

MINUTES OF THE PHONEPAYPLUS BOARD MEETING

THURSDAY 26th FEBRUARY 2009

NO. 365

13.30-17.00

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

Board Members present:

Sir Alistair Graham
Bob Chilton (Deputy Chairman)
David Clarke
Andrew Flanagan
Stephen Locke
Ruth Evans
Jeremy Hallsworth
Matti Alderson

In attendance:

Claudio Polack, Ofcom
Paul Whiteing
Simon Bates
Ted Lean

Anne Hoytink, Ofcom (Scope Review)
David Cockburn (Item 2.0)
Gail Weightman (Item 5.2)
Mark Szemelka (Item 6.1.1)
David Oatway (Item 6.1.3)
Mark Collins (Item 6.2.1)

Cara Shummen (Minutes)

Pre-meeting Ofcom presentation of the Scope Review

Anne Hoitink updated the Board on the terms of reference and structure of the Scope Review, the focus of its preliminary findings, and the scheduled dates for publication of the consultation document .

1.0 Apologies

Peter Phillips

2.0 CODE COMPLIANCE PANEL

David Cockburn delivered his report to the Board and drew the attention of members to the following additional points:

- The role, constitution and supporting processes of the Code Compliance Panel was currently under review by the PhonepayPlus Executive
- The next CCP Forum will be held on March 20th 2009
- 0871 training for CCP members is scheduled to take place on 13th July 2009

With regard to adjudications, 25 cases had been adjudicated since the last Board Meeting. 16 of the cases had been SP cases, 9 were IP cases. 12 of these cases were brought under the Standard Procedure and 1 under the Emergency Procedure. Since the last Board meeting and currently:

- There were no cases for review
- There were 10 informal representations and 16 applications for Prior Permission.
- There was an increase in the number '070' wangiri 'one-call' cases which will need to be further addressed.
- The CCP recommend that the Executive look at the issue of screen resolution and screen size which is often used as an argument for information needed to be scrolled for.

In reporting on the first year of operations, David Cockburn commented that there had been two changes in the Clerk to the Tribunals, and the link with Trays O'Reilly and then Debbie Singh to the Executive had also changed twice. There had been more informal representations, which can be lengthy, Cases and consequently document bundles are becoming larger, and sittings are regularly for 6.5 hours. The annual appraisal of all CCP members would shortly take place, and the CCP budget for the forthcoming year had been agreed with the Executive.

It was agreed that the recommendations of the Chairman of the CCP should be fed into the Board Action Log, with a view to the Board receiving the Executive response to these recommendations at the next Board meeting. **Action: J Harris**

3.0 Minutes of the 364th Board Meeting held on 20th November 2008

The minutes were read and approved with no changes made.

3.1 Matters Arising and Action Log

It was noted that there was one recorded ongoing action, the remainder having been completed

It was also noted that the updated action log should include reference to item 6.3.2 (New Technologies Programme) being adjourned to the next Board meeting, as this had been dropped from the current agenda at the last moment and therefore remained an ongoing action. **Action: C Shummen**

3.2 Standing and other Declarations of Interest; Agenda Item 6.1.1

As an industry member Jeremy Hallsworth announced a conflict of interest towards Agenda item 6.1.1

4.0 CHAIR REPORTS

4.1 Chairman's Update

The Chairman reported on developments since the last Board meeting.

Andrew Flanagan had tendered his resignation as at 31st March 2009 due to the terms of his recent appointment as CEO of the NSPCC. As Stephen Locke would finish his term as a Board Member in December 2009, it was decided that the two positions would be recruited together later in 2009.

The final interviews of the four shortlisted candidates for the CEO position were due to take place on Friday 27th February by Sir Alistair Graham, an Independent Assessor from Odgers and Peter Phillips from Ofcom.

The reduced budget (0% increase) has been sent to Ofcom for approval at their next Board Meeting. The budget was reduced after consultation with industry, and detailed discussions with the ILP at their meeting on 20th February 2009.

Colette Bowe has been appointed as the new Chairman of Ofcom. The Chairman had recently met with Lord Currie and her to discuss the budget and the Scope Review, and discussed future meetings schedules with her. The Chairman had also attended a final meeting with Lord Currie before his departure and had met with the Consumer Minister at BERR.

The Industry Liaison Panel (ILP) has met twice since the last Board Meeting. The first meeting was a consultation on the Business Plan and Budget 2009/10. The ILP made offers of help and support to PhonepayPlus to cut down on their incremental spending in areas of research and consumer education.

4.2 Acting Chief Executive's Update (paper 4.2)

The Acting Chief Executive Officer discussed his written report. The following points were highlighted:

- A forthcoming Oral Hearing would not now be taking place.
- He and Simon Bates had met with the Head of Regulation at Vodafone to discuss ongoing issues surrounding Payfort.
- The issue of structuring and implementing a formal complaints procedure is currently under review and the Board will be kept updated on any progress. Bob Chilton and Ruth Evans questioned how any third party external involvement would be independent.
- The Executive will be reviewing the funding model for the levy and considering alternate models that might help reduce some of the spikes. The findings of this will be reported to the Board. **Action T Lean**

4.3 Reports from the Committee Chairs

Each Chair briefly outlined developments at recent Committee meetings, further information for which are contained in the Committee minutes circulated to Board members:

Human Resources & Remuneration Committee

There was no update as the principle item was endorsement of a presentation to be given to the Board at this meeting.

Audit, Risk and Corporate Governance Committee

- Amendments had been made to the financial authorities in the scheme of delegation, which has been adapted and will be circulated to members for approval
- Four new considerations have been added to the Risk Register, and addressed by new controls.

Finance, Budget and Performance Management

- The 2009/10 Budget had been finalised and submitted to Ofcom
- A modest surplus is currently expected for the 2008/09 budget
- A strategic health check has been completed and included the expiry of the lease of current premises, office overheads, KPIs and the funding model.

5.0 SECTION B: BOARD DISCUSSION ITEM

5.1 Business Plan 2009/10

Paul Whiteing presented a paper updating the Board on discussion with the Finance, Budget and Performance Management Committee and Ofcom with a view to finalising the Business Plan and Budget for 2009/10. It was noted:-

- The Business Plan and Budget should be formally agreed by Ofcom's Board on 10th March 2009 thereafter the outcome of that decision and the Levy will be announced to stakeholders.
- Responses were broadly supportive of the approach taken.
- Members of the ILP offered support in assisting in trying to reduce incremental costs which are driven by some of their members and they also requested that we give greater priority to proactive monitoring of services.
- Research of the size of 0871 market was being undertaken, however it is believed that the market will remain in flux for some time. There is some reserve money in the budget for 0871 in particular, for any added costs for the Call Centre.
- A static budget can still return an increase in levy, due to market size expectations. Previously the industry had been asked if they would like the levy to be 'smooth' but they declined this offer and should therefore expect changes in the levy rate.

5.2 HR 2009/10 Strategy

Gail Weightman presented the revised HR Strategy to the Board for recommendation to align with PhonepayPlus' strategic and operational needs. The overall aim of the presented strategy is to maximise the contribution that HR makes to the achievement of the organisations' three year strategic plan. The three headline objectives set out in the HR Strategy were:-

- Culture: continuing the momentum
- Organisation Development: harmonising
- Individual Performance: raising the profile

The paper also set out the last year in review, current HR challenges, current priorities; and risks and Communication. The Board agreed:-

- The revised approach meets the business objectives
- Great achievements have already been made over the previous years and the HR team are doing an excellent job
- A lot of progress has been made towards the achievement of the current goals and objectives

- HR problems facing the organisation have been analysed, and challenges are being met and overcome
- The Board endorse the strategy and the work that the HR team are doing.

5.3 Complaints Lifecycle Project Update

The Board was updated on the progress of the Complaints Lifecycle project. It was noted that the project has a significant cope and Ruth Evans is part of the project team to provide Board guidance and support. The team recently held a workshop to analyse the problems facing consumers and the key objectives of the project.

Consumer problems identified:-

- Networks and SP Customer service centres are sometimes providing the wrong information to complainants
- PhonepayPlus processes and resolves individual complaints, but is not yet able to always prevent the underlying consumer harm
- PhonepayPlus' complaints processes could be more efficient in certain areas

The key objectives of the project had been identified as, to:-

- Improve the quality of customer service across the industry
- Resolve consumer complaints and re-educate/empower consumers to use the service again if they should so choose
- Identify a process to resolve complaints
- Construct initial processes for efficiency

The project had also mapped out desired outcomes and measures of success, and had also identified potential impact areas to be reflected in the Code 12 project. The Board endorsed the activities of the project team, and asked to be updated on a regular basis.

6.0 SECTION C: REPORTS FROM THE EXECUTIVE TEAM

6.1 STRATEGY, POLICY AND REGULATORY EFFECTIVENESS

6.1.1 Higher Tariffs for 09 Numbers

Jeremy Hallsworth left the room prior to this Agenda item being discussed.

Proposals had been received by PhonepayPlus and Ofcom from AIME in relation to an increase in the tariffs which are currently available for 09 premium rate numbers – both per minute charges and drop charges. The Board were issued a preliminary assessment of the issues pending further analysis, research and consultation by Ofcom. The Board noted:-

- Thorough due diligence would have to be performed before this was implemented, especially as to the underlying legal status
- The proposal for a 60 rule for outpayments
- The benefits to consumers would need to be fully understood
- High levels of compliance would be required – perhaps through a prior permissions regime
- Additional safeguards would need to be implemented to reduce consumer harm. The experience of Ireland should be taken into account.
- A higher tariff could incentivise the industry for further compliance and as a basis for good behaviours

The issue is still currently with Ofcom and Claudio Pollack presented the Ofcom perspective and the matters that would need to be taken into account to deliver the intended benefits.

6.1.2 Mobile Regulatory issues following the Mobile Review

The Board were updated on PhonepayPlus' approach to dealing with the on-going complaints in relation to the mobile sector and the Executive's on-going plans to address the concerns raised. The Board were asked to note this update for information.

6.1.3 Managing Regulatory Risk

The Executive updated the Board on the current situation in relation to the Market Risk Register, which had developed in its current form about 15 months ago. It was noted that there are 40 entries on the register, the majority of which were marked as low risks, but actively monitored. Good management is in place to deal with the developing and auctioning controls for the risks, which are regularly monitored. So far the follow had been undertaken:-

- The Mobile Review was undertaken in regards to the WAP Billing and Subscription Services risks
- 070 risk is active and currently being analysed
- A notice has been issued to industry about Virtual Chat services masquerading as dating services
- Monitoring is continuing on foreign language channels, a number of whom had already met with PhonepayPlus and implemented advice given
- There have been meetings with publishers and print media to give advice on compliant competitions in print
- Work will soon be undertaken to engage International Call Card operators as some instances of these services have appeared to be misleading
- Ofcom has been notified of missed called from 0871 numbers
- Future risk and intelligence gathering is also being researched

The Market Risk Register is to be circulated to the Board half yearly.

(Action: D Oatway)

6.2 PROJECTS

6.2.1 Code 12 Update

Mark Collins updated the Board on the progress of Code 12. The skeleton draft would be brought to the Board in April for further consideration

The Board responded to this update and recommended:-

- The Code should be freshly written and Sections should not simply be cut from the current Code. The process provision of section 8 et seq. could be produced as a separate annexe.
- Outcomes should first be decided, and then the Code written to support them
- The core of the Code should be grouped around principles and themes
- Care should be taken to ensure the Code incorporates the right incentives to encourage good compliance
- The Code should be tested with consumers, to ensure they understand and support it

The Board endorsed the project team to move forward with their recommendations, and asked that ample time be allowed for discussion of the draft code at subsequent Board meetings.

7.0

SECTION C: ITEMS FOR INFORMATION ONLY

- Recent Committee Meeting minutes
- IARN paper

Independent Appeals Body Chairman

- The Board endorsed the reappointment of Judge Derek Holden to serve one final term as the Chair on the Independent Appeals Body.

PhonepayPlus Chairman

- Following the withdrawal of the Chair and all officers, the Deputy Chair assumed the Chair and led a discussion of the re-appointment of the Chair. The Board unanimously agreed to appoint Sir Alistair Graham to a second and final term of office of 3 years duration, subject to the concurrence of Ofcom.

NEXT MEETING

Date: Thursday 23rd April 2009

Time: 13:00 – 17:00

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