

Your response

Question	Your response
<p>Q1. Do you agree with our assessment that our proposals will not affect any specific groups of persons (including persons that share protected characteristics under the EIA 2010 or NIA 1998)? Please state your reasons and provide evidence to support your view.</p>	<p>Channel 5 has no particular comment to Q1.</p>
<p>Q2. Do you agree with our assessment of the potential impact of our proposal on the Welsh language? Do you think our proposal could be formulated or revised to ensure, or increase, positive effects, or reduce/eliminate any negative effects, on opportunities to use the Welsh language and treating the Welsh language no less favourably than English?</p>	<p>Channel 5 has no particular comment to Q2.</p>
<p>Q3. Do you have any comments about our proposed definitions in articles 3 to 8 of Part 1 of the draft PRS Order for key service concepts that are used throughout the Order?</p>	<p>Channel 5 has no particular comment to Q3.</p>
<p>Q4. Do you have any comments about our proposed definition for PRS regulated providers and regulated activity in article 9 in Part 1 of the draft PRS Order?</p>	<p>Channel 5 has no particular comment to Q4.</p>
<p>Q5. Do you have any comments about our proposed approach to registration and registration exemptions in Part 2 of the draft PRS Order?</p>	<ul style="list-style-type: none"> • Part 2. Article 10: Could Ofcom provide some more information as to the proposed streamlining of the amount of information requested of providers? Currently, the <i>Service Checker</i> on the PSA site works well as a 'go to' enquiry form. Channel 5 is happy to continue updating this in order to ensure transparency for the consumer and requests it (or something similar) remains as a consumer-facing tool. • Part 2. Article 10: Channel 5 operates a small team of 2-3 persons in the area of PRTS at non-director level. Whilst ultimately reporting in to board level, would Ofcom consider responsibility to be attributed to the "generally authorised person" rather someone in

	<p>“senior management” in order to carry out regulated activity?</p> <ul style="list-style-type: none"> Channel 5 kindly requests that the Registration Link/tool remains broadly similar to existing. Previous changes to the process caused some issues in migration so it is hoped this will remain a seamless process to avoid technical issues.
<p>Q6. Do you have any comments on our proposed requirements relating to due diligence and risk assessment in Part 4 of the draft PRS Order?</p>	<p>Channel 5 has no particular comment to Q6.</p>
<p>Q7. Do you have any comments about our proposed approach to security testing in Part 5 of the draft PRS Order?</p>	<p>Channel 5 has no particular comment to Q7.</p>
<p>Q8. Do you have any comments about our proposed approach to misleading information and/or the promotion and marketing of PRS in Part 6, Chapters 1 and 2 of the draft PRS Order?</p>	<ul style="list-style-type: none"> Part 6, Chapter 1 (22): Could Ofcom help define in particular the notion of “average” to help Channel 5 garner a clear definition?
<p>Q9. Do you have any comments about our proposed approach to pre-contract information and express consent for imposing certain charges in Part 6, Chapter 3 of the draft PRS Order?</p>	<ul style="list-style-type: none"> Part 6, Chapter 3 (26): For television broadcast, Channel 5 outlines clearly and prominently its competition promotion details along with key Ts & Cs on screen (verbally and visually). But in order to provide the extensive and full terms and conditions of the prize Channel 5 currently makes use of a displayed and spoken URL linking to terms (“for rules, winners, privacy policy & customer care go to channel5.com/win”). On this basis Channel 5 queries the ability to communicate the full details related to Schedule 3 of the Statutory Instruments effectively. Channel 5 (and indeed all PSBs) involved in the provision of PRTS has effectively managed the requirement for clear Ts & Cs for many years, so requests Ofcom consider keeping this requirement as is the case with Code 15, which requires us to ensure key information is prominent along with a clearly displayed and spoken URL inviting viewers to discover the full Ts & Cs online.

	<p>Channel 5 has not had any complaints related to our on-screen comms, which would indicate processes are fit for purpose and request Ofcom kindly take this into consideration with the new requirement (26) and accompanying Schedule 3.</p>
<p>Q10. Do you have any comments about our proposed approach to provision of CPRS in Part 6, Chapter 4 of the draft PRS Order?</p>	<ul style="list-style-type: none"> Part 6, Chapter 4 (36): For clarity, could Ofcom extrapolate exactly what would constitute a “consumer’s consent”? Additionally, Channel 5 does not directly hold, “make or keep” any consumer data locally on the basis of simply being a merchant/promoter. Such information is, however, available to Channel 5 at all times via its third party Intermediary/aggregator partner customer care platform. It is this customer care platform that allows the channel to track and monitor customer queries in real time. So could Ofcom confirm what a “record of consent” means and whether a (continually available) third party holding such data for remote access by Channel 5 is acceptable? <p>Channel 5 does not often work in the charitable space, but were it to do so in future, would a charitable partner be expected to also keep records of consent? Or would it be sufficient that a ‘Single Merchant Responsibility’ be acceptable here? (i.e the broadcaster running the broadcast charity promotion).</p> <p>Part 6, Chapter 4 (39): Is Ofcom willing to define the status of a refund being required? Channel 5 currently generally operates a blanket ‘no quibble’ basis for refunding, but would appreciate any further definition to assist any decision making in this matter.</p>
<p>Q11. Do you have any comments about our proposed requirements relating to vulnerable consumers in Part 6, Chapter 5 of the draft PRS Order?</p>	<p>Channel 5 has no particular comment to Q11.</p>

Q12. Do you have any comments about the proposed requirements relating to prevention of harm and offence in Part 6, Chapter 5 of the draft PRS Order?

Channel 5 has no particular comment to Q12.

Q13. Do you have any comments about our proposed approach to competition and voting services in chapter 6 of Part 6 the draft PRS Order?

- Part 6, Chapter 6 (44): Channel 5 has been in discussion with its PSB colleagues and agrees with the industry as a whole that Section 44 wording is unfortunate.

The current wording infers that an entry must equate to a chance of winning/being registered. Of course, this does not take into account the issue of delays outside of the merchant's sphere of influence, such as delivery failures or latency within the technical mechanics of the network operator. This particular point was taken up with the PSA during 2022 and was kindly amended to take into account the difference between validation occurring at the time an entry/vote was sent, compared to when it was received. Indeed had Code 15 recommended the former scenario it would currently be impossible to know when a 'close date/time' would actually genuinely take place, on the basis of each entry's unique set of circumstances to reach the point of the vote or competition repository; the 'end' for person X may differ from person Y.

As such Channel 5 and fellow broadcast colleagues kindly suggest the following wording amendment to take the above into account:

Suggested Amended Section 44 wording:

*In order to receive a valid ticket of entry, the consumer must use the facility made available in a competition and voting service before the time limit has expired, **the entry must have been received by the Provider** and also meet any relevant conditions which are applicable to the service. Only*

	<p><i>consumers with valid tickets of entry can have their votes taken into account (where they have registered a vote or preference) or acquire a chance of winning the competition/claiming a prize.</i></p> <p>Could Ofcom also advise that Section 44 2(b) would be problematic for voice calls on the basis that the medium is not “in writing”?</p> <ul style="list-style-type: none"> • Part 6, Chapter 6 (47): Whilst Channel 5 confirms that no consumer premium (“service”) charges are incurred by the consumer after an advertised close date & time, it kindly requests a review of Section 47 on the basis that access or network charges are incurred by the consumer upon late entry to a broadcast competition. The following wording amendment may take the above into account: <p><i>Suggested Amended Section 47 wording:</i></p> <p><i>(4) A merchant must also provide, or already have provided, to the consumer without undue delay after the merchant becomes aware of the consumer’s attempt, or in advance of the consumer’s attempt to use the facility—</i></p> <p><i>(a) a confirmation of the fact that the attempt to use the facility will be/was unsuccessful, and</i></p> <p><i>(b) either—</i></p> <p><i>(i) a confirmation of the fact that no service charge will be/has been imposed in relation to that attempt, or</i></p> <p><i>(ii) information that the merchant will have/has imposed a service charge (contrary to paragraph (2)) in relation to the consumer’s attempt and that the consumer will be paid a refund of that service charge</i></p>
<p>Q14. Do you have any comments about our proposed requirements in respect of certain CPRS in chapter 7 of Part 6 our draft PRS Order?</p>	<p>Channel 5 has no particular comment to Q14.</p>

Q15. Do you have any comments about our proposed approach to the recovery of Ofcom's expenditure in Part 3 of the draft PRS Order?	Channel 5 has no particular comment to Q15.
Q16. Do you have any comments about our proposed approach to additional requirements on network operators in Part 7 of the draft PRS Order?	Channel 5 has no particular comment to Q16.
Q17. Do you have any comments about our proposed requirements relating to information requirements in Part 8 of the draft PRS Order	Channel 5 has no particular comment to Q17.
Q18. Do you have any comments about our proposal to retain current PSA data retention periods for 2 years (for consumer data) and 3 years (for DDRAC data) in Part 9 of the draft PRS Order, with a preservation requirement following an investigation being opened?	<ul style="list-style-type: none"> Part 9 (Records): As noted in Q10, Channel 5 does not "make and keep" a record for its competition promotions. This is all currently undertaken by the Intermediary/Aggregator partner. Whilst Channel 5 has full access to all records it requests entry/consent records be retained locally by its Intermediary/Aggregator partner. Otherwise, Channel 5 has no concerns with Q18.
Q19. Do you have any comments about our proposed approach to enforcement in Part 10 of the draft PRS Order?	Channel 5 has no particular comment to Q19.
Q20. Do you agree with our provisional assessment that our proposals are justifiable, non-discriminatory, proportionate and transparent? Please provide further information	Channel 5 has no particular comment to Q20.
Q21. Do you agree with our implementation period? Please state your reasons and provide evidence to support your view?	Due to the small size of its team, Channel 5 kindly requests a minimum of 3 months be allocated for implementation.

Additional: On the basis of previously cordial and collaborative relationships with the PSA, Channel 5 kindly requests an opportunity to review the Draft Order over the course of at least one calendar month, in order to ensure all concerns and/or questions have been clarified/quantified and ensure a seamless and decisive move over to Ofcom for the future regulation of phone-paid services.

Please complete this form in full and return to prsregulation@ofcom.org.uk.