

MINUTES OF THE 388th
PHONEPAYPLUS BOARD MEETING

Tuesday, 10 September 2013

1.30pm – 5.00pm

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

Board Members

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

Ofcom

Lynn Parker

PhonepayPlus

Patrick Guthrie
Joanne Prowse
Mark Collins (2.0, 6.1.2, 6.1.3)
Jonathan Levack (6.1.2)
Nicola Tysoe (2.0)
Stephanie Ratcliffe (minutes)

A presentation was held by Nitin Lachhani on 'Affiliate Marketing – questionable traffic generation'

The Board thanked Nitin Lachhani for the commendable presentation and requested for the slides to be circulated.

(Action: Stephanie Ratcliffe)

1.0 Apologies and Introduction

Apologies were noted for David Cockburn.

2.0 Enforcement and Adjudicatory Report and supplementary paper on affiliate marketing

Jo Prowse presented the report on developments and performance in regulatory enforcement, period 21st June to 10th September 2013.

The following points were noted:

- an increase in the ratio of complaints to enquiries exists due to improvements in complaint capture and complaint handling procedures;
- Improvement programme continues across the Investigation function in order to improve performance and productivity.

The Board noted the update and a recommendation made to consider a breakdown in the targets of the investigation life cycle in addition to the overall KPI for future reporting.

(Action: Jo Prowse)

The following emerging issues were noted:

- 20 cases have been heard and 11 informal representations;
- fine totals stand at £762,500.00 (for the first five Tribunals up to 22/08/13), the administrative charges total stands at £100,781.00;
- an increase in Tribunals instructing the procedure of naming cases is apparent;
- eight EP cases have been heard;
- cases highlighted include the recent emergence of non compliant premium rate activity within the Payday-loan industry, ongoing misleading promotions through use of affiliate marketing and adult pay-per-page WAP video services demonstrating failure to provide evidence of robust verification.

Misleading Digital Marketing - Mark Collins presented a supplementary paper on misleading digital marketing. He confirmed that responses to the consultation on digital marketing guidance in May were generally positive, whereby two themes emerged for further assessment. Following further research and investigation into what can reasonably be expected of affiliate marketers, the Executive has identified a number of reputable affiliate marketers and networks, who are prepared to supply appropriate controls to PRS providers such as traffic by individual affiliate and expected locations of affiliate ads to facilitate spot monitoring, has been identified. As a result the Executive is satisfied that the original proposals around control of affiliate marketing are appropriate, and the publication of a final statement and guidance is expected in October.

The Board noted the update and discussion followed around how best to ensure the guidance sets out clear expectations (particularly around the areas on which Tribunals are likely to focus), whilst not being over-prescriptive and creating a "tick-box" exercise for providers.

(Action: Mark Collins)

3.0 Minutes of the 387th Board meeting held on 20th June 2013

The minutes of the Board meeting held on 20th June 2013 were approved as an accurate record of the meeting, with the exception of a minor amendment to be made, concerning the arrival of Lynn Parker.

3.1 Matters arising, action log and glossary

Matters arising

- IMCB status update: the final Extraordinary General meeting of IMCB took place on 10th September 2013. Following the transfer of IMCB remit to the British Board of Film Classification, which took place on 2nd September 2013, arrangements for making the company dormant are underway.

Actionlog:

- AC357 – Executive to consider inviting an affiliate marketer to present to the Board.

3.2 Standing and other declarations of interest

A standing declaration of interest was made by Peter Hinchliffe on agenda item 6.1.2 'Charities Skip Pilot.'

4.0 REPORTS FROM THE CHAIRMAN, CHIEF EXECUTIVE & CHAIRS

4.1 Chairman's report

The Chairman confirmed the recruitment process for a Chair, legal and lay member of the Code Compliance Panel is underway and on target.

4.2 Chief Executive's update and reappointment of the Independent Lay Assessor

Paul Whiteing updated the Board on issues of note since the last meeting;

- Staffing – a new Head of Communications will be recruited shortly;
- Google – discussions remain ongoing and further meetings are due in September. The Board supported the recommendation for several members of the Board to act as a decision making body and further progress.
- Information, Connection and Signposting Services – the closing date for applications is 11th September, to date nine applications have been received.

5.0 BUSINESS PLANNING AND BUDGETING

5.1 Business Plan and Work streams report 2013/14

Paul Whiteing and Jo Prowse presented the Board with an oversight of the status of all critical workstreams for 2013/14 and highlighted workstreams with either an amber or red status as well as those of topical interest. It was noted that an additional blue status had been included to identify workstreams with 'some issues but no significant impact'.

The following points were made:

- workstream 7.6 - the framework agreement which governs our relationship with Ofcom is being updated;
- workstream 7.1 - the strategy plan for 2014-17 will form part of discussions at the Board Strategy Away Day on 16th October;

- workstream 3.5 - website/social media – Hugh Griffiths offered to assist with any issues arising from this workstream.

Additional items for discussion under this item at future Board meetings include the workstreams furthering protection of vulnerable consumers including children.

The Board noted the report and subsequent workstreams.

6.0 REPORTS FROM THE EXECUTIVE TEAM

6.1 STRATEGY, POLICY & REGULATORY EFFECTIVENESS

6.1.1 Update on Government's Communications Strategy and the Payment Services Directive

Patrick Guthrie presented an update on the latest developments of the BIS Consumer Rights Bill, draft EU Payment Services Directive and the DCMS Communications Strategy paper and confirmed work is in progress with the focus being on consumer protection. The Board noted the developments and endorsed PhonepayPlus' strategy for engagement.

Consumer credit update – good progress has been made following the publication of the consultation concerning the tightening of conditions around transparency of rates, use of second premium rate calls and the refund policy. Proposals to resolve the second call remain ongoing. The Board agreed that further evidence, based on consumer research, around the service and its value is gathered, in particular around the second call.

(Action: Patrick Guthrie)

6.1.2 Code Review/NGCS update

Mark Collins provided an update on progress made on the review of the current Code and its proposals, in line with Ofcom's proposals around NGCS and spending caps for the 09 number range.

He confirmed that the issues of whether spending caps can be taken out of the Code are still under discussion with Ofcom. The Board noted the progress updates and endorsed the governance of the project and respective roles of the Project Board and Board, as well as the scope of the review. Good progress is being made and we remain on track with the target date for publication of a revised Code, November 2014.

The Board recommended the call for Inputs is released as soon as possible and before the Industry Forum on 17th September.

6.1.3 Charities Skip Pilot

Peter Hinchliffe declared a standing declaration of interest on this agenda item.

Mark Collins provided an update on the charities skip pilot and confirmed, that as a result of growth in charitable PRS donation, the pilot, which had been agreed last year, has since been further opened up and extended to other interested parties.

The Board were asked to consider whether additional measures should be implemented and to approve option 4; to allow charities to disapply the requirement on other subscription services to send a STOP command reminder every month but to allow a 3 month reminder. The Board agreed sufficient evidence had been acquired to suggest the pilot is no longer necessary and decided that in favour of option 4 (permanent dis-application of the requirement to send a STOP reminder each month for registered charities, subject to previously identified conditions) and for a public Notice of this dis-application to be issued.

(Action: Mark Collins)

6.1.4 Framework Agreement review oral update

The agenda item was covered under agenda item 2.0.

6.1.5 Annual Market review oral update

Patrick Guthrie gave a presentation by research company, BDRC Continental, on the recent findings of the market review in relation to the PRS market and research carried out with consumers. He confirmed the consumer journey research will provide further regularity to better understand complaints made and how complaints are handled. He advised the findings, which include uses of micropayments and paid services, will be published shortly.

The Board noted the presentation and recommended the Executive further review and address issues around the market review with BDRC Continental, before finalising the research for publication.

(Action: Patrick Guthrie)

6.1.6 Stakeholder Perception Audit

Paul Whiteing presented a paper on the findings of the stakeholder perception audit and confirmed the findings are key to understanding the perception of our stakeholders and to driving our KPIs.

The audit was deemed generally positive and the Board noted the various analysis and feedback provided by the research.

Next steps include;

- proposals to track consumer signposting by operators;
- raising industry awareness of our role and remit and how we can support and promote industry comparative, whilst maintaining focus on consumers.

The Board endorsed the report and discussion followed on how to build into the plan a comparison with other regulators. It was recommended that the next audit separates out consumer and industry questions.

(Action: Paul Whiteing)

6.1.7 Polluter Pays update

Jo Prowse provided an update on the optimisation of the polluter pays principle. The following updates were noted:

- critical success factors and success criteria have been identified as a framework against which to report progress;
- improved capturing of complaints in a more timely manner;
- improved implementation of withhold procedures to optimise the amount of money in the 'system';
- further scope exists to improve the withhold process which is being furthered by the Polluter Pays Industry Working Group;
- the external specialist assistance of MoonBeaver for debt collection and fine recovery is proving fruitful with all avenues of redress being pursued. Results not anticipated to be immediate but positive indicators.
- ongoing suspensions and prohibitions of providers and associated individuals where evidence supports it.

The Board noted the paper and the recommendations made; to ensure the critical success factors for debt collection and recovery procedures are prioritised and to encourage and support the industry.

(Action: Jo Prowse)

6.2 REPORTING AND PERFORMANCE

6.2.1 Management Summary Report period ended 31st July 2013

Jo Prowse updated the Board on the operational and financial data for period ended July 2013 and provided an update for period August 2013.

The following points were noted:

- key changes for August include the completion of the peak registration scheme renewal period in August, which shows a decline in overall registrants, as anticipated. The Resources Committee will continue to monitor registration churn.
- monthly complaint volumes remain broadly consistent with July;
- a small increase in fine collection rate is apparent.

The Board noted the update and made the following recommendations:

- include data illustrating what leads to a complaint over several months, in order to identify consequences and trends;
- include the time recording system in the management pack and approximate length of time a case takes to investigate.

(Action: Jo Prowse)

6.3 INFORMATION ONLY

6.3.1 Independent Laid Assessor Annual report

The Board noted the independent lay assessor's annual report.

7.0 AoB

The Board confirmed the necessity of requiring hardcopies of Board packs.

Date & location of next meeting:

Date: Thursday 21st November 2013

Time: 1.30 – 17.00

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