

PhonepayPlus Guidance and new Special Conditions associated with the 13th edition of the Code of Practice – Channel 4 Response

Guidance: Q.1 to Q.9

Q.1: Do you agree or disagree with the initial determinations set out in the above table (pages 10-12)? Please provide reasons for your response.

A1. We are in agreement with the initial determinations.

Q.2: What further changes to current guidance or additional guidance do you consider necessary in future? Please provide supporting evidence for your response.

A2. Aside from Broadcast PRS we don't consider that we have enough experience of other areas of the industry to suggest further changes or additional guidance.

Q.3: Do you consider the proposed alterations to guidance on DDRAC to be helpful and effective for improving compliance standards and developing appropriate procedures to meet Code obligations? Please provide some evidence in support of your response.

A3. We do consider the structural changes to the guidance on DDRAC to be helpful and believe they clearly demonstrate PhonepayPlus' expectations as to how each of these should be performed in advance of a service going live and throughout the duration of the service.

Q.4: Do you consider the proposed alterations to guidance on promotions to be helpful and effective for improving compliance standards and managing advertising campaigns in keeping with the Code? Please provide some evidence in support of your response.

A4. The overall approach is fine although some of the information is not consistent with wording previously agreed by the broadcasters with Ofcom and this could lead to confusion. The table in 3.6 contains wording that is inconsistent with the wording Ofcom included in their statement published on 27 April 2015 on The Use of Non-Geographic Numbers in Broadcasting (point 3.69 on page 20). Ofcom have approved the use of *Calls cost Xp plus your network access charge* or *Calls cost Xp plus your phone company's access charge* for broadcast services. The revised guidance omits *network* or *phone company* and you have put *Access Charge* in inverted commas. We would welcome clarification on acceptable example call cost wording taking the above Ofcom wording into consideration. We understand that you are already aware that the wording included for standard per minute PRS or single drop charge during a Broadcast event is incorrect and needs to be amended.

Point 6.2 requires any webpage that promotes PRS to have all key Terms & Conditions above the fold of that same page and consumers should not have to scroll down to view key terms including but not limited to the price. We would question how achievable this would be without making the font size so small it would be illegible to some consumers, including those who may be viewing the Terms on a mobile device. We believe it would be more practical to make it a requirement for all key information to be on the same page as the PRS promotion and consumers should not have to click a link and be taken to another page for this key information.

Q.5: Do you consider the proposed alterations to guidance on complaint handling to be helpful and effective for improving compliance standards and developing appropriate procedures to meet the relevant outcome in the Code? Please provide some evidence in support of your response.

A5. We have no comment on this.

Q.6: Do you consider the proposed alterations to guidance on lower cost services to be helpful and effective for improving compliance standards and understanding our approach to regulating these services? Please provide some evidence in support of your response.

A6. We have no comment on this.

Q.7: Do you consider the proposed alterations to guidance on definitions to be helpful, in particular providing an insight into the occasions when PhonepayPlus will make a determination under paragraph 5.3.8(c)? Please provide some evidence in support of your response.

A7. We have no comment on this.

Q.8: Do you consider the proposed alterations to guidance on establishing consent to be helpful and effective for improving compliance standards and developing appropriate procedures to meet Code obligations relating to PRS charges and privacy? Please provide some evidence in support of your response.

A8. We have no comment on this.

Q.9: Do you consider the proposed alterations to guidance on virtual chat services to be helpful and effective for improving compliance standards and developing appropriate mechanisms to meet Code obligations? Please provide some evidence in support of your response.

A9. We have no comment on this.

Special conditions: Q.10 to Q.23

Q.10: Do you agree or disagree with our assessment of prior permission regimes and the proposed options relating to the transposition of provisions into the Special conditions framework under paragraph 3.11 of the 13th Code? Please provide evidence in support of your response, as appropriate.

A10. We agree with the majority of your assessment of prior permission regimes however we have comments relating to the definition of HRPRS (see A.14 below).

Q.11: Do you agree with our assessment of this service type and the proposed set of Special conditions for Broadcast PRS? If not, why? Please provide evidence in support of your response.

A11. Yes we agree with your assessment however we would seek clarification from PhonepayPlus of the circumstances for staff visiting Channel 4 premises. Ofcom made it a licence requirement back in 2008 that all broadcasters must have third party verification processes in place in advance of running any premium rate service and spot checks by Ofcom are permitted as part of third party verification. Would a visit by PhonepayPlus be independent of any visit by Ofcom?

Q.12: Do you agree with the proposed amalgamation of prior permission regimes and the proposed new structure for imposing Special conditions relating to live services? If not, why?

A12. We have no comment on this.

Q.13: Do you agree with the proposed Special conditions for live services? If not, why? Please provide evidence in support of your response.

A13. We have no comment on this.

Q.14: Do you agree with our proposal to abolish the previous prior permission regimes and create new Special conditions encompassing all HRPRS as set out in the proposed notice? If not, why? Please provide evidence in support of your response.

We strongly disagree with your proposal to abolish previous prior permission regimes and create new conditions that encompass all HRPRS. Your revised definition of a HRPRS will encompass a lot of the competitions that Channel 4 will be promoting post 1st July 2015. We recognise that these services will more than likely use one of the new higher rate tariffs available but we do not consider these services to be high risk or at a rate that is exceptionally high. We believe a high rate and high risk service would be for example a live entertainment service which is charged per minute and the caller is likely to remain on the line for some time. We believe a broadcast competition charged at more than £1.53 per entry is not high risk or high rate, and we note with interest that your definition does not deem a text charged in excess of £1.53 to be a HRPRS. All Ofcom television broadcasting licences contain a condition that licensees implement and maintain a system to verify the proper handling of premium rate telephone communications. We do not believe this revised definition recognises third party verification or all the work that broadcasters currently undertake to mitigate the risks of any broadcast premium rate service. We would like to see this definition be related to what we believe to be high risk services and those that cost the consumer significantly more than a nominal value of £1.53.

We note that there is a requirement for pre-charge in-call announcements but we have been advised by colleagues in the industry that it is technically impossible for all networks to provide this. We do not have enough experience in this area to offer any evidence that this is the case but we would question this requirement given all the work that Ofcom have undertaken in their NGCS work and the revised call cost wording post 1st July 2015 which aims to make it clearer to callers before they interact with a service how much that service will cost them.

Q.15: Do you agree with our assessment of this service type and the proposed set of Special conditions for ICSS? If not, why? Please provide evidence in support of your response.

A.15. We have no comment on this.

Q.16: Do you agree with our proposal to continue to apply all Special conditions to all ICSS, including those operating on lower cost number ranges? If not, why? Please provide evidence in support of your response.

A.16. We have no comment on this.

Q.17: Do you agree with the proposed amalgamation of counselling advice services within the broader scope of professional services, and the Special conditions proposed in relation to this category of services? If not, why? Please provide evidence in support of your response.

A.17. We have no comment on this.

Q.18: Do you agree with our assessment of this service type and the proposed set of Special conditions for Pay per view services? If not, why? Please provide evidence in support of your response.

A.18. We have no comment on this.

Q.19: Do you agree with our assessment of this service type and the proposed set of Special conditions for Call TV Quiz services? If not, why? Please provide evidence in support of your response.

A.19. We have no comment on this.

Q.20: Do you agree with our assessment of this service type and the proposed set of Special conditions for Remote Gambling services? If not, why? Please provide evidence in support of your response.

A.20. We have no comment on this.

Q.21: Do you agree with our assessment of this service type and the proposed set of Special conditions for Subscription services? If not, why? Please provide evidence in support of your response.

A.21. We have no comment on this.

Q.22: In light of the changes to the Code, do you agree with our proposal to introduce a separate set of Special conditions for subscription services where it is a Recurring Donation service? If not, why not?

A.22. We have no comment on this.

Q.23: Do you agree with our assessment of this service type and the proposed set of Special conditions for Recurring Donation service? If not, why? Please provide evidence in support of your response.

A.23. We have no comment on this.

Q.24: Do you agree with our assessment of this service type and the proposed set of Special conditions for Voice-based, Text charged services? If not, why? Please provide evidence in support of your response.

A.24. We have no comment on this.

Impact Assessment: Q.25 to Q.26

Q25: Do you agree with our assessment of the impact which proposed changes to Guidance, and Special Conditions Notices, will cause? If not, why? Please provide any evidence in support of your response.

A.25. See answer 14 above.

Q26: Do you have a view as to whether any increased outpayment withhold period for Higher Rate PRS should be 45 or 60 days, or a different length? Please provide any evidence in support of your response.

A.26. We have no comment on this.