

The future of regulation

Agenda

- Context
 - Proposal
 - High-level principles
 - Process
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The context for change

The market has matured

- Major market trends have continued in recent years, including:
 - The dominance of mobile and decline of voice
 - Market consolidation
 - In terms of number of market participants
 - Larger merchants now responsible for ~90% of mobile revenues
 - Much more focus on consumer value and service
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Complaints and detriment have reduced significantly



Complaints
down **93%**
on 2016/17

Compliance
continues
to improve
(as measured by
our assessment
framework)

Cases down
82% on
2016/17

PSA has reduced costs by nearly £2m in real terms

- PSA has worked hard in recent years to reduce costs
- We have removed almost all discretionary spend from our budget

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33%

budget
reduction in
real terms in
8 years

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16%

budget
reduction in
cash terms in
8 years

- We are at the point where further reductions will be challenging, particularly in a changed market, and will impact on regulatory effectiveness
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The proposal

Various options considered

Option	Rationale
Maintain existing PSA regulation	Considered unsustainable due to increasing pressure to reduce costs
Maintain existing PSA regulatory framework but reduce costs further	PSA at the limits of cost reduction. Further cost reductions would risk regulatory effectiveness
Industry self-regulation	Considered not in the consumer interest and inconsistent with the Comms Act
Regulation ceases to exist	Considered not in the consumer interest and inconsistent with the Comms Act
Regulation transfers to Ofcom	Logical option as the Comms Act backstop regulator

Why Ofcom?

- The Board believe that this decision is good for consumers and industry
 - Absorption into Ofcom has always been an option and consideration, when the time is right
 - Ofcom will be better placed to address future challenges as it has greater powers and resources
 - Ensures regulatory certainty and confidence without the need for a dedicated regulator
 - Ofcom already have knowledge and experience of this market as well the broader telecoms market
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Cost & benefits of the change

Benefits	Costs
<ul style="list-style-type: none"> • Reduced cost • Simplification of the regulatory framework • Simplification of regulatory experience for much of the market – increasing commonality of stakeholders • Ofcom have existing market knowledge • PSA expertise will also transfer across to ensure continuity and regulatory effectiveness • Necessary powers and resources to address future challenges 	<ul style="list-style-type: none"> • Further regulatory change • Statutory consultation process • Short-term regulatory and industry resource implications

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High-level principles

We want to ensure that:

- Compliance is maintained if not improved both during and post-transfer
 - Code 15 will remain in place and provide the right framework for consumers and industry until transfer
 - As much of Code 15 is carried over as possible
 - The process of transition is well managed
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The future of regulation

Ofcom update on future of phone-paid services regulation

26 May 2022



Why now?

- ❑ The PRS market is undergoing significant change with legacy services in decline and the rapid growth of PRS provided by global tech platforms.
- ❑ Code 15 represents a significant shift in how the PSA regulate the market, by moving to a more pro-active regulatory approach (including greater verification and supervision).
- ❑ This brings the PSA's overall regulatory approach closer to the approach adopted by Ofcom.

Initial due diligence assessments

- We have worked closely with the PSA in carrying out an initial due diligence assessment into various risks and impact associated with the proposed absorption.
- Our assessment is that:
 - ❑ Ofcom is well placed to deliver the regulatory functions currently performed by the PSA as part of its operations and we have experience of absorbing other regulatory regimes into Ofcom.
 - ❑ Absorption is the best way to secure enhanced resilience and the long-term effectiveness of the PRS regulatory framework.
 - ❑ There are strategic synergies to be achieved and efficiencies gained.

The statutory process is not straightforward....

- In order to effect the change, we need to proceed on the basis of making an order under s122 of the Act.
- While our intention is to retain the broad principles behind Code 15, there will need to be redrafting of the substantive PRS rules themselves:
 - ☐ Requirements for statutory instruments are different to those of a Code of Practice.
 - ☐ Requirements will need to be adapted to ensure consistency with Ofcom's regulatory regime (e.g. enforcement processes, funding arrangements, supervisory approach, etc..).
- We need to follow the statutory process for drafting the order and laying it before Parliament, including:
 - ☐ Need to obtain the Secretary of State's prior consent for the order.
 - ☐ Scrutiny of the Joint Committee on Statutory Instruments.
 - ☐ Parliamentary standstill period of 21 days between laying order and its commencement.

Overview of key regulatory aspects

- We have identified the following key outputs for Ofcom to take over the responsibility from the PSA in regulating the PRS industry:
 - ❑ An order under s.122 in the form of a statutory instrument (and associated industry guidance).
 - ❑ A statutory notification of Ofcom's withdrawal of the PSA's Code 15.
 - ❑ A correlation table (to be included in Ofcom's statement) showing the relationship between the provisions in Code 15 and in the s.122 order.
 - ❑ A statutory notification of modifications to the PRS condition.
 - ❑ Revised Enforcement Guidelines (dealing with how the enforcement procedures in the order will be applied in practice).

PSA absorption: High-level timelines



