

Question	Your Response
<p><b>Q1. Do you agree with our assessment that our proposals will not affect any specific groups of persons (including persons that share protected characteristics under the EIA 2010 or NIA 1998)? Please state your reasons and provide evidence to support your view.</b></p>	<p>Confidential? – Y / <b>N</b>  VMO2 agree that the proposals will not affect any specific groups of persons.</p>
<p><b>Q2. Do you agree with our assessment of the potential impact of our proposal on the Welsh language? Do you think our proposal could be formulated or revised to ensure, or increase, positive effects, or reduce/eliminate any negative effects, on opportunities to use the Welsh language and treating the Welsh language no less favourably than English?</b></p>	<p>Confidential? – Y / <b>N</b>  VMO2 agree with the assessment.</p>
<p><b>Q3. Do you have any comments about our proposed definitions in articles 3 to 8 of Part 1 of the draft PRS Order for key service concepts that are used throughout the Order?</b></p>	<p>Confidential? – Y / <b>N</b></p> <p>VMO2 is concerned that some of the definitions and concepts do not present an accurate, up to date, portrayal of the current market.</p> <p>The concepts and definitions appear to pay particular attention to voice services, for example, the reference to access charges for all voice calls, which is incorrect. In addition, the consultation document makes reference to revenue share payments regarding originating communications provider (OCP) and terminating communications provider (TCP), which does not represent the value chain in the majority of services in today’s market, outside telephony.</p> <p>VMO2 requires clarification regarding the status of own portal services. It is acknowledged that these services were removed from the CPRS definition, following a review by Ofcom, in 2012. We believe that the intention is to continue with these services as being out of scope. However, the way in which it is currently set out in the consultation and the Draft Order, raises concerns of</p>

	<p>ambiguity and it would be helpful if Ofcom confirm that the status of own portal services remains out of scope, for clarity.</p> <p>VMO2 also has concerns regarding the proposals relating to 084 and 09 numbers. Specifically, 4.16(b) <i>“We propose to also add the numbers “084” and “098” to reflect the number ranges used in PRS.”</i></p> <p>The addition of 084 would expand the scope of existing regulation, in light of the fact that not all 084 numbers are premium rate services, but many are local rate numbers used for customer service by organisations and businesses. How would Ofcom propose to enable a differentiation of these uses?</p> <p>09 numbers are already regulated by the PSA and so it is unclear why 098 is being specifically added. In addition, VMO2 would like to understand the reasoning behind the 5.833 pence tariff definition of PRS as the cost of a Standard Network Rate message on networks is higher than this and differs across network providers. The PSA has always been clear that this is excluded from PSA regulation and has never been considered a controlled PRS.</p>
<p><b>Q4. Do you have any comments about our proposed definition for PRS regulated providers and regulated activity in article 9 in Part 1 of the draft PRS Order?</b></p>	<p>Confidential? – Y / <b>N</b></p> <p>The consultation acknowledges the role that larger established organisations and in particular, app stores and streaming services, have contributed to driving growth and a more compliant market. We welcome the position that Ofcom would continue to assume the role the PSA played in respect of these market players, following the implementation of Code 15, for certainty this should be confirmed within the new Order. In addition, proving this clarity, VMO2 would also suggest a clearer definition of what constitutes an app store, VMO2 considers that the current drafting does not provide sufficient certainty as to what type of entity would be caught and potentially leaves gaps.</p> <p>A pressing point for VMO2 is that MNO Codes of Practice are given sufficient standing within the Order to enable MNOs to effectively manage and provide more detailed standards to intermediaries and merchants. These Codes of Practice are crucial in ensuring customer protection and maintaining good customer experience. The benefit of affording the Codes of Practice sufficient standing within</p>

	<p>the Order means that providers are able to act in a more agile, proactive way, to emerging issues and trends within the market, which the Order is not able to do in the same way.</p>
<p><b>Q5. Do you have any comments about our proposed approach to registration and registration exemptions in Part 2 of the draft PRS Order?</b></p>	<p>Confidential? – Y / <b>N</b></p> <p>VMO2 reiterates the point regarding the lack of clarity around the definition of app stores and the potential for inadvertent loopholes, due to the lack of clarity.</p> <p>Considering the Sole Intermediary exemption, VMO2 has concerns that this could inadvertently create a loophole for merchants to take advantage of this and seek this as an opportunity to minimise their responsibilities.</p> <p>VMO2 also emphasise that there must be a requirement to de-register as well, to ensure that Ofcom has view of the active market. This should be specifically the last date that a payment transaction occurred. De-registered entities must also have an obligation to maintain a customer contact and after sales service for a period of no less than six months after de-registration.</p> <p>VMO2 seeks to gain confirmation from Ofcom in respect of whether PSA registration information will be retained for future risk assessment purposes and to understand how information will be retained about de-registered entities. Is it Ofcom’s intention to remove the requirement to register customer service information in 4.37b?</p> <p>Can Ofcom provide clarification in regards to registration, as VMO2 is already a Registered Provider is it necessary for MNOs to register again/in addition to the existing registration?</p>
<p><b>Q6. Do you have any comments on our proposed requirements relating to due diligence and risk assessment in Part 4 of the draft PRS Order?</b></p>	<p>Confidential? – Y / <b>N</b></p> <p>While a risk assessment is a part of the current due diligence process, the removal of the “control of risk” element could, on the face of it, create a more binary approach.</p> <p>Risk management will differ between each MNO and some may have developed appropriate mitigations to manage particular risks, whereas others may deem it too complex or unsuitable for their organisation. It would be helpful for Ofcom to clarify that this is acceptable, and the removal of the “control” terminology is not intended to inhibit current risk management processes by making</p>

	<p>the risk assessment process more binary. On that basis, is it Ofcom’s view that each MNO can still seek to define what risk means for them?</p> <p>This is again, where the Codes of Practice become vital in establishing the parameters of what is expected of service providers and also providing assurance against consumer harm. A key point here is multifactor authentication, where the understandable omission from the Order has left a potential void in merchants being obliged to provide this, this could lead to a “rollback” in authentication processes; being able to clearly set this out in Codes of Practice, supported by the Order, will bolster our position on this, and any future emerging authentication methods.</p>
<p><b>Q7. Do you have any comments about our proposed approach to security testing in Part 5 of the draft PRS Order?</b></p>	<p>Confidential? – Y / <b>N</b></p> <p>VMO2 is pleased to see the continuation of security testing requirements for operator billing platforms. However, there is a concern that this the wording is not sufficient to ensure the obligation that the Partner carries out the testing irrespective of whether request is made by the MNO.</p> <p>Furthermore, we would also like clarification about whether or not these tests are required for PSMS platforms, we note that there is an exemption for voice services but no explicit reference to the requirements for PSMS within the Operator Billing definition.</p> <p>VMO2 also has concerns regarding the current wording and intended responsibilities surrounding the appointed person. We note consultation para 4.95, the relevant security testing must be signed off by a person appointed under article 21(3) of the draft PRS Order and that it is proposed that this person needs to be in “senior management (for the intermediary)” (see article 10(5) of the draft PRS Condition for the definition of “senior management”) rather than a “suitably qualified or experienced person with overall responsibility for security or fraud” as currently contained in Code 15. VMO2 considers that there are implications for businesses of a certain size arising from the change in wording regarding the Generally Authorised Person. The responsibilities are currently carried out by the SMEs in the networks (risk assessments, security testing etc) Senior managers are unlikely to have the requisite skills.</p>

	<p>We also note consultation para 4.98 We also propose to require that intermediaries share results of their relevant security testing with the network operators they have arrangements with where that network operator has requested the results. On receipt of the results, if the network operator reasonably believes that consumers are not being adequately protected from risks of security compromises in using the intermediary’s payment platform for operator billing, the network operator must notify the intermediary of the same. Both providers are then required to stop carrying out the affected regulated activity.</p> <p>For both the intermediary and the network provider to stop supporting the regulated activity requires a strong burden of proof. Limiting the testing sign off by a suitably qualified person to a senior manager might hamper this activity.</p> <p>In addition, we feel there are implications for businesses of a certain size arising from the responsibilities given to the Generally Authorised Person. The responsibilities are currently carried out by the SMEs in the networks (risk assessments, security testing etc) Senior managers are unlikely to have the requisite skills. Would this be more like a senior manager regime as operated under FCA – senior leader with ultimate responsibility but day to day point of contact is different?</p>
<p><b>Q8. Do you have any comments about our proposed approach to misleading information and/or the promotion and marketing of PRS in Part 6, Chapters 1 and 2 of the draft PRS Order?</b></p>	<p>Confidential? – Y / <b>N</b></p> <p>As stated in responses to previous questions, VMO2 has concerns that failure to recognise Codes of Practice within the Order would inhibit the power of the MNOs to enforce the suitable and compliant level of information presented to customers, this in turn could impact the level of complaints generated.</p>
<p><b>Q9. Do you have any comments about our proposed approach to pre-contract information and express consent for imposing certain charges in Part 6, Chapter 3 of the draft PRS Order?</b></p>	<p>Confidential? – Y / <b>N</b></p> <p>We note that the Consumer journey is reframed into two parts: : (a) the consumer receives the required information necessary to make an informed decision regarding entering the contract for CPRS; and (b) the subsequent consent is given by the consumer to enter the contract for CPRS.</p>

	<p>The key element here is presenting pertinent information in an easily accessible and understandable manner for the consumer to make an informed choice. The absence of baselining the key information or creating guidance on this could lead to greater consumer confusion as the merchants can determine how this information is delivered.</p> <p>PSMS based services such as prize draws, competitions and votes, and charity donation services currently present key information to consumers pre purchase, with more detailed information such as terms and conditions, contact details and policies available via a web link. These arrangements are in Code 15 and the Consumer Contracts Regulations. To provide all the prepurchase information listed at Schedule 3 would not be appropriate.</p> <p>Appropriate and robust authentication processes are vital in protecting consumers, whilst we understand the rationale as to why Multi-factor authentication is being removed from the Order, we emphasise the necessity of the Codes of Practice which will give MNOs sufficient authority to ensure appropriate authentication methods.</p> <p>VMO2 has a concern, in respect of ICSS services that the timescales to agree new service charge prices and build them for the changes to the ICSS market are not achievable in the timetable laid out.</p> <p>Ofcom should explicitly state that the Network Access Charge is only payable from the point at which billing commences, following the free minute at the start of the call.</p>
<p><b>Q10. Do you have any comments about our proposed approach to provision of CPRS in Part 6, Chapter 4 of the draft PRS Order?</b></p>	<p>Confidential? – Y / <b>N</b></p> <p>VMO2 would request clarification of the role of the MNO, Intermediary and Merchant in the recording of consent and management of complaints.</p> <p>Whilst the VMO2 directs customers, in the first instance, to the merchant to seek resolution to a complaint, the concern is that by not emphasising the responsibility of the Intermediary to capture consent and have appropriate oversight of the merchant’s handling of complaints, this could, in turn,</p>

	<p>impact the MNOs ability to carry out the appropriate investigation should complaints fail to be appropriately dealt with at Merchant level. The MNOs carry out the relevant due diligence on the Intermediary, so we are satisfied as to their standards, although the Intermediary should have conducted the appropriate check on the Merchant, removing or not explicitly stating the requirements of Intermediaries to capture certain information, particularly consent, could leave a gap in the ability of MNOs to ensure appropriate oversight and investigation.</p>
<p><b>Q11. Do you have any comments about our proposed requirements relating to vulnerable consumers in Part 6, Chapter 5 of the draft PRS Order?</b></p>	<p>Confidential? – Y / <b>N</b></p> <p>VMO2 understands Ofcom’s intention to future proof the Order in respect of excessive use, however, this is something that could be determined by the MNOs Code of Practice which, at least would give scope to tailor to particular services. This adds weight to the necessity for the Order to acknowledge the Codes of Practice and enable MNOs to leverage this mechanism to ensure consumer protection standards.</p>
<p><b>Q12. Do you have any comments about the proposed requirements relating to prevention of harm and offence in Part 6, Chapter 5 of the draft PRS Order?</b></p>	<p>Confidential? – Y / <b>N</b></p> <p>VMO2 already has robust, publicly available policies and procedures and technical systems in place to protect consumers from harm and offence. The Codes of Practice form a critical element of these procedures and allows VMO2 to tailor and focus specific measures to particular services, ensuring consumer protection. It is accepted that the Order is not the right vehicle for setting out this detail, but we reiterate our previous point regarding giving specific mention to the Codes of Practice within the Order, thus avoiding any possibility of challenge by merchants when standards are not being met.</p>
<p><b>Q13. Do you have any comments about our proposed approach to competition and voting services in chapter 6 of Part 6 the draft PRS Order?</b></p>	<p>Confidential? – Y / <b>N</b></p> <p>VMO2 has no specific comments regarding this.</p>

<p><b>Q14. Do you have any comments about our proposed requirements in respect of certain CPRS in chapter 7 of Part 6 our draft PRS Order?</b></p>	<p>Confidential? – Y / <b>N</b></p> <p>VMO2 would like to callout that some children may get access to phones that are already age verified, this would hamper reasonable knowledge and endeavours by merchants to ensure that the verification is 100% accurate. Ofcom should seek to recognise this scenario in any wording used, to ensure a proportionate approach.</p>
<p><b>Q15. Do you have any comments about our proposed approach to the recovery of Ofcom’s expenditure in Part 3 of the draft PRS Order?</b></p>	<p>Confidential? – Y / <b>N</b></p> <p>VMO2 requests clarification regarding the position regarding existing registration already paid to Ofcom by virtue of being a registered Network Provider, would VMO2 (and other MNOs for that matter) be required to pay two fees or will we billed once, will the fees be adjusted on that basis?</p> <p>In addition, further clarity around how Ofcom will determine their cost for the year, is in VMO2’s view required. VMO2 considers that the terms “market size” and “amount to be funded by the Levy” needs to be set out in clearer terms. How would market size be considered and whether there would be a recognition that increased traffic in relation to things like App Stores, would not directly correlate to an increased regulatory burden.</p> <p>VMO2 also requests clarification around one information notice to be issued to all TCPs. If that is the case, how will Ofcom protect commercially confidential information?</p>
<p><b>Q16. Do you have any comments about our proposed approach to additional requirements on network operators in Part 7 of the draft PRS Order?</b></p>	<p>Confidential? – Y / <b>N</b></p> <p>VMO2 has no specific comments regarding this.</p>
<p><b>Q17. Do you have any comments about our proposed requirements relating to information requirements in Part 8 of the draft PRS Order</b></p>	<p>Confidential? – Y / <b>N</b></p> <p>VMO2 has no specific comments on this.</p>



<p><b>Q18. Do you have any comments about our proposal to retain current PSA data retention periods for 2 years (for consumer data) and 3 years (for DDRAC data) in Part 9 of the draft PRS Order, with a preservation requirement following an investigation being opened?</b></p>	<p>Confidential? – Y / <b>N</b></p> <p>VMO2 has no specific comments on this.</p>
<p><b>Q19. Do you have any comments about our proposed approach to enforcement in Part 10 of the draft PRS Order?</b></p>	<p>Confidential? – Y / <b>N</b></p> <p>VMO2 wishes to confirm whether the approach adopted by Ofcom as set out in 5.116 will also extend to notifying MNOs as matter of course when an investigation is opened in respect of a provider. Currently, MNOs rely on notification by the Intermediary if a Merchant is placed under investigation. VMO2 considers that notification to the MNO in addition to the Intermediary will enable the MNO to take action, as required, pending the enforcement investigation outcome.</p>
<p><b>Q20. Do you agree with our provisional assessment that our proposals are justifiable, non-discriminatory, proportionate and transparent? Please provide further information</b></p>	<p>Confidential? – Y / <b>N</b></p> <p>VMO2 is in agreement that Ofcom’s proposed regulatory regime is justifiable, non-discriminatory and proportionate.</p> <p>However, we reiterate our responses to other questions regarding the need to safeguard the status of the Codes of Practice. This will enable MNOs to continue safeguarding consumers appropriately and in an agile market, being able to adapt to the needs of the market as required and in turn, maintain consumer confidence and regulatory burden.</p>
<p><b>Q21. Do you agree with our implementation period? Please state your reasons and provide evidence to support your view?</b></p>	<p>Confidential? – Y / <b>N</b></p> <p>VMO2 notes that it appears Ofcom’s intention is that registration as per 4.35 (a) (b) (c), registration will be automatically carried across from the PSA. It would be useful to provide a steer as to when MNOs need to review the relevant registration information.</p>

Regarding ICSS services, as a Network Operator, we would like it to be noted that without a firm idea of whether OFCOM will require additional price points or reuse existing redundant price points for the ICSS sixty seconds free calls it's not possible to confirm that it can be done in three months. Reuse of existing price points should be quick but additional price points would mean rebuilding systems and could take considerably longer.