

2024 No. 000

ELECTRONIC COMMUNICATIONS

The Regulation of Premium Rate Services Order 2024

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Laid before Parliament *******

Coming into force *******

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The Office of Communications (“OFCOM”) consider that there is no code in force to which they think it would be appropriate to continue to give their approval under section 121 of the Communications Act 2003 (**a**) (“the Act”) and, in exercise of the powers conferred by sections 122(1) to (4) and 403(7) of the Act (**b**), make the following Order.

Before making this Order, OFCOM gave notice of the proposal to do so in accordance with section 403(4)(a) of the Act, published notice of their proposal in accordance with section 403(4)(b) of the Act and have considered representations made to them before the time specified in that notice in accordance with section 403(4)(c) of the Act.

OFCOM has received consent from the Secretary of State, in accordance with section 122(6) of the Act, for the making of this Order.

PART 1

Introduction

Citation and commencement

1. This Order may be cited as the Regulation of Premium Rate Services Order 2024 and shall come into force on *[at least 21 days following the laying of the Order]*.

General interpretation

2. In this Order—

“the Act” means the Communications Act 2003,

“the 2005 Act” means the Gambling Act 2005(**c**),

“call” means a connection established by means of a public electronic communications service allowing speech communication between two or more persons in real time,

(a) 2003 c.21.

(b) 2003 c.21. Section 403 was amended by S.1. 2020/1419.

(c) 2005 c.19.

“electronic communication” means a communication for transmission by means of an electronic communications network,

“SMS” (“short message service”) has the meaning given in article 31(5)(d),

“VAT” means value added tax, and

“working day” means any day other than—

- (a) Saturday or Sunday,
- (b) Christmas Day or Good Friday, or
- (c) a day which is a bank holiday under the Banking and Financial Dealings Act 1971(a) in any part of the United Kingdom.

Meaning of controlled PRS

3.—(1) In this Order, “controlled PRS” means a premium rate service—

- (a) that falls within paragraphs (2), (3) or (4), and
- (b) that is not exempt by virtue of paragraph (5).

(2) A premium rate service falls within this paragraph if—

- (a) the use of a premium rate number is required to use the service, and
- (b) the charge for the provision of the service is—
 - (i) a single charge of 5.833 pence or more, or
 - (ii) calculated by reference to a rate of 5.833 pence or more for each minute of the duration of the electronic communication.

(3) A premium rate service falls within this paragraph if—

- (a) it is provided by means of an electronic communications service, other than by using a premium rate number, and
- (b) the charge for the provision of the service is—
 - (i) a single charge of 10 pence or more, or
 - (ii) calculated by reference to a rate of 10 pence or more for each minute of the duration of the electronic communication.

(4) A premium rate service falls within this paragraph if—

- (a) it is a chatline service (see article 5),
- (b) it is a sexual content service (see article 6), or
- (c) it is an information, connection or signposting service (see article 7).

(5) A premium rate service is exempt by virtue of this paragraph if it is provided by means of—

- (a) a call which terminates on an electronic communications network provided outside of the United Kingdom, or
- (b) an electronic communications service which is being provided by the same person providing the premium rate service.

(6) In paragraph (2), references to “5.833 pence or more” are exclusive of VAT.

(7) In paragraph (3), references to “10 pence or more” are inclusive of VAT.

(8) In this article—

- (a) “National Telephone Numbering Plan” has the meaning given by section 56(1) of the Act(b),
- (b) “premium rate number” means a relevant telephone number beginning with the digits “084”, “087”, “090”, “091”, “098” or “118”, and

(a) 1971 c.80.

(b) 2003 c.21. Section 56(1) was amended by S.1. 2011/1210.

- (c) “relevant telephone number” means a telephone number determined under the National Telephone Numbering Plan to be available for allocation, adoption or otherwise as a telephone number for use on a public electronic communications network.

Meaning of threshold service

4. In this Order, “threshold service” means a premium rate service that—
- (a) falls within article 3(2) or (3), and
 - (b) is not exempt under article 3(5).

Meaning of chatline service

- 5.—(1) In this Order, “chatline service” means a premium rate service that—
- (a) has as its principal feature the making available of a facility in which the merchant enables at least three consumers to participate in a call without the consumers knowing the identities of each other prior to a connection by means of a public electronic communications service being established between them, and
 - (b) consists in anything communicated by means of such a call, except so far as it comprises anything provided by one or more of the services mentioned in paragraph (2).
- (2) Those services are—
- (a) a children’s service (see article 23(3)(d)),
 - (b) a competition and voting service (see article 42(1)),
 - (c) an ICSS (see article 7),
 - (d) a live entertainment service (see article 25(4)(b)),
 - (e) a professional advice service (see article 53(3)),
 - (f) a recurring donation service (see article 34(7)),
 - (g) a remote gambling service (see article 54(4)(a)), and
 - (h) a sexual content service (see article 6)).

Meaning of sexual content service

6. In this Order, “sexual content service” means a premium rate service that consists in, or has as its principal feature, content of such a nature that it is reasonable to assume that it was produced solely or principally for the purpose of stimulating the sexual interests or desires of the consumer using the service.

Meaning of information, connection or signposting service (ICSS)

- 7.—(1) In this Order, “information, connection or signposting service” (“ICSS”) means a premium rate service that—
- (a) has as its principal feature the making available of a facility to connect a consumer by means of a call to speak to another person or to access that person’s service (other than a premium rate service), except in a case falling within paragraph (2), and
 - (b) requires the use of a relevant telephone number beginning with the digits “084”, “087”, “090” or “091”.
- (2) The excepted case is where the premium rate service falling within paragraph (1) is provided by a person who is employed or engaged under the direction of the person providing the service to which the consumer is being connected.
- (3) In this article, “relevant telephone number” has the meaning given in article 3(8)(c).

Meaning of subscription service

- 8.—(1) A “subscription service” means—
- (a) the provision of content or the making available of a facility, by means other than a call, comprised in one or more of the following services—
 - (i) a children’s service (see article 23(3)(d)),
 - (ii) a professional advice service (see article 53(3)),
 - (iii) a recurring donation service (see article 34(7)),
 - (iv) a relevant threshold service, or
 - (v) a sexual content service (see article 6), and
 - (b) either or both paragraph (2) or (3) applies to the service or services in sub-paragraph (a).
- (2) This paragraph applies where—
- (a) there will be automatically recurring or continuing provision of the content, or the making available of a facility, for a specified period or indefinite period,
 - (b) the consumer will automatically incur a charge, or recurring charges for the matters mentioned in sub-paragraph (a), and
 - (c) there is a right for the consumer to bring to an end the subscription contract under which the service is provided.
- (3) This paragraph applies where—
- (a) the provision of content, or the making available of a facility, to a consumer will be free of charge, or at a charge specified in the contract (the “original charge”), for a specified period in the contract,
 - (b) the consumer will become automatically liable for a charge, or a charge higher than the original charge, for the matters mentioned in sub-paragraph (a) after that period (including where the merchant has an option to impose a charge or a higher charge after the end of the period), and
 - (c) there is a right for the consumer to bring to an end the subscription contract under which the service is provided before such liability is incurred.
- (4) References in this article to a consumer’s right to bring a subscription contract to an end are references to a right which—
- (a) in the case of a contract for a specified period, may be exercised to bring the contract to an end before the end of the specified period, and
 - (b) in any case, may be exercised without the consumer incurring any liability,
- and include references to a right that is expressed in terms of a right to stop a subscription contract from automatically renewing or continuing or any other similar expression.
- (5) In this article—
- (a) “relevant threshold service” means a threshold service other than—
 - (i) a service mentioned in paragraph (1)(a),
 - (ii) a competition and voting service (see article 42(1)),
 - (iii) a remote gambling service (see article 54(4)(a)), or
 - (iv) a virtual chat service (see article 31(5)(f)), and
 - (b) “subscription contract” means a contract under which a merchant provides, or agrees to provide, a subscription service to a consumer and the consumer pays, or agrees to pay, the charge to be imposed for the provision of that service.

Meanings of PRS providers and regulated activity

- 9.—(1) The following definitions apply for the purposes of this Order.

(2) “Intermediary” means a person who, under an agreement with B, provides a service to B that consists of one or both of the following things—

- (a) the packaging together of the contents of a controlled PRS for the purpose of facilitating its provision, and
- (b) the making available a facility comprised in a controlled PRS.

(3) For the purposes of paragraph (2), “B” means—

- (a) a merchant, or
- (b) any person (other than a merchant) who seeks to provide a service consisting of one or both of the things in sub-paragraphs (a) and (b) of paragraph (2) on a business-to-business basis.

(4) “Merchant” means a person who provides a controlled PRS to a consumer.

(5) “Network operator” means a person who meets the conditions in either paragraph (6) or (7).

(6) A person meets this condition if the person—

- (a) is the provider of an electronic communications service used for the provision of a controlled PRS, and
- (b) under arrangements with an intermediary or a merchant, is entitled to retain some or all of the charges received in respect of the provision of the controlled PRS or in respect of the use of the electronic communications service for the purposes of the controlled PRS.

(7) A person meets this condition if the person—

- (a) is the provider of an electronic communications network used for the provision of a controlled PRS, and
- (b) is party to an agreement with an intermediary or a merchant for the use of the network in the provision of the controlled PRS.

(8) Where one or more persons are employed or engaged under the direction of an intermediary to do any of the things mentioned in paragraph (2) as a service to B, only that intermediary may be construed as the provider of the service to B.

(9) Where one or more persons are employed or engaged under the direction of a merchant to provide a controlled PRS to a consumer, only that merchant may be construed as the provider of the controlled PRS to the consumer.

(10) “Provides”, in relation to a premium rate service, is to be construed as meaning (and only so far as)—

- (a) in the case of an intermediary, the person provides the service described in paragraph (2),
- (b) in the case of a merchant, the person provides the controlled PRS as described in paragraph (4), and
- (c) in the case of a network operator, the person provides the service or network for use as described in paragraph (6)(a) or (7)(a) (as the case may be),

and cognate expressions are to be construed accordingly.

(11) “PRS provider” means—

- (a) an intermediary,
- (b) a merchant, or
- (c) a network operator.

(12) “Regulated activity” means—

- (a) provision of a service or network within the meaning of paragraph (10), or
- (b) arrangements made for the promotion and marketing of a controlled PRS.

PART 2

Registration

Requirements before carrying out a regulated activity

10.—(1) No person may carry out a regulated activity (or purport to do so), unless the person—

- (a) is a PRS provider who—
 - (i) meets the requirements in paragraph (2), or
 - (ii) is an exempt PRS provider under article 11, and
- (b) has appointed a person in senior management for the purposes described in paragraph (4) (“generally authorised person”).

(2) A provider meets the requirements in this paragraph if the provider—

- (a) has given OFCOM the information described in Schedule 1 in respect of the regulated activity in the manner specified by OFCOM on their website, and
- (b) at least five working days have elapsed beginning with the day on which the information was given.

(3) Where any change in the PRS provider’s circumstances renders inaccurate the information given under paragraph (2)(a), the provider must update OFCOM accordingly in the manner specified by OFCOM on their website, within five working days (beginning with the day on which a reasonable provider in like circumstances would have become aware of the inaccuracy).

(4) The purposes referred to in paragraph (1)(b) are—

- (a) having authority to act on behalf of the PRS provider for all purposes relating to the requirements imposed under this Order, including—
 - (i) the receipt, processing and payment of invoices relating to OFCOM’s charges under Part 3 of this Order,
 - (ii) risk assessments under article 17,
 - (iii) security testing under Part 5 of this Order, and
 - (iv) the receipt of notifications and documents transmitted by OFCOM in electronic form in accordance with section 395(5) of the Act,
- (b) approving the policies and procedures under article 40(4)(a) in relation to vulnerable consumers, and
- (c) approving the policies and procedures under article 37(4)(c)(i) in relation to complaints and enquiries.

(5) In this article, “senior management”, in respect of a PRS provider, means persons who have a significant role in—

- (a) the making of decisions about how the whole or a substantial part of the PRS provider’s activities are to be managed or organised, or
- (b) the actual managing or organising of the whole or a substantial part of those activities.

Exemption for certain merchants

11.—(1) A person is an exempt PRS provider if the PRS provider is a merchant who—

- (a) provides a controlled PRS in respect of which the charge to the consumer (for the service) is enabled by means of a facility made available by a sole relevant intermediary, or
- (b) provides a controlled PRS to consumers via an app store that is provided by a relevant intermediary.

(2) “Relevant intermediary” means in this article an intermediary entitled to carry out a regulated activity that—

- (a) complies with the requirements in paragraph (3), and

- (b) has notified OFCOM of that fact before the end of the relevant period in the manner specified by OFCOM on their website.
- (3) The requirements are that the relevant intermediary—
- (a) retains a relevant record in respect of the merchant, and
 - (b) administers a process for handling complaints made by consumers in respect of the merchant in question which, among other things, makes available to consumers contact details for the merchant on its website.
- (4) In this article—
- (a) “app store” means an online facility by means of which a consumer can—
 - (i) browse applications online, or
 - (ii) download an application onto an electronic device,
 - (b) “Code 15” means the code made by the PSA known as the “Code of Practice 2021 (Fifteenth edition) – Code for premium rate services”, as it had effect up until the point it was withdrawn immediately prior to the commencement of this Order,
 - (c) “online facility” means a website, or any other means by which information is made available over the internet, which facilitates the supply of applications or other data which are produced and supplied in digital form through the website or other means by persons other than the operator (whether or not the operator also supplies those things through the facility),
 - (d) “operator”, in relation to an online facility, means the person who establishes, maintains and operates the online facility,
 - (e) “previously exempted merchant” means a merchant who immediately before the commencement of this Order was a person who was exempted by the PSA from the requirement to provide information for the purposes of complying with paragraph 3.8.1 of Code 15,
 - (f) “PSA” means the Phone-paid Services Authority, a company limited by guarantee and registered in England and Wales under company number 2398515,
 - (g) “relevant period” means—
 - (i) in the case of a previously exempted merchant, the period of one month beginning with the commencement of this Order, and
 - (ii) in any other case, a period of at least five working days before the provision of the controlled PRS described in paragraph (1), ending with the day on which the controlled PRS was first provided, and
 - (h) “relevant record” means a record of—
 - (i) the name of the merchant in question, including registered company name, number and trading name (if any),
 - (ii) the brand name(s) (if any) of the controlled PRS provided by the merchant,
 - (iii) the merchant’s address, including registered address if the merchant is a company, for the purposes of OFCOM’s correspondence and service of documents pursuant to section 394 of the Act,
 - (iv) the name, job title, telephone number, and email address of the merchant’s generally authorised person (within the meaning given in article 10(1)(b)),
 - (v) the email address of the merchant’s generally authorised person in respect of which the merchant has indicated to the relevant intermediary its willingness to receive notifications and documents transmitted by OFCOM in electronic form in accordance with section 395(5) of the Act, and
 - (vi) a specimen signature for the merchant’s generally authorised person.

Ofcom's duty to establish and maintain a register

12.—(1) OFCOM must establish and maintain a register for the purposes of carrying out their functions under this Order.

(2) OFCOM must record in the register the following information—

- (a) every notification given under article 10,
- (b) every notification given under article 11,
- (c) all information given under article 13,
- (d) every final enforcement notice served under article 63,
- (e) every direction given under article 64,
- (f) every decision made under article 65,
- (g) every direction given under article 66, and
- (h) such other information as OFCOM consider to be appropriate for the purposes of carrying out their functions under this Order.

(3) Information recorded in the register must be—

- (a) recorded in such manner, and
- (b) published in such manner,

as OFCOM consider appropriate.

(4) OFCOM must keep the information recorded in the register for as long as OFCOM considers appropriate for the purposes of carrying out their functions under this Order.

Registration for transitional cases

13.—(1) This article applies to a person who—

- (a) immediately before the commencement of this Order, was carrying out activity in compliance with Code 15, and
- (b) immediately after commencement of this Order, continues to carry out the activity.

(2) Where (but for this paragraph) the person would, in continuing to carry out the activity, contravene the requirements in article 10(1), the person is to be treated as having satisfied that requirement in respect of that activity and accordingly is to be treated as a PRS provider carrying out a regulated activity, so far as applicable for the purposes of this Order.

(3) Where paragraph (2) applies, the PRS provider must give OFCOM the information described in Schedule 2 in the manner specified by OFCOM on their website, no later than three months after the commencement of this Order.

(4) Where any change in the PRS provider's circumstances renders inaccurate the information given under paragraph (3), the provider must update OFCOM accordingly in the manner specified by OFCOM on their website, within five working days (beginning with the day on which a reasonable provider in like circumstances would have become aware of the inaccuracy).

(5) Where paragraph (2) applies, the PRS provider must also—

- (a) review, no later than four months after the commencement of this Order, any information published in the register maintained by OFCOM under article 12 in relation to that provider, and
- (b) where any change in the PRS provider's circumstances renders inaccurate the information referred to in sub-paragraph (a), update OFCOM accordingly in the manner specified by OFCOM on their website, within five working days (beginning with the day on which a reasonable provider in like circumstances would have become aware of the inaccuracy).

(6) If, after the period in paragraph (3) has elapsed, any of the required information has not been provided, the person ceases to be treated as a PRS provider for the purposes of paragraph (2).

(7) In this article, "Code 15" has the meaning given in article 11(4)(b).

PART 3

OFCOM's expenditure

Requirement to pay OFCOM's administrative charges

14.—(1) A liable network operator must pay to OFCOM the amount in pounds sterling for the administrative charge that is calculated in accordance with paragraphs (2) and (3) for each charging year.

(2) The formula to calculate the amount mentioned in paragraph (1) is—

$$AC = [(DAE + O) \div TOP] \times NOS$$

where—

“AC” means the amount of the administrative charge payable by a liable network operator,

“DAE” means the total sum of the relevant expenditure estimated by OFCOM to be incurred in the charging year in question, together with any adjustments to deal with a deficit or surplus mentioned in paragraph (6),

“O” means a reasonable apportionment of OFCOM's estimated overhead costs attributable to such expenditure for the charging year in question,

“TOP” means the total amount of outpayments of all liable network operators in the relevant calendar year, and

“NOS” means the total amount of outpayments of a liable network operator in the relevant calendar year.

(3) If the amount calculated in accordance with paragraph (2) is a fraction of a whole number, it shall be rounded down to the nearest whole number.

(4) The amount mentioned in paragraph (1) must be paid to OFCOM—

- (a) where it is equal to or less than £75,000, in full within 30 days after receipt of the invoice sent by OFCOM, or
- (b) where it is more than £75,000, in equal monthly instalments in arrears on or before the 30th day of receiving the invoice sent by OFCOM.

(5) As soon as reasonably practicable after the end of each charging year, OFCOM must publish a statement setting out, in respect of that year—

- (a) the aggregate amounts of the administrative charges that have been received by OFCOM for that year,
- (b) the aggregate amount of the administrative charges for that year that remain outstanding and are likely to be paid or recovered, and
- (c) the relevant expenditure for that year.

(6) Any deficit or surplus shown (after applying this paragraph for all previous years) by a statement under paragraph (5) shall be carried forward and taken into account by OFCOM to ensure that the aggregate amount of the charges payable to OFCOM is sufficient to meet, but does not exceed, the relevant expenditure estimated to be incurred in relation to the following year.

(7) In this article—

- (a) “charging year” means—
 - (i) the period beginning with the commencement of this Order and ending with the next 31 March, or
 - (ii) any subsequent period of twelve months beginning with 1 April,

- (b) “liable network operator” means a network operator whose total amount of outpayments in a relevant calendar year is equal to or more than £10,000 exclusive of VAT,
- (c) “originating communications provider” means a person providing electronic communications services to consumers,
- (d) “outpayments” mean that total sum of the amounts payable by a liable network operator to intermediaries and merchants in respect of PRS revenue,
- (e) “PRS revenue” means the total net amount passed onto a liable network operator by an originating communications provider in respect of charges imposed by the provider on its users of the electronic communications services for the provision of controlled PRS, together with any facilities made available to them,
- (f) “relevant calendar year” means the period of 12 months beginning on 1 January in the last but one calendar year prior to the charging year in question, and
- (g) “relevant expenditure” means expenditure in connection with—
 - (i) OFCOM’s establishment and maintenance, in accordance with this Order, of any procedure, and
 - (ii) the making of other arrangements by OFCOM for the purposes of the requirements of this Order.

PART 4

Due-diligence measures and risk assessments in dealing with others

Prohibition on dealing with unregistered PRS providers

15. No PRS provider may enter into an arrangement with another PRS provider (“P”) in respect of a regulated activity, unless P’s details have been recorded and published in OFCOM’s register for the purposes of article 12(2)(a), (b) or (c) (as the case may be).

Prohibition on dealing with persons on whom a relevant sanction has been imposed

16.—(1) No PRS provider may enter into an arrangement with another person in respect of a regulated activity where that person is the subject of—

- (a) a direction given by OFCOM as set out in paragraph (2),
- (b) a sanction imposed by PSA as set out in paragraph (3), or
- (c) a sanction imposed by a relevant enforcement authority as set out in paragraph (4),

and the direction or sanction remains in effect.

(2) A direction is one given by OFCOM under—

- (a) article 64(5) (interim direction prohibiting, suspending, or restricting a PRS provider from working in connection with, or carrying out, a regulated activity),
- (b) article 65 (confirmation of a direction for interim measures under article 64), or
- (c) article 66(5) (direction for serious contraventions prohibiting, suspending, or restricting a PRS provider from working in connection with, or carrying out, a regulated activity).

(3) A sanction is one imposed by PSA under paragraph 5.8.5 (f) to (h) of Code 15 (various prohibitions on carrying out specified activities).

(4) A sanction is one imposed by a relevant enforcement authority under any provision in a relevant approved code which corresponds to paragraph 5.8.5 (f) to (h) of Code 15.

(5) In this article—

- (a) “Code 15” has the meaning given in article 11(4)(b),
- (b) “PSA” has the meaning given in article 11(4)(f),

- (c) “relevant approved code” has the meaning given in paragraph (1)(a) of Schedule 4, and
- (d) “relevant enforcement authority” has the meaning given in paragraph (1)(b) of Schedule 4.

Risk assessment requirements

17.—(1) No PRS provider may enter into an arrangement in respect of a controlled PRS, unless the provider has carried out a risk assessment in respect of that arrangement (but see paragraph (6)).

(2) The assessment must consider the risks to consumers that may arise having regard to—

- (a) the purpose and nature of the arrangement, and
- (b) the parties to the arrangement.

(3) In considering risk for the purposes of paragraph (2)(b), the PRS provider must take account of such of the following information as it may reasonably access in regard to each party—

- (a) corporate structure,
- (b) details of whether the party is unable to pay its debts, or is likely to be unable to pay its debts as they fall due,
- (c) details of the party’s involvement in any legal proceedings, including any previous or ongoing legal proceedings and judgments or any other decisions made by a court, tribunal or other body in respect of the counterparty,
- (d) use of sub-contractors, and
- (e) relevant compliance history.

(4) In paragraph (3)(e), “relevant compliance history” means—

- (a) where a party referred to in paragraph (2)(b) is a PRS provider, any decisions made by OFCOM under Part 10 of this Order concerning the party’s compliance with requirements under this Order,
- (b) where a party referred to in paragraph (2)(b) is a person to whom Code 15 applied immediately before the commencement of this Order, any decisions made by PSA under Part 5 of Code 15 concerning the party’s compliance with requirements under Code 15,
- (c) where a party referred to in paragraph (2)(b) is a person to whom a relevant approved code applied, any decisions made by a relevant enforcement authority under such a code concerning the party’s compliance with requirements under such a code, and
- (d) details of any decisions by any other regulatory body in respect of that party as regards a standard of conduct.

(5) Where the assessment identifies risks to consumers for the purposes of paragraph (2), the PRS provider must go on to take such measures as are appropriate and proportionate for the purpose of preventing adverse effects arising from such risks.

(6) Where the PRS provider cannot take such measures, it must not enter into the arrangement.

(7) Where the PRS provider enters into the arrangement referred to in paragraph (1), it must review the assessment at appropriate intervals (for so long as the arrangement remains in place) to consider—

- (a) where risks were previously identified by the assessment, whether those risks have materially changed, and
- (b) whether any new risks have arisen, having regard to the matters in paragraph (2).

(8) Where the updated assessment under paragraph (7) identifies either materially changed risks or new risks, the PRS provider must go on to take such measures as are appropriate and proportionate for the purpose of preventing adverse effects arising from such risks.

(9) Where the PRS provider cannot take such measures, it must immediately terminate the arrangement.

(10) A generally authorised person (within the meaning given in article 10(1)(b)) must approve any assessments and measures taken under this article.

(11) The PRS provider must make and keep a record in writing of—

- (a) the assessment carried out for the purposes of this article (including any updated assessment made for the purposes of paragraph (7)), and
- (b) any measures taken in accordance with paragraphs (5) or (8).

(12) In this article—

- (a) “appropriate intervals” means—
 - (i) at intervals not exceeding twelve months from the day after the PRS provider has carried out the risk assessment under paragraph (1), and
 - (ii) thereafter at intervals not exceeding twelve months from the previous review until the agreement or arrangement has concluded,
- (b) “Code 15” has the meaning given in article 11(4)(b),
- (c) “PSA” has the meaning given in article 11(4)(f),
- (d) “relevant approved code” has the meaning given in paragraph (1)(a) of Schedule 4, and
- (e) “relevant enforcement authority” has the meaning given in paragraph (1)(b) of Schedule 4.

Suspension of arrangements by network operators

18.—(1) This article applies where a network operator has an arrangement with an intermediary in respect of a regulated activity.

(2) A network operator must suspend such an arrangement where it has reasonable grounds for suspecting that—

- (a) there is a security compromise, or a risk of such a compromise, in the systems of the intermediary, or
- (b) the intermediary is contravening, or has contravened, one or more of requirements imposed on it under this Order.

(3) Where an arrangement has been so suspended, the network operator must not do anything in relation to that arrangement, unless it is satisfied that (as the case may be)—

- (a) the security compromise in paragraph (2)(a) has been eliminated,
- (b) the risk of such a compromise in paragraph (2)(a) is not material, or
- (c) no action needs to be taken in relation to the suspected contravention.

(4) In this article—

- (a) “security compromise” has the meaning given in article 21(10)(f), and
- (b) “systems” means—
 - (i) an electronic communications network,
 - (ii) an electronic communications service,
 - (iii) any device or group of interconnected or related devices, one or more of which, pursuant to a program, perform automatic processing of digital data, or
 - (iv) digital data stored, processed, retrieved or transmitted by elements covered under sub-paragraphs (i),(ii) or (iii) for the purposes of their operation, use, protection and maintenance,

that is used in respect of the provision of a controlled PRS but does not include a payment platform (within the meaning given in article 21(10)(d)).

Suspension of arrangements by intermediaries

19.—(1) This article applies where an intermediary has an arrangement with a merchant in respect of a regulated activity.

(2) An intermediary must suspend an arrangement where it has reasonable grounds for suspecting that—

- (a) there is a security compromise, or a risk of such a compromise, in systems of the merchant, or
- (b) the merchant is contravening, or has contravened, one or more requirements under this Order.

(3) Where an arrangement has been so suspended, the intermediary must not do anything in relation to that arrangement, unless it is satisfied that (as the case may be)—

- (a) the security compromise in paragraph (2)(a) has been eliminated,
- (b) the risk of such a compromise in paragraph (2)(a) is not material, or
- (c) no action needs to be taken in relation to the suspected contravention.

(4) In this article—

- (a) “security compromise” has the meaning given in article 21(10)(f), and
- (b) “systems” has the meaning given in article 18(4)(b).

Arrangements entered into before the commencement of this Order

20.—(1) This article applies to a PRS provider who immediately before the commencement of this Order—

- (a) is a person to whom Code 15 applied,
- (b) is party to an arrangement in respect of a controlled PRS which has not concluded, and
- (c) complied with all requirements in paragraphs 3.9.1 to 3.9.15, and 3.10.8 to 3.10.9 of Code 15 applicable to the person in respect of that arrangement.

(2) The PRS provider is deemed to have complied, immediately after the commencement of this Order, with the requirements in the following provisions, in respect of such an arrangement, where they apply—

- (a) article 15,
- (b) article 16, and
- (c) article 17(1).

(3) In this article, “Code 15” has the meaning in article 11(4)(b).

PART 5

Security testing

Requirements relating to relevant security testing

21.—(1) No intermediary may carry out a regulated activity, unless the intermediary has carried out relevant security testing—

- (a) within the period of 12 months ending with the day on which any regulated activity begins, and
- (b) subsequently at annual intervals from the day after which the relevant security testing was most recently completed, for so long as the intermediary carries out the regulated activity.

(2) For the purposes of paragraph (1) “relevant security testing” means a process—

- (a) which is undertaken for the purposes of determining whether the intermediary’s payment platform for operator billing is (in principle) at risk of any security compromises, and
 - (b) which may not be treated as having been carried out unless it has been approved by the person who is for the time being appointed under paragraph (3).
- (3) A person (“P”) is appointed under this paragraph if—
- (a) P is in senior management (for the intermediary), and
 - (b) P’s details have been given to OFCOM in the manner specified on their website at least five days before the regulated activity begins to be carried out.
- (4) P may not give an approval for the purposes of paragraph (2)(b), unless P is satisfied that—
- (a) there is no material risk of security compromises on the intermediary’s payment platform for operator billing, or
 - (b) there is such a risk but that risk is materially reduced by the intermediary having in place measures which, in the reasonable opinion of P, ensure that consumers are adequately protected.
- (5) The intermediary must keep an up-to-date record of the relevant security testing that it carries out, including details of—
- (a) the processes for determining risks of security compromises,
 - (b) any risks and measures identified for the purposes of paragraph (4)(b), and
 - (c) the approval given for the purposes of paragraph (2)(b).
- (6) The intermediary must upon request from a relevant network operator provide its most recent record of relevant security testing as soon as reasonably practicable.
- (7) Where, on receipt of that record, a relevant network operator reasonably believes that—
- (a) there is risk of security compromise, and
 - (b) no measures could be put in place which would ensure that consumers are adequately protected,
- the relevant network operator must immediately notify the intermediary of that belief.
- (8) Where a relevant network operator has given a notification under paragraph (7), the relevant network operator and the intermediary must not do anything that would (if done) contribute to the carrying out of the regulated activity affected by the risk of a security compromise.
- (9) References in this article to regulated activity do not include any regulated activity where (if applicable) any controlled PRS is (so far as it is) carried out by means of a call.
- (10) In this article—
- (a) “connected security compromise” means a security compromise that occurs in relation to another person’s payment platform or systems,
 - (b) “mobile phone service” means a public electronic communications service which is provided for the purpose of communicating with others, or accessing data, by mobile phone,
 - (c) “operator billing” means where a consumer uses a controlled PRS by means of a mobile phone service and a charge for that use is set out in the bill (within the meaning given in article 23(3)(a)) in respect of that mobile phone service,
 - (d) “payment platform” means a facility for enabling a charge to be imposed for the provision of a controlled PRS,
 - (e) “relevant network operator” means a network operator in respect of which the intermediary has entered into arrangements for the purposes of carrying out a regulated activity,
 - (f) “security compromise”, in relation to a payment platform or systems, means—
 - (i) anything that compromises the availability, performance or functionality of the payment platform or systems,

- (ii) any unauthorised access to, interference with or exploitation of the payment platform or systems, or anything that enables such access, interference or exploitation, for whatever reason,
- (iii) anything that compromises the confidentiality of signals conveyed by means of the payment platform or systems,
- (iv) anything that causes signals conveyed by means of the payment platform or systems to be lost, unintentionally altered or altered otherwise than by or with the permission of the PRS provider,
- (v) anything that occurs in connection with the payment platform or systems and compromises the confidentiality of any data stored by electronic means,
- (vi) anything that occurs in connection with the payment platform or systems and causes any data stored by electronic means to be lost, unintentionally altered or altered otherwise than by or with the permission of the PRS provider, or
- (vii) anything that occurs in connection with the payment platform or systems and causes a connected security compromise,
- (g) “senior management” has the meaning given in article 10(5), and
- (h) “systems” has the meaning given in article 18(4)(b).

PART 6

Consumer Protection

CHAPTER 1

Information provided to consumers in carrying out a regulated activity

Misleading information

22.—(1) A PRS provider must not carry out any regulated activity that—

- (a) contains any material, or
- (b) omits any material information,

that is likely to mislead a consumer.

(2) A regulated activity contains material likely to mislead a consumer if the regulated activity—

- (a) contains false information and is therefore untruthful in relation to the material information or if it, or its overall presentation, in any way deceives or is likely to deceive the average consumer, even if the information is factually correct, and
- (b) causes or is likely to cause the average consumer to take a transactional decision that consumer would not have taken otherwise.

(3) A regulated activity omits any material information likely to mislead a consumer if, as a result of the omission, it causes or is likely to cause the average consumer to take a transactional decision that consumer would not have taken otherwise.

(4) References in this article to a regulated activity omitting any material information include references to—

- (a) hiding material information,
- (b) providing material information in a manner which is unclear, unintelligible, ambiguous or untimely, or
- (c) failing to identify its commercial intent, unless this is already apparent from the context.

(5) References in this article to the average consumer are, subject to paragraphs (6) and (7), references to a consumer who is—

- (a) reasonably well informed,

- (b) reasonably observant, and
 - (c) reasonably circumspect.
- (6) The average consumer is—
- (a) to be treated as not knowing information in relation to a regulated activity where such information has been concealed by the PRS provider (even if the average consumer might know the information from another source), and
 - (b) where a regulated activity is directed at a particular group, the average consumer is an average member of that group (and the attributes of the average consumer in paragraph (5) are to be read accordingly).
- (7) References in this article to the average consumer, so far as relating to cases where a group of consumers are vulnerable consumers, are to be read as references to an average member of that group (and the attributes of the average consumer in paragraph (5) are to be read accordingly).
- (8) In this article—
- (a) “material information” means any of the information specified in Schedule 3,
 - (b) “transactional decision” means any decision taken by a consumer, whether it is to act or to refrain from acting, concerning—
 - (i) whether, how and on what terms to purchase, make payment in whole or in part for a controlled PRS, or
 - (ii) whether, how and on what terms to exercise a contractual right in relation to a controlled PRS, and
 - (c) “vulnerable consumers” has the meaning given in article 40(5)(a).

CHAPTER 2

Promotion and marketing

Promoting and marketing services to children

23.—(1) A PRS provider must not offer a children’s service, or a service mentioned in paragraph (2), to a consumer, unless any promotion and marketing for such a service specifies—

- (a) the age requirements (if any) applicable for the use of the service in question, and
- (b) that, if the consumer is not the bill-payer, the consumer must obtain the bill-payer’s permission before using the service.

(2) The service is one or more of the following services making available a facility comprised in a children’s service—

- (a) a competition and voting service (see article 42(1)), or
- (b) a recurring donation service (see article 34(7)).

(3) In this article—

- (a) “bill” means the information issued, or made available, by an originating communications provider to a customer about the charges levied and due for payment (or, as the case may be, the debits and credits applied to the customer’s account) for providing an electronic communications service by means of which the specified service in question is provided,
- (b) “bill-payer” means the customer to whom a bill is issued or made available,
- (c) “child” means a person aged under 16,
- (d) “children’s service” means a threshold service that consists in, or has as its principal feature—
 - (i) the provision of content, or
 - (ii) the making available of a facility,
 that is aimed at children or could reasonably be expected to appeal to a child, and
- (e) “originating communications provider” has the meaning given in article 14(7)(c).

Factual claims made in promotion and marketing about a controlled PRS

24. A PRS provider must—

- (a) make a record in writing of all evidence necessary to substantiate claims made in the promotion and marketing of a controlled PRS, and
- (b) keep the associated evidence mentioned in sub-paragraph (a).

Usage requirements for some types of controlled PRS to be stated in promotion and marketing

25.—(1) A PRS provider must not offer a service to which this article applies, unless the promotion and marketing of such a service complies with the requirements in paragraph (3) of this article.

(2) This article applies to—

- (a) a chatline service (see article 5),
- (b) a live entertainment service (see article 25(4)(b)),
- (c) a remote gambling service (see article 54(4)(a)),
- (d) a sexual content service (see article 6),
- (e) a subscription service (see article 8) comprised in a sexual content service, or
- (f) a virtual chat service (see article 31(5)(f)).

(3) The promotion and marketing of any service to which this article applies must clearly state that—

- (a) the service must not be used by any person under the age of eighteen,
- (b) if the consumer is not the bill-payer, the consumer must obtain the bill-payer's permission before using the service, and
- (c) details of the service may appear on the bill-payer's bill (within the meaning given in article 23(3)(a)).

(4) In this article—

- (a) "bill-payer" has the meaning given in article 23(3)(b),
- (b) "live entertainment service" means a threshold service that—
 - (i) consists in, or has as its principal feature, content of such a nature that it is reasonable to assume that it was produced solely or principally for the purposes of entertaining a consumer, except for excluded content, and
 - (ii) such content being communicated by means of a call between two persons, and
- (c) "excluded content" means—
 - (i) content falling within the meaning of a children's service, or
 - (ii) content falling within the meaning of a sexual content service.

CHAPTER 3

Pre-contract information and express consent for imposing certain charges

Information to be provided before entering into a controlled PRS contract

26.—(1) Before entering into a controlled PRS contract with a consumer, a merchant must provide the consumer with the information specified in Schedule 3 in a clear, comprehensible and prominent manner, and in a way appropriate to the means of communication used.

(2) In this article, a "controlled PRS contract" means a contract under which a merchant provides, or agrees to provide, a controlled PRS to a consumer and the consumer pays, or agrees to pay, the charge to be imposed for the provision of the controlled PRS.

Express consent for charges imposed under a subscription contract entered into online and remotely

27.—(1) This article applies to a subscription contract entered into online and remotely.

(2) Under a contract to which this article applies, the merchant must not impose any charge unless, directly before the consumer is bound by the contract, the merchant has complied with the requirements in this article.

(3) The first requirement is that the merchant must give or make available to the consumer, and directly before the consumer pays or agrees to pay the charge for the provision of the service, the information specified in sub-paragraphs (a), (b), (c), (f), (g), (h), (i) and (o) of paragraph 2 of Schedule 3 in a clear, comprehensible and prominent manner, and in a way that complies with paragraph (4).

(4) The merchant must give or make available to the consumer the information referred to in paragraph (3) clearly and legibly on the merchant’s website, adjacent to the button or other similar function mentioned in paragraph (6).

(5) The second requirement is that the merchant must obtain the consumer’s express consent by ensuring that the consumer explicitly acknowledges that the provision of the service in question implies an obligation to pay the charge in question.

(6) The consumer’s express consent is deemed to have been given when the consumer activates a button or a similar function labelled in an easily legible manner with words such as ‘BUY NOW’ or a corresponding unambiguous formulation indicating that the consumer’s activation entails an obligation to pay the merchant.

(7) This article does not apply to a subscription service comprised in a recurring donation service.

(8) The reference in paragraph (1) to a subscription contract being entered into remotely is a reference to it being entered into without the simultaneous physical presence of the merchant and the consumer.

(9) In this article—

- (a) “recurring donation service” has the meaning given in article 34(7),
- (b) “subscription contract” has the meaning given in article 8(5)(b), and
- (c) “subscription service” has the meaning given in article 8.

Express consent for charges imposed under a subscription contract entered into by means of an SMS text message

28.—(1) This article applies to a subscription contract entered into by means of an SMS text message.

(2) Under a contract to which this article applies, the merchant must not impose any charge unless, directly before the consumer is bound by the contract, the merchant has complied with the requirements in this article.

(3) The first requirement is that the merchant must give or make available to the consumer, and directly before the consumer pays or agrees to pay the charge for the provision of the service, the information specified in sub-paragraphs (a), (b), (c), (f), (g), (h), (i), (j), (k), (l) and (o) of paragraph 2 of Schedule 3 in a clear, comprehensible and prominent manner, and in a way that complies with paragraph (4).

(4) The merchant must give or make available to the consumer the information referred to in paragraph (3) by way of an SMS text message, except where paragraph (5) applies.

(5) The information referred to in sub-paragraphs (a), (b), (c), (i), (j), (k) and (l) of paragraph 2 of Schedule 3 may be provided by means of making it available on the merchant’s website, provided that the SMS referred to in paragraph (4) includes a link to the webpage containing that information.

(6) The second requirement is that the merchant must obtain the consumer's express consent by ensuring that the consumer explicitly acknowledges that the provision of the service in question implies an obligation to pay the charge in question.

(7) The consumer's express consent is deemed to have been given when the consumer replies by means of an SMS text message in response to the SMS text message referred to in paragraph (4) with a word such as 'START' or a corresponding unambiguous formulation indicating that the consumer's reply entails an obligation to pay the merchant.

(8) This article does not apply to a subscription service comprised of a recurring donation service.

(9) In this article—

- (a) "recurring donation service" has the meaning given in article 34(7),
- (b) "subscription contract" has the meaning given in article 8(5)(b), and
- (c) "subscription service" has the meaning given in article 8.

Express consent for charges imposed under a contract for an ICSS

29.—(1) This article applies to a contract under which a merchant provides, or agrees to provide, an ICSS to a consumer and the consumer pays, or agrees to pay, the charge to be imposed for the provision of that service.

(2) Under a contract to which this article applies, the merchant must not impose any charge unless, directly before the consumer is bound by the contract, the merchant has complied with the two requirements in paragraphs (3) and (5).

(3) The first requirement is that the merchant must give or make available to the consumer, and directly before the consumer pays or agrees to pay the charge for the provision of the service, the information specified in sub-paragraphs (a), (b), (c), (f), (g), (j) and (o) of paragraph 2 of Schedule 3 in a clear, comprehensible and prominent manner, and in a way that complies with paragraph (4).

(4) The merchant must give or make available to the consumer the information referred to in paragraph (3) during their electronic communication by way of an automated message.

(5) The second requirement is that the merchant must obtain the consumer's express consent by ensuring that the consumer explicitly acknowledges that the provision of the service in question implies an obligation to pay the charge in question.

(6) The consumer's express consent is deemed to have been given when the consumer activates a button or a similar function for indicating consent during the electronic communication with the merchant in response to the automated message referred to in paragraph (4), by which activation of the button or a similar function an obligation to pay the merchant is effected.

(7) Once the merchant has obtained the consumer's express consent in accordance with paragraph (5), it must provide to the consumer the information specified in paragraph (8) before the consumer is connected to another person or service through the use of the ICSS.

(8) The specified information is—

- (a) the telephone number of the person or service to whom the consumer is wishing to be connected through the use of the ICSS, and
- (b) a clear explanation of the fact that, if the consumer still wishes to be so connected, the charge for the continued use of the ICSS would be more expensive than the cost (if any) of the consumer speaking to the person or accessing that person's service directly.

CHAPTER 4

Provision of controlled PRS

Requirement to provide a controlled PRS within a reasonable time

30.—(1) This article applies where a merchant and a consumer enter into a controlled PRS contract and—

- (a) the contract does not expressly fix the time for the service to be provided and does not say how it is to be fixed, and
- (b) the information required to be provided to the consumer under article 26(1) does not fix the time either.

(2) In that case, the contract is to be treated as including a term that the merchant must provide the service within a reasonable time.

(3) What is a reasonable time is a question of fact.

(4) In this article, “controlled PRS contract” has the meaning given in article 26(2).

Charging information for a controlled PRS purchased through the use of a mobile phone service

31.—(1) This article applies to the provision of a controlled PRS for which a consumer is required to pay the charge to a person providing a mobile phone service by means of which the controlled PRS in question is provided.

(2) A merchant must provide the consumer, free of charge, with the information required by paragraph (3) by sending it using an appropriate medium without undue delay after a charge for the provision of the controlled PRS has been imposed.

(3) That information is—

- (a) the name of the merchant (including any trading name) as notified to OFCOM for the purposes of article 10 and, where applicable, article 13,
- (b) the website of the merchant or, if the merchant does not have a website, the full name and contact details of the merchant for the purposes dealing with consumer enquiries and complaints,
- (c) where applicable, the total amount charged for the provision of the controlled PRS,
- (d) in the case of a subscription contract, the total costs per billing period or (where such contracts are charged at a fixed rate) the total monthly costs, and
- (e) clear instructions explaining how the consumer may terminate the provision of the service.

(4) This article does not apply to—

- (a) a controlled PRS which is provided to consumers by means of a call, or
- (b) a virtual chat service.

(5) In this article—

- (a) “appropriate medium” means an email or an SMS text message that—
 - (i) enables the consumer to store the information in a way accessible for future reference for a period that is long enough for the purposes of the information, and
 - (ii) allows the unchanged reproduction of the information,
- (b) “controlled PRS contract” has the meaning given in article 26(2),
- (c) “mobile phone service” has the meaning given in article 21(10)(b),
- (d) “SMS” means a public electronic communications service consisting in the conveyance of text messages to a mobile phone,
- (e) “subscription contract” has the meaning given in article 8(5)(b),

- (f) “virtual chat service” means a threshold service that—
 - (i) has as its principal feature the making available of a facility in which the merchant enables at least three consumers to participate in an electronic communication without the consumers knowing the identities of each other prior to using the service, and
 - (ii) consists in the sending or receiving of text messages or visual images, except in so far as it comprises the provision of content, or the making available of a facility, within the meaning of an excluded service, and
- (g) “excluded service” means one or more of the following services—
 - (i) a children’s service (see article 23(3)(d)),
 - (ii) a competition and voting service (see article 42(1)),
 - (iii) a professional advice service (see article 53(3)),
 - (iv) a recurring donation service (see article 34(7)),
 - (v) a remote gambling service (see article 54(4)(a)), or
 - (vi) a sexual content service (see article 6).

Notifications of charges for virtual chat services

32.—(1) This article applies to a merchant who provides a virtual chat service to a consumer.

(2) Where the charge for use of a service to which this article applies first reaches the amount of £10 (inclusive of VAT), the merchant must—

- (a) notify the consumer of that fact, and
- (b) provide the consumer with the information in paragraph (4),

without undue delay after that time.

(3) After a notification under paragraph (2), every time the charge for that use increases by the amount of at least £10 (inclusive of VAT), the merchant must—

- (a) notify the consumer of that fact, and
- (b) provide the consumer with the information in paragraph (4),

without undue delay after that time.

(4) The information is—

- (a) the total amount of the charge for the use of the service imposed since—
 - (i) the consumer first began using the service, or
 - (ii) the notification sent under paragraph (2) or, as may be the case, paragraph (3), whichever is the most recent,
- (b) the name of the merchant (including any trading name) as notified to OFCOM for the purposes of article 10 and, where applicable, article 13,
- (c) the website of the merchant or, if the merchant does not have a website, the full name and contact details of the merchant for the purposes of dealing with consumer enquiries and complaints, and
- (d) clear instructions explaining how the consumer may terminate the provision of the service.

(5) A notification under paragraphs (2) and (3), together with the information in paragraph (4), must—

- (a) be sent together, free of charge, by means of an SMS text message to the telephone number used for the purpose of imposing the charge for the use of the service, and
- (b) be separate and distinct to any other information which may be given as part of providing the service or any promotion and marketing of the service.

(6) In this article, “virtual chat service” has the meaning given in article 31(5)(f).

Right to terminate subscription contracts

33.—(1) A consumer may terminate a subscription contract at any time, without giving any reason and without incurring any liability.

(2) The right in paragraph (1) is exercised if the consumer indicates to the merchant that the consumer is terminating the contract and treating the contract as an end.

(3) The consumer must be able to give the indication by any reasonable means and by the same means of communication as the consumer used to enter into the contract.

(4) Every subscription contract is to be treated as including terms that the consumer may terminate the contract as provided by paragraphs (1) to (3) of this article.

(5) In this article, “subscription contract” has the meaning given in article 8(5)(b).

Reminder notices of cancellation of charges for recurring donation services

34.—(1) Under a contract for a recurring donation service, or a service to which paragraph (2) applies, between a merchant and a consumer, the merchant must not impose any charge, unless the requirements of this article are met.

(2) This paragraph applies to a children’s service that makes available a facility comprised in a recurring donation service.

(3) The merchant must, after imposing a charge for the charitable donation for the first time, give a notice by means of an SMS text message reminding the consumer of the information in paragraph (4) before a charge for a charitable donation is to be imposed on the consumer every time after that first charitable donation.

(4) The information is—

- (a) the specific date that the charge for the charitable donation is next due to be imposed, and
- (b) clear instructions explaining how the consumer can cancel that particular charge by means of an SMS text message.

(5) The notice required to be given by paragraph (3) must be sent to the consumer not less than 24 hours before the charge is next due to be imposed.

(6) A notice under paragraph (3) must be provided free of charge.

(7) In this article, “recurring donation service” means a threshold service that consists in the making available of a facility for making payments at regular intervals to—

- (a) as respects England and Wales, a body falling within the definition of a charity for the purposes of the Charities Act 2011(a),
- (b) as respects Northern Ireland, a body falling within the definition of a charity for the purposes of the Charities Act (Northern Ireland) 2008(b), or
- (c) as respects Scotland, a body entered into the Scottish Charity Register for the purposes of the Charities and Trustee Investment Act (Scotland) 2005(c).

Reminder notices of termination of subscription contracts

35.—(1) Under a subscription contract, no charge is payable by the consumer—

- (a) as respects a subscription service where a consumer automatically incurs a charge, or recurring charges, for a specified duration only (“term-based subscription”), after the last cancellation date, or
- (b) as respects a subscription service where the period for the imposition of charges continues indefinitely (“subscription of indeterminate duration”), after the time specified in paragraph (3),

(a) 2011 c.25.
(b) 2008 c.12.
(c) 2005 asp.10.

unless the merchant has provided a notice to the consumer containing the information in paragraph (2).

- (2) The information is—
 - (a) a brief description of the service applicable to the contract,
 - (b) a reminder that—
 - (i) as respects a term-based subscription, the subscription will be automatically renewed for the same duration as previously specified, unless the consumer terminates the contract in accordance with the consumer’s right under article 33 before the last cancellation date,
 - (ii) as respects a subscription of indeterminate duration, the subscription will continue indefinitely unless the consumer terminates the contract in accordance with the consumer’s right under article 33, and
 - (c) only as respects a term-based subscription, the last cancellation date.
- (3) The notice must be sent to the consumer in an appropriate medium and—
 - (a) as respects a term-based subscription, not less than seven calendar days, but not more than 30 calendar days, before the last cancellation date, and
 - (b) as respects a subscription of indeterminate duration, not less than 14 calendar days preceding each anniversary of the date that the contract was entered into by the consumer.
- (4) This article does not apply where the subscription service mentioned in paragraph (1) is comprised in a recurring donation service.
- (5) A notice sent under this article must be provided free of charge.
- (6) In this article—
 - (a) “appropriate medium” has the meaning given in article 31(5)(a),
 - (b) “last cancellation date” means the last day on which the consumer could avoid becoming liable for a charge for the provision of content or the making available of a facility,
 - (c) “recurring donation service” has the meaning given in article 34(7),
 - (d) “subscription contract” has the meaning given in article 8(5)(b), and
 - (e) “subscription service” has the meaning given in article 8.

Records of consent

36.—(1) A merchant who provides a controlled PRS to a consumer must make and keep in writing a record of the consumer’s consent to entering into a controlled PRS contract and for any charges imposed under such a contract.

(2) The requirement in paragraph (1) includes, in particular, consent to be obtained in accordance with articles 27 to 29 and 48.

(3) In this article, “controlled PRS contract” has the meaning given in article 26(2).

Consumer complaints and enquiries: policies and procedures

37.—(1) A merchant must not provide a controlled PRS, unless the merchant first—

- (a) establishes, and maintains, in writing policies and procedures as respects the matters mentioned in paragraph (2), and
- (b) complies with the seven requirements in article 38.

(2) Those matters are—

- (a) the arrangements and facilities for dealing with any enquiries made to the merchant by a consumer,
- (b) the handling of complaints made to that merchant by a consumer where the complaint is in connection with the provision of a controlled PRS, and

- (c) the provision of refunds, or other form of redress, in respect of matters that form the subject-matter of such complaints.
- (3) The policies and procedures referred to in paragraph (1)(a) must describe the means and methods for establishing compliance with the seven requirements set out in article 38.
- (4) Those policies and procedures must—
- (a) be clear and accessible to members of the public free of charge, including on the merchant’s website (if any),
 - (b) include, in particular—
 - (i) a statement of a consumer’s entitlement to take the enquiry or complaint to OFCOM, together with OFCOM’s contact details, where the consumer expresses dissatisfaction with the handling or resolution of the enquiry or complaint, and
 - (ii) up-to-date contact information for the merchant, and
 - (c) be—
 - (i) approved by the generally authorised person (within the meaning given in article 10(1)(b)),
 - (ii) kept up to date, and
 - (iii) reviewed and, where necessary revised, to ensure they are effective for the purposes of this article.

Consumer complaints and enquiries: requirements

38.—(1) This article sets out the seven requirements for the purposes of complying with article 37.

- (2) The first requirement is that a consumer must be able to make any enquiry or complaint—
- (a) free of charge, or
 - (b) where it is made using a telephone number for contacting the merchant, at no more than the basic rate.
- (3) The second requirement is that the merchant must use its best endeavours to ensure that all calls received from consumers are answered between 9 am to 5 pm on working days for the purposes of dealing with any enquiries and complaints.
- (4) The third requirement is that all enquiries and complaints made by means other than a call should be acknowledged to the consumer within five working days beginning with the day on which the enquiry or complaint is received.
- (5) The fourth requirement is that the merchant must inform the consumer, at appropriate intervals, about the status and progress of the enquiry or complaint.
- (6) The fifth requirement is that the merchant must use its best endeavours to resolve issues raised by consumer’s enquiry or complaint.
- (7) The sixth requirement is that the merchant’s determination of any enquiry or complaint must be provided to the consumer without undue delay.
- (8) The seventh requirement is that the merchant must make and keep appropriate records in writing of complaints and enquiries and any decision made in respect of them.

Additional requirements relating to refunds

39.—(1) This article applies where a merchant receives a complaint or other communication which amounts to a request for a refund from a consumer in relation to a charge imposed for the provision of a controlled PRS.

- (2) The merchant must inform the consumer, at appropriate intervals, about the status and progress of the consumer’s request for a refund.

(3) The merchant must provide the consumer with its decision about whether or not a refund will be paid without undue delay.

(4) For the purposes of paragraph (3), the decision is treated as provided as soon as the merchant has done what is necessary to make it available to the consumer.

(5) For the purposes of paragraph (4), something is made available to a consumer only if the consumer can reasonably be expected to know how to access it.

(6) A decision under paragraph (3) must contain—

- (a) the reasons for that decision,
- (b) the amount of any refund, and
- (c) the date on which any refund will be paid to the consumer.

(7) The merchant must pay the refund to the consumer—

- (a) without undue delay and in any event not more than 14 calendar days beginning with the day on which the merchant has provided its decision under paragraph (3),
- (b) by making the arrangements so that the consumer receives the refund as a credit to the amount of the consumer's next bill (within the meaning given in article 23(3)(a)) or in such other manner as the merchant and the consumer may expressly agree, and
- (c) without imposing any charge on the consumer in respect of paying the refund.

CHAPTER 5

Vulnerable consumers and harmful material

Vulnerable consumers

40.—(1) A PRS provider must not undertake any regulated activity, unless the PRS provider has had regard to the interests of vulnerable consumers.

(2) For the purposes of paragraph (1), a PRS provider must take reasonable and proportionate steps—

- (a) to identify potential risks to the interests of vulnerable consumers, and
- (b) to provide for the mitigation of any identified risks.

(3) The PRS provider must establish and maintain in writing policies and procedures which describe the means and methods for establishing compliance with this article.

(4) Those policies and procedures must be—

- (a) approved by the generally authorised person (within the meaning given in article 10(1)(b)),
- (b) kept up to date, and
- (c) reviewed and, where necessary revised, to ensure they are effective for the purposes of this article.

(5) In this article—

- (a) “vulnerable consumers” means consumers in respect of whom a PRS provider ought reasonably to be aware, that by reason of a specific characteristic, circumstance or need, are likely to take decisions the consumers would not otherwise take concerning—
 - (i) whether, how and on what terms to purchase a controlled PRS, or
 - (ii) whether, how and on what terms to make payment or exercise a contractual right in relation to a controlled PRS, and
- (b) “specific characteristic, circumstance or need” includes, in particular, age, illness, physical or mental impairment which has an adverse effect on the carrying out of normal day-to-day activities, or emotional distress.

Harmful material

41.—(1) A PRS provider must not carry out any regulated activity that contains any material likely to incite violence or hatred against a group of persons or a member of a group of persons based on any of the specified characteristics.

(2) A PRS provider must also take all reasonable steps to prevent the risk of the regulated activity causing harm to consumers.

(3) In paragraph (2), the reference to harm includes harm to mental health (including, for example, as a consequence of suffering fear, anxiety or distress).

(4) In this article, “specified characteristics” mean—

- (a) age,
- (b) disability,
- (c) gender reassignment,
- (d) marriage or civil partnership,
- (e) nationality or language,
- (f) pregnancy or maternity,
- (g) race,
- (h) religion or belief,
- (i) sex, or
- (j) sexual orientation.

CHAPTER 6

Competition and voting services

Meaning of competition and voting service

42.—(1) In this Chapter, “competition and voting service” means a threshold service that makes available a facility for—

- (a) entering a competition or claiming a prize, but it does not include betting (within the meaning of sections 9 to 11 of the 2005 Act), or
- (b) registering a vote or recording a preference.

(2) Where a children’s service makes available a facility comprised in a service mentioned in paragraph (1), that service must comply with the requirements in this Chapter and it shall be read as a competition and voting service for those purposes.

Different ways of making use of competition and voting services

43. Where a merchant offers consumers different ways of making use of a competition and voting service, the merchant must take steps to ensure that, so far as possible, consumers are not encouraged to choose one particular such way over others.

Valid ticket of entry for competition and voting services

44.—(1) A merchant must specify a time limit for the use of a facility comprised in a competition and voting service before consumers are able to make use of it.

(2) Where a consumer uses the facility before that time limit has expired and meets any conditions applicable to the competition and voting service, the merchant must—

- (a) give the consumer an entitlement to—
 - (i) acquire a chance of winning a competition or claiming a prize, or
 - (ii) have a vote registered or a preference recorded,whichever is applicable in the consumer’s case, and

- (b) give a confirmation in writing of that entitlement (“valid ticket of entry”) to the consumer without undue delay after the consumer has used the facility.

(3) For the purposes of paragraph (2), where—

- (a) a consumer uses a relevant telephone number (within the meaning given in article 3(8)(c)) to establish a connection in order to make use of a facility comprised in a competition and voting service, and
- (b) such connection has been established before the time limit has expired,

the facility is deemed as being used by the consumer before the time limit has expired, notwithstanding the fact that the consumer is still in the process of using the facility after the time limit has expired.

Consideration of a valid ticket of entry for competition and voting services

45.—(1) A merchant must comply with the requirements of this article in relation to a valid ticket of entry given to a consumer in accordance with article 44(2)(b).

(2) Where the valid ticket of entry relates to having a vote registered or (as the case may be) a preference recorded, the merchant—

- (a) must take that valid ticket of entry into account when deciding the outcome of the votes registered or preferences recorded from all other valid tickets of entry given to consumers, and
- (b) must not favour one such vote or preference over another.

(3) Where the valid ticket of entry relates to acquiring a chance of winning a competition or (as the case may be) claiming a prize, the merchant must ensure that the chance is equally favourable to all other valid tickets of entry given to consumers.

(4) In this article, “valid ticket of entry” has the meaning given in article 44(2)(b).

Claiming prizes free of charge

46.—(1) Where a consumer wins a prize in relation to a valid ticket of entry given in accordance with article 44(2)(b), a merchant must provide the prize to the consumer free of charge.

(2) In this article, “valid ticket of entry” has the meaning given in article 44(2)(b).

Attempted use of a facility comprised in a competition and voting service after a time limit has expired

47.—(1) Where a consumer attempts to use a facility comprised in a competition and voting service after the time limit specified by a merchant in accordance with article 44(1) has expired, the merchant must comply with the requirements of this article.

(2) The merchant must not impose any charge on the consumer in relation to the consumer’s attempt to use the facility.

(3) Where the merchant imposes a charge (contrary to paragraph (2)) in relation to the consumer’s attempt to use the facility, the merchant must provide for a refund of that charge without undue delay after the merchant becomes aware of that attempt.

(4) A merchant must also provide to the consumer without undue delay after the merchant becomes aware of the consumer’s attempt to use the facility—

- (a) a confirmation of the fact that the attempt to use the facility was unsuccessful, and
- (b) either—
 - (i) a confirmation of the fact that no charge has been imposed in relation to that attempt, or
 - (ii) information that the merchant has imposed a charge (contrary to paragraph (2)) in relation to the consumer’s attempt and that the consumer will be paid a refund of that charge,

whichever is applicable in the consumer's case.

CHAPTER 7

Other requirements in respect of certain controlled PRS

Pricing restrictions for some types of controlled PRS

48.—(1) This article applies where a merchant is providing one or more of the services mentioned in paragraph (2) to a consumer.

(2) The services are—

- (a) chatline services (see article 5),
- (b) live entertainment services (see article 25(4)(b)),
- (c) professional advice services (see article 53(3)) used by means of a call, and
- (d) sexual content services (see article 6) used by means of a call.

(3) Where the charge for use of the service reaches £15 (inclusive of VAT) for the duration of the call, the merchant must notify the consumer of that fact.

(4) Where the charge for use of the service reaches £30 (inclusive of VAT) for the duration of the call, the merchant must—

- (a) notify the consumer of that fact, and
- (b) not charge the consumer any more money for use of the service, unless the consumer has given express consent.

(5) Where the charge for use of the service reaches £40 (inclusive of VAT) for the duration of the call, the merchant must—

- (a) notify the consumer of that fact, and
- (b) not charge the consumer any more money for use of the service, unless the consumer makes another call (in respect of which paragraphs (3) to (5) would apply).

Prohibition on provision of types of controlled PRS to persons under the age of eighteen

49. A merchant must not provide a service mentioned in article 25(2) (usage requirements for some types of controlled PRS) to any person under the age of eighteen.

Age verification for some types of controlled PRS

50.—(1) A merchant who provides a service mentioned in article 25(2) (usage requirements for some types of controlled PRS) to a consumer must comply with the four requirements in this article.

(2) The first requirement is that the merchant must establish and maintain procedures for obtaining and verifying the age of a consumer intending to use the service (“age verification”).

(3) The second requirement is that the merchant must carry out age verification in respect of the consumer before providing the service to that consumer.

(4) The third requirement is that the merchant must make and keep a record in writing of the age verification it carries out in respect of each consumer.

(5) The fourth requirement is that the merchant must refund to the bill-payer any charges paid in respect of use of the service by a person under the age of eighteen without undue delay after the merchant becomes aware that the service has been, or is being, used by a person under the age of eighteen.

(6) In this article, “bill-payer” has the meaning given in article 23(3)(b).

Requirements for content provided, or facilities made available, to children

51.—(1) This article applies to a merchant who provides a children’s service, or a service mentioned in paragraph (2), to a consumer.

(2) The service is one or more of the following services providing content or making available a facility comprised in a children’s service—

- (a) a competition and voting service (see article 42(1)), or
- (b) a recurring donation service (see article 34(7)), or
- (c) a subscription service (see article 8(1)).

(3) The merchant must ensure that the service is not provided in a manner which exploits the credulity, inexperience or sense of loyalty of any child.

(4) The merchant must also not impose on the consumer a charge for an amount exceeding—

- (a) where a service to which this article applies is not provided under a subscription contract, £5 for a single transaction, subject to a total charge of £20 per month irrespective of the number of transactions, and
- (b) where a service to which this article applies is provided under a subscription contract, £5 per month.

(5) References to amounts in pounds sterling in paragraph (4) are references to amounts in pound sterling inclusive of VAT.

(6) In this article, “children’s service” has the meaning given in article 23(2)(d).

Charges for the provision of ICSS

52.—(1) A merchant must not impose a charge exceeding £40 (inclusive of VAT) on a consumer for the provision of an ICSS.

(2) If a merchant has not complied with paragraph (1), the consumer is not bound by the contract for the provision of the ICSS.

Relevant qualifications for professional advice services

53.—(1) This article applies to a merchant who provides a professional advice service to a consumer.

(2) The merchant must take reasonable and proportionate steps to ensure that any individual engaged or employed under its direction to provide advice, assistance or guidance to a consumer of the service has the qualifications and experience required and necessary to give, or offer to give, such advice or assistance.

(3) In this article, “professional advice service” means a threshold service —

- (a) that consists in, or has as its principal feature, the provision of advice or assistance by an individual who has the qualifications and experience required and necessary to give, or offer to give, such advice or assistance, and
- (b) references in sub-paragraph (a) to advice or assistance includes, in particular, advice or assistance in resolving matters of a legal, financial, medical and personal nature, including matters relating to family, relationships, psychological or other health problems.

Consumer information relating to remote gambling services

54.—(1) This article applies to a merchant who provides a remote gambling service to a consumer.

(2) The merchant must make available to the consumer—

- (a) a record of the consumer’s use of the remote gambling service, including information about any wins and losses, and

- (b) the consumer’s account information.
- (3) The information in paragraph (2) must be made available for the duration of the consumer’s use of that remote gambling service.
- (4) In this article—
 - (a) “remote gambling service” means a threshold service that makes available a facility for—
 - (i) gaming (within the meaning of section 6 of the 2005 Act), or
 - (ii) betting (within the meaning of sections 9 to 11 of the 2005 Act),
 but does not include a betting tipster service, a competition and voting service or a society lottery service,
 - (b) “betting tipster service” means a threshold service making available a facility for offering information to consumers for the purposes of facilitating the making or accepting of a bet in relation to—
 - (i) the outcome of a race, competition or other event or process,
 - (ii) the likelihood of anything occurring or not occurring, or
 - (iii) whether anything is or is not true,
 - (c) “competition and voting service” has the meaning given in article 42(1), and
 - (d) “society lottery service” has the meaning given in article 55(4)(b).

PART 7

Additional requirements for network operators

Requirement for network operators to retain relevant payments

55.—(1) This article applies where a network operator is liable to make relevant payments to another PRS provider (“P”).

(2) The network operator must not make relevant payments to P for at least 30 calendar days beginning with the day on which the controlled PRS was used by the consumer.

(3) The requirement in paragraph (1) shall not apply to relevant payments relating to a society lottery service.

(4) In this article—

- (a) “relevant payments” mean any payments owed by the network operator to P relating to, or connected with, the provision of a controlled PRS used by a consumer of an electronic communications service by means of the which the controlled PRS is provided, and
- (b) “society lottery service” means a threshold service that makes available a facility to consumers to enter a lottery (within the meaning of section 14 of the 2005 Act)—
 - (i) operated by a non-commercial society (within the meaning of section 19 of the 2005 Act(a), or
 - (ii) operated for the benefit of such a non-commercial society.

Requirement for network operators to keep PRS number records

56.—(1) A network operator must make and keep a record in writing of any PRS number which is being or has been—

- (a) transferred from the network operator to another person, or
- (b) used by another person.

(a) 2005 c.19. Section 19 was amended by schedule 7(2) paragraph 105 of the Charities Act 2011 (c.25).

- (2) The entry in the record must contain—
 - (a) the name of the person referred to in paragraph (1)(a) or (b), whichever is applicable, and
 - (b) the name of the merchant using the PRS number (if known and applicable).
- (3) In this article, “PRS number” means a telephone number—
 - (a) which is or has been used for the provision of a controlled PRS, and
 - (b) which was either—
 - (i) allocated to the network operator by OFCOM, or
 - (ii) transferred to the network operator from another person.

PART 8

Information requirements

Requirements to provide information to OFCOM

57.—(1) OFCOM may require a PRS provider to provide them with all such information as OFCOM consider necessary for the purpose of carrying out their functions under or by virtue of this Order.

(2) The information that may be required by OFCOM under paragraph (1) includes, in particular, information that they require for any one or more of the following purposes—

- (a) ascertaining whether a contravention of a requirement imposed under this Order has occurred or is occurring,
- (b) ascertaining or verifying the charges payable by a person under Part 3 of this Order,
- (c) obtaining a copy of the results of relevant security testing carried out by intermediaries pursuant to article 21, and
- (d) assessing any steps taken, or arrangements made, by a PRS provider to comply with this Order, including (without limitation) any written policies, procedures or other written documents recording any such steps or arrangements.

(3) For the purposes of paragraph (1), OFCOM may, in particular, require the PRS provider to—

- (a) collect or retain any information that the PRS provider would not otherwise collect or retain,
- (b) process, collate or analyse any information held by the PRS provider, or
- (c) answer any questions.

(4) A PRS provider required to provide the information under paragraph (1) must provide it in such manner and form, and within such reasonable period, as may be specified by OFCOM.

(5) OFCOM are not to require the provision of information under paragraph (1) except—

- (a) by a demand for the information that describes the required information and sets out OFCOM’s reasons for requiring it, and
- (b) where the making of a demand for the information is proportionate to the use of which the information is to be put in the carrying out of OFCOM’s functions under this Order.

(6) Except in the case of a demand made in the manner authorised by paragraph 7, a demand for information required under paragraph (1) must be contained in a notice served on the PRS provider from whom the information is required.

(7) In the case of information required by OFCOM for the purpose of ascertaining who is liable to pay the charges under Part 3 of this Order, the demand may—

- (a) be made by being published in such a manner as OFCOM consider appropriate for bringing it to the attention of the PRS providers who are described in the demand as being the PRS providers from whom the information is required, and

- (b) take the form of a general demand for a PRS provider to provide information when specified conditions relevant to the PRS provider's liability to such charges under Part 3 of this Order are satisfied in that provider's case.

PART 9

Records

Record-keeping

58.—(1) A PRS provider to whom a requirement to make and keep a relevant record applies under this Order must make and keep such a record for at least the duration of the applicable period from the date on which the record was created.

(2) In this article—

- (a) “applicable period” means—
 - (i) where a relevant record relates to a requirement imposed on the PRS provider under Parts 2, 3, 5, 6 and 7 of this Order, a period of two years, and
 - (ii) where a relevant record relates to a requirement imposed on the PRS provider under Part 4 of this Order, a period of three years, and
- (b) “relevant record” means—
 - (i) a record in writing of a specific type that must be made and kept under this Order, or
 - (ii) such other record as is relevant to demonstrate compliance with other requirements imposed on the PRS provider under this Order and, in particular, would enable OFCOM to supervise effectively such compliance.

PART 10

Enforcement

CHAPTER 1

Enforcement of requirements under this Order

Power of OFCOM to publish notice of investigation

59.—(1) Where OFCOM decide to conduct a relevant investigation, they may publish on their website a notice which may, in particular—

- (a) state their decision to do so,
- (b) indicate which of those two cases the investigation falls under,
- (c) summarise the matter being investigated,
- (d) identify any PRS provider whose activities are being investigated as part of the investigation, and
- (e) specify the controlled PRS of a particular description which is the subject-matter of the investigation.

(2) Where OFCOM publish a notice under paragraph (1), they must also give a notification to each PRS provider who is being investigated.

(3) A notification under paragraph (2) must—

- (a) set out the matters referred to in paragraph (1)(a) to (e), and
- (b) impose any requirement on the PRS provider to preserve records in accordance with article 60.

(4) In this article, “relevant investigation” means an investigation to determine whether there are grounds—

- (a) for serving a notice in accordance with article 61, or
- (b) for giving a direction in accordance with article 64.

Preservation of records for an investigation

60.—(1) P must—

- (a) make and keep, or
- (b) obtain from another person and keep,

records in writing of any evidence relevant, or potentially relevant, to a matter being investigated by OFCOM.

(2) Paragraph (1) takes effect for an indefinite period beginning with the time at which OFCOM give pursuant to article 59(2) a notification to P, except so far as their notification otherwise provides.

(3) As soon as reasonably practicable after OFCOM have completed the investigation which is the subject of that notification, they must notify P that the requirement in paragraph (1) no longer applies with effect from such time as they may specify.

(4) In this article, “P” means a PRS provider on whom OFCOM has imposed a requirement in accordance with article 59(3)(b).

Provisional enforcement notice

61.—(1) Where OFCOM determine that there are reasonable grounds for believing that a PRS provider (“P”) is contravening, or has contravened, a requirement imposed on P under this Order, OFCOM may serve a provisional enforcement notice (“PEN”) on P.

(2) A PEN must be in writing and is one which—

- (a) sets out the determination made by OFCOM,
- (b) specifies the requirement in respect of which that determination has been made,
- (c) specifies the period during which P has an opportunity to make representations,
- (d) specifies the manner in which such representations are to be made to OFCOM,
- (e) specifies the steps that OFCOM think should be taken by P in order to—
 - (i) comply with the requirement, and
 - (ii) remedy the consequences of the contravention,
- (f) specifies the period within which OFCOM think those steps should be taken by P,
- (g) specifies any penalty which OFCOM are minded to impose in accordance with article 62, and
- (h) where the contravention is serious, specifies any direction which OFCOM are minded to give under article 66.

(3) The periods mentioned in paragraphs (2)(c) and (f) may be whatever periods OFCOM consider reasonable, having regard to the facts and circumstances of the case.

(4) A PEN under paragraph (1)—

- (a) may be served in respect of more than one contravention, and
- (b) if it is served in respect of a continuing contravention, may be served in respect of any period during which the contravention has continued.

(5) Where a PEN under paragraph (1) has been served on P in respect of a contravention of a requirement imposed on P under this Order, OFCOM may serve a further PEN in respect of the same contravention of that requirement if, and only if—

- (a) the contravention is one occurring after the time of the giving of the earlier PEN,

- (b) the contravention is a continuing contravention and the subsequent PEN is in respect of so much of a period as falls after a period to which the earlier PEN relates, or
- (c) the earlier PEN has been withdrawn without a penalty having been imposed in respect of the contravention.

Penalties

62.—(1) This article applies where a PEN is served on P under article 61 which specifies a proposed penalty.

- (2) Where the PEN relates to more than one contravention, OFCOM may propose to impose—
 - (a) a single penalty in respect of all of those contraventions, or
 - (b) separate penalties in respect of each of those contraventions,

according to whether OFCOM are minded to determine that a single penalty or separate penalties are appropriate and proportionate to those contraventions.

(3) The amount of a single penalty or the amount of each of separate penalties is to be such amount not exceeding £250,000 as OFCOM determine to be—

- (a) appropriate, and
- (b) proportionate to the contravention in respect of which it is imposed.

Final enforcement notice

63.—(1) This article applies where—

- (a) a PEN has been served on P under article 61,
- (b) OFCOM have allowed P an opportunity to make representations about the matters notified, and
- (c) the period allowed for the making of representations has expired.

(2) OFCOM may—

- (a) serve on P an enforcement notice with a final decision (“FEN”)—
 - (i) confirming the imposition of requirements on P,
 - (ii) confirming the giving of a direction to P,
 - (iii) confirming the giving of a direction to relevant providers (within the meaning of article 66(6)), or
 - (iv) doing all of those things,
 in accordance with the PEN served under article 61, or
- (b) inform P, having considered any representations made by P, that no further action will be taken.

(3) Where the FEN includes OFCOM’s confirmation of the giving of a direction to relevant providers under paragraph (2)(a)(iii), OFCOM must also serve the FEN on those relevant providers.

(4) OFCOM may not serve a FEN on P unless, after considering any representations made by P, they are satisfied that P has, in one or more of the respects notified, been in contravention of a requirement specified in the PEN served under article 61.

(5) A FEN—

- (a) must be given to P without delay,
- (b) must include reasons for the final decision,
- (c) may require immediate action by P to comply with requirements of a kind mentioned in article 61(2)(e), or may specify a period within which P must comply with those requirements,

- (d) may require P to pay—
 - (i) the penalty specified in the PEN served under article 61, or
 - (ii) such lesser penalty as OFCOM consider appropriate in the light of P’s representations or steps taken by P to comply with the requirement or to remedy the consequences of the contravention, and
- (e) may specify the period within which the penalty is to be paid.
- (6) P must comply with any requirement imposed by the FEN within the specified period.

Interim measures

- 64.—**(1) This article applies where OFCOM determine—
- (a) that there are reasonable grounds for suspecting that a PRS provider (“Q”) is contravening, or has contravened, a requirement imposed on Q under this Order,
 - (b) that either Condition A or Condition B is satisfied, and
 - (c) that the giving of a direction under this article is appropriate and proportionate to the contravention in respect of which it is imposed.
- (2) Condition A is that there are reasonable grounds for suspecting that Q is unable, or is likely to be unable, to pay Q’s debts as they fall due.
- (3) Condition B is that—
- (a) there are reasonable grounds for suspecting that the case is an urgent case, and
 - (b) the urgency of the case makes it appropriate for OFCOM to take action under this article.
- (4) A case is an urgent case for the purposes of paragraph (3)(a) if the contravention has resulted in, or creates an immediate risk of serious harm to consumers or members of the public including, in particular, to vulnerable consumers.
- (5) OFCOM shall have the power to give to Q—
- (a) where Q is not a body corporate, a direction that Q’s working in connection with a regulated activity is prohibited, suspended or restricted (either generally or in relation to a particular regulated activity), or
 - (b) where Q is a body corporate, a direction that Q’s carrying on a regulated activity is prohibited, suspended or restricted (either generally or in relation to a particular regulated activity).
- (6) OFCOM shall also have the power (irrespective of whether any direction has been given to Q under paragraph (5)) to give to PRS providers (other than Q) who are carrying out a regulated activity (“relevant providers”)—
- (a) a direction that they must notify OFCOM of any relevant payments at such times and periods as may be determined by or in accordance with the terms of the direction,
 - (b) a direction that they must retain any relevant payment, or proportion of such payment, as may be determined by or in accordance with the terms of the direction, or
 - (c) a direction that they are prohibited, suspended or restricted from dealing with Q under such conditions as may be specified in the direction.
- (7) A direction under either paragraph (5) or paragraph (6)—
- (a) except so far as it otherwise provides, takes effect for an indefinite period beginning with the time at which it is notified to Q or (as the case may be) to relevant providers,
 - (b) in providing for the effect of a retention of a relevant payment, prohibition, suspension or restriction to be postponed, may provide for it to take effect only at a time determined by or in accordance with the terms of the direction, and
 - (c) in connection with a retention of a relevant payment, prohibition, suspension or restriction contained in the direction or with the postponement of its effect, may impose such conditions as appear to OFCOM to be appropriate for the purpose of protecting consumers.

- (8) Those conditions may include a condition requiring the making of payments—
- (a) by way of compensation for loss or damage suffered by consumers as a result of the direction, or
 - (b) in respect of annoyance, inconvenience or anxiety to which they have been put in consequence of the direction.
- (9) OFCOM have power to revoke a direction given under either paragraph (6) or paragraph (7)—
- (a) with effect from such time as they may direct,
 - (b) subject to compliance with such requirements as they may specify, and
 - (c) to such extent and in relation to such of a regulated activity as they may determine.
- (10) Every person to whom a direction has been given under either paragraph (5) or paragraph (6) must comply with it.
- (11) In this article, “relevant payments” mean any payments owed to Q relating to, or connected with, the provision of a controlled PRS to users of the electronic communications services by means of which the controlled PRS is provided.

Confirmation of directions under article 64

65.—(1) As soon as reasonably practicable after giving a direction under article 64, OFCOM must give the person to whom it is given—

- (a) an opportunity of making representations to them about the grounds on which it was given and its effect, and
- (b) an opportunity of proposing steps (if any) to remedy the situation.

(2) As soon as practicable after the period allowed by OFCOM for making those representations has ended (and in any event within 3 months beginning with the day on which the direction was given), they must determine—

- (a) whether the contravention providing the grounds for the giving of the direction did occur, and
- (b) whether the circumstances made it a case justifying the giving of the direction.

(3) The period of 3 months mentioned in paragraph (2) may be extended by up to 3 months if OFCOM—

- (a) require additional time to consider representations received, or
- (b) decide that it is necessary to obtain additional information from the person in order to make a determination under paragraph (2).

(4) If OFCOM decide that the contravention did occur and that the direction was justified, they may confirm the direction.

(5) If not, they must exercise their power to revoke it.

(6) As soon as reasonably practicable after determining whether to confirm the direction, OFCOM must notify the person to whom it was given of their decision.

(7) Conditions included in a direction by virtue of article 64(8) have effect only if the direction is confirmed.

(8) Every person to whom a direction has been confirmed under paragraph (4) must comply with it.

Directions for serious contraventions

66.—(1) OFCOM may give a direction under this article where—

- (a) either Condition A or Condition B is satisfied, and
- (b) the giving of a direction is appropriate and proportionate to the contravention in respect of which it is imposed.

- (2) Condition A is that—
- (a) P is in serious contravention of a requirement imposed on P under this Order,
 - (b) at the time P contravenes the requirement, P either knowingly contravenes it or is being reckless as to whether or not P’s conduct complies with the requirement, and
 - (c) the proposed direction has been notified in a PEN to P under article 61 and confirmed by FEN under article 63.
- (3) Condition B is that—
- (a) P is in serious contravention of a requirement imposed on P under this Order,
 - (b) it was reasonably practicable for P to comply with the requirement and P failed to take all reasonable steps to prevent that serious contravention, and
 - (c) the proposed direction has been notified in a PEN to P under article 61 and confirmed by FEN under article 63.
- (4) Where either Condition A or Condition B is satisfied, a direction under this article is given where OFCOM serve a FEN under article 63 to P, or (as the case may be) to relevant providers (within the meaning of paragraph (6)), in respect of a direction proposed in a PEN under article 61.
- (5) OFCOM shall have the power to give to P—
- (a) where P is not a body corporate, a direction that P’s working in connection with a regulated activity is prohibited, suspended or restricted (either generally or in relation to a particular regulated activity), or
 - (b) where P is a body corporate, a direction that P’s carrying on a regulated activity is prohibited, suspended or restricted (either generally or in relation to a particular regulated activity).
- (6) OFCOM shall also have the power (irrespective of whether any direction has been given to P under paragraph (5)) to give to PRS providers (other than P) who are carrying out a regulated activity (“relevant providers”)—
- (a) a direction that they must notify OFCOM of any relevant payments at such times and periods as may be determined by or in accordance with the terms of the direction,
 - (b) a direction that they must retain any relevant payment, or proportion of such payment, as may be determined by or in accordance with the terms of the direction, or
 - (c) a direction that they are prohibited, suspended or restricted from dealing with P under such conditions as may be specified in the direction.
- (7) A direction under either paragraph (5) or paragraph (6)—
- (a) except so far as it otherwise provides, takes effect for an indefinite period beginning with the time at which it is notified to P or (as the case may be) to relevant providers,
 - (b) in providing for the effect of a retention of a relevant payment, prohibition, suspension or restriction to be postponed, may provide for it to take effect only at a time determined by or in accordance with the terms of the direction, and
 - (c) in connection with the retention of a relevant payment, prohibition, suspension or restriction contained in the direction or with the postponement of its effect, may impose such conditions as appear to OFCOM to be appropriate for the purpose of protecting consumers.
- (8) Those conditions may include a condition requiring the making of payments—
- (a) by way of compensation for loss or damage suffered by consumers as a result of the direction, or
 - (b) in respect of annoyance, inconvenience or anxiety to which they have been put in consequence of the direction.
- (9) OFCOM have power to revoke a direction given under either paragraph (5) or paragraph (6)—

- (a) with effect from such time as they may direct,
- (b) subject to compliance with such requirements as they may specify, and
- (c) to such extent and in relation to such of a regulated activity as they may determine.

(10) Every person to whom a direction has been given under either paragraph (5) or paragraph (6) must comply with it.

(11) In this article, “relevant payments” mean any payments owed to P relating to, or connected with, the provision of a controlled PRS to users of the electronic communications services by means of which the controlled PRS is provided.

Interpretation of this Part

67.—(1) In this Part—

- (a) “FEN” has the meaning given in article 63(2)(a),
- (b) “P” has, except for the purpose of article 60, the meaning given in article 61(1),
- (c) “PEN” has the meaning given in article 61(1), and
- (d) “vulnerable consumers” has the meaning given in article 40(5)(a).

(2) References in this Part to remedying the consequences of a contravention include references to paying an amount to a person—

- (a) by way of compensation for loss or damage suffered by that person, or
- (b) in respect of annoyance, inconvenience or anxiety to which the person has been put.

(3) In determining for the purposes of provisions of this Part whether a contravention is a serious contravention, OFCOM must have regard, in particular, to matters likely to have a significant impact on consumers or the general public in the United Kingdom or in a part of the United Kingdom.

CHAPTER 2

Transitional provisions

Transitional arrangements for the purposes of a relevant approved code

68. Schedule 4 (Transitional arrangements for the purposes of a relevant approved code) has effect.

[Name of signatory]
[Title / Group within Ofcom]

[day/month/year] For and by the authority of the Office of Communications

SCHEDULES

SCHEDULE 1

Article 10(2)(a)

Information to be given to OFCOM before carrying out a regulated activity

General details of the PRS provider

1. Full name including registered name of the company and trading name (if applicable).
2. Where applicable, a registered company number or a registered charity number.

3. Address including (without limitation) for the purpose of service under section 394 of the Act or for the purpose of receiving any other document (including a copy of a document) to be given to the PRS provider.

4. Main telephone number.

5. Main email address.

6. Website address (if applicable).

7. Confirmation as to whether the PRS provider is—

(a) a network operator,

(b) an intermediary, or

(c) a merchant.

Generally authorised person

8. The name, job title, telephone number, and email address of the generally authorised person (within the meaning given in article 10(1)(b)).

9. The email address for the generally authorised person in relation to which that person is willing to receive notifications and documents transmitted by OFCOM in electronic form in accordance with section 395(5) of the Act.

10. A specimen signature for the generally authorised person.

Directors or members of senior management (if applicable)

11. The name and job title of—

(a) where the PRS provider is a body corporate, each of the directors of the PRS provider, or

(b) where the PRS provider is not a body corporate, each member of the PRS provider's senior management (within the meaning given in article 10(5)).

Specific information required from merchants

12. Where a PRS provider is a merchant, the PRS provider must also provide the following information in respect of each controlled PRS to be provided to consumers—

(a) brand name of the service,

(b) a brief description of the service,

(c) the means by which consumers use the service, including the telephone number (if applicable),

(d) the telephone number or email address to be used by consumers for making any complaints or enquiries,

(e) details of the name of any other PRS provider involved in the provision of that service, including for promotion and marketing of that service, and

(f) the name of any other person contracted with respect to the service, including for the promotion and marketing of that service.

SCHEDULE 2

Article 13(3)

Registration for transitional cases

Contact details

1. Full name including registered name of the company and trading name (if applicable).
2. Main email address.
3. Where applicable, a registered company number or a registered charity number.
4. Address including (without limitation) for the purpose of service under section 394 of the Act or for the purpose of receiving any other document (including a copy of a document) to be given to the PRS provider.
5. Main telephone number.

Generally authorised person

6. The name, job title, telephone number, and email address of the generally authorised person (within the meaning given in article 10(1)(b)).
7. The email address for the generally authorised person in relation to which that person is willing to receive notifications and documents transmitted by OFCOM in electronic form in accordance with section 395(5) of the Act.
8. A specimen signature for the generally authorised person.

Specific information required from merchants

9. Where a PRS provider is a merchant, the PRS provider must also provide the following information in respect of each controlled PRS being provided to consumers—
 - (a) details of the name of any other PRS provider involved in the provision of that service, including for promotion and marketing of that service, and
 - (b) the name of any other person contracted for the provision of that service, including for promotion and marketing of that service.

SCHEDULE 3

Article 26(1)

Information to be provided before entering into a controlled PRS contract

Defined terms

1. In this Schedule—
 - (a) “access charge” means the part of the charge that a consumer is required to pay—
 - (i) to a person providing an electronic communications service by means of which the controlled PRS in question is provided, and
 - (ii) for making and transmitting a call comprised in the electronic communications service to the point of interconnection nearest to the origination of the call to a premium rate number (within the meaning given by article 3(8)(b)) at which the call may be handed over to an electronic communications network of another communications provider for conveyance,
 - (b) “digital content” means data which are produced and supplied in digital form, and
 - (c) “goods” means any tangible moveable items.

Pre-contract information

2. The information referred to in article 26(1) is—

(a) a description of any contents offered by the controlled PRS, including the main characteristics of the contents, the information that the consumer will need to make use of that contents and, where applicable, the conditions, time limit, restrictions, limitations and procedures for using the contents,

(b) a description of any offered facility comprised in the controlled PRS, including the main characteristics of the facility and, where applicable and except to the extent provided for in sub-paragraphs (c) to (e), the information that the consumer will need to make use of that facility, the conditions, time limit, restrictions, limitations and procedures for making use of the facility,

(c) where a facility for making a payment for goods, services or digital content is comprised in the controlled PRS, the information that the consumer will need to make use of that facility and, where applicable, the conditions, time limit, restrictions, limitations and procedures for making such a payment,

(d) where a facility for entering a competition or claiming a prize is comprised in the controlled PRS, the information that the consumer will need to make use of that facility (including details of any different ways of using it) and, where applicable—

(i) the conditions of entering a competition or claiming a prize,

(ii) the time limit of entering a competition or claiming a prize,

(iii) the procedures for entering a competition or claiming a prize, and

(iv) details of the prizes available for allocation, including their number and value together with any criteria, restrictions and limitations for their allocation,

(e) where a facility for registering a vote or recording a preference is comprised in the controlled PRS, the information that the consumer will need to make use of that facility and, where applicable, the conditions, time limit, restrictions, limitations and procedures for registering a vote or recording a preference,

(f) the total charge payable for the provision of the controlled PRS inclusive of taxes, or where the nature of the controlled PRS is such that the charge cannot reasonably be calculated in advance, the manner in which the charge is to be calculated,

(g) where applicable, all additional charges and any other costs for or in connection with the provision of the controlled PRS including any access charge or, where those charges or costs cannot reasonably be calculated in advance, the fact that such additional charges or costs may be payable,

(h) in the case of a controlled PRS contract of indeterminate duration or a controlled PRS contract containing a subscription, the total costs per billing period or (where such contracts are charged at a fixed rate) the total monthly costs,

(i) an explanation that any charge payable for the provision of the controlled PRS will be imposed in the form of a charge to a bill (within the meaning given in article 23(3)(a)),

(j) the name of the merchant as notified to OFCOM for the purposes of articles 10 or 13, including any trading name,

(k) the geographical address at which the merchant is established and, if different from that address, the geographical address of the place of business of the merchant, and, where available, the merchant's website address, telephone number and e-mail address, to enable the consumer to contact the merchant,

(l) the name of the controlled PRS offering the contents or facility referred to in paragraphs 2(a) or (b), whichever is applicable, as given to OFCOM for the purposes of articles 10 or 13,

(m) the name and contact details of the person who is responsible for the merchant's customer care and complaints handling in respect of the provision of the controlled PRS,

(n) the policies and procedures for handling consumer complaints and enquiries, and

(o) the duration of the controlled PRS contract, where applicable, or, if the contract is of indeterminate duration or is to be extended automatically, the conditions for terminating the contract.

SCHEDULE 4

Article 68

Transitional arrangements for the purposes of a relevant approved code

Interpretation

1. In this Schedule—

(a) “relevant approved code” means a code in respect of the time for which it was approved under section 121 of the Act, and

(b) “relevant enforcement authority”, in relation to a relevant approved code, means the person who under that code had the function of enforcing it.

General

2.—(1) This paragraph applies where, at any time before the coming into force of this Order, anything has been done by or in relation to a relevant enforcement authority for the purposes of or in connection with the carrying out of its functions under the provisions of a relevant approved code.

(2) That thing is to have effect, on and after the coming into force of this Order, and so far as necessary for its purposes, as if it had been made or done by or in relation to OFCOM.

(3) Where the provisions of a relevant approved code have effect in accordance with this paragraph—

(a) so much of them as authorise or require anything to be done by or in relation to a relevant enforcement authority are to have effect in relation to times after the coming into force of this Order as if they authorised or required that thing to be done by or in relation to OFCOM; and

(b) other references in the provisions of a relevant approved code to a relevant enforcement authority are to have effect, in relation to such times, as references to OFCOM.

Enforcement of provisions of a relevant approved code

3.—(1) Subject to sub-paragraphs (2) and (3), notwithstanding the withdrawal by OFCOM of their approval for a relevant approved code in a notification given in accordance with section 121(7) of the Act, on and after the coming into force of this Order, they are authorised or required to do anything that the relevant enforcement authority was authorised or required to do for the purposes of or in connection with the carrying out of its functions under the provisions of that relevant approved code.

(2) Where the provisions of a relevant approved code provide for a relevant enforcement authority to appoint a legally qualified person (“former sole adjudicator”) or a panel of persons (“former panel”), those provisions are to have effect as if they authorised or required OFCOM to appoint—

(a) where they refer to a former sole adjudicator, a person with not less than 10 years of experience practising as a lawyer, and

(b) where they refer to a former panel, a panel of three members meeting the requirements in sub-paragraph (4),

and, accordingly, references in a relevant approved code to a former sole adjudicator or a former panel are to be read, as regards all times on and after the coming into force of this Order, as references to either a person referred to in sub-paragraph (a) or a panel referred to in sub-paragraph (b), as applicable.

(3) A person (“new sole adjudicator”) or a panel (“new panel”) so appointed by OFCOM may be appointed on an ad hoc basis and is authorised or required to do anything that the former sole adjudicator or the former panel, as applicable, was authorised or required to do for the purposes of or in connection with the carrying out of the functions under the provisions of the relevant approved code.

(4) A panel of three members meets the requirements of this subparagraph where the panel is established such that—

(a) it has a chair with not less than 15 years of experience practising as a lawyer to preside over it,

(b) if the members of the panel are unable to agree, they are to take any decision by majority vote,

(c) if the chair is unable to continue after the commencement of any hearing, the chair may appoint either of the remaining two members to chair the panel, and in that case the panel is to consist of the remaining two members for the rest of the proceedings,

(d) if the remaining member appointed under sub-paragraph (c) is not a lawyer, another person shall be appointed with not less than 15 years of experience practising as a lawyer to attend the proceedings and advise the remaining members on any questions of law arising,

(e) if a member of the panel (other than its chair) is unable to continue after the commencement of any hearing, the panel is to consist of the remaining two members for the rest of the proceedings, and

(f) where in accordance with either sub-paragraphs (c) or (e) the panel consists of two members, a decision of the panel shall be unanimous.

(5) In this paragraph, “lawyer” means a person practising as an advocate, barrister or solicitor in any part of the United Kingdom.

Discontinuance of proceedings commenced under a relevant approved code

4.—(1) This paragraph applies where—

(a) a former sole adjudicator or a former panel was appointed by a relevant enforcement authority for the purposes of or in connection with the carrying out of a function of the relevant enforcement authority under the provisions of a relevant approved code, but

(b) the function (“undischarged function”) had not been carried out immediately before the day on which this Order comes into force.

(2) Where this paragraph applies—

(a) OFCOM are not liable for anything done or omitted in the performance or purported performance of the undischarged function, unless the act or omission is shown to have been in bad faith,

(b) OFCOM may appoint a new sole adjudicator or a new panel, as applicable, for the purposes of or in connection with the carrying out afresh of the undischarged function under the provisions of the relevant approved code, and

(c) where, for the purpose or in connection with the carrying out of the undischarged function, a person made representations (whether orally or in writing) to the former sole adjudicator or the former panel, the person who made representations must be offered an opportunity to make representations before the new sole adjudicator or the new panel, as applicable.

(3) Where a new sole adjudicator or a new panel so carries out afresh the undischarged function, the powers of OFCOM under paragraphs 2 and 3 include in particular—

(a) where the function concerns an application for a review of a direction given by a relevant enforcement authority, the power to agree to or refuse the application to carry out a review in accordance with the provisions of the relevant approved code,

(b) where the function concerns an application for a review of a direction given by a relevant enforcement authority and the chair of a former panel (or, as the case may be, a former sole adjudicator) under the relevant approved code has already agreed to the application to carry out a review, the power to confirm, vary or rescind that direction in accordance with the provisions of the relevant approved code, and

(c) where the function concerns a case in which a relevant enforcement authority has not given a direction in accordance with such a code and for the purpose of enforcing its provisions, the power to give directions in accordance with the provisions of the relevant approved code.

(4) In this paragraph—

(a) “former panel” has the meaning given in paragraph 3(2),

(b) “former sole adjudicator” has the meaning given in paragraph 3(2),

(c) “new panel” has the meaning given in paragraph 3(3), and

(d) “new sole adjudicator” has the meaning given in paragraph 3(3).

EXPLANATORY NOTE

(This note is not part of the Order)

This Order introduces new provisions imposing requirements with respect to the provision and contents of certain premium rate services (so-called controlled PRS) within the meaning given by section 120(7) of the Communications Act 2003 (c. 21), and the facilities made available in the provision of such services. This Order also makes new provisions imposing requirements with respect to the arrangements made by providers of such premium rate services for the promotion and marketing of those services, and for the enforcement of requirements imposed under the Order.

Part 1 contains definitions that are used throughout the Order, including key concepts such as “controlled PRS” (article 3), “PRS providers” and “regulated activity” (article 9).

Part 2 sets out requirements to give OFCOM information described in Schedule 1 and to appoint a person in senior management for purposes such as having the authority to act on behalf of a PRS provider relating to requirements imposed under the Order (so-called generally authorised person). Some PRS providers (merchants) are exempted from those requirements under article 11. Article 13 and Schedule 2 contain transitional provisions for PRS providers who were previously registered with the Phone-paid Services Authority (“PSA”). OFCOM are also required to establish and maintain a register (article 12).

Part 3 sets out a requirement for certain PRS providers to pay OFCOM's administrative charges to recover their expenditure in connection with establishing and maintaining procedures, and other arrangements for the purposes of the requirements of the Order.

Part 4 contains provisions about applying due diligence measures to ensure that arrangements are not entered into with unregistered PRS providers or persons on whom sanctions have been imposed (articles 15 and 16). Article 17 also requires PRS providers to carry out certain risk assessments. PRS providers are also required to suspend their arrangements with others under some circumstances (articles 18 and 19).

Part 5 contains requirements on some PRS providers (intermediaries) to carry out security testing in respect of their payment platforms for operator billing. It also requires network operators to take some actions in some cases.

Part 6 contains various requirements relating to consumer protection. Chapter 1 prohibits misleading information. Chapter 2 deals with matters relating to the promotion and marketing of controlled PRS. Chapter 3 makes provision in respect pre-contractual information, including requirements to obtain express consent from consumers for certain controlled PRS. Chapter 4 sets out various requirements in respect of the provision of controlled PRS. Chapter 5 sets out requirements to protect vulnerable consumers (article 40) and to prohibit harmful material (article 41). Chapter 6 sets out requirements in relation to competition and voting services. Chapter 7 sets out other requirements (such as pricing restrictions) in respect of some other types of controlled PRS.

Part 7 contains additional requirements on network operators to retain payments for controlled PRS for a minimum period before they make them to another PRS provider and to keep certain records in respect of certain telephone (PRS) numbers.

Part 8 sets out requirements for PRS providers to provide information to OFCOM for the purpose of carrying out their functions under or by virtue of this Order.

Part 9 contains a general record-keeping requirement.

Part 10 contains provision about enforcement, including a requirement to preserve records for investigation purposes (article 60), enforcement notices and civil penalties (articles 61 to 63), imposition of interim measures in specified cases (articles 64 and 65) and the giving of directions for serious contraventions (article 66).

PSA's code of practice entitled 'Code of Practice 2021 (Fifteenth Edition) – Code for Premium rate services' is available to the public from the PSA's website at <https://psauthority.org.uk/> or from the OFCOM library at Riverside House, 2a Southwark Bridge Road, London SE1 9HA.

A full regulatory impact assessment of the effect of this Order has been prepared. Copies of the impact assessment is available to the public on the OFCOM website at www.ofcom.org.uk or from the OFCOM library at Riverside House, 2a Southwark Bridge Road, London SE1 9HA. Copies of the impact assessment has also been placed in the libraries of the Houses of Parliament.