

**Ofcom's Review of the Premium
Rate Services Condition**

**Phone-paid Services Authority's
Response – September 2018**

Response to Ofcom's consultation

About the Phone-paid Services Authority

The Phone-paid Services Authority (PSA) is the UK regulator for content, goods and services charged to a phone bill.

Our vision is a healthy and innovative market in which consumers can charge content, goods and services to their phone bill with confidence.

The PSA's mission is twofold:

- Protect consumers from harm in the market, including where necessary through robust enforcement of our Code of Practice;
- Further their interests through encouraging competition, innovation and growth in the market.

The services we regulate include TV voting lines, competitions, adult entertainment, chat lines, business information services, gambling, technical helplines, game downloads, directory enquiries and charity text giving.

In law these are called Premium Rate Services (PRS) by the 2003 Communications Act, but we know that for many consumers the term is not well understood. As a result, we would normally refer to these services as "phone-paid services".

As the regulator of this sector our role is to make sure that consumers are fully protected - and by extension confident - when paying for content, goods and services through their phone bill. We do this by upholding the standards and outcomes we set through our Code of Practice, by working with providers to enable innovation whilst maintaining consumer confidence, and by using our enforcement powers to eradicate scams and sharp practices in the market.

For clarity, it is not our role to get refunds for individual consumers (other organisations provide dispute resolution between consumers and providers), although this may happen as a consequence of any investigations we undertake and in particular as a result of any sanctions then imposed by our Code Adjudication Tribunal.

The market for phone-paid services is very diverse and, for much of it, fast changing. Some areas (e.g. directory enquiry) are in decline, whilst others (e.g. game downloads, opportunities for quasi-physical purchases afforded by the Payment Services Regulations 2017) are growing fast. In such an environment it is reputationally important that consumers are confident in phone payment, and that the actions of bad actors in one sector of the market do not have wider repercussions.

Consultation on extending the definition of Controlled Premium Rate Services to include all information, connection and signposting services

Question 1 – Do you agree with our assessment of harm? Please give reasons.

We agree with the assessment. We have provided evidence to Ofcom of the same behaviour by some ICSS providers using 084x numbers, resulting in the same harm, that we have seen over time on the 09 and then 087 ranges. We continue to investigate and adjudicate in respect of harm – a PSA Tribunal adjudication against the company Halak Online in June 2018 addressed common consumer harms associated with ICSS as follows:

- Misleading information within search engine results, that would have confused the consumer as to whether the 087 number was the number of the organisation they were actually looking to contact
- Pricing information that was difficult for consumers to locate and read in online advertising
- A failure to provide the required voice message upon calling the service, that states the cost of the service and reminds the consumer this is not the actual number they are seeking – which may be obtainable for free or at lower cost.

PSA has also recently commissioned research from Nottingham University to understand consumer behaviour and expectations in relation to ICSS. The key conclusions from this research were:

- Consumers may believe they are contacting the actual organisation they were seeking, and not dialling an ICSS number operated by a third party.
- When searching for a contact number, consumers tend to favour higher-placed results in a web-search (ICSS providers will often use placed ads or Search Engine Optimisation to ensure their ads are prominent)
- When consumers click through to a webpage, their decision on whether an advertised number is affiliated with the organisation they wish to contact is made largely on the graphics, layout, and overall “slickness” of the webpage. Consumers often do not consider any disclaimer, URL, or the actual number advertised on a webpage.
- Consumers most often consider the information contained within the top-left sextant of a webpage. If the information appears convincing, consumers will usually decide to call the number regardless of any information elsewhere.
- Consumers are generally unaware of what is signified by different PRS number ranges, or the differences in price between them.

As a result of recent PSA investigations and the findings of this research we intend to review our current ICSS “Special Conditions” with a review to holding a short public consultation on any necessary changes once Ofcom has issued its statement following this consultation

Question 2 – Do you agree with the proposals for reform? Please give reasons.

We support Ofcom’s proposals, set out at paragraph 5.23 of the consultation and at Annex 5, to extend the definition of Controlled PRS to include all services defined as Information Connection and Signposting Services (ICSS), regardless of PRS number range.

We also support Ofcom’s proposal to exclude Directory Enquiry (DQ) services from the definition of ICSS set out by Ofcom. Whilst DQ services continue to fall under the PSA regulatory remit where they meet the definition of a Controlled Premium Rate Service, we agree with the key differences between how consumers engage with DQ and ICSS which Ofcom sets out in section 2 of its consultation.

We have received a growing number of consumer complaints about ICSS using 084x numbers over the last 18 months. While these services are not currently within our remit, and therefore are not formally counted, anecdotally they detail the same types of harm as those on the 09x and 087x ranges, and may suggest that some ICSS providers are moving services from the 09x and/or 087x ranges to the 084x range which would currently take them outside PSA’s regulatory remit.

The proposal to extend the definition to all ICSS regardless of number range has significant benefits. Firstly, it is simple and clear both for providers of the services and for consumers – the current situation where there are different regimes for what is essentially the same service type provided on different number ranges is potentially confusing for providers and consumers alike. Secondly, it futureproofs the definition. It is possible that providers could otherwise seek to migrate services that do not comply with the PSA’s Code and Special Conditions for ICSS to other number ranges.

Question 3 – Do you agree with our proposal of a four-week implementation period? Please give reasons.

We agree with the proposal for a four-week implementation period. We think that it strikes the right balance between the need to address ongoing harm as soon as possible and the need for some providers to familiarise themselves and comply with new regulatory requirements. Should Ofcom confirm the new scope of the PRS Condition, it is likely a number of providers who have only previously operated ICSS on the 084x range would come under the PSA’s regulatory remit for the first time. As such we would aim to issue guidance on the key requirements that providers need to comply with – i.e. registration and

compliance with our Code and ICSS Special Conditions - as soon as the Ofcom proposals take effect.

Further to this, and as stated above, we will then look to review our existing ICSS Special Conditions regime and consult on any necessary changes to that later in the financial year 2018/19. The aim of this will be to ensure that our rules take account of any changes resulting from Ofcom's consultation, and that we remain able to take robust and appropriate enforcement action in respect of ICSS where appropriate.