

# CAP and BCAP consultation

## Changes to the rules on premium-rate telephone service advertising

**Annex B:** Comparative analysis of the UK Advertising Codes and The Regulation of Premium Rate Services Order 2024



## Explanatory notes for Annex B

This annex provides an analysis of PRS-relevant provisions of the CAP and BCAP Codes, and the new statutory order, [The Regulation of Premium Rate Services Order 2024](#). It illustrates the significant differences and divergence between the existing UK Advertising Codes and the statutory order.

The annex is in three parts:

- Part I – PRS-relevant provisions of the BCAP Code compared against the 2024 Order
- Part II – PRS-relevant provisions of the CAP Code compared against the 2024 Order
- Part III – The 2024 Order compared against the UK Advertising Codes

In the tables below, each PRS-relevant Code and 2024 Order provision is reflected or summarised in the left-hand column with CAP and BCAP's commentary on the right-hand column. The annex should be read in conjunction with the [consultation document](#) – in particular, part 4. The analysis supports basis for CAP and BCAP's decision to launch the consultation process.

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## Part I – PRS-relevant provisions of the BCAP Code compared against the 2024 Order

The following is an analysis of the PRS-relevant provisions of the BCAP Code. Section 22 includes dedicated rules for PRS ads with a TV scheduling restriction in Section 32. There are several more minor references in other areas of the Code.

22. Premium-rate telephone services	Notes
<p><b>Principle</b></p> <p>The price and nature of premium-rate telephone services must be made clear. Advertisements that include premium-rate telephone numbers or short codes should comply with the Phone-paid Services Authority Code of Practice. For more information on the Phone-paid Services Authority code go to: <a href="http://psauthority.org.uk">psauthority.org.uk</a>.</p>	<p>This provision is out of date and does not reflect the applicability of the 2024 Order and Ofcom's role as regulator.</p>
<p><b>Definition</b></p> <p>Text short codes are premium-rate SMS services, which often consist of four or five digits and begin 5, 6 or 8.</p>	<p>This definition covers only some PRS scenarios.</p>
<p><b>Rules</b></p>	
<p>22.1</p> <p>Advertisements that include a premium-rate telephone number must comply with the Phone-paid Services Authority Code of Practice.</p>	<p>This rule is out of date and does not reflect the applicability of the 2024 Order and Ofcom's role as regulator.</p>
<p>22.2</p> <p>Advertisements for premium-rate telephone services must include clear pricing information if the service generally costs 50 pence per call or more.</p>	<p>The criteria and requirements in this rule are not aligned to the 2024 Order. However, it should be noted schedule 3(2) of the Order does include various requirements for providing information on charging as part of pre-contract information.</p>
<p>22.3</p> <p>Advertisements for premium-rate children's services, services accessed by automated equipment or subscription services must always include clear pricing information.</p>	<p>[As per preceding]</p>
<p>22.4</p> <p>Advertisements for premium-rate services must state the identity of the service provider or the information provider.</p>	<p>The 2024 Order Schedule 3(2)(j) on pre-contract information requires the name of the merchant (including any trading name) to be provided.</p>
<p>22.5</p> <p>Radio only – If it is not included in the advertisement, radio broadcasters must retain and, on request, make available a non-premium-rate telephone number for the premium-rate service for customer care purposes. This rule does not apply if the Phone-paid Services Authority has expressly exempted a specific service or a number range from the need to provide a non-premium-rate telephone number for the premium-rate service.</p>	<p>The criteria and requirements in this rule are not aligned to the 2024 Order. However, although there is no advertising-specific requirement, the 2024 Order Schedule 3(2)(m) includes a pre-contract information requirement on making contact details for enquiries and complaints available. This is related to articles 36 and 37 which deal with consumer policies, enquiries and complaints. Article 37(2) requires that an enquiry or complaint can be made (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.</p> <p>There are no provisions reflecting the latter part of the rule regarding exemptions being granted.</p>

<p>22.6 Television only – Television advertisements for premium-rate services must include a non-premium-rate telephone number for customer care purposes. This rule does not apply if the Phone-paid Services Authority has expressly exempted a specific service or a number range from the need to provide a non-premium-rate telephone number for the premium-rate service.</p>	<p>[As per preceding]</p>
<p>22.7 Advertisements for services, excluding live or virtual-chat services, that normally involve a telephone call of at least five minutes must alert the audience that use of the service might involve a long call.</p>	<p>The criteria and requirements in this rule are not aligned to the 2024 Order. Schedule 3 does include general information requirements on the nature of the information/facility offered, however.</p>
<p>22.8 Advertisements for live premium-rate services must not appeal particularly to people under 18, unless those services have received prior permission from the Phone-paid Services Authority to target people under 18.</p>	<p>Article 47 of the 2024 Order prohibits offering chatline services, live entertainment services, remote gambling services, sexual content services or virtual chat services to under-18s (set out in Article 25(2)). Article 25(3) includes requirements for the promotion of such services including a disclaimer about under-18s. There are no provisions reflecting the part of the rule on prior permission from the PSA.</p>
<p><b>32. Scheduling</b></p>	
<p><b>Scheduling of television and radio advertisements</b></p>	
<p>32.2.6 live premium-rate services, unless those services have received prior permission from the Phone-paid Services Authority to target people under 18</p>	<p>[As per preceding]</p>
<p><b>General references to PRS in the BCAP Code</b></p>	
<p>Section 22 is a dedicated set of rules for PRS pointing to the PSA and its code as responsible for the services themselves and promotional activity. BCAP also references this relationship in:</p> <ul style="list-style-type: none"> <li>• Section 1 (Compliance) requiring ‘special category’ radio ads to be centrally cleared, including PRS sexual entertainment services.</li> <li>• Section 21 (Betting tipsters) rule 21.6 requires ads including premium-rate phone line to state the service/information provider’s usual trading name and contact details.</li> <li>• Section 27 (Introduction and dating services) cites the need to comply with the PRS rules and PSA code.</li> </ul>	<p>These provisions are out of date and do not reflect the applicability of the 2024 Order and Ofcom’s role as regulator.</p>

## Part II – PRS-relevant provisions of the CAP Code compared against the 2024 Order

The following is an analysis of the PRS-relevant provision in the CAP Code. This is limited to statement as part of the Code's remit setting out the position on PRS advertising in relation to the statutory arrangements for regulating such services

Scope of the Code	Notes
'Scope of the Code' II(b): The Code does not apply to: [...] the contents of premium-rate services, which are the responsibility of the Phone-paid Services Authority; marketing communications that promote those services are subject to Phone-paid Services Authority regulation and to the CAP Code	This provision is out of date and does not reflect the applicability of the 2024 Order and Ofcom's role as regulator.

## Part III – The 2024 Order compared against the UK Advertising Codes

The following is an analysis of advertising-relevant provisions of [The Regulation of Premium Rate Services Order 2024](#) compared to the CAP and BCAP Codes.


Relevant parts of the 2024 Order	Notes
<p><b>Information provided to consumers in carrying out a regulated activity Misleading information</b></p> <p>22.—(1) The information that is provided by a PRS provider in carrying out a regulated activity must not be likely to mislead a consumer.</p> <p><i>[The Article then sets out provisions and definitions aligned with general consumer protection law]</i></p>	<p>This Article is not reflected directly in the Code, but it is aligned with CAP and BCAP Codes’ general rules on misleading advertising, which mirror relevant consumer protection legislation. The 2024 Order, however, includes further information requirements going beyond general consumer protection law.</p>
<p><b>Promoting and marketing services to children</b></p> <p>23.—(1) A PRS provider must not offer a children’s service, unless any promotion and marketing for such a service specifies—</p> <p>(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.</p> <p>23(2) In this article— [...]</p> <p>“child” means a person under the age of 16</p> <p>“children’s service” means a threshold service that includes—</p> <p>(a) the provision of content, or  (b) the making available of a facility, that is aimed at children or could reasonably be expected to appeal to a child</p>	<p>This Article is not reflected in the Codes. It does not strictly align with the BCAP provisions relating to appeal and targeting of under-18s.</p>
<p><b>Factual claims made in promotion and marketing about a controlled PRS</b></p> <p>24. A PRS provider must make and keep a record in writing of all evidence necessary to substantiate claims made in the promotion and marketing of a controlled PRS.</p>	<p>This is not reflected directly in the Codes (although there is a general requirement in the misleading advertising on retention of information in BCAP rule 3.9).</p>
<p><b>Usage requirements for some types of controlled PRS to be stated in promotion and marketing</b></p> <p>25.—(1) A PRS provider must not offer a service mentioned in paragraph (2), unless the promotion and marketing of such a service complies with the requirements in paragraph (3).</p> <p>(2) The services are—</p> <p>(a) a chatline service,  (b) a live entertainment service,  (c) a remote gambling service,</p>	<p>This article is not reflected in the Codes.</p>

<p>(d)a sexual content service, or (e)a virtual chat service.</p> <p>(3) The promotion and marketing of any service to which this article applies must clearly state that—</p> <p>(a)the service must not be used by any person under the age of 18, (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.</p> <p>[The article also includes definitions of relevant terms]</p>	
<p><b>Prohibition on provision of types of controlled PRS to persons under the age of 18</b></p> <p>47. A merchant must not provide a service mentioned in article 25(2) (usage requirements for some types of controlled PRS to be stated in promotion and marketing) to any person under the age of 18.</p>	<p>[As per preceding]</p>
<p><b>Age verification for some types of controlled PRS</b></p> <p>48.—(1) A merchant who provides a service mentioned in article 25(2) (usage requirements for some types of controlled PRS to be stated in promotion and marketing) to a consumer must comply with the four requirements in this article.</p>	<p>[As per preceding]</p>
<p><b>Schedule 3 – Information to be provided before entering into a controlled PRS contract</b></p> <p><i>[Schedule 3(2) specifies pre-contract information provision requirements for PRS in general and for different types of service (content, facilities, payment services, claiming prizes, and voting). It sets out requirements for descriptions, terms, costs etc.]</i></p>	<p>This article is not reflected in the Codes.</p>

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