

**NOTES OF THE ILP MEETING NO.34 HELD ON
TUESDAY 12th FEBRUARY 2013**

Present:

Graham Pottie- BT (Chair)
Hugh Griffiths – PP+ Board and Mobile Services
Justin Hornby – UKCTA
Jeremy Hallsworth –PP+ Board and BT Agile Media
Hamish MacLeod – MBG
Rory Maguire – RM Commerce, representing AIME
Andy Martin – FCS
Chris Pateman - FCS
Jeremy Stafford Smith - Vodafone
Jasminder Oberoi- Ofcom

PhonepayPlus

Andrew Pinder (Chair of PhonepayPlus)
Paul Whiteing (Chief Executive)
Patrick Guthrie
Joanne Prowse
Mark Collins
Jonathan Levack
Alex Littlemore (agenda items 5.0 and 9.0)
Ivett Baliko (agenda items 5.0 and 9.0)
Stephanie Ratcliffe (minutes)

Apologies

There were none recorded

Industry Liaison Panel – Ongoing Actions Log

Meeting/ Action number	Description	Owner	Status
27.5 & 29.1	Discuss outcome of charities research and consider proposals for related guidance and structure of charity donations. Item to be discussed at November meeting.	Patrick Guthrie/Mark Collins	CLOSED
30.3 & 29.2	Social media in PRS marketing- include other platforms of opportunity to convey messages to consumers. Draft guidance to be circulated and timeline for the consultation document to follow. Discussions with broadcasters taken place, due to low number of complaints and requests for compliance advice it was agreed to hold this work for the time being.	Mark Collins	CLOSED
31.1	Registration Scheme update – complaints data for all numbers now available and rolled out to level one providers. Work on complaints data and number checks remains ongoing and following completion this will provide enhanced information to providers and enhanced reports and benefits to PhonepayPlus.	Jo Prowse	CLOSED
31.2	Malware threats –further actions with the PRS industry and other key players to test out operational and communications responses to potential malware scenarios have taken place. The hosting of the malware summit has taken place and we continue to build good relationships and progress incident reporting. Information and processes will be shared with the relevant stakeholders. Further work is planned at the World Mobile Congress and a workshop will be set up by March 2013.	P Guthrie	ONGOING
32.1	Consider the simplification of registration status's displayed on the Registration Scheme. Update: a new alert for providers on those organisations who have become deregistered in the previous week is now available. A quick look up for the registration status of an organisation on the summary search on the Registration Scheme and a yes/no registered flag on the main due diligence report is scheduled for implementation in Q4.	J Prowse	ONGOING
32.2	Payforit – ensure that there is clarity with MNOs and aggregators about how PhonepayPlus deals with Payforit complaints and that this is reflected in how information requests are communicated. Update: Payforit management will be reviewed end February and a further review and meeting will take place with Jeremy Stafford-Smith.	J Prowse/ M Collins	ONGOING
32.3	Charities Research and Pilot; clarify with the ICO whether receiving gift aid over the telephone is not considered marketing, however if the telephone conversation leads to giving more money, would that then be classed as marketing. Whilst we await written confirmation, ICO have confirmed and guidance on ICO's website indicates that giving money over the telephone would not be classed as marketing.	M Collins	CLOSED
34.1	Business plan and budget - as part of the polluter pays workshop look at ways to incentivise compliance and stimulate cost recovery and fine collection.	J Prowse	NEW
34.2	Industry working group polluter pays –look to provide case studies to support discussions at the workshop and provide a report on the recommendations from the group at the next ILP meeting.	J Prowse	NEW
34.3	Registration Scheme enhancement budget project proposals: Director search project - proceed. API project – PhonepayPlus requested to consider further cost effective bulk upload options. Number checker feedback–PhonepayPlus to consider including a question on the complaints form for consumers to advise as to the effectiveness of customer care arrangements from number checker. Shared Shortcodes – continue with application of manual flag and do not	J Prowse	NEW

	proceed with system changes.		
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Welcome and Introductions:

Hamish MacLeod confirmed that, as previously notified to industry members, having completed a two year term, he will be handing over the Chair of the ILP to Graham Pottie.

Paul Whiteing thanked Hamish MacLeod for his services over the years and Graham Pottie was welcomed on board as Chair of the ILP.

Graham Pottie welcomed representatives to the meeting and apologies were noted.

1.0 Minutes and Matters arising from the minutes of the ILP meeting held on 20th November 2012.

The minutes of the 20th November 2012 and 18th December 2012 ILP meetings were approved with no further comments. Outstanding actions were updated accordingly.

The following matters arising were noted:

- 18th November meeting – AOB Strike Lucky Games - further to a ruling at the European Court of Justice that an instant win type competition is now ruled unlawful, PhonepayPlus has met with the ASA who have confirmed they will amend their compliance guidance to reflect the ECJ ruling and ensure consistency going forward.
- 18th December budget meeting – ways to incentivise the marketplace, to address the way in which costs are borne within the industry will be addressed at the polluter pays workshop.

2.0 Update: Business Plan and Budget

Paul Whiteing gave an update on the business plan and budget and advised that seven responses to the consultation have been received. The responses are broadly supportive and, with the exception of one confidential response, are available to view on our website. A final statement is expected late March 2013.

The following points were noted:

- With regards to a review of the funding model, a mixture of responses has been received and the Board has concluded that there is no consensus to build a change 'at this point'. We will however continue to engage with the industry in order to obtain some consensus, taking account of changes to our regulatory remit, resources and overall benefits to the industry. In the meantime we will continue to reinforce work around the polluter pays policy.
- A notice on levy rate will be published in March, pending Ofcom's approval. The levy rate is likely to be between 0.3% and 0.4%, a decrease from the previous year. Implementation will then follow in April 2013.

As discussed at the ILP budget meeting, the Executive agreed it was of foremost importance to incentivize good compliance. The ILP recommended, as part of the polluter pays workshop, to look at ways to incentivise compliance and to stimulate cost recovery and fine collection.

3.0 Adjudications and emerging trends update

Jo Prowse gave an update on adjudications and emerging trends:

- Since the last ILP meeting ten cases, six of which related to level 2 providers, have been heard;

- All cases were found to be 'serious' or 'very serious' and the fines total for this period stands at almost £750k;
- As in previous periods, the service types heard at Tribunal include information, connection and signposting services, glamour/porn video WAP link downloads and subscription based competition services. ;
- Common breaches upheld include misleading promotions, marketing and charging without consent and vulnerable groups;
- The level of complaints indicate a seasonal decline for December with complaints increasing to average levels in January;

The ILP recommended that a clear distinction is made between the level of enquiries and number of complaints. The Executive confirmed the consumer journey and referral procedure will be revisited as part of the business plan this year.

4.0 Industry Working Group – Polluter Pays

Jo Prowse explained a working group will be set up in order to optimise the polluter pays principle with the intention for the group to propose key standards and recommendations for the industry to implement.

The proposed terms of reference were presented to the ILP. It was agreed that the working group will focus on increasing monies available for collection and incentives for compliance and due diligence.

The ILP agreed the proposed size of group and timings and supported the fundamentals of the terms of reference. The ILP requested case studies are included to inform the group and for their recommendations to be presented to the ILP at the next meeting.

Suggested invitees for the group should be put forward to the Executive team by the end of the week (15th February). **(Action: Jo Prowse)**

5.0 Registration Scheme – enhancement budget

Jo Prowse gave an explanation on the background of the provision for £25k for industry led system enhancements to the registration scheme. The ILP were asked to consider the four project proposals, of which the Executive proposed two should go forward.

The following points were noted:

1. Director Search Project - the ILP approved the recommendations for the project to go ahead and agreed it would benefit due diligence and risk assessment procedures.
2. Locked shared short codes on Number Checker project – the ILP approved the recommendation to not further the system development at this stage and to review at a later date as the current manual solution is sufficient.
3. API project – following discussion the ILP agreed the project would be costly and only of benefit to certain organisations. It was agreed that PhonepayPlus consider further cost effective bulk upload options. .
4. Number checker feedback project – the ILP agreed not to proceed with the project, but for PhonepayPlus to consider including a question on the complaints form for consumers to inform as to the effectiveness of the customer care arrangements.

(Action: Jo Prowse)

6.0 Update: Misleading Digital Marketing

Mark Collins gave an update on misleading digital marketing and explained that ongoing cases also involve affiliate marketing. He confirmed a paper on digital marketing issues is in progress, with a consultation on guidance expected end March. The ILP noted that search engines can differ with smart phones and the web. Current areas under review include practices of typo squatting; click jacking; like jacking; spam; search engine marketing and pop 'ups/unders'.

The ILP were asked to provide feedback on any other areas that may require addressing. The Executive confirmed focus will be on good practice and how we can link up with the industry to effectively educate consumers. Meetings with key people are underway to provide further insight.

7.0 Update: Information, Connection and/or Signposting Services

Patrick Guthrie gave an update on information, connection and signposting services and confirmed the consultation is ongoing and covers a range of services. Responses to the consultation document have been positive and we are now putting together a growing body of evidence that consumers, who believe they are calling a service directly rather than a premium rate number, are being misled via search engines on certain services that may appear technically compliant.

Results of further investigation will be presented to the ILP in due course. Next steps include a review of the definition of services and a re-consultation, in light of the new evidence found, is expected end March 2013.

8.0 Update: Quarterly Report

Jo Prowse provided an update on the Q2 quarterly report and drew attention to the following points;

- A seasonal drop in complaints for December is apparent with complaints reaching average levels for January;
- Revised KPIs will be implemented in April.

The ILP noted the report.

9.0 Operational Reporting

Jo Prowse gave an update on KPIs and operational reporting as requested at the previous ILP meeting in December. A revised set of KPIs will be implemented in April to best measure and evaluate our effectiveness as a regulator and to provide a view on our success in meeting regulatory outcomes and strategic aims. Quarterly reporting for Q4 will take the current format and reporting for Q1 will take the revised format.

The ILP noted the report and were invited to propose further information and metrics for PhonepayPlus to consider off line.

10. AoB

The following points were noted:

- Payment Services Directive review - Hamish McLeod provided an update on the European Commissioners' review of the PSD, following changes proposed to Article 3 (L) (Negative Scope) relating to third party services, which would have a significant impact on the industry as well as wide ranging implications affecting the mobile sector. A meeting with the Treasury, DCMS, Ofcom and PPP has taken place and discussion remains ongoing at the European Commission. A letter explaining the impact of changes to Article 3(L) has been circulated to the ILP for information.
- The Children's Plan has now been published with good coverage received;
- The Consumer Credit PRS consultation was published this week;
- Preparation for the annual market review is underway and updates will be provided at the industry forum on 19th March.
- PPP will be meeting with AIME to discuss alternative methods to improve compliance advice.

End of Minutes

ILP meetings in 2013 at PhonepayPlus Offices

Tuesday 23rd April 10-1pm

Tuesday 23rd July 10-1pm

Tuesday 15th October 10-1pm

Tuesday 17th December Budget Meeting 10-11.30am