

## Communications Consumer Panel and ACOD's response to the Phone-paid Services Authority's Consultation on Code 15 amendments to Requirement 3.2.10 and Annex 1: Specified service charges and durations of calls

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### About us

The Communications Consumer Panel, established by the Communications Act 2003, is a group of independent experts with direct sectoral experience. We ensure the voice of UK consumers, citizens and micro-businesses is represented in communications policy development.

The Panel's job is to ensure that the sector works for consumers, citizens and micro businesses - and in particular, people who may be in a more vulnerable position in society. We commission research, provide advice and encourage Ofcom, governments, industry and others to look at issues through the eyes of consumers, citizens and micro businesses.

The Panel pays particular attention to the needs of older people and people with disabilities, the needs of people in rural areas and people on low incomes, and the needs of micro-businesses, which have many of the same problems as individual consumers.

Four members of the Panel also represent the interests of consumers in England, Northern Ireland, Scotland and Wales, respectively. They consult with the key stakeholders in the Nations to understand the perspectives of consumers in all parts of the UK and input these perspectives to the Panel's consideration of issues. Following the alignment of ACOD (the Advisory Committee for Older and Disabled people) with the Panel, the Panel is more alert than ever to the interests of older and disabled consumers and citizens.

### Our response

We welcome the Phone-paid Services' (PSA) proposed amendments to Code 15, regarding Information, Connection and Signposting Services (ICSS). It is - in our opinion - vital that strong and clear action is taken to protect consumers who use these services from confusion and cost.

We have worked closely with the PSA, its Consumer Panel, Ofcom and members of our Industry Forum who represent the mobile sector, to understand the scope and impact of unfair and uncompliant practices by ICSS providers, which cause harm and inconvenience to consumers. We are keen to see action taken against those that do not comply with current regulation and cause harm and detriment to consumers.

A lack of information about the charges to consumers of using these services and the process they are following can lead to the unexpected disconnection of a call and bill shock.

Consumers may not even realise that they are using a third party, premium rate service, that there is a cost, or how much that cost is - and given the nature of some of the organisations consumers are connected through to by ICSS, these impacts may be felt at a time when consumers are experiencing other concerns, such as tax bills, unemployment and driving licence issues. This could be stressful at any time, but during a cost of living crisis, when consumers need to contact these organisations to ask for assistance, make a complaint or make a query, additional cost or confusion are an unfair burden. It is therefore more important than ever that consumers (and citizens) are able to control what they are spending and have a choice in whether to pay for additional services that they may not see as essential.

### **Access to public services for consumers and citizens who are less digitally skilled or confident**

Our independently-commissioned consumer research provides evidence that consumers and citizens who are less digitally skilled can struggle most to access digital public services.

Many consumers and citizens do not have the digital literacy to understand what they should expect to happen when they look for assistance online. We believe information provided by ICSS must therefore be in clear, plain language, not legalese and neither must it create confusion through ‘information overload.’

Consumers who inadvertently use an ICSS service to click through to the organisation they intended to contact directly, who then find they have an unexpectedly high bill may feel the same way as a consumer who has been scammed - they have been billed for a service they did not require or request. We know from [our 2020 scams research](#) and further research on this topic since then that those who are scammed online can experience a ‘chilling effect’ that can deter them from going online again.

A research participant from that study said:

*“I thought I was getting pretty up to speed with browsing the Internet and then I click on a link to buy some visas for a trip and the top search result turns out to be a scam and I lose £200. It’s really set me back.”*

*(78, Male, England)*

In the context of the UK government’s drive towards ‘Digital by Default’ we believe access to public services should be free, inclusive and easy. Despite improvements in [public sector website accessibility](#) requirements, some citizens and consumers will still struggle to use digital public services and will look online for a telephone number to ask for help.

This point is illustrated by a participant in our 2021 research ‘[Getting up to speed while staying at home](#)’ whose circumstances are set out in the case study below.

When reading this case study, we would encourage readers to imagine that James’ call to the Job Centre had been placed through an ICSS:

**Case study: James, found it too difficult to claim a benefits loan online, needed to phone and ask for a paper form instead**

**Context: James has low digital skills, low financial resources and additional access requirements**

James is 54 and lives with his wife and stepson in rural Caernarfonshire, Wales. He has mental health conditions and low literacy. Both he and his wife receive disability benefits. James prefers to undertake transactions and access services face-to-face or by phone rather than online as he finds written instructions difficult to understand, especially with respect to government processes.

James tried to claim a loan from his benefits online during the pandemic but found the experience to be confusing and traumatic. He phoned the Jobcentre and a member of staff tried to walk him through it but this did not help. In the end, they had to send him a paper form which he managed to complete. His broadband connection is also poor which affects his ability to stream programmes to relax. He wanted to complain about this but his mental health condition means he finds it difficult to engage with his provider.

*“I got into such a pickle that I had to phone [the Jobcentre] in the end and even then I was getting into such a mess that I asked them to send me a paper form.” James, 54*

If James’ search online had led him to a click-through ICSS service, he would then have received additional charges that he could not afford (and may have been cut off during his application for a benefits loan). This would have further affected his mental health and his trust in the internet.

This is a single citizen journey for illustration purposes only, but we believe it is important that the consumer (including micro businesses) and citizen are at the heart of policy decisions in the communications sector.

Ofcom’s [General Conditions](#) place strong expectations on communications providers in terms of fairness and transparency, supported by our consumer and citizen insights and their own research and complaints programmes. We also work closely with communications providers in our regular Industry Forum meetings. The progress in terms of consumer empowerment gained through these initiatives, which include communications providers learning from other sectors and following the principles set out in Ofcom’s [Treating Vulnerable Customers Fairly](#) guide, must not be undermined or inhibited by unfair and unethical treatment of consumers and citizens by ICSS providers. It should not be left to communications providers to respond to queries and complaints about charges incurred through opaque ICSS processes - or to pick up the bill for these costs when their customers are unable to pay. It is the responsibility of ICSS providers to be transparent and to handle any queries and complaints about their processes and charges, therefore we would expect that their complaints processes should be widely promoted.

## Complaints and confidence

The consultation document sets out an estimation of the scope of consumer detriment, which is well-considered, but can naturally only be based on what is measurable. We believe that there is additional consumer and citizen detriment, which is more difficult to measure, but should be taken into account when taking proportionate action.

The complaints data used to calculate detriment provides a useful measure of the impact on consumers who had the confidence and determination to use a complaints process. Many consumers, such as James, highlighted in the case study above, lack that confidence.

## Proportionate steps to protect consumers and citizens

We strongly support the amendments to the PSA's Code - the positive opt-in requirement, cap and the information requirements.

However, we would recommend that the cap is lowered further. A payment of £40 is a large proportion of a person's weekly [benefit entitlement](#) or [state pension entitlement](#) and feels too high. We would suggest that the PSA considers reducing the cap to a more affordable level for people who are less able to afford sudden expenses.

We agree that the following information is needed at the start of any ICSS call connecting a consumer or citizen to the organisation they wish to speak to:

- i) state that the organisation to which the service connects can be contacted directly for no or lower cost and provide the organisation's direct contact number
- ii) state the maximum call charge
- iii) seek and obtain positive opt-in from the consumer to continue the call and be connected to the organisation they are seeking, and
- iv) where the service provides any additional chargeable element, such as a premium SMS, seek and obtain separate positive opt-in from the consumer for that element of the service.

We recommend that the maximum call charge is required to be provided before the telephone number of the organisation, so that the caller has an incentive to listen to the telephone number and make a note of it before terminating the call.

We believe that the information proposed strikes the right balance between helpful advice and 'information overload.'

The fact remains that there would little need for a consumer or citizen to click through a third party premium rate service if the organisation they were searching for could be found more easily than an ICSS service. It would be unreasonable to expect public sector organisations and other not-for-profit organisations to budget for search engine optimisation services. We believe profit-making search engines have a responsibility here. We encourage further action by the main search engines to optimise access to the organisations consumers are searching for over ICSS providers' services, working closely with the PSA.

## Summary

- We support the PSA's proposed amendments on behalf of consumers and citizens, but recommend that the cap on a maximum call cost is lowered.
- We believe that ICSS providers should be held accountable for dealing with all queries and complaints about ICSS processes and charges.
- We believe that the PSA's analysis of consumer detriment is well-considered, but would include a weighting to represent consumers who have low confidence to take actions such as raising a complaint or querying their bill.
- We encourage the speedy implementation of these proposed amendments and while we understand that there may be objections from ICSS providers, we urge the PSA, Ofcom and government to focus steadfastly on putting consumers' and citizens' needs first.
- We encourage further collaboration between the PSA and search engines to make access - particularly to public services - easier for consumers, including those with lower levels of digital skills and confidence.