



**MINUTES OF THE PHONEPAYPLUS BOARD MEETING**

**THURSDAY 19<sup>th</sup> NOVEMBER 2009  
NO. 369**

**12.30-17.00**

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

**Board Members present:**

Sir Alistair Graham (Chairman)  
Bob Chilton (Deputy Chairman)  
David Clarke  
Ruth Evans  
Jeremy Hallsworth  
Stephen Locke  
Paul Whiteing

**In attendance:**

Peter Phillips, Ofcom

David Cockburn (item 2.0)

Simon Bates  
Bradley Brady  
Ted Lean

Mark Collins (item 6.1.4 and 6.2.1)  
James Harris (item 2.0 and 6.1.3)  
Lee Morris (item 6.1.4)  
David Oatway (item 5.1)  
Stephanie Ratcliffe (Minutes)

## 1.0 Apologies

None

## 2.0 Code Compliance Panel

David Cockburn delivered the CCP report to the Board on Tribunals for the period 3<sup>rd</sup> September to 29<sup>th</sup> October 2009 and drew attention to the following points:

- 14 cases were adjudicated. 13 informal representations were heard, two of which related to applications for prior permission
- An Oral Hearing against mBlox Ltd took place, at which the decision of the original tribunal was upheld. Three further mBlox cases will be presented at an Oral Hearing in February 2010.

The following emerging issues were discussed:

- The case against Plaza Telecom was the first case against a network operator to be heard by a tribunal of CCP members. Among the sanctions was a requirement that an independent third party audit Plaza Telecom's due diligence procedures and implement any recommendations to the satisfaction of the Executive.
- A case against 2ergo was brought back to the Tribunal for failure to comply with a sanction and implement compliance advice. All failures to comply with a sanction will carry an impact rating of 'very serious.'
- A recent case involving the provision of false and misleading information to a Tribunal has initiated steps for the Directors of the SP concerned to be 'named' and barred from providing premium rate services.
- The first two cases adjudicated under the new 0871 regulation regime have demonstrated failings mainly due to a lack of knowledge as to SPs' responsibilities. This demonstrated a need for further education in the 0871 arena.
- The publication of revenue bands in adjudications has been favourably received and is ongoing.
- The Tribunal referred a prior permission application to the Board for a policy decision as to whether a remote gambling service with daily and monthly expenditure caps could be modified to keep the monthly cap but increase the daily one.
- Payforit – the decision of a Tribunal upholding that Payforit was Controlled PRS and thus within the regulatory remit of PhonepayPlus will shortly be published.

The Chairman of the CCP recommended that account should be taken of the large number of cases coming before Tribunals, many being detailed and complex in nature. The Panel was being increased as part of the Code 12 arrangements but there may be a need for weekly rather than fortnightly sittings to maintain KPIs. On behalf of the Board, the Chairman agreed to discuss the matter further and recommend a solution.

**(Action: Paul Whiteing/David Cockburn)**

## 3.0 Minutes of the 368<sup>th</sup> Board Meeting held on 17<sup>th</sup> September 2009

The minutes were approved without amendment.

### 3.1 Matters Arising and Action Log

All actions were noted.

### 3.2 Standing and other Declarations of Interest

There were no declarations of interest recorded, except Jeremy Hallsworth, CEO of BT agilemedia, in respect of item 6.1.4 Multi-party Chat.

## 4.0 SECTION A: REPORTS FROM THE CHAIRMAN, CHIEF EXECUTIVE and CHAIRS

### 4.1 Chairman's Report

The Chairman reported on the developments since the last Board meeting:

- Board Recruitment – Howard Webber (non-industry related) and Hugh Griffiths (industry related) have been appointed as Board Directors and will commence their appointments on 1<sup>st</sup> January 2010. An induction process is planned. The Chairman recommended the HR Committee advise how best to address any ethnic and gender imbalances in the composition of the Board and whether any changes in the recruitment process are desirable. **(Action: Gail Weightman)**
  
- A PhonepayPlus Forum on 'The Importance of Customer Service' was held on 5<sup>th</sup> November
- An ILP meeting was held on 17<sup>th</sup> November
- The Chairman and CEO's meeting with Ofcom colleagues. Peter Phillips and Claudio Pollack focused on:
  - Their advice about Ofcom's likely approach to any PhonepayPlus budget for 2010/11, which the Finance, Budget and Performance Monitoring Committee (FB&PM) will approve for final recommendation by Board members by way of a paper decision.
  - Accommodation arrangements, pending the expiry of the Clove Building Lease in November 2010. The Board will be advised of the options and a decision is expected early in 2010.
  - Broadcasting Free2Call. Issues concerning the web-based service 03, whereby calls, for voting purposes, are rerouted to an 09 platform, are being urgently considered by Ofcom and PhonepayPlus to see if any intervention is warranted.
- The recruitment process for a replacement CCP lay member is underway.

### 4.2 Chief Executive's Update

The Chief Executive reported on recent developments:

- Payforit – discussions will take place with Ofcom as to how best to create more certainty in the market regarding this issue.
- KPMG funding model – the requested sensitivity analysis over a number of scenarios has been carried out. The outcome of a recent meeting with KPMG to discuss these will be fed back to the FB&PM Committee.
- A press release has been issued concerning PhonepayPlus success in reducing the number of complaints following the strategic mobile review and the approach of the CCP towards effective sanctions.
- A policy and a new set of procedures to deal with complaints about PhonepayPlus is being finalised, following clarification of the role of Ofcom and of the Parliamentary Ombudsman.

#### **4.3 Reports from Committee Chairs**

##### **Audit, Risk and Corporate Governance Committee**

Bob Chilton reported on the recent Audit Committee meeting which focused on the market risk register, protection of confidential information, auditor's extension of contract, and the governance statement which will be circulated to Board members.

**(Action: Stephanie Ratcliffe)**

##### **Finance, Budget and Performance Monitoring Committee**

Sir Alistair Graham reported on the Finance Committee meeting which focused on budget, accommodation issues and current management accounts.

#### **5.0 SECTION B: BOARD DISCUSSION ITEM**

##### **5.1 Market Risks Update**

David Oatway provided an update on the market risk register and explained the current profiles of market risks associated with premium rate services.

The Board recommended the following actions to improve on the usefulness of the register:

- prioritise the high level risks and the actions taken to mitigate them
- confine the documentation to active market risks
- regularly update the recommended actions and controls in place
- remove actions that have already been taken
- reflect the long range radar approach of the register by renaming it along the lines of an issues log

The Board agreed the market risk register demonstrates an excellent scoping exercise and requested that the register is presented at the next Audit Risk and Corporate Governance (AR&CG) Committee meeting.

**(Action: David Oatway/Bradley Brady)**

#### **6.0 SECTION C: REPORTS FROM THE EXECUTIVE TEAM**

##### **6.1 STRATEGY, POLICY AND REGULATORY EFFECTIVENESS**

###### **6.1.1 Business Plan and Budget 2010/11**

Paul Whiteing presented the business plan and budget for 2010/11 to the Board; key projects include the 12<sup>th</sup> edition of the Code and the registration scheme. The Board noted the paper does not represent the final paper and were asked to approve the outline and methodology.

The Board approved the outline of plan and budget subject to a number of drafting comments.

A presentation on the budget will be made to the ILP on 16<sup>th</sup> December, and final approval and responsibility for finalisation of the budget following consultation and discussions with Ofcom will be delegated to the Finance Committee.

**(Action: Paul Whiteing)**

### **6.1.2 Complaint lifecycle project update**

Simon Bates presented an update on the project to track the lifecycle of a consumer complaint against a premium rate service.

Following research carried out, only 30% of consumers feel they have final closure once the complaint is resolved. In order to review communications with complainants, the objectives of the project were to:

- improve quality of customer service across the industry
- build trust
- improve relationships with regulators, enforcement bodies, consumer agencies
- improve current investigations via intelligence gathering in collaboration with the CCP forum
- look at a strategic approach to enforcement
- improve the process so as to resolve complaints as efficiently and speedily as possible

The exercise concluded that regulators operating in the same space as PhonepayPlus need to be aware of emerging problems, and that best dispute resolutions practise should be mirrored in PhonepayPlus procedures.

The Board were advised of a proposed new process for a complaint that had been discussed and agreed with industry, which involved a unique complaint reference number that travels through the complaint irrespective of who is acting on it at that point. The role of PhonepayPlus under its new Code would be to evaluate whether customer service obligations had been complied with.

Following review of the proposal, the Board suggested that the Executive review how communications with complainants operate and to build an evaluation process to address refunds and how this might be automated as well as consider a non-compliance dispute resolution process.

The timing of the proposed process is expected to correspond with the consultation of the 12<sup>th</sup> edition of the Code in early 2010.

**(Action: Simon Bates)**

### **6.1.3 KPIs Update**

The Executive provided the Board with a detailed update on the work carried out to improve the scope and impact of key performance indicators of PhonepayPlus' performance as a regulator both for internal and external consumption.

The proposed KPIs were discussed. The Board approved the update following the below recommendations:

- ensure KPIs are relevant, timely and purposeful, and linked into the business plan
- provide benchmark analysis on the relevance of the KPIs
- consider creating unit cost of KPIs over time

- distinguish, and create a balance between quantitative and qualitative KPIs
- build in a commitment to review the KPIs over time

**(Action: Simon Bates/James Harris)**

**Following a declaration of interest, Jeremy Hallsworth left the room.**

#### **6.1.4 Multi-party Chat**

A brief summary of multi-party chat was presented to the Board. The existing prior permission regime has been re-examined in order to ascertain if all the conditions currently imposed are necessary to protect consumers. Following the main areas of risk identified, the Board were asked to agree the recommendations to amend the current regime; to implement and monitor the regime, with a security bond in place which would be reviewed after a six-month period.

The Board approved the recommendation subject to the below requirements:

- define 'children' to be consistent with the definition in the 11<sup>th</sup> edition of the Code
- apply the same bond to everyone
- extend the trial period to 12 months, to allow for greater understanding and evidence gathering
- clarify the rules under 'caller addiction'
- ensure previous breach history of network is taken into account when considering the application, and provide a definition of a 'good breach record'
- consult with stakeholders over a six-week period

**(Action: Mark Collins/Lee Morris)**

**Jeremy Hallsworth returned to the Board meeting.**

## **6.2 PROJECTS**

### **6.2.1 Edition of 12<sup>th</sup> Code Update**

Mark Collins provided an update and advised the Board that the 12<sup>th</sup> edition of the Code:

- is outcomes based
- stretches regulation across the whole value chain
- includes tough new requirements around complaint handling
- incorporates a compulsory registration scheme

The project team are at present establishing requirements for guidance, and developing extra levels of granularity for the objectives and outcomes of the registration database.

The first draft from solicitors Bates Wells and Braithwaite (BWB) is expected in early December 2009, and publication, of the 12<sup>th</sup> edition, is expected around late autumn 2010.

*Since the last Board meeting, delivery of the first draft Code has been delayed to 11 December, for which the Executive now has a written delivery commitment from BWB. In light of this delivery falling close to Christmas, the Code 12 timetable has been readjusted to reflect the work that will need to be done on the Code and accompanying consultation document in the early part of January. Following Ofcom consideration and sign off, the Code is now intended to go out for consultation in early March; this should not significantly delay the final launch of the Code, which is still intended to be November 2009.*

## **6.2.2 Registration Database Update-results of scoping exercise and consultancy advice**

Bradley Brady briefed the Board on the scoping exercise undertaken to provide a framework around the scheme, including delivery, technical issues and potential costs.

The next steps include seeking industry feedback on the proposals before the functional specification is put out to tender.

The Board recommended that a sophisticated interrogation tool is built into the system, and that any phasing of the project should be contained within the scope of a single project.

**(Action: Simon Bates)**

## **7.0 SECTION D: ITEMS FOR INFORMATION ONLY**

**7.1** Financial Report as at 30<sup>th</sup> September 2009.  
Noted for information only

## **8.0 AoB**

**8.1** The Chairman noted this represented Stephen Locke's last meeting before his terms of office expires on 31<sup>st</sup> December 2009. The Chairman thanked Stephen Locke for his hard work, contribution and commitment as a Board Member of PhonepayPlus, and wished him the best of luck for the future.

**8.2** A paper was presented to the Board regarding a proposal to raise the daily spend limit for a remote gambling services. The Board will address the proposal to amend the condition offline and comments will be provided by 26<sup>th</sup> November.

## **Next Meeting:**

**Date:** Thursday 25<sup>th</sup> February 2010

**Time:** 12.30 – 17.00

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