion of subscription services also act as a potential means for non-compliant providers to accrue greater revenue over a short or slightly longer period of time. The PSA recognises that our Supporting Procedures should enable the Executive and the Code Adjudication Panel (CAP) to make the most effective use of all its sanctioning powers, both financial and non-financial.

1.9 In the course of our review:

- PSA has considered issues arising from previous CAP adjudications, feedback from CAP members, by the above information, and by the Board;
- PSA has reviewed the sanctioning procedure of comparable regulators to draw upon a broader pool of expertise and experience[3];
- PSA has consulted with Ofcom and obtained it's views on the proposed changes;
- PSA held a workshop in November 2016 at which CAP members views were sought on how sanctioning practice might be improved, whilst ensuring that sanctions remained proportionate to the facts of each case.

1.10 Following this review, we have concluded that there is scope for us to make our approach to sanctions more effective in achieving their stated objectives. Our view is that the sanctions imposed in a case should be sufficient to, where necessary, punish and permanently deter non-compliant behaviour and encourage a culture of compliance by the party in breach and by others.

1.11 Our view is that only a small percentage of providers will ever come before a Tribunal. Of those providers that do come before a Tribunal, for many this will not result in any changes to the sanctions which would otherwise have been imposed. However for more serious cases the sanctions will be made more effective, in that they will have both a specific deterrent effect on the party in breach and also on any other members of industry intent on operating similarly non-compliant services.

1.12 We consider that the above issues will be sufficiently addressed by making amendments to the Tribunal decision-making procedures as reflected in Parts 12 and 13 of the supporting procedures.[4] We consider this will empower the Tribunal to impose more effective sanctions where it is proportionate to do so, with the overarching aim of deterring the minority of providers who engage in sharp practices that are in breach of the Code, thereby causing consumer harm and damaging the

[2] As part of the non-geographic call services policy review, Ofcom approved a wide range of PRS tariffs, including those in excess of £1.53 per minute (including VAT). The tariffs had an upper limit of £3.60 per minute or £6.00 per call connection charge (including VAT). Currently these tariff limits do not apply to directory enquiry services.

[3] The PSA conducted research into the published sanctioning procedures of a broad pool of regulators and subsequently held discussions with Ofcom, Ofgem, the Financial Conduct Authority, the Gambling Commission, the Environment Agency, the Competition and Markets Authority and the Information Commissioners Office.

[4] A further outcome of the review, in conjunction with our drive for continual improvement, is development of a list of other potential improvements around the PSA's powers, and other procedures, which might further support the Tribunal's robust sanctioning ability, particularly if significant problems remain after the proposed changes have been implemented. These do not form part of this consultation and would be likely to require changes to the Code and/or legislation.

reputation of phone-paid services. Our ultimate goal is to increase compliance standards in the market and to improve the ability of the vast majority of providers who do comply with our Code to compete in a healthy market.

1.13 In February 2017, we held a further workshop with the CAP to outline our initial thinking in relation to proposals to revise the Supporting Procedures. This provided useful feedback which has influenced our approach.

1.14 The next section sets out the proposals in more detail and the reasoning behind them. Whilst we are not consulting on the Supporting Procedures, a copy of the entire document is attached at Annex A to this consultation highlighting the necessary revisions to parts 12, 13 and 14 if the proposals themselves are implemented. Depending on the comments we receive, we will make any changes to the proposals we consider appropriate (having already received feedback from the CAP). We will then update the Supporting Procedures accordingly, reflecting the new decision-making process.

1.15 This consultation sets out a number of questions, and we welcome views from across our range of stakeholders and other interested parties. To provide sufficient time for respondents to comment, we require responses **by 18 May 2017.** This is **8** weeks from the publication date of this consultation. Details on how to respond can be found in Section 4 – Next Steps – of this document.

1.16 Following receipt and appropriate consideration of responses, the Phone-paid Services Authority plans to issue a Final Statement in June 2017.

Section Two - Proposals

Fines

Relevance of provider service revenue

2.1 The primary purpose of gathering accurate information as to the level of revenue received by a service found to operate in breach of the Code is to make sure any sanctions, including any fines, are effective, reasonable, fair and proportionate. Fines may be considered necessary to remove some, or all, of the benefit or profit made from the non-compliant services, and serve as a deterrent against future non-compliant activity being initiated by the party in breach, or by other members of industry intent on operating similar services.

2.2 The level of the penalty must be sufficiently high to have the appropriate impact on the provider at an organisational level. It should incentivise those responsible for the provider's conduct and culture to change the business as a whole and bring it into compliance, achieving this by ensuring changes are made at all levels within the organisation as appropriate. The level of the penalty should be high enough (as appropriate) to discourage bad conduct and non-compliant behaviour and in particular to ensure that those responsible are discouraged from setting up business affairs in a way that seeks to build in costs associated with non-compliance within its wider budget. We also believe that this approach will not interfere with the ability for compliant businesses to be profitable and competitive.

2.3 In light of the issues outlined in the Background section above, we consider that further guidance to the CAP is appropriate, in order to enable them to impose sanctions that are effective. It is our view that the level of revenue received by a provider relating to a non-compliant service is relevant to the process of setting the level of a fine. We believe that penalties should be set at levels, having regard to that revenue, that will have a deterrent impact on the provider and which will provide signals to other providers that misconduct by them will result in similar impactful penalties. As such, the proposed procedure will set out that "it may be appropriate for the Tribunal to set the fine at the level of revenue received by the provider even where the majority of the customer base has not complained to the Executive, where it is of the view that this is necessary to be certain that a provider does not profit from a breach of the Code, and/or to adequately deter providers from serious misconduct (for instance, in cases where a provider did not implement a system which collected adequate evidence of consent to charge)."

2.4 The proposal does not seek to establish a direct linear relationship between the service revenue of a regulated body and the level of the penalty. Whilst a service with a larger revenue might face a larger penalty in absolute terms, a service with a smaller revenue may be subject to a penalty which is larger as a proportion of its revenue, for example. The Tribunal will remain committed to imposing a penalty which is appropriate and proportionate, taking into account all the circumstances of the case in the round together with the objective of deterrence.

2.5 In order to ensure that the sanctions imposed are fair, proportionate and appropriate, we also propose to provide the CAP with guidance on some scenarios when it may be appropriate to depart from consideration of the whole service revenue figure.

Relationship of fines to other sanctions

2.6 The proposed guidance seeks to clarify that a fine should be considered only after a Tribunal has imposed any sanctions which it deems appropriate to remove the risk of ongoing consumer harm and non-compliance with the Code. This is because other sanction types (such as a bar and/or remedy the breach) may be better at obtaining such an outcome. The primary purpose of fines is set out at paragraph 238.

2.7 We also propose to amend the Supporting Procedures at paragraph 173 to more clearly and prominently set out the overall objectives of its sanctioning regime.

Q1 – Do you agree with the proposals to provide the CAP with a revised process for imposing fine sanctions, as set out within the attached Supporting Procedures?

Revenue bands

2.8 When the Executive publishes adjudications, it publishes the revenue band (associated with the breaches upheld) within which the service fell (see Section 14 of the Supporting Procedures). The intention is that this provides some information on why a fine of the specified amount was imposed, but without giving specific details of the service provider's revenue. It may also assist with understanding the scale of market issues identified during an investigation and give insight into the severity of the case.

2.9 The top band (Band 1 - £1,000,000+) is unlimited and could therefore contain providers whose relevant revenue is £1,000,001, as well as providers whose revenue is £2,000,000 or more.

2.10 The Executive has noted that there have been a number of recent cases in which the service provider's revenue has fallen somewhere within the current top band for revenue. Where this is the case, the band information fails to provide assistance with the reader's assessment and understanding of the Tribunal's adjudication. The PSA has considered reviewing the bands themselves; however, whatever figures are used the upper ranges will be less effective at providing the transparency sought.

2.11 When sanctioning the Tribunal takes into account the actual revenue made by a provider, and is not required to pay heed to sanctions imposed in other cases simply because they are in the same "band". However, the Executive is aware that providers pay heed to the published sanctions imposed in other cases in the same bands when assessing whether proposed sanctions (or withholds) are appropriate. The breadth of the top band may lead providers to form mistaken impressions that their revenue is comparable with other cases. The PSA takes the view that it would assist providers, and better inform the public, if the revenue bands were removed altogether and Tribunals were able to comment on the revenue in the published adjudication report.

2.12 The Tribunal would do so with reference to the revenue levels it had considered relevant to its assessment, and in a way that did not become overly specific. The Tribunal may opt to provide information as to the relevant revenue accrued over the full period related to the breaches, and indicate monthly revenue levels as appropriate to report on its decision-making process. Instead of highlighting a band, an adjudication report may instead indicate that "*over £1.2 million revenue was made in the relevant period with monthly revenue frequently in the range of £250,000 - £350,000*".

2.13 The Tribunal may equally wish to observe revenue data associated with a period of time in which it is acknowledged the breaches had ceased to have an impact on consumer purchases. Therefore this narrative approach emphasises the benefit of accurate revenue information for assessing both severity of breaches and any positive impact of remedial steps taken by a provider found in breach.

2.14 Such information may assist the reader of such reports to appreciate the impact on consumers, how many consumers were affected, the need for interim measures if any were taken, and key decisions taken in the case relating to both severity of the breaches and the sanctions imposed. By moving away from bands, the PSA considers the focus will be placed on the decision-making process used in the case at hand, rather than for comparison with other cases dealt with on their own facts.

Q2 – Do you agree with the proposal to replace revenue bands with a description of relevant revenue, as set out within the Supporting Procedures?

Weight to be attributed to previous cases

2.15 Our view is that the level of the penalty imposed by a Tribunal should be tough enough to correct any non-compliant behaviour and to encourage a culture of compliance within all levels of the party in breach and other providers in the industry intent on running similarly non-compliant services. Our concern is that current sanctioning practice has not been sufficiently effective in changing the conduct of some parties in breach in this way.

2.16 As a result, we consider that it is appropriate to clarify that a Tribunal may impose higher penalties than those imposed in previous cases, in order to secure effective deterrence. For example, providers with a larger revenue may be subject to higher penalties in order for a deterrent effect to be achieved, and providers of subscription services may be required to take action in relation to their existing subscriber base where those subscribers may have been impacted by a breach.

2.17 The revised guidelines are intended to provide a Tribunal with the flexibility to impose higher penalties in appropriate cases, and to clarify that penalties a Tribunal has previously imposed should not be seen as placing upper thresholds on the amounts of penalties it may impose in subsequent cases.

Descriptors and examples of seriousness

2.18 As part of its process in determining sanctions, a Tribunal apportions a seriousness rating to each breach. The possible ratings set out in the Supporting Procedures are "minor", "moderate" "significant", "serious" and "very serious". Typically, more serious cases will attract more severe sanctions.

2.19 When assessing the seriousness of a particular breach the Tribunal will consider the procedure at pages 51-57 of the existing Supporting Procedures. There are descriptions of the different nature/impact of breaches which fall into each of the five categories, and also more specific examples of conduct which could fit these descriptions.

2.20 The CAP indicated that the guidance at these pages could be clearer. In particular, they raised some examples of misconduct which appeared in more than one category. They

indicated that the guidance could be clearer on which conduct fell into what particular category of seriousness. We have considered the ways in which we can provide greater clarity around how to assess the seriousness of breaches, taking into account the feedback of the CAP. Our view is that clarity can best be achieved by making appropriate minor amendments to the descriptors, and by providing interpretive guidance to the descriptors in the form of a range of factors which may be relevant to each descriptor (organised as factors relevant to the impact and nature of the breach and the state of mind of the party in breach). Our view is that these changes will be sufficient to enable the CAP to more confidently assess the seriousness of breaches on a case by case basis, whilst maintaining consistency of approach.

2.21 The descriptors have been amended to better distinguish between the behaviours exhibited by parties in breach. Where the nature and/or impact of a breach is not overly serious or where the non-compliance is 'inadvertent', the case is likely to fall lower on the seriousness scale (minor or moderate depending on other factors), whereas negligence may be mid-way up the scale. Intentional breaches or those that result from recklessness are likely to fall at the upper levels of seriousness. Previously, negligence may not have been distinct enough from recklessness but this has now been addressed by the amendments.

2.22 We consider that the amended descriptors and the new interpretive factors aimed at assisting with seriousness categorisation are much clearer (see paragraphs 184 to 192, including information set out on pages 52–56 of the annexed Supporting Procedures).

2.23 The current lists of examples accompanying the descriptors (which are based upon previous Tribunal decisions) do not contain the detail and context of those decisions, and may not reflect the passage of time or regulatory and industry developments. Further, subsequent cases often differ significantly from the examples listed. The examples were originally intended to serve as an aid to consistency and were initially created for the Investigations and Sanctions Procedure that was in force at the commencement of the 12th Edition of the Code, as there were no useful precedent cases for the Tribunal at that time. We believe that with the passage of time the examples have become of very limited assistance. We have also noted that, of the regulators we approached, none made use of examples in order to assess seriousness, instead placing reliance as appropriate on actual precedent cases. We therefore intend to remove the list of examples at pages 51-57 of the current Supporting Procedures.

Q3 – Do you agree with the proposal to amend the wording of the Descriptors and introduce supporting interpretive factors, as set out within the attached Supporting Procedures?

Process for setting sanctions

2.24 When considering what sanctions to impose (bearing in mind the facts of the case, and other relevant factors such as relevant service revenue and mitigating and aggravating factors) the Tribunal has previously followed the procedure set out in diagram form at page 46 of the current Supporting Procedures.

2.25 The PSA has the power to impose a fine of up to £250,000 per breach (as clarified by s.80 of the Consumer Rights Act 2015). At present, the Supporting Procedures do not contain any guidance in the scenario where there are multiple breaches and the Tribunal determines that it is appropriate to impose fines on a per breach basis (rather than a per case basis) up to the statutory maximum. In light of the factors discussed in

the Background section above and at paragraphs 1.6, 1.7 and 1.8, the Tribunal moving forward may decide to impose fines on a per breach basis more often than has previously occurred (where there is more than one Code breach upheld).

2.26 Noting this, the Executive is of the view that the current sanctioning process is not optimal. The existing procedure states that the severity of the breaches is to be aggregated and that factors which may require sanctions to be adjusted for proportionality (such as mitigating and aggravating factors, and the need for sanctions to be sufficient to deter providers from breaching the Code) are considered before the question of appropriate sanctions for the breaches.

2.27 The proposed changes seek to make it more explicit that all factors relevant to the consideration of proportionality (for example overlapping breaches, aggravating and mitigating factors, refunds already provided to consumers and the financial effect of other sanctions imposed) are taken into account by the Tribunal in assessing the appropriate sanctions, including the need for deterrence.

2.28 In addition, the current procedure is not sufficiently clear that the Tribunal is able to adjust sanctions flexibly, based on the weight it gives to particular mitigating or aggravating factors. The current Tribunal process focusses more on revision of the "overall seriousness" of a case where mitigation or aggravation is found. The proposed changes also address this concern.

2.29 In light of this, the Executive is of the view that the proposed changes, as summarised below, will make the process clearer and more transparent, and assist the Tribunal in making more effective use of their sanctioning powers:

a) After the assessment of the severity of each breach a stage is added whereby the Tribunal determines the appropriate provisional sanctions based on the facts of each breach;
b) The need for an initial overall assessment of seriousness of the case at this stage is removed;
c) Mitigating and aggravating factors can be applied to specific breaches where appropriate to do so;
d) The stage at which the provisional sanctions may be adjusted based on factors relevant to proportionality (including mitigating and aggravating factors, the revenue generated by the service, the overall case seriousness, and the need for sanctions to act as a sufficient deterrence) is made explicit.

Q4 – Do you agree with the proposal to revise the process by which the Tribunal arrives at the appropriate sanctions for a case, as set out within the attached Supporting Procedures?

Transitional provisions

2.30 The PSA proposes that the CAP should be able to take account of the revised guidance in the Supporting Procedures in respect of any matters for which Warning Notices were served after the publication date of the revised Supporting Procedures.

2.31 Having a clear point at which the revised procedure can be applied enables certainty and consistency in decision-making. It will also make it easier to compare outcomes, and to assess the impact of the revised guidance over time.

2.32 The PSA had considered implementation of the procedure with immediate effect for all cases (including cases in which a provider has already responded to a Warning Notice), but is not recommending this due to the inconsistency of outcome that may result given the different investigation or enforcement stages cases will be at. The PSA believes that the benefits stated in paragraph 2.31 above will be achieved with the proposed approach, and providers will be able to take account of the new procedure when making proposals on sanctions ahead of a Tribunal hearing, in accordance with the Warning Notice procedure introduced in the 14th Code of Practice.

2.33 The PSA recognises that the proposed approach will result in some breaches which were committed prior to publication of the revised Supporting Procedures being sanctioned under the new procedure. The PSA does not take the view that this will result in unfair prejudice, for the following reasons.

2.34 Firstly, it is assumed that providers have not taken into account the sanctioning practices of the Tribunal before committing breaches of the Code (and insofar as they did do so, for instance to ascertain if they could make a net gain notwithstanding a Tribunal's sanctions, then the PSA takes the view that it is likely to be proper to apply different sanctions to those expected by the provider).

2.35 Secondly, pursuant to the Warning Notice procedure introduced in the 14th edition of the Code of Practice, a provider is informed of the Executive's recommendations on sanction, and has the opportunity to make submissions on sanctions (without admitting liability) prior to a hearing. Should a provider wish to make a submission that a sanction assessed in accordance with the revised procedure is not appropriate due to an individual prejudice they suffer, they are able to do so. If the matter is not settled in accordance with the consent process, the Tribunal will take account of any such submission when reaching a decision on sanctions.

2.36 Thirdly, the changes proposed do not introduce any new powers for the Tribunal that they did not have prior to the revisions. The Code of Practice remains unchanged. The revised procedure is merely intended to improve support for the Tribunal when making decisions on sanctions. The Tribunal uses its discretion when applying the procedure, acting appropriately in each case.

Q5 – Do you agree with the proposal for commencement of the new decision making process set out in the Supporting Procedures?

Section Three - Impact

3.1 Given that the changes apply to the breach seriousness and sanctioning outcomes only, we expect that in general the costs of investigations will be largely unchanged by the new proposals, and that the costs of a Tribunal hearing will not differ significantly from the current position.

3.2 We do not consider that there will be any compliance costs to industry associated with the proposals, but it is possible that providers may wish to incur costs in seeking legal representation where they are facing more robust sanctions. The decision to seek such legal advice would be one for the provider to make in each case, and in our view is not a good reason in itself to hold back the proposals.

3.3 There is also a possibility that the imposition of more robust sanctions in appropriate cases will lead to an increased incentive for providers to review the findings of the Tribunal and the sanctions imposed. However, we expect any increase in the number of reviews will be counter balanced by the greater clarity and certainty these proposals will provide regarding the CAP's approach to sanctioning, together with various efficiencies to be gained, such as:

- Costs savings in the reduced number of cases being investigated and/or re-investigated due to the deterrent effect of robust sanctions resulting from the proposed changes;
- Efficiency savings in post-adjudication work arising as a result of clearer and more enforceable non-financial sanction outcomes; and
- Efficiency savings arising from a decrease in complaints received by PSA due to the general and specific deterrent effect of more robust sanctions resulting from the proposed changes.

Q6 – Do you agree with our assessment of the potential impacts both on the Phone-paid Services Authority and providers? Do you have any further information or evidence which would inform our views?

Section Four - Next Steps

4.1 From this point, we aim to gather stakeholder feedback, especially from the CAP, industry members, Ofcom and consumer representatives, for the purpose of improving the proposals and finalising Supporting Procedures that receive significant support.

4.2 The Phone-paid Services Authority welcomes responses to the questions set out in this document by no later than **18 May 2017**. This means the deadline for responses will be 8 weeks from the publication of this paper. This also allows us to fully consider any comments that stakeholders may have. We aim to publish a revised version of the final Supporting Procedures in June 2017, supporting the Executive and CAP with any implementation requirements that flow from this project.

4.3 Responses should be submitted by email to Kelly German kgerman@psauthority.org.uk. Copies can also be sent by mail to:

Miss Kelly German

In-House Counsel
Phone-paid Services Authority
25th Floor
40 Bank Street
Canary Wharf
London E14 5NR

Confidentiality

4.4 We plan to publish the outcome of this consultation and make all responses available in due course. If you want all or part of your submission to remain confidential, you must make a specific request for this, along with the reasons for making this request.

List of questions in the document

Q1 – Do you agree with the proposals to provide the CAP with a revised process for imposing fine sanctions, as set out within the attached Supporting Procedures?

Q2 – Do you agree with the proposal to replace revenue bands with a description of relevant revenue, as set out within the Supporting Procedures?

Q3 – Do you agree with the proposal to amend the wording of the Descriptors and introduce supporting interpretive factors, as set out within the attached Supporting Procedures?

Q4 – Do you agree with the proposal to revise the process by which the Tribunal arrives at the appropriate sanctions for a case, as set out within the attached Supporting Procedures?

Q5 – Do you agree with the proposal for commencement of the new decision making process set out in the Supporting Procedures?

Q6 – Do you agree with our assessment of the potential impacts both on The Phone-paid Services Authority and providers? Do you have any further information or evidence which would inform our views?