

MINUTES OF THE PHONEPAYPLUS BOARD MEETING

THURSDAY 20th November 2008

NO. 364

14:00 – 18:00

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

Attendees:

Sir Alistair Graham
Bob Chilton (Deputy Chairman)

David Clarke
Andrew Flanagan
Stephen Locke
Ruth Evans
Jeremy Hallsworth

David Cockburn (CCP Chairman)

Paul Whiteing
Simon Bates
Ted Lean
Dawn Taylor (part)
Ayo Omideyi (part)
Mark Collins (part)

John Trotter, partner Bates Wells & Braithwaite (part)

Cara Shummen (Minutes)

- 1.0 Apologies**
Matti Alderson
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:

- John Williams had tendered his resignation as a member of the CCP
- Debbie Singh had tendered her resignation as a member of the Executive
- An appraisal of all CCP members would take place in early 2009

With regard to meetings of the CCP membership, the Forum held on October 6 included a 12th Code presentation by Mark Collins, which will be considered in more detail at the next meeting in January.

With regard to adjudications, 13 cases had been adjudicated since the last Board Meeting. 8 of the cases had been SP cases, 5 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 5 informal representations and 9 applications for Prior Permission.
- There was an increase in '070' cases although complaints for this area were decreasing
- Due to the compliance activity that mBlox has implemented, there has not been an uplift of their fine for breach history in the most recent case

In relation to a case heard that day, there was a dispute regarding the administrative costs charged to an SP found to be in breach of the Code. The Tribunal recommended greater transparency when issuing invoices, with a more detailed breakdown of costs being issued to the SP at the same time.

3.0 Minutes of the 363rd Board Meeting held on 18th September

The minutes were read and approved with no changes made.

3.1 Matters Arising and Action Log

- NOTED - item for information only

3.2 Standing and other Declarations of Interest; Agenda Items 4.1, 6.1/3/4, 6.2.1

There were no new declarations of interest made.

4.0 CHAIR REPORTS

4.1 Chairman's Update

The Chairman reported on developments since the last Board meeting.

The CEO recruitment process was now underway. A number of Board members would be contacted by Odgers to ask their views about what we are looking for in a new Chief Executive, and the process for appointment had been agreed with Ofcom. PhonepayPlus are following good practice procurement procedures in appointing head hunters (Odgers), and the position will be advertised in the Sunday Times on 30 November 2008. A panel made up of an Independent Assessor – Wendy Mason, the Chairman and Peter Phillips from Ofcom. It is hoped to make an appointment by the end of February.

The Chairman of the ILP Nicola Robbins has now stepped down and Jacqui Brookes from FSC will be taking her place as Chairman in the New Year. Hamish McLeod from MBG has been elected vice-chair. The ILP met on the 18th November and expressed an interest in the implementation of 0871, Code 12 Changes and made changes to their Terms of Reference which are now available on the PhonepayPlus website.

The Industry Forum was held on 13th November and proved to be a well attended and successful event. It would be beneficial to have a forum specifically on Code 12, perhaps with an interactive format.

Three Directors of IMCB had resigned, and it was proposed that three new directors would be appointed by PhonepayPlus as the IMCB sole shareholder; Matti Alderson, Ruth Evans and David Clarke had been approached and had confirmed their consent to join the IMCB Board.

4.2 Acting Chief Executive's Update (paper 4.2)

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

- There had been 12 lead investigation cases more than the previous quarter. Of the 18 cases adjudicated 7 were IP cases and 11 were SP cases
- A continued dialogue with network operators regarding Payforit is being sought while existing processes are being followed
- The mobile review is close to publication, and will be launched with an appropriate communications promotion
- There has been an increase in the number of prior permissions granted for Broadcast/PRS and there is now a final standard set of conditions in relation to these
- The CCP are planning a forum on 6 December, where they will have a guest speaker to present on Broadcast Issues and they will discuss sanctions

4.3 Reports from the Committee Chairs

The minutes from Committee meetings are circulated with Board papers, but as agreed at the Board retreat, Each Chair briefly outlined recent developments:

Human Resources & Remuneration Committee

- Succession planning was added to the committee's Terms of Reference
- The Committee is presently reviewing the current Rewards & Benefits scheme
- A presentation will be made to the Board at the February 26th meeting of the HR Strategy for 2009/10

Audit, Risk and Corporate Governance Committee

- Quarterly review of the Risk Register
- Currently a focus on fraud avoidance. Mazar's had been asked to review the robustness of internal financial controls and processes as part of the annual audit

Finance, Budget and Performance Management

- Finalisation of the 2009/10 Budget
- Procurement of a new website and telephony system

5.0 SECTION B: BOARD DISCUSSION ITEM

5.1 Report of progress of Code 12 Programme

Mark Collins gave a presentation on the Pre-Consultation Questionnaire and the proposed timeline for the delivery of Code 12. It was noted that the new code is still 18 months away. The next stage will be a Green Paper in April 2009 (after consultation meetings with stakeholders), formal consultation Sept – Dec 2009, expected publication spring/summer 2010.

Responses to the questionnaire supported

- A shorter code
- A principles based code with examples of compliant activity
- Prior Permission to be sought for repeat offenders
- A single code for both mobile and fixed line services
- More guidance on what is considered to be 'compliant'

The Board discussed where in the value chain the regulatory burden and responsibility should lie, the benefits of a principles vs rules based Code, the CCP role as enforcer of the Code, and formal vs informal guidance. It was noted that:-

- The existing Code already has many principles, to form a good basis for shifting the emphasis in the new Code to be principles based.
- Consider new and innovative sanctions for enforcement – such as audit inspections, automatic refunds, wider prior permissions - as part of a graduated response rather than automatic escalation
- New technologies need to be taken into account when drafting the Code. Is a three year horizon sufficient?
- There should be tougher requirements for complaints to be dealt with through effective customer services arrangements
- The principles should be linked to examples of good practise and indicative sanctions for breach, and should be prefaced in each section with clear outcomes

It was agreed that the point where responsibility in the value chain should be placed needs further analysis and discussion

6.0 SECTION C: REPORTS FROM THE EXECUTIVE TEAM

6.1 STRATEGY, POLICY AND REGULATORY EFFECTIVENESS

6.1.1 Progress of 'targeted sanctions' programme

This item was adjourned to the next Board meeting

6.1.2 'Complaint lifecycle'

Simon Bates presented preliminary research on the 'Complaint lifecycle' which looked at the path a complaint took, how it was dealt with and whether trust was instilled in the consumer to use Premium Rate Services again.

It was noted that:-

- PhoneyPayPlus needs clearer criteria for escalating a complaint to a formal investigation.
- Consumer confidence needs to be boosted, even in a situation when a complaint is not made to PhoneyPayPlus. A level of acceptable consumer service should be set.
- Speed of the response is crucial in all areas.
- Industry should be consulted as to its perspective. There should be further market and consumer research carried out as to the nature of the experience.

The Board agreed the preliminary research was headed in the right direction and supported implementation of a project team to work on this area.

6.1.3 'Mere Conduit' issues within e-Commerce Regulations 2002

Due to a conflict of interest as a member of the Tribunal on December 9th, Bob Chilton absented himself from the presentation given by Ted Lean as to the 'Mere Conduit' defence available under the E- Commerce Directive 2000.

6.1.4 Managing regulatory risk

This item was adjourned to the next Board meeting

6.2.1 Financial report to 31st October 2008, including breakdown of funds

- The expenditure budget is currently on track but is likely to be marginally overspent at year end owing to costs relating to certain unforeseen staff resignation and recruitment costs. Ofcom would be asked to treat this as an approved overspend
- The level of overspend will be partially offset by operational savings in other areas such as through staff changes
- Fines paid to date total £436,309 which £305,000 unpaid. This includes the a £200,000 fine which is still outstanding

The Board requested that in future the Financial report includes rolling financial forecasting of out-turn for the current financial year.

6.2.2 Development of the 09/10 budget

The acting CEO presented the strategy for the 09/10 budget for comment and approval. This was set in the context of the planned activities designed to deliver the three year plan.

The Board agreed with the direction the Business Plan and budget is taking and delegated to the Finance, Budget and Performance Management Committee the finalisation of the document prior to public consultation.

6.3.2 New technologies programme

Item for information only – adjourned to the next Board meeting

7.0 SECTION C: ITEMS FOR INFORMATION ONLY

8.0 AOB

- **Appointment of IMCB Directors**

The Board Members recommended to the Company the appointment of Matti Alderson, Ruth Evans and David Clarke as IMCB Directors, and authorised the Chair to sign a written resolution of the Company to that effect.

- **December 11 Board Meeting**

The Board members agreed there was no need to hold the 11 December 2008 Board Meeting, which had been called to finalise the budget, as finalisation was now delegated to the FPBM Committee.

NEXT MEETING

Date: Thursday 26th February 2008

Time: 13:00 – 17:00

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