

MINUTES OF THE PHONEPAYPLUS BOARD MEETING

THURSDAY 19th JUNE 2008

NO. 362

14:20 – 16.45

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

Attendees:

Bob Chilton O.B.E (Deputy Chairman)

Ed Boddington
Andrew Bud
Sara Nathan
George Kidd

David Cockburn (CCP Chairman)

Claudio Pollack (Ofcom)

Mark Collins (part)
Ted Lean
Brian Lund
Trays O'Reilly
David Oatway (part)
Debbie Singh (part)
Dawn Taylor (part)
Paul Whiteing

Stephanie Ratcliffe (Minutes)

1.0

Apologies

David Clarke

Sir Alistair Graham (Chairman)
Nick Higham

Stephen Locke
Mike Short
Mike Tully
Peter Phillips (Ofcom)

The Deputy Chairman congratulated Sara Nathan who has recently been granted Ordinary Officer of the Civil Division for Services to the Broadcasting and Communications Industry.

2.0

CCP Reporting

David Cockburn presented an overview of the compliance panel and emerging issues for the period 14th March 2008 to 5 June 2008.

David Cockburn advised the Board of the following:

- since commencement of the CCP, all members have sat on at least one adjudication
- the first CCP forum was held in June and attended by industry Board member, Mike Short
- in the last 3 months 20 cases have been considered with fines totalling £117K
- a sanctions guide to improve coherence and effectiveness of the network case procedures is in production
- the 'hard opt in' concept is being reviewed as part of the mobile services review
- the correct terms 'code compliance panel' and 'tribunals' are to be used
- procedural changes include having a 30 minute slot allocated to informal representations and a reduction in paperwork
- the introduction of service provider application forms to target reviews better and to allow for consideration as to whether an application can proceed

In discussion the Board recommended the following:

- include reasons for allowing an application for review to proceed in the form as well as guidance notes to assist applicants completing the form
- include in the 12th Code the procedures to approve issues and how these are communicated to the industry. As precedents can be set by the decision of a tribunal, the tribunal should present new points of policy emerging to the Board, prior to making any adjudication.

It was suggested we capture this issue in an Operating Memorandum between the Board and CCP. Ted Lean is to provide an update at the next meeting.

The Board noted and approved the report following the above recommendations.

(Action: David Cockburn/Ted Lean)

3.0

Minutes of the 361st Board Meeting

The minutes were read and approved with the following noted:

- 5.2.2 – the sanctions guide is now in operation
- 5.2.4 – an EP is published once the service provider has been informed and 5 working days after the tribunal has taken place

3.1 Matters Arising

There were no matters arising.

3.2 Action Log

The Board requested the action log include:

- clear conclusions and deadlines against actions
- up-to-date monitoring of pending actions

3.3 Standing Declarations on Conflicts of Interest on Agenda Items

It was noted that as of 01.07.08 Bob Chilton, Deputy Chairman, will become Chair of the Standards Board of England.

- Andrew Bud in respect of mobile services involvement in Mobile Services Review **(5.2.2)**
- George Kidd in respect of direct marketing involvement in Mobile Services Review **(5.2.2)**

4.0 SECTION A: REPORTS FROM THE CHAIRMAN AND CHIEF EXECUTIVE

4.1 Chairman's Update

In the absence of the Chairman, Bob Chilton advised the Board of the Chairman's activities:

1. Follow up on Board appointments and related issues.
2. Attendance at the Mobile Content Services Conferences; the FT and Joint MEF/MDA Event.
3. Attendance at the ILP meeting on 12th June.

4.2 Chief Executive's Update

George Kidd provided an overview of the organisation and key issues:

- successful completion of year-end audit and our financial position
- mobile and subscriptions continue to dominate complaints, calls and number checks
- our role in market evolution is to remain involved and identify market changes, not to grow with the market

5.0 SECTION B: REPORTS FROM THE EXECUTIVE TEAM

5.1 STRATEGY, BUDGET AND GOVERNANCE

5.1.1 Annual Review of Governance Arrangements

Ted Lean introduced a paper on governance arrangements, summarising recommendations to be implemented before the end of Q2 2009. He confirmed it is good practice for Company Boards to review their arrangements.

In discussion the following was noted:

- none of the areas under review identified any causes for concern
- reports on risk management will be presented to the Board bi-annually
- financial controls are operating smoothly
- minor concerns with IT security are being addressed
- the staff handbook has been updated and illegal content viewing guidelines issued. Currently the data protection systems are robust, but there is a need for some staff training.
- we need to ensure we have adequate measures and internal controls in place, via relevant KPI's and reports, to inform us on regulatory effectiveness

The Board approved the recommendations and requested that KPI's, steered to outcome, effectiveness and efficiency, are included.

(Action: George Kidd)

5.2 POLICY AND EXTERNAL AFFAIRS

5.2.1 Project Proposals for the 12th Code of Practice

Paul Whiting briefed the Board on the new Code proposals, draft project plan and Gantt chart. The Board were asked to approve the plan and recommendations.

In discussion the Board noted the following:

- the complexity of the consultation on a code or codes given the linkage with the scope review
- the challenge to design a system for consultation which is consistent and timely
- the project should include a review of the funding mechanism
- the Chairman will nominate a new Board member to sit on the 12th Code Project Board

The Board approved the project proposal and plan.

(Action: Paul Whiteing)

5.2.2 Mobile Services Review

Mark Collins presented to the Board an overview of the mobile review and advised an expected publication date of 16th July. The review will be tested with stakeholders and will require appropriate Board sign off.

The underlying problems focus on complaints concerning pricing transparency, subscription failings linked to unsolicited promotions, STOP commands and clarity of 'opt ins.' Secondary complaints have increased which suggests wider more aggressive marketing.

Proposed solutions include:

- clarify conditions surrounding transparency and pricing information of mobile WAP sites, prior to the user incurring costs
- Marketing Lists – service providers to provide evidence and opt in traded lists and prove MSISDN's have not be recycled, ensure promotional SMS on how to 'opt out' is clear to recipients, Terms such as 'opt in' will be defined and the definitions included in the review.
- Transparency – costs must be clearly stated prior to a charge being incurred
- Virtual Chat Service – consider whether the use of long format mobile numbers to promote virtual chat is appropriate
- Subscriptions, Clubs, Joining Fees and STOP – move to prior permission for ringtone services charging and ensure clarity of 'opt in'.

In discussion the Board advised the following:

- it is important the consultation sets out options considered as well as our recommended course of action
- the proposed gap of 2 months between 'opt in' and commencement of service may be disproportionate to the service offered
- we should give careful attention in particular to the options, benefits, costs and risks in order confirmation (double opt-in)
- a further analysis on conclusions and evaluations
- we should be clear on the seriousness of failures of the STOP command and that this could result in EP's
- our proposals on use of marketing lists should have regard to the services and customer bases involved
- ensure the industry are consulted prior to any implementations taking place

The Board noted and approved the review.

(Action: Paul Whiteing/Mark Collins)

5.2.3 Consultation on Proposed Amendments to the Live Entertainment Services Compensation Arrangements

Mark Szemelka presented a paper on proposals for a review of the LES Compensation Scheme Arrangements. The proposals are de-regulatory in nature, but designed to ensure the right level of consumer protection is maintained.

The Board approved the consultation document and recommendations and approved the appointment of Board members Stephen Locke, Ed Boddington and Bob Chilton to approve the final version.

(Action: James Harris/Mark Szemelka)

5.3 FINANCE & OPERATIONS

5.3.1 Financial Report to 31st May 2008

Dawn Taylor circulated the financial report to the Board, noted the variances on budget and explained the amended figures. The budgets have been profiled and income, which includes levy only, added. It was recommended that interest rates are noted in future accounts.

We continue to locate the best sources available to invest our savings and will liaise with the AR&CG Committee.

The Board noted and approved the report.

(Action: Dawn Taylor)

5.4 AUDIT GROUP

5.4.1 Audit Update from AR&CG Meeting held on 10th June

Brian Lund presented the Board with an update on the network audits carried out. He agreed to circulate the findings of the audits to the Board and to discuss the technicalities of fixed line views of withholding revenue with Ed Boddington 'off line'.

(Action: Brian Lund)

6.0 SECTION C: ITEMS FOR INFORMATION ONLY – SEPARATE BUNDLE

6.1 FB&PM Meeting Minutes 15th May 2008

- NOTED the item for information only

7.0 AOB

- 7.1** Ted Lean agreed to circulate an update of the Allied Telecommunications Case via email to the Board.

(Action: Ted Lean)

- 7.2** The Deputy Chairman noted this was the last Board meeting before Sara Nathan, Ed Boddington, Mike Tully, Mike Short and Nick Higham retire as Directors from the Board on 31st August and thanked them for their hard work and contribution over the years.

The new Board members are due to commence their terms of office on 1st September 2008.

NEXT MEETING

Date: Thursday 18th September 2008

Time: 14:00 – 17:00

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