



MINUTES OF THE PHONEPAYPLUS BOARD MEETING

**THURSDAY 22nd APRIL 2010
NO. 371**

12.30-17.20

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

Board Members present:

Sir Alistair Graham (Chairman)

Matti Alderson

Bob Chilton (Deputy Chairman)

David Clarke

Ruth Evans

Hugh Griffiths

Jeremy Hallsworth

Howard Webber

Paul Whiteing

In attendance:

Ritu Manhas, Ofcom

David Cockburn (item 2.0)

Simon Bates

Mark Collins (item 6.1.3)

James Harris (item 2.0)

Michael Pemberton (item 6.1.4)

Stephanie Ratcliffe (Minutes)

A pre-meeting presentation and discussion was held with representatives from Deloitte about the future for payment technologies and systems.

1.0 Apologies

Peter Phillips
Claudio Pollack

2.0 Code Compliance Panel

David Cockburn delivered the CCP report to the Board on Tribunals for the period 18th February to 1st April 2010.

The following points were noted:-

- Louise Povey sat her first tribunal as CCP lay member.
- 17 cases were adjudicated and with the trend for Informal Representations continuing, eight representations were heard.
- All six applications for prior permission were granted.
- No reviews nor emergency procedure cases were heard.
- Three Oral Hearings are in the pipeline, one of which may be brought before the Independent Appeals Body (IAB).

The following emerging issues were discussed:-

- Network due diligence 'Wangiri' case concerning '070' calls.
- 'Elite Communications UK Limited' case signifies the second occasion where a Tribunal upheld breaches but did not impose any sanctions. This represents a good example of a type of case that might be dealt with under Track 1 procedure of the new Code.
- 'Pay-per-page' WAP service case – the display of a short video emphasises the fact that services, regardless whether they appear 'unattractive,' must always be examined as to whether they breach the Code.
- '070' naming cases – these cases demonstrate the first use of a suspended sanction in a naming case and emphasise that 'knowing involvement' in scams must be demonstrated, in order to uphold charges. The law enforcement agency has been informed of issues surrounding '070' calls.
- iPhone advertising, which appears within an application on screen via a banner and, when tapped, dials the number of the advertiser – these cases highlight whether such advertising is appropriate for PRS and raise issues of pricing transparency in promotion and whether it is sufficient to have pricing information in subsequent pages only.

3.0 Minutes of the 369th Board Meeting held on 19th November 2009

The minutes were approved without amendment.

3.1 Matters Arising and Action Log

- There were no matters arising.
- Action log to be updated.

3.2 Standing and other Declarations of Interest

Standing declarations of interest were recorded for Jeremy Hallsworth, CEO of BT agilemedia, in respect of items 6.1.2 and 6.1.3 on Participation TV. Ruth Evans declared her new appointment as Chair of the Association of Television on Demand Body (ATVOD).

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

4.1 Chairman's Report

The Chairman reported on developments since the last Board meeting:

- Industry Liaison Panel meetings, the most recent held on 20th April, continue to provide a positive and valuable exchange of information.
- The stakeholder Forum, which took place on 25th March, was successful, with breakout sessions providing valuable input for the strategic plan.
- Independent Appeals Body (IAB) – Ruth Sawtell has been appointed as lay member and commences her appointment on 1st May.
- A recruitment process to appoint an independent lay assessor to deal with complaints against PhonepayPlus is underway; interviews will take place early May.
- mBlox Ltd hearing – preparations are underway for the hearing to be held on 6th and 7th May.

4.2 Chief Executive's Update

The Chief Executive reported on recent developments and issues of interest:

- The Business Plan and Budget 2010/11 has been published and work continues on resilience planning.
- New KPIs and their processes came into effect on 1st April and will be reported on at the next Board meeting.
- Payfort – following meetings with Ofcom and Mobile Network Operators, a resolution satisfactory to all parties appears to be imminent.
- External meetings with stakeholders took place, in particular:
 - O2 - to discuss mutual interests in monitoring and testing services. Wireless and Mobile Communications (WMC) are undertaking a market study around compliance. Discussions will follow to ensure studies are not duplicated.
 - AIME – constructive quarterly meetings continue. The meeting held in April focused on improving understanding of issues surrounding the nature and process of adjudications.

5.0 SECTION B: BOARD DISCUSSION ITEM

5.1.1 Strategic Plan 2011-14: Objectives and Themes

Bradley Brady presented a paper on the Three-Year Strategic Plan 2011-14. Focus remains on what was successful in the current plan to 'prevent and pre-empt' consumer harm; to drive out worst practise and serial offenders of the industry. Emphasis should be on improving PRS legislation, regulation and business processes whilst taking account of regulatory global changes, the existence of global enforcement, market changes and new developments (general election and any future Communications Act).

The following points were noted and recommendations made:-

- Following industry breakout sessions at the recent Forum, pricing transparency remains at the forefront.
- The need to account for future-proofing and the unpredictability of the market.

- Incorporate a comprehensive stakeholder engagement, ensure the plan refers to the intention to engage stakeholders and the industry, seek partnerships proactively to establish potential major hurdles. The Executive advised data will be provided at the next Board meeting.
- 12th edition of the Code impact – at a strategic level review the impact of its implementation and consider how it may affect the shape of the organisation as a regulatory tool.
- Consumer engagement and the creation of a panel – continue work with research partners, make best use of Ofcom's Consumer Panel and PhonepayPlus to consider how it secures consumer representatives.
- Consider an incentivisation/award scheme to encourage and celebrate good practice.
- Strategy planning 2011-14 and consumer engagement themes to be addressed at the Board Away Day in June.
- Develop a draft plan for approval at the next Board meeting.

The Board noted and provided feedback on the key objectives and themes as follows:

Developing external themes:

1. *Micropayments growth* – given the future uncertainty, growth and importance in digital content, consider the evidence of potential consumer harm potentially associated with this growth and whether Ofcom's scope review criteria falls within this sphere. Ensure minimization of fragmentation of regulation. Define PhonepayPlus' role within the sector and demonstrate flexibility to adapt to new technological changes.
2. *Increasingly global nature of PRS market* – following a meeting with PhonepayPlus and IARN regulators to discuss enforcement and global issues, including pricing transparency, opportunities and investments, Board to receive a feedback report.
3. *Future Communications Act* – rename to 'future relevant legislation', include an evaluation strategy and new areas to consider, such as digital economy issues.

Developing internal themes:

4. *Increase cooperation on pre-empt consumer harm* – emphasise this objective and ensure the term 'pre-empt' encompasses *all* the different facing scenarios. Ensure areas of greater potential consumer harm are identified and specified, in particular PhoneBrain.
5. *Raising overall compliance levels* – create partnerships, increase monitoring and collaborate with organisations in the broadcasting area to achieve high compliance levels.
6. *Working with the industry to enable more effective consumer literacy on phone-paid services* – establish clearer pricing transparency to the satisfaction of the industry, consumers, Ofcom and PhonepayPlus and improved consumer literacy.
7. *Reviewing skills and resources to deliver effective regulation and value for money* – produce a unit costing exercise and address quality assurance issues.

The next steps were discussed with final publication of the plan expected in October. The Board approved the themes of the paper and recommended further:-

- To build on the existing strategy with a base plan around new arrangements, such as the new Code, Registration Scheme developments and consumer literacy.
- To create a working group to comprise of R Evans, J Hallsworth, H Griffiths, to focus on strategic issues and assist in providing a structured plan for discussion.

(Action: Bradley Brady)

6.0 SECTION C: REPORTS FROM THE EXECUTIVE

6.1 STRATEGY, POLICY AND REGULATORY EFFECTIVENESS

6.1.1 Stakeholder Perception Audit

Paul Whiteing presented a progress update on the stakeholder perception audit carried out in 2009. Areas of feedback requiring further attention and their progress were reported.

The Board noted the paper demonstrates positive direction. The Board approved the paper following the recommendation to consider further opportunities, with regard to the new Code implementations, for additional messaging to stakeholders.

(Action: Paul Whiteing)

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

6.1.2 Participation TV – SMS Voting

Bradley Brady provided a paper on the technical issues arising from text voting.

The Board were asked to approve a proposal for the amendment to the Prior Permission regime for Broadcast PRS so that text voting may be better accommodated; to balance consumer detriment and improve PRS rules whilst addressing underlying concerns and subject to Ofcom's approval, that it will not undermine the PRS regulatory regime.

The following recommendations were made:

- Subject the process to a six-month trial;
- Advise service providers to specify types of programmes it relates to;
- Avoid any complexity for the consumer.

Subject to further discussions with Ofcom, the Board approved the process to be taken forward and to improve understanding of issues surrounding text and calls. The Board requested reports on progress are made, following further discussion with Ofcom and AIME.

(Action: Bradley Brady)

6.1.3 Broadcast PRS – Assessment of compliance procedures for broadcast

Mark Collins provided an update on compliance in the broadcast PRS sector and confirmed no evidence of non-compliance was identified as a consequence of site visits to providers; conditions have been successfully met by providers and potential for causing consumer harm has significantly declined.

The Board were asked to provide comments around future actions, in particular within the context of paper 6.1.2 and following a request to refund consumers' whose votes/entries are not counted.

The Board approved the paper, following recommendations made under item 6.1.2 and to continue to liaise with Ofcom and key stakeholders.

(Action: Mark Collins)

Jeremy Hallsworth returned to the Board meeting.

6.1.4 Enhancing the Number Checker

Michael Pemberton presented a review of the Number Checker and explained ongoing actions to improve its accuracy and reach. The Board was asked to note the actions, in light of the launch of the Registration Scheme and its subsequent impact on quality and reach of the Number Checker.

Targets include:

- Extend reach to 90% in PRS numbers remit;
- Ensure 100% accuracy in-remit checks;
- Obtain at least 95% of available shortcodes;
- Overcome issues around the large number of fixed lines.

The Board viewed the stage as an interim period until the launch of the Registration Scheme and approved the review further to:-

- The provision of a section on Number Checker informing of its accuracy;
- Assurance that costs are accounted for, following an increase in the above % targets.

(Action: Michael Pemberton)

6.2 POLICY

6.2.1 New Code Implementation Plan

David Clarke, Chair of the Code 12 Programme Board commended the team for their outstanding work in producing the new Code. Following Ofcom's approval, a 10-week consultation period will begin next week which will allow opportunity for engagement.

Next steps to further engage stakeholders include:

- Production of a condensed consultation summary to reach consultees, information providers and digital consumers;
- Organising public events and road shows around the country.

A detailed timeline for activity during the consultation period will be tabled for information at the next Board meeting. A paper on consultation guidance and sanction policy will be presented to the Board in September.

The Board stressed the need to have a way of being able to measure understanding of the Code and to consider how to improve reach and better engage with the community.

(Action: Bradley Brady)

6.2.2 Registration Scheme Update

Simon Bates provided a progress report on the Registration Scheme. Plans for implementation of the Scheme have been consulted upon and Ofcom have consented to the proposed plans.

The main concern centres around the proposed fee, its communication, assurance that overhead costs will not be included and whether further industry reassurance is required.

Following discussion on implementation and next steps of the Scheme, the Board recommended further clarification of objectives as well as inclusion of a statement, addressing the benefits of the Scheme for the consumer.

(Action: Simon Bates)

7.0 SECTION D: ITEMS FOR INFORMATION ONLY.

8.0 AoB

None

Next Meeting:

Date: Thursday 17 June 2010

Time: 12.30 – 17.00

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