



Approval of Phone-paid Services Authority's Code of Practice (fifteenth edition)

Consultation on whether Ofcom should approve a new edition of the Phone-paid Services Authority's Code of Practice for regulating Premium Rate Services



UKCTA Response to Ofcom

June 2021

Introduction to UKCTA

1. UKCTA is a trade association promoting the interests of fixed-line telecommunications companies competing against BT, as well as each other, in the residential and business markets. We advocate regulatory outcomes designed to serve consumer interests, particularly through competition, to Ofcom and the Government. Details of membership of UKCTA can be found at www.ukcta.org.uk.

Response to Ofcom's consultation on the PSA's new Code of Practice

2. UKCTA welcomes the opportunity to respond to Ofcom's consultation on whether it should approve the proposed fifteenth edition of the Phone-paid Services Authority ("PSA") Code of Practice for regulating premium rate services ("the Consultation"). The focus of this submission is on the PSA's unsatisfactory attempt in reviewing its Code of Practice to address the significant consumer harm caused by Information, Connection and Signposting Services ("ICSS"), and Ofcom's responsibility to ensure this opportunity is taken to protect consumers once and for all.
3. As previously outlined in UKCTA's response to the PSA's 'Discussion Document on developing the next PSA Code of Practice',¹ the industry has long been concerned that the existing regulatory framework is inadequate and fails to protect consumers from the significant harm caused by ICSS, which has become even more evident during the Covid-19 pandemic.
4. In its 'Consultation on a new PSA Code of Practice (Code 15)',² the PSA acknowledges that ICSS continue to cause significant consumer harm and this is demonstrated by the fact that (whilst complaints for other phone-paid services have been falling) the PSA continues to see a "consistent" level of consumer complaints for voice-based services "and, in particular, ICSS".³ Elsewhere in that document, the PSA notes a relative increase in the number of consumer complaints about ICSS:

*"Complaints for ICSS are also disproportionately high. While ICSS typically represent around 3.5-4% of the market, they account for approximately 13% of the complaints we received in 2020/21 – this is up from about 5% of total complaints in 2019/20."*⁴

¹ Available at <http://www.ukcta.org.uk/response-to-the-psas-discussion-document-on-developing-the-next-psa-code-of-practice/>

² Available at <https://psauthority.org.uk/research-and-consultations/consultations/2021/april/consultation-on-our-new-code-of-practice-code-15>

³ Paragraph 199, PSA Consultation.

⁴ Page 55, PSA Consultation.

5. Notably, consumer complaints about ICSS remain disproportionately high despite the PSA's previous attempt to address concerns through updated special conditions on ICSS:

*"ICSS remains an area of focus and concern despite the introduction of updated special conditions on ICSS in December 2019, which included more prescription in terms of regulating ICSS. Our experience since the introduction of the new ICSS special condition is that complaint levels have remained disproportionately high despite reductions in other areas."*⁵

6. It is therefore clear that the existing regulatory framework for ICSS is continuing to fail consumers and Ofcom needs to work with the PSA to ensure that more is done in order to protect consumers.
7. The PSA suggests that a number of proposed changes under the new Code of Practice, including new 'point of purchase' and transparency Requirements,⁶ will address the consumer harm caused by ICSS. The PSA says:

a) In relation to the proposed new 'point of purchase' Requirement, "[t]he ICSS complaints we receive demonstrate that consumers are very often completely unaware that they have purchased a service,"⁷ and extending the 'point of purchase' requirements to all phone-paid services "should ensure that consumers are fully aware when they are entering a purchasing environment and their expectations are met."⁸

b) In relation to the proposed new transparency Requirements, "[t]he most common reason for complaints is that the charges are unexpected or unsolicited. We believe that the proposed new transparency Requirements will address the continuing consumer harm associated to all service types."⁹

8. UKCTA disagrees that these proposed changes will be sufficient to protect consumers from the significant harm caused by ICSS, and we are dismayed with the lack of urgency with which the PSA appears to be responding to such harm.
9. The PSA says it is "not proposing, at this stage, to go further and require a free pre-call announcement for ICSS which states the full cost before any charge is incurred. In light of feedback received, it is not clear to us that this is something that would be technically

⁵ Paragraph 215, PSA Consultation.

⁶ Pages 51 and 55, PSA Consultation.

⁷ Paragraph 199, PSA Consultation.

⁸ *Id.*

⁹ Page 55, PSA Consultation.

feasible for all providers to implement.”¹⁰ However, what enquiries has the PSA made into whether this would be technically feasible? UKCTA considers there to be little/no merit in this argument.

10. The PSA suggests that it could require such a pre-call announcement for ICSS at some point in the future but, in the meantime, consumers will continue to face (with the PSA’s knowledge) significant harm. Any further delay in taking action to protect consumers would be unacceptable.
11. UKCTA is disappointed that Ofcom has not yet called out the PSA’s failure to take this opportunity to properly address the continuing consumer harm caused by ICSS. Ofcom has overall responsibility for ensuring that ICSS, as a form of premium rate services, are regulated appropriately and that consumers are protected from the harm they cause. It is therefore incumbent on Ofcom to ensure that either the PSA takes appropriate action to protect consumers or Ofcom itself takes such action.
12. UKCTA considers that the only way to effectively protect consumers is to outright prohibit the use of premium rate numbers for ICSS, and we urge Ofcom to ensure that the PSA does the right thing by reflecting such a ban in its new Code of Practice.

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¹⁰ Paragraph 203, PSA Consultation.