

**MINUTES OF THE 390th MEETING
PHONEPAYPLUS BOARD MEETING**

Thursday, 30 January 2014

1.30pm –5.45pm

PHONEPAYPLUS LIMITED, CLOVE BUILDING, 4 MAGUIRE STREET, LONDON SE1 2NQ

Board Members

Andrew Pinder (Chairman)
Peter Hinchliffe (Deputy Chairman)
Matti Alderson
Hugh Griffiths
Jeremy Hallsworth
Ruth Sawtell
Howard Webber
Paul Whiteing

Ofcom

Lynn Parker

PhonepayPlus

Patrick Guthrie
Joanne Prowse
Mark Collins (item 6.1.2)
Jonathan Levack (item 6.1.2)
David Levitt (item 6.1.2)
Ayo Omideyi (item 6.1.2)
Stephanie Ratcliffe (minutes)

1.0 Apologies and Introduction

Apologies were received from David Cockburn. The Board **NOTED** David's term of office as Chair of the Code Compliance Panel expires end March 2014. The Chairman thanked David for his hard work and major contribution in leading the Code Compliance Panel for the last six years and wished him well for the future.

2.0 Enforcement and Adjudicatory Report

The Board **NOTED** the report on recent developments and performance in regulatory enforcement, period 22nd November 2013 to 30th January 2014. Following a drop in complaints in December 2013, first cut figures show an increase in January. Complaints are up 12% on the last financial year to date. Discussion followed concerning cases scheduled to be over target; the reasons for a delay in cases going to Tribunal and their associated processes and improvement plans.

(Action: J Prowse)

3.0 Minutes of the 389th Board meeting held on 21st November 2013

The Board **APPROVED** the draft minutes of the meeting held on 21st November 2013.

3.1 Matters arising, action log and glossary

Matters arising

- Item 6.1.2 NGCS review - progress is underway.

Action log

The Board **NOTED** the updates to the action log.

- AC355 Consumer Credit policy consultation – the Board **AGREED** approval of the final draft to take place off line and prior to the next Board meeting with a draft statement to be submitted for Board approval by the end of February.

The Board **NOTED** the terms of glossary.

3.2 Standing and other declarations of interest

There were no standing or other declarations of interest noted.

4.0 REPORTS FROM THE CHAIRMAN, CHIEF EXECUTIVE & CHAIRS

4.1 Chairman's report

The Chairman **ADVISED** the Board of the appointment of the new Code Compliance Panel (CCP) Chairman, Mohammed Khamisa, and two new CCP members, Kate Markus (Legal Chair) and Tony Moss (Lay member), who will commence their terms in April 2014 and will be starting their induction process shortly. It was **AGREED** that it would be useful to get early views from the new CCP Chairman in particular on the operation of the CCP. The Chairman also updated on Board member appraisals and on reviewing the operation of the Board in line with good corporate governance.

4.2 Chief Executive's update

Paul Whiteing presented his Chief Executive's update.

The Board **NOTED** the following matters:

- Developments on two current judicial review applications;
- Engagement with DCMS on ensuring that the regulatory framework and relevant legislative provisions are kept up to date with new technology and market developments;
- Further discussions that are taking place to address issues around the regulation of app stores and 070 cases.

The Board **AGREED** that whilst the ONS clarify matters with the Executive, to proceed and sign the revised MoU with Ofcom. They further discussed progress in preparing the agenda items for the Board away day in March, which will focus on taking forward a range of issues relating to organisational strategy.

5.0 BUSINESS PLANNING AND BUDGETING

5.1 Business Plan and Budget Proposals 2014/15 approval

The Board **REVIEWED** the responses to the consultation on the business plan and proposed budget for 2014/15 alongside the four overriding themes, underpinned by the 11 specific action plans. The Board **NOTED** that there was broad acceptance of the budget and business plan in most consultation responses and it therefore decided to adopt the budget and business plan as set out in the consultation, subject to completion of the relevant governance process with Ofcom.

The Board **NOTED** the next steps with the levy and registration fee statement due to issue by the end of February and the final budget and business plan to be issued by the end of March.

5.2 Business Plan and Work streams Report as at October 2013

The Board **NOTED** the business plan and work streams report as at 31st December 2013. Actions to resolve the amber status workstreams in the plan are in place. A new plan, representing the next financial year, will be introduced at the next meeting and will include reference to the previous plan and any work streams/ actions from the previous year that are being carried over.

6.0 REPORTS FROM THE EXECUTIVE TEAM

6.1 STRATEGY, POLICY & REGULATORY EFFECTIVENESS

6.1.1 Risk Register Annual Review

The Board **NOTED** the annual review of the risk register, which had previously been reviewed in depth by the Audit Committee. The Board **AGREED** with the main risks identified in the register and with the mitigating actions being taken forward to address them.

The Board **NOTED** the importance of work being taken forward to further develop the effectiveness of our communications and it **RECOMMENDED** that this be discussed at the next meeting. Matti Alderson offered to provide the Executive with input to this work.

(Action: P Whiteing/P Morton)

6.1.2 Code Review Project update

The Board were presented with four papers concerning key Code areas for discussion and were asked to provide guidance on the major principles as follows:

- *Spending caps on live services* – The Board discussed the merits of increasing the cap to £45, but with spend reminders or opt-ins at intermediary points, versus keeping the cap at

£30. It was **AGREED** that both options should remain under consideration, subject to further discussions with industry and consumer groups. The merits of spend reminders and opt-ins during such calls will be re-considered once stakeholder feedback has been evaluated. ;

- *Spending caps on children's services* – the Board **AGREED** that spending caps for one-off purchases and for weekly subscriptions should remain at £3 and that the total for the cumulative cap would be set after further discussions with industry about the likely impacts.
- *Prior Permissions strategy* – the Board broadly **AGREED** the proposals set out in the paper for how to incorporate prior permissions into the Code, whilst still retaining appropriate flexibility to deal with emerging issues of serious consumer harm.
- *Other issues for consideration* – the Board **AGREED** to take forward the other proposed changes to the Code and asked that alternative wording on vulnerability be actively considered in the legal drafting process to determine whether it would be more appropriate than the current wording.

The Board **NOTED** that a Code review update paper would be published around the end of February ahead of a full consultation paper and new draft Code over the summer.

(Action: P Guthrie/J Prowse/M Collins)

6.1.3 Progress on Consumer Journey: Update

The Board **NOTED** progress made and subsequent results concluded from the independent commissioned research undertaken by Jigsaw Research concerning the consumer journey. The Board **NOTED** further improvements, including proposed workshops with the industry, are underway. Ofcom are undertaking a complimentary monitoring and enforcement programme in relation to Communication Providers compliance with General Condition 14. The Board **REQUESTED** a proposed plan of actions is presented at the next meeting.

(Action: J Prowse)

6.1.4 App Stores

The Board **NOTED** the paper outlining further analysis and recommendations concerning the granting of an exemption for app developers from registration, and the appropriate conditions to be applied to such an exemption. The Board **AGREED** that the Executive's proposals were broadly proportionate but **ASKED** the Executive to consider further the appropriate balance between conditions in a registration exemption and conditions applied more broadly through a new Code, including consideration of withhold provisions.

(Action: P Guthrie)

6.1.5 State of the Market

The Board were presented with a paper outlining the likely reasons for the market decline, which has been steeper this year than before, in particular focusing on the mobile sector. The Board **AGREED** that the main driver seemed to be broader technological and commercial trends and in particular the intensification of the shift of content onto app stores, whose revenues have been growing rapidly in recent quarters.

6.1.6 Charities Skip Pilot

The Board **NOTED** the update to the Charities Skip pilot including responses received to the consultation on the statement of application to make the charities skip pilot permanent. Following discussion, the Board **AGREED** the recommendations set out by the Executive for a change to one of the original conditions.

7.0 REPORTING AND PERFORMANCE

7.1 Management Summary Report period ended 31st December 2013

The Board **NOTED** the operational and financial data for the period ended 31st December 2013, as provided in the paper.

8.0 INFORMATION ONLY

8.1 Polluter Pays update

The Board **NOTED** the key progress made on the optimisation of the polluter pays principle since the last meeting, as provided in the paper.

8.2 Letter to Dame Colette Bowe

The Board **NOTED** the congratulatory letter to Dame Colette Bowe.

9.0 AoB

None

Date & location of next meeting:

Date: Thursday 10th April 2014

Time: 1.30 – 17.00

Location: PhonepayPlus Ltd, Clove Building, 4 Maguire Street, London, SE1 2NQ