

MINUTES OF THE 383rd

PHONEPAYPLUS BOARD MEETING

Wednesday, 10 October 2012

1.30 – 4.40 p.m.

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

Board Members

Andrew Pinder (Chairman)
Bob Chilton
Matti Alderson
Hugh Griffiths
Howard Webber
David Clarke
Paul Whiteing

David Cockburn (item 2.0)

Ofcom

Claudio Pollack

PhonepayPlus

Patrick Guthrie
Joanne Prowse
Nicola Tysoe (items 2.0 & 5.1.2)
Mark Collins (items 5.1.6 & 5.1.7)
Shirley Dent (item 5.1.8)
Jetta Oliner (minutes)

1.0 Apologies

Apologies were noted for Jeremy Hallsworth.

2.0 Code Compliance Panel (CCP) report

Nicola Tysoe joined the meeting for this item.

David Cockburn asked the Board to note that:

- CCP forum is scheduled for 23 October and will be attended by the Chairman and CEO;
- Recruitment is currently taking place for one lay member and one legally qualified member.

David Cockburn presented the CCP report for the period 22 June to 2 October 2012 and drew the Board's attention to the following:

- The number of cases is rising with a trend for more naming cases and informal representations being made in over 50% of cases;
- The level of fines has increased due to complicated quiz services generating significant revenues;
- Cheers International oral hearing took place on 12 June and the decision of the paper adjudication was upheld.

The Board were asked to note the following emerging issues:

New sanctions under Code 12

- An audit requirement was imposed in two cases:
 - failure to adhere to due diligence requirements;
 - failure of the STOP command.
- The use of the Universal refunds sanction;
- The increase of Naming cases.

Vulnerable groups

- There is an increase in cases involving this group which include benefit claimants seeking housing, JSA claimants and immigrants seeking advice on passports and nationality;
- One quiz service was designed to be attractive to a certain demographic with the result that the over 80s were heavy users.

Failure to pay sanctions

- Gives rise to a further breach although consideration continues to be given to the costs implications;
- Sends a message to industry about the need for compliance and assists in building the evidence to bring a Naming case.

Review cases

Cases with similar facts will where possible be considered by the same tribunal on the same day.

3.0 Minutes of the 382nd Board meeting held on 28 June 2012

The minutes of the Board meeting held on 28 June 2012 were approved as an accurate record of the meeting.

3.1 Matters arising and action log

The Board noted that all items with an impending deadline were either on the agenda for this meeting or that scheduled for November and that items with later deadlines are all on track for completion within time.

3.2 Standing and other declarations of interest

The Chairman asked the meeting to note his work with the mobile phone companies in relation to 4G.

4.0 REPORTS FROM THE CHAIRMAN, CHIEF EXECUTIVE & CHAIRS

4.1 Chairman's report

The Chairman updated the Board on the current recruitment process for new Board members.

4.2 Chief Executive's update

Paul Whiteing updated the Board on issues of note since the last meeting and drew attention to the following items:

Information Connection & Signposting Services

Discussions are ongoing with Ofcom and with industry following the responses received to our consultation.

Facebook

Progress has been made on establishing a structured relationship with Facebook to deal with rogue affiliate marketing problems where both organisations have a shared interest.

4.3 Reports from Committee Chairs

HR Committee

The Chairman of the Committee updated the Board on the matters discussed at the meeting on 26 September 2012 and invited the Board to propose any items which they would like the Committee to consider.

5.0 REPORTS FROM THE EXECUTIVE TEAM

5.1 STRATEGY, POLICY & REGULATORY EFFECTIVENESS

5.1.1 Strategic plan: business priorities 2013/14

Paul Whiteing gave an overview presentation of the proposed themes that are likely to emerge in consideration as part of the preparation of the 2013/14 Business Plan. A discussion followed with the Board on a number of points arising.

5.1.2 Executive enforcement report

Joanne Prowse presented the above report and asked the Board to note the following:

- Complaint levels remain high. Month on month volumes are broadly flat.
- An analysis of the complaints trends undertaken by the Executive revealed that there seemed to be three core drivers to the recent increase. These are:
 - changes in internal practices leading to a better understanding and categorisation of complaints;
 - market practices: complaints clustering around a small number of specific services and misleading marketing practices; and
 - referrals from mobile networks.

The Board agreed that this report should be integrated into the CCP report and appear at the beginning with reports on individual cases to follow.

5.1.3 Compliance and enforcement strategy

Joanne Prowse presented the above report to the Board who approved the strategy and broad approach following on from recent discussions at their Away Day where this had been discussed in

some detail. It was agreed that a summarised version would be prepared and presented to the CCP.

(Action: Paul Whiteing, Joanne Prowse)

5.1.4 Measuring regulatory outcomes

Joanne Prowse presented the above report to the Board. The following points were noted:

- the new methodology represents a move away from timelines towards effectiveness as a regulator although it was recognised the latter is difficult to measure;
- external bi-annual reporting will replace the current quarterly reporting;
- Ofcom's approval will be required prior to implementation in the next financial year.

The Board approved the new methodology at the same time recognising that the process will evolve over time and is a journey to better assessing measure of regulatory effectiveness.

(Action: Joanne Prowse)

5.1.5 Micropayments: update and application of regulation

Patrick Guthrie updated the Board on recent developments and asked them to note that submissions have been made to the DCMS and wider discussions involving regulators and industry have been proposed.

The Board agreed that further discussions would take place in the New Year particularly around the definition of Micropayments.

5.1.6 Consumer credit services – prior permission conditions

Mark Collins joined the meeting for this item and presented the report "*Proposed further changes to prior permission conditions for Consumer Credit Services*". The Board were asked to note and approve that the following proposed additional conditions be included in the consultation document:

- inclusion of a condition for automatic refunds if the percentage of refunds does not increase beyond the current seemingly low level;
- provision of a free phone number during the first call which can be used to check on the progress of a loan application thus avoiding unnecessary duplication of PRS charges for a second call which is superfluous.

The Board agreed with the above approach and asked the Executive to proceed with consulting industry, consumers and other interested parties on our proposals in this area.

(Action: Mark Collins)

5.1.7 Application of the Code in response to market evolution

Mark Collins joined the meeting for this item and presented the report "*Interpretation of the 12th Code in response to market evolution*". The main issue of note is the request to disapply that part of the Code requiring a non-PRS UK contact number because the service would be delivered over the internet.

The Board agreed (a) to grant the specific request that has been put forward on a pilot basis; and (b) to allow similar requests to be put forward by or on behalf of other app stores to be considered on a case-by-case basis by the Board on the same criteria.

(Action: Mark Collins)

5.1.8 Children's plan Board review

Shirley Dent joined the meeting for this item and presented the above paper. The Board approved the publication of the plan in principle, subject to the incorporation of some drafting comments and that stakeholder, including industry, feedback is sought through the Consumer Literacy Working Group.

(Action: Shirley Dent)

5.2 REPORTING & PERFORMANCE

5.2.1 Management summary report period ended 31 August 2012

Joanne Prowse presented the above report which was noted by the Board

5.3 INFORMATION ONLY

5.3.1 Annual report of the Lay Assessor

The Board accepted the above report.

6.0 AOB

None

Date & location of next meeting:

Date: Thursday, 15 November 2012

Time: 12.30 – 17.00

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