



Guidance Development

A PUBLIC CONSULTATION

Issued by PhonepayPlus on 16 February 2016

Deadline for responses 11 April 2016

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Executive Summary

1.1 PhonepayPlus is the independent regulator of premium rate services (PRS) in the UK. Our aim is to provide effective and proportionate regulation that builds consumer trust and confidence in a healthy and innovative market. We seek to achieve this through the development and enforcement of the PhonepayPlus Code of Practice, along with assistance to industry through published Guidance and the availability of compliance advice on request.

Developing the suite of Guidance

1.2 This consultation considers our ongoing review of Guidance offered by PhonepayPlus and sets out proposals to modify current Guidance or introduce new Guidance. We consider these proposals to be appropriate given the current issues in the market and the priorities set for us as a regulator in dialogue with the industry we serve. This review has considered both:

- the expectations set by PhonepayPlus within the regulations; and
- the manner in which Guidance and compliance advice is presented on our website.

1.3 As part of our ongoing review, we have considered when Guidance is necessary or appropriate, and in particular considered when it was justifiable to issue Sector Specific Guidance (previously referred to as Service-Specific Guidance¹).

1.4 The Guidance Development Project that has led to this consultation involved a widespread review of current Guidance, considering each piece of Guidance and considering whether it requires amendment. Scoping activities during the review period involved close dialogue with industry representatives to test our own analysis of the current suite of Guidance.

1.5 Our assessment acknowledges that some Guidance has only been developed very recently, including those published following consultation in July 2015. Also, Guidance has been developed over recent years with an understanding of industry dynamics and the objective of being future-proof. Where our review has found this to be successful, we have considered retaining Guidance where possible as this can achieve greater familiarity and confidence in the market.

1.6 The five pieces of Guidance that have been amended or developed afresh relate to:

- i. Advice services²;

¹ Feedback from industry suggested some confusion that 'service-specific' suggests something that is too individualised. The Guidance offered is in fact designed to assist a range of services operated by different PRS providers within a specific 'sector'.

² Previously PhonepayPlus had withdrawn Guidance on this topic when the new Special conditions took effect as from 1 July 2015. However, on further review it was decided to introduce new amended Guidance on this topic to assist PRS providers in this sector of the market.

- ii. Digital marketing and promotions;
- iii. Enabling consumer spend control;
- iv. Method of exiting a service;
- v. Subscription services.

- 1.7 It is noteworthy that there was detailed consideration of the Guidance on Application based payments and a review of the withdrawal of Guidance on Live services. In section 2 we outline what our approach is in relation to these areas even though our conclusion was not to change the former Guidance and not to reintroduce Guidance on the latter topic.
- 1.8 At the outset of this project, Guidance on addressing vulnerability was considered as part of the review in tandem with a separate policy work stream dedicated to the matter. Following initial consultation with industry and other stakeholders, we have decided to decouple the vulnerability Guidance from the Guidance Development Project. We intend to consult industry formally with proposals later in March 2016.
- 1.9 This consultation paper sets out our reasons for proposing the new or modified pieces of Guidance, with draft versions of each Guidance published as an annex to this document.
- 1.10 The five pieces of Guidance listed at paragraph 1.6 have a ratio for General Guidance to Sector Specific Guidance of 3:2. If all these are adopted in some form following consultation it would bring the ratio across the full suite of Guidance also to 3:2. Under an outcomes-based approach to regulation we consider this to be appropriate.
- 1.11 It is likely that additional Guidance that is general and supportive of a range of PRS will continue to be necessary to drive up compliance standards, legal certainty, and confidence in the market. PhonepayPlus is more circumspect about introducing Sector Specific Guidance believing this to be inevitably more prescriptive and capable of having an impact on service developments and innovation.
- 1.12 In this consultation we assess the need for Sector Specific Guidance based on the following principles:
- There is evidence of issues affecting a specific market sector that warrants consideration of an industry response to improve standards and reduce actual and potential consumer harm; and / or
 - The current suite of Guidance does not appear to be effective in addressing such market issues or improving compliance standards; and / or
 - There are multiple PRS providers that appear to be acting in breach of the Code, thereby requiring a complex series of cases to enforce the Code; and / or
 - Previous enforcement action has not been effective in reducing consumer harm and / or improving compliance standards; and / or

- There is evidence of a lack of clarity or understanding of compliance standards and PhonepayPlus expectations, including but not restricted to repeat requests for compliance advice relating to a specific service type.

How to respond to this consultation

- 1.13 PhonepayPlus invites all stakeholders to consider the proposed Guidance. We welcome feedback on our general approach to the development of Guidance. What would be particularly helpful are specific comments on the expectations set out in Guidance and the potential impact of changes to our website to make Guidance more accessible.
- 1.14 To help gather informed responses, we recommend respondents consider early engagement with PhonepayPlus during this consultation period to raise any questions or discuss any aspects of these proposals. Such positive engagement can feed into further written responses to the consultation later in the process.
- 1.15 Section 4 of this document outlines how to contact us during the consultation, as well as how to submit feedback along with evidence in support of your views. The deadline for responses is **Monday, 11 April 2016**.

Guidance Proposals

- 2.1. On 1 July 2015, PhonepayPlus launched its new Code of Practice, the 13th edition. This new Code made some changes to obligations and expectations placed on the industry. Yet much of the Code remained familiar to industry members. This was reflected in the fact that much of the Guidance published in association with the 12th edition of the Code did not require immediate alteration or renewal.
- 2.2. PhonepayPlus published a statement on new Guidance on 1 July 2015, along with new Notices of Special conditions, following a public consultation. At that time, the amended Guidance was required so as to be in alignment with the non-geographic call services policy developments and new tariff structure. These included seven pieces of General Guidance³ and one piece of Sector Specific Guidance⁴.

Reasons for updating Guidance in 2016

- 2.3. All current Guidance is kept under review over time to ensure it is clear, fit for purpose, and effective in assisting the development of PRS and the delivery of high compliance standards in the industry. During this period of review, all 18 current pieces of Guidance available on the PhonepayPlus website since July 2015 have been assessed. This follows a similarly broad review of Guidance published under the 12th Code, which had been undertaken between April 2014 and May 2015.
- 2.4. As part of this ongoing process we welcome further input from industry relating to any Guidance not considered at this time. This input may provide evidence that current Guidance is fit for purpose, or highlight questions or doubts as to the strength of particular pieces of Guidance that may warrant further attention in due course.
- 2.5. The five pieces of Guidance that have been amended or developed afresh following this review relate to:
 - i. Advice services⁵;
 - ii. Digital marketing and promotions;
 - iii. Enabling consumer spend controls;
 - iv. Method of exiting a service;
 - v. Subscription services.
- 2.6. The proposals would bring the full suite of Guidance to 20 items. The table found at **Annex A** to this paper outlines our thinking on the question of whether to update the current Guidance now in relation to all 20 items. The eight pieces of Guidance

³ General Guidance on '*Due diligence, risk assessment and control (DDRAC)*', '*Promoting PRS*', '*Complaint handling*', '*Lower cost services*', '*Definitions, including parties in the value chain*', '*Privacy*', and '*Consent to charge*'

⁴ Sector Specific Guidance on '*Virtual chat services*'

⁵ Previously PhonepayPlus had withdrawn Guidance on this topic when the new Special conditions took effect as from 1 July 2015. However, on further review it was decided to introduce new amended guidance on this topic to assist PRS providers in this sector of the market.

developed in consultation within industry stakeholders in 2015 are considered to remain fit for purpose. Later in this section of the consultation paper we look at the proposals in more detail relating to the five items listed above. We also provide further consideration of ‘*Application based payments*’ and ‘*Live services*’.

- 2.7. At this stage in the review process, PhonepayPlus invites respondents to consider the full suite of Guidance tabulated at **Annex A** and provide feedback on our determinations. Please provide us with any specific evidence you hold that justifies further amendments to Guidance not dealt with here below. We will consider such responses as we continue to build a strong and effective suite of Guidance over time.

Q.1: Do you agree or disagree with the initial determinations set out in the table at Annex A?

Q.2: What further changes to current Guidance or additional Guidance do you consider necessary in future?

In responding to these and all subsequent questions, please state your reasons and provide evidence to support your views.

PhonepayPlus approach to developing Sector Specific Guidance

- 2.8. By its very nature, Sector Specific Guidance tends to be reactive to market issues as opposed to proactive in offering clarity around Code requirements. Given specific issues are often being addressed when such Guidance is originally decided upon and developed, it can be more prescriptive than General Guidance. However, PhonepayPlus retains faith in the outcomes-based approach to regulation set up in the Code of Practice.
- 2.9. For this reason, PhonepayPlus considers there must be a strong rationale for the adoption, and retention, of Sector Specific Guidance. As part of the Guidance Development Project, we have looked at what might lead to such a determination. Any determination will be made with consideration of paragraph 1.5.1 of the Code, which indicates Guidance is to assist PRS providers in relation to “*how the required rules will be expected to apply*” to them and the services they operate.
- 2.10. We consider the following warning indicators establish a strong basis for assessing whether Sector Specific Guidance would be appropriate:
- There is perceived complexity within the regulatory framework for any given sector of the PRS industry, highlighted by the rules themselves or by industry feedback; and / or
 - There is evidence of issues affecting a specific market sector that warrants consideration of an industry response to improve standards and reduce actual and potential consumer harm; and / or
 - The current suite of Guidance does not appear to be effective in addressing such market issues or improving compliance standards; and / or

- During an investigation or series of cases associated with a market issue, there may be reason to develop Guidance to respond to the matters raised; and / or
- Previous enforcement action has not been effective in reducing consumer harm and / or improving compliance standards; and / or
- There is evidence of a lack of clarity or understanding of compliance standards and PhonepayPlus expectations, including but not restricted to repeat requests for compliance advice relating to a specific service type.

2.11. Where one or more of these warning indicators are observed by PhonepayPlus, we will still consider whether Guidance is likely to be effective in directing relevant PRS providers to improve services. This may be by way of implementing the Guidance directly or finding alternative means of achieving the same outcomes based on an understanding of the Guidance. To that end, PhonepayPlus will look to develop Guidance that explains the desired objectives, making it clear that there may be more than one way to comply with Code requirements. This approach ought to reduce prescriptive instructions appearing within Guidance in support of an outcomes-based Code.

2.12. PhonepayPlus will give consideration to any requests made by industry representatives for further assistance in the form of Guidance. PRS providers are invited to raise issues or enquiries with our Industry Services staff using the compliance@phonepayplus.org.uk email account. Alternatively issues may be raised through the Industry Liaison Panel or one of our Industry Forum events.

Answering consultation questions on proposed Guidance (Q3 to Q9)

2.13. While PhonepayPlus has separated out our reasoning for amending Guidance under the various headings below, the questions we ask are the same for each piece of Guidance. Please consider the following when you read the sub-sections within this consultation paper, beginning with advice services, and the annexes containing the draft Guidance. **When responding to consultation questions 3 to 9 in turn, your considerations relating to these matters will be useful to us in finalising Guidance:**

- Is the level of information provided in the Guidance sufficient?**
- Are the expectations expressed in Guidance confusing or likely to cause difficulty to business when complying with the Code?**
- Is there anything extra in terms of the Guidance that could assist industry when offering high quality PRS?**

Guidance on advice services

2.14. The Guidance (**Annex B1**) has been updated with a view to adding clarity and to aid industry understanding of PhonepayPlus' expectations concerning the provision of advice services, including details as to when Special conditions will apply. Where Guidance relates to the provision of professional advice services, which are subject to

Special conditions, the relevant sections will mirror existing Guidance set out by other recognised, authoritative bodies in that sector to ensure consistency.

- 2.15. Whilst the Guidance has had some revision, the overall expectations for industry have not changed. The Guidance should be viewed as a tool to assist providers in their due diligence obligations, and to educate new entrants to the market by setting out their responsibilities and PhonepayPlus' expectations by removing any potential ambiguity that may have existed concerning the applicability of Special conditions, and the information to be provided during the promotion and operation of all services offering advice on any topic.
- 2.16. The updated Guidance is intended to clearly separate the two types of advice service, general and professional, and be easier for all audiences to engage with through a simple structure and clear signposting to other regulators or recognised bodies, where appropriate.
- 2.17. It is intended that the Guidance will bring significant benefits to industry members at both Level 1 and Level 2 within the value chain; it will highlight what is expected for certain areas of advice so that Level 2 providers are aware of their responsibilities in the provision of a service, and to allow Level 1 providers to have a clear framework of expectations for their DDRAC obligations for new and existing clients operating in this sector, enabling a quicker assessment of whether or not Special conditions will apply. In terms of costs, it is not anticipated that there will be any additional cost to industry over and above what already exists, as Code requirements have not changed and the updated Guidance recommends nothing additional to existing obligations, but seeks to clarify the applicability of the relevant Special conditions and Code requirements.

Q.3: Do you consider the proposed alterations to Guidance on advice services to be helpful and effective for improving compliance standards and developing appropriate procedures to meet Code obligations?

Guidance on digital marketing and promotions

- 2.18. The expectations of this piece of Guidance regarding affiliate relationship management and risk control remain unchanged. The list of digital marketing practices also remains unchanged as these practices are still prevalent, however the structure and tone of the Guidance note has been updated.
- 2.19. The digital marketing and promotions Guidance was originally created as a reaction to widespread issues in the market leading it to focus on non-compliant models of marketing. This led some to read it negatively, perceiving the tone as unhelpful in engaging PRS providers. We have therefore attempted to revise the tone of this piece of Guidance recognising that many of the digital marketing practices can be undertaken in a legitimate manner capable of complying with the Code and also providing positive, proactive Guidance.
- 2.20. The current digital marketing Guidance note is lengthy, providing Guidance and eight detailed examples of non-compliant practices. With the intent of making this piece of

Guidance more accessible and easy to understand, it has been separated into Guidance and the detailed examples of non-compliant practices now form an annex. This also means the examples can be more easily updated to take account of developments in technology if necessary.

- 2.21. Lastly the addition of the annex should allow providers to seek the Guidance needed to enable them to create digital marketing campaigns with confidence, and navigate between the Guidance section and examples of non-compliant practices more easily. The new Guidance is found at **Annex B2**.

Q.4: Do you consider the proposed alterations to Guidance on digital marketing and promotions to be helpful and effective for improving compliance standards and managing advertising campaigns in keeping with the Code?

Guidance on enabling consumer spend controls (excessive use)

- 2.22. Enabling consumer spend control is an entirely new piece of Guidance – the document can be found at **Annex B3**. Industry feedback has often noted a lack of clarity in relation to the interpretation of Rule 2.3.6 of the Code, and how PhonepayPlus might apply the ‘excessive use’ provision within the Code. The new Guidance aims to address this uncertainty. Rule 2.3.6 of the Code states:

2.3.6

Level 2 providers must take reasonable and prompt steps to identify excessive use of its service or services by any consumer and to inform the relevant consumer of that usage.

- 2.23. The new Guidance is intended to offer a number of examples which may indicate excessive use by a consumer, and suggest flags that may be put in place by providers to assist them in acknowledging those examples. It goes on to outline the types of action necessary to meet their obligations set out in the Code. In addition to these examples, Guidance is also intended to offer suggestions on how to identify incidents of and mitigate the risks associated with excessive use, together with recommendations for handling consumers who have complaints related to excessive use. With this in mind, it is likely that many providers will already have similar processes in place, and Guidance will serve to give additional confidence in their established methods.
- 2.24. The new Guidance does not place any new expectations or responsibilities upon industry members, but seeks to assist them in meeting those obligations set out in the Code. The Guidance offers examples and suggestions to mitigate the risks associated with excessive use, and how to manage incidents of excessive use; this in turn highlights PhonepayPlus’ view of a certain standard which should be met. The Guidance seeks to equip industry members with a degree of clarity that was absent previously. As above, many providers will already have in place systems which are similar to those examples set out in Guidance, and this will be reassuring, but the new document is intended also to benefit new entrants to the market who may be unsure of how to interpret the relevant Code provisions, or what processes they should implement.

2.25. The new Guidance is structured to allow it to be simple to follow and easily accessible for industry members, regardless of their experience or degree of knowledge in the market. It highlights the relevant Code provision and its purpose. Following on from this, the Guidance indicates what may be considered excessive use, and what triggers providers may put in place to signify an appropriate point to take action and/or contact the consumer. In addition, the Guidance continues to make some recommendations of steps that providers can take to mitigate the risks associated with excessive use, and is finished with examples linked to managing incidents of excessive use and handling complaints from dissatisfied consumers.

2.26. There are no major additional costs to industry members foreseen by PhonepayPlus; the expectations and responsibilities have not changed and are not new. As noted above, many providers will already have in place systems and processes similar to the examples given within the document, but the added clarity will hopefully address an ambiguity that, in some cases, may have hindered providers in the past.

Q.5: Do you consider the proposed new Guidance on enabling consumer spend control to be helpful, in particular providing an insight into the requirements set out in Rule 2.3.6 of the Code?

Q.6: Are the options given in the Guidance relating to methodology for identifying 'excessive use' suitable in offering PRS providers assistance with the development of tools that comply with Rule 2.3.6 of the Code? Please explain any concerns and provide alternative options based on your knowledge and experience.

Q.7: Are the suggested means of providing information to consumers effective and does the Guidance equip PRS providers to comply with this requirement under Rule 2.3.6 of the Code?

Guidance of method of exit from a service

2.27. Guidance on method of exit from a service (**Annex B4**) has been updated to reflect changes in technology, the greater use of app-based services and other methods of access to various PRS, including the increased take-up of 4G mobile broadband services enabling greater/faster consumption of content via mobile devices. The updated Guidance reflects an effort to future-proof the Guidance, whilst allowing space for innovation and development by emphasising the basic principle that there should always be a simple, easy and free means of terminating a service and ending associated charges, however the service is accessed.

2.28. It should be noted that expectations placed upon industry members have not changed, and that this principle has been in place for many years. Updating the Guidance enables PhonepayPlus and industry members to ensure that expectations are clear as the market experiences technological developments and innovation; and this is reflected in the Guidance.

2.29. The structure of the updated Guidance is intended to be simple to understand, easily accessible and clear to all audiences. The obligations set out in the Code are

confirmed, and various examples are given alongside, and in support of the overarching principle to bring clarity and offer assistance to providers, whilst allowing a degree of flexibility in the implementation of the Code requirement.

- 2.30. Given the Code requirement remains the same, the changes focus on PhonepayPlus' approach seeking improved dialogue with industry. There is a degree of change in moving to understand and facilitate new, or more popular methods of exit, as appropriate in the light of technological change and development. In addition to this, the subtle changes are intended to enable a degree of flexibility in how providers implement and make users aware of the method(s) of exit available to them, and make sure Guidance is less restrictive as new technology emerges and consumers become more familiar with service functionality. Examples of this include sections relating to in-app services and the use of the SKIP command. In addition, efforts have been made to reduce the size of the document and remove some repetitive parts.
- 2.31. It is PhonepayPlus' view that there will be no additional costs to industry; but there will be benefits, which lie in offering greater clarity, reducing the size of document and so making it more accessible. Additionally, a greater deal of flexibility is offered, which is intended to afford some additional space for innovation and development in how services are delivered to, consumed and terminated by the consumer.

Q.8: Do you consider the proposed alterations to Guidance on method of exiting a service to be helpful and effective for improving compliance standards and understanding our approach to regulating these services?

Guidance on subscription services

- 2.32. In respect of this piece of Guidance expectations regarding transparency, pricing and robustly verifiable consent to charge remain unchanged. However, the Guidance note has been updated to reflect the introduction of the Consumer Contract Regulations (Information Cancellation and Additional Charges) 2013 which came into force on 13th June 2014 into UK law⁶, and also changes to our own regulation with the shift from the prior permission regime of previous Codes to the current framework of Special conditions.
- 2.33. Following a brief introduction, part 2 of this piece of Guidance deals with making consumers aware of all relevant information. Firstly, it highlights what information is required within promotional material prior to opt-in; this section has been updated to achieve consistency in wording with the Consumer Contract Regulations (Information Cancellation and Additional Charges) 2013, and advises that promotional material should confirm the service carries a recurring charge and that activation buttons (or similar function) must make clear the obligation to pay with an unambiguous phrase such as 'PAY £[X] A WEEK' or similar. It then goes on to explain that consumers must

⁶ The amended Guidance has incorporated relevant advice from the compliance update issued on 2 June 2015, under the title of 'Adequacy of information provided to consumers prior to entering a contract or obligation to pay'.

be supplied with confirmation of the contract in a durable medium before charging occurs such as an initiation or confirmation message.

- 2.34. Respondents should note that this Guidance recommends that robust 'double opt-in' is obtained for all subscription services not only services costing over £4.50 in a seven day period. We believe that this recommendation should not have a negative impact on most providers operating subscription services below £4.50 in a seven day period as this is an existing industry standard for some payment mechanisms, such as Payforit. The recommendation recognises that the 'double opt-in' allows for greater certainty for the consumer when entering the transaction and also allows for more robust verification of consent to charge to be established by PRS providers. This is likely to assist in building confidence in premium rate subscription services. It remains the case that where alternative means of compliance with the Code are established this may be effective in achieving similar levels of confidence for consumers.
- 2.35. Lastly, requirements surrounding spend reminders have been updated. PhonepayPlus recognises that in certain circumstances it is more practical for the billing message to also serve as the spend reminder message. For example where the billing cycle matches the frequency of the required spend reminders; in this scenario the billing message could contain the required spend reminder information, this may aid consumer understanding and reduce bulk messaging costs for providers.
- 2.36. Where the spend reminder is a free message it is required to state this within the text, however, we recognise that stating 'freemsg' or similar at the beginning of the message could lead the consumer to believe it is spam and subsequently delete the message without understanding the contents therefore the updated Guidance recommends that 'freemsg' or similar is stated somewhere within the text without specifying that this must be at the beginning.
- 2.37. The new Guidance is found at **Annex B5**. The structure of this updated piece of Guidance remains largely the same as the current subscription services Guidance and is intended to be simple to understand, easily accessible and clear.

Q.9: Do you consider the proposed alterations to Guidance on subscription services to be helpful and effective for improving compliance standards and understanding our approach to regulating these services?

Other topics considered in detail during the review

Application based payments

- 2.38. Following careful consideration and external and internal stakeholder engagement we propose to retain this piece of Guidance in its current form as there is currently no evidence to suggest any changes are necessary.
- 2.39. The current piece of Guidance on application based payments seeks to equip PRS providers to utilise payment mechanics regulated by PhonepayPlus confidently and in compliance with our Code of Practice. It explains what application based billing is, as well as covering transparency in pricing and other key information prior to download of

an application and within an already downloaded application including 'freemium' services. This Guidance also covers method of exit, misleading promotions, virtual currency, password protection and security, complaint handling and technical quality.

Q.10: Do you agree with our assessment that the current Guidance on application based payments does not need to be updated?

Live services

- 2.40. Sector Specific Guidance on live services has been removed, with parts that are still applicable and necessary being placed elsewhere, including information on bonds/compensation arrangements and recording equipment suppliers applicable to live entertainment services and required by the relevant Special conditions.
- 2.41. As PhonepayPlus receives a high number of requests from new entrants to the market relating to the set-up of live entertainment services, it is intended that a brief service set-up guide will be created and placed on the PhonepayPlus website.
- 2.42. This change will have little impact on the status quo as it relates to the provision of live services and associated responsibilities of providers.

Q.11: Do you agree with our assessment of the need for Sector Specific Guidance on live services and support the provision of a short factual guide to the requirements set for new entrants to the market?

Impact assessments

Equipping PRS providers for Code compliance

- 3.1 The new framework will reduce the burden on industry and regulator in relation to the presentation and assessment of prior permission applications. When new service types are seen to pose some degree of higher risk, PhonepayPlus would consider what Special conditions listed in Annex 2 to the 13th Code may reduce the risk of consumer harm. The adoption of Special conditions would be to further enhance the outcomes in Part 2 of the Code, and thereby ensure businesses understood our expectations.
- 3.2 PhonepayPlus has previously received a degree of criticism based on some perceptions that we have 'imposed' Guidance as an extension of the Code. The feedback has suggested Guidance could better equip providers to interpret the Code and deliver compliant services thereby increasing confidence. We agree that Guidance ought to enable businesses to develop services with a clear understanding of the Code provisions and PhonepayPlus' expectations in relation to those provisions. Special conditions are intended to offer greater legal certainty around regulatory obligations, reducing regulatory costs for business after services are launched.
- 3.3 Where service types are no longer subject to prior permission and no additional Special conditions are being invoked this will naturally reduce the regulatory burden on such services. However, the reason for such scaling back of these regimes is that the expected standards can be achieved and enforced under the Code provisions found in Part 2.

Our assessment of the Guidance proposals

- 3.4 PhonepayPlus sets out in the following table its impact assessment for each proposal:

Title	Potential impact on compliance	Possible cost and resource implications
Advice services	Increased levels of compliance through additional clarity around applicability of Special conditions and information required to be given to consumers during the promotion, operation and provision of content of an advice service.	No significant additional or further costs to industry members; potential minimal cost for some providers in updating promotional materials, if necessary.
Digital Marketing	Minimal impact, compliance levels may increase as the restructure should make it clearer and more accessible.	Minimal impact as expectations remain the same.

Enabling consumer spend controls	Increased levels of compliance achieved through clarification of expectations in the application of Rule 2.3.6, and subsequent customer care linked to section 2.6 of the Code. This should reduce incidents of bill shock and contribute to a reduction in complaint levels.	Many providers will already have processes and systems in place to address this issue, so no significant costs foreseen. Possible minor additional cost incurred through contacting consumers in examples of perceived excessive use, if they were not being contacted directly previously.
Method of exiting a service	Increased levels of compliance as the basic principle is reaffirmed and expectations are clearly laid out, together with room for innovation and future-proofing of the Guidance.	No further or additional impact on costs or resource.
Subscription services	Increased levels of compliance and confidence with robust opt-in and consistency with new legislation. Increased clarity for consumers in spend reminders and receipts.	Potential increased costs in updating marketing material and potential cost savings with bulk messaging.

Q.12: Do you agree with our assessment of the impact which proposed changes to Guidance will have? If not, why?

How to respond to this consultation

- 4.1 PhonepayPlus encourages stakeholders to raise any questions relating to this document and the various annexures as soon as possible. We may be able to arrange meetings to discuss feedback as well as considering your written responses.
- 4.2 Where anything is unclear in the proposals introduced in this paper, please do not wait to state this in your final submissions of response. Indeed, where questions can be addressed during this consultation to assist you with your response, PhonepayPlus will be better equipped to develop its proposals following this consultation.
- 4.3 PhonepayPlus welcomes responses to the questions set out in this document by no later than **11 April 2016**.
- 4.4 Responses should be submitted by email to David Levitt dlevitt@phonepayplus.org.uk. Copies can also sent by mail to:

Mr David Levitt
Senior Policy Executive
PhonepayPlus
25th Floor, 40 Bank Street
Canary Wharf
London E14 5NR
Tel: 020 7940 7445

Full list of consultation questions

Q.1: Do you agree or disagree with the initial determinations set out in the table at **Annex A**?

Q.2: What further changes to current Guidance or additional Guidance do you consider necessary in future?

When responding to consultation questions 3 to 9 in turn, your considerations relating to these matters will be useful to us in finalising Guidance:

- a. Is the level of information provided in the Guidance sufficient?*
- b. Are the expectations expressed in Guidance confusing or likely to cause difficulty to business when complying with the Code?*
- c. Is there anything extra in terms of the Guidance that could assist industry when offering high quality PRS?*

Q.3: Do you consider the proposed alterations to Guidance on advice services to be helpful and effective for improving compliance standards and developing appropriate procedures to meet Code obligations?

Q.4: Do you consider the proposed alterations to Guidance on digital marketing and promotions to be helpful and effective for improving compliance standards and managing advertising campaigns in keeping with the Code?

Q.5: Do you consider the proposed new Guidance on enabling consumer spend control to be helpful, in particular providing an insight into the requirements set out in Rule 2.3.6 of the Code?

Q.6: Are the options given in the Guidance relating to methodology for identifying 'excessive use' suitable in offering PRS providers assistance with the development of tools that comply with Rule 2.3.6 of the Code? Please explain any concerns and provide alternative options based on your knowledge and experience.

Q.7: Are the suggested means of providing information to consumers effective and does the Guidance equip PRS providers to comply with this requirement under Rule 2.3.6 of the Code?

Q.8: Do you consider the proposed alterations to Guidance on method of exit from a service to be helpful and effective for improving compliance standards and understanding our approach to regulating these services?

Q.9: Do you consider the proposed alterations to Guidance on subscription 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.

Q.10: Do you agree with our assessment that the current Guidance on Application based payments does not need to be updated?

Q.11: Do you agree with our assessment of the need for Sector Specific Guidance on live services and support the provision of a short factual guide to the requirements set for new entrants to the market?

Q.12: Do you agree with our assessment of the impact which proposed changes to Guidance will have? If not, why?

In all your responses, please state your reasons and provide evidence to support your views.

List of annexes to this consultation

Annex A – Summary assessment of Guidance

Annex B1 – Advice services

Annex B2 – Digital marketing

Annex B3 – Enabling consumer spend control

Annex B4 – Method of exiting a service

Annex B5 – Subscription services