



NOTES OF THE ILP MEETING NO.36 HELD ON TUESDAY 16th JULY 2013

Present:

Graham Pottie- BT (Chair)
Shawn Brown - MDA
Ann Cook – ITV
Suzanne Gillies – Action 4
Mark Gracey – representing UKCTA
Hugh Griffiths – PP+ Board and Mobile Services
Rory Maguire – RM Commerce, representing AIME
Chris Pateman - FCS
Jeremy Stafford Smith - Vodafone

PhonepayPlus

Andrew Pinder (Chair of PhonepayPlus)
Paul Whiteing (Chief Executive)
Patrick Guthrie
Joanne Prowse
Mark Collins
Jonathan Levack
Stephanie Ratcliffe (minutes)

Apologies

Gavin Daykin - Ofcom
Jeremy Hallsworth – PP+ Board and BT Agile Media
Hannibal Latuff - BBC
Hamish MacLeod – MBG
Jasminder Oberoi- Ofcom
Huw Saunders – Ofcom

Industry Liaison Panel – Ongoing Actions Log

Meeting/ Action number	Description	Owner	Status
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. A malware workshop took place in March where incident handling and protocol issues alongside cases and scenarios were tested and discussed. There are currently no further threats apparent, however further discussions, workshops and tests on best ways to respond to malware affects are planned, ways to improve sharing of information remains ongoing.	P Guthrie	ONGOING
32.1	Consider the simplification of registration status 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 has been implemented and communicated to industry.	J Prowse	CLOSED
32.2 & 35.4	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. A statement on regulation of Payforit was published to the industry on 29 th May 2013.	J Prowse/ M Collins	CLOSED
34.1 & 35.8	Business plan and budget - as part of the polluter pays workshop look at ways to incentivise compliance and stimulate cost recovery and fine collection. Work is in progress through the Polluter Pays Industry Working Group and feedback/recommendations are reported to the ILP.	J Prowse	ONGOING
34.2 & 35.8	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. Agenda item for current meeting. A further workshop is planned in May and recommendations will be made to the ILP at the next meeting in July. For discussion on current agenda.	J Prowse	Merged with 34.1 above
34.3	Registration Scheme enhancement budget project proposals: Responsible Persons Search – implemented. API project - further work and an AIME industry survey carried out to better understand the requirements. Results show that in terms of need this was seen to be either no or low requirement by the majority and no support for investment, therefore development work on capturing functionality will not continue. Shared shortcodes – continue with application of manual flag and do not proceed with system changes. The above project implementations are now closed with the exception of number checker which remains under review for potential future developments as these are identified, based on further research/requirements on the use of the tool going forward.	J Prowse	CLOSED
35.7	Policy Projects: ICSS project – ILP to provide feedback on the revised consultation. Consumer Credit project – review and test the value of the condition of the second call. Feedback on the value of the condition to be presented to the ILP in due course. Consumer credit – further information is expected and a decision on whether 2 nd call conditions should stand as per the proposals will follow shortly. Further discussion to take place under agenda item 7.	M Collins	CLOSED

35.10	Payforit management group – following a lack of clear guidance around the total cost of loan of subscription/competition services and, to ensure terms and conditions are explicit in their promotion, review the exemption guidance for competitions in accordance with paragraph 2.2.1 of the 12 th Edition of the Code of Practice. Work remains in progress to consolidate guidance with the Code.	M Collins	ONGOING
36.1	Ransomware: share information with industry on what can be done to tackle ransomware and other misleading digital marketing activity through a roundtable with AIME, through an update at the September forum and through issuing our final guidance on digital marketing.	P Whiteing	NEW
36.2	Quarterly report – consider rewording of key themes, under measurement of market compliance, p. 12, for improved clarity.	J Prowse	NEW
36.3	AoB - Respond to a question from Action4 on the possibility of publishing a list of Live one to one providers.	P Whiteing	CLOSED

Welcome and Introductions:

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 23rd April 2013.

The minutes of the 23rd April 2013 ILP meeting were approved with no further comments.

There were no matters arising and outstanding actions were updated accordingly.

2.0 Update: adjudications and emerging trends

Jo Prowse gave an update on adjudications and emerging trends:

- since the last ILP meeting, 9 cases have been heard, 6 of which were against level 2 providers, one mobile network due diligence case, one L1 risk assessment and control case and one naming case;
- relevant cases were found to be either ‘serious’ or ‘significant’ in their ratings;
- sanctions included formal reprimands, fines and consumer refunds of which there are two types , the general refund to complainants and the universal refunds made to all using the service,
- trends show that common service types being heard at Tribunal include subscription based competition/quiz type services, (associated with affiliate marketing), and ICSS type services as well as issues relating to consent to charge.
- the most common breach raised is 2.3.2 misleading;
- in response to industry request for further information on reviews, it was confirmed that reviews are published on the PhonepayPlus website. The grounds for review were confirmed as set out in the Code. In the last financial year four out of six requests for review were granted. The year to date three reviews were requested all of which were rejected. In addition four requests for review of EP cases were made, all of which were granted.

The ILP noted the update.

3.0 Discussion around “Ransomware” Emergency Procedures

Rory Maguire explained the issues around ‘ransomware’ to the ILP and its growing concerns amongst level 1 and 2 providers and mobile networks.

The ILP discussed the recent emergency procedures (EPs) concerning “ransomware”. Paul Whiteing stressed that whilst the EPs were necessary to deal with serious and urgent cases of consumer harm that PhonepayPlus had identified, PhonepayPlus was not looking to stop all use of affiliate marketing

in PRS. Rather it was looking to ensure that proper controls were put in place by L2s, and also by L1s, to ensure that affiliate marketing wasn't abused to the detriment of consumers. It was agreed that further communication between PhonepayPlus and industry on this issue should be taken forward through a roundtable with AIME, an update at the September industry forum and by the issuing of final guidance on misleading digital marketing.

The ILP noted the update and that further progress will be communicated in due course.

(Action: Paul Whiteing)

4.0 Update: Payment Services Directive

In Hamish MacLeod's absence, Graham Pottie advised the ILP of issues around the payment services directive and drew attention to the following points:

- the draft directive is at the stage of inter service consultation and is due for publication by the end of July ;
- the digital exemption contained within Article 3 (L), which is of relevance to the PRS market, may be removed from or modified in the directive;
- the mobile operators are keen to see the digital exemption retained to avoid PRS being brought into payments regulation which could impact on the commercial viability of services;
- the Mobile Broadband Group will be working closely with HM Treasury, PhonepayPlus and other parties to address these issues once the draft directive is published;
- the GSMA are also taking forward lobbying at the European level on behalf of European mobile operators.

The ILP noted the update and the recommendation to keep abreast of developments and any impacts this may have on PRS.

5.0 Update: Misleading Digital Marketing

Mark Collins gave an update on misleading digital marketing to the ILP and the following points were noted:

- responses from the consultation on the draft guidance were generally positive and can be viewed on our website;
- discussion focused on what L2s can do to control affiliate publishers, especially where there are long affiliate value chains – this will be further discussed with AIME at the forthcoming roundtable;
- PhonepayPlus are also looking into whether to include adware in the guidance, following responses received to the consultation. Release of the final guidance on digital marketing is expected in September.

The ILP noted the update.

6.0 Update: Information, Connection and/or Signposting Services

Mark Collins gave an update on ICSS and the following points were noted:

- following the recent consultation, 14 responses have been received, the majority are in agreement with the proposals set out for a prior permissions regime;
- PhonepayPlus is only envisaging minor changes to the proposals set out in the last consultation.
- publication of a final statement on ICSS is expected end of July.

The ILP noted the updated.

7.0 Consumer Research Project following AIME roundtable discussions

Patrick Guthrie informed the ILP that the consumer research project, as anticipated within our annual research plan, is in progress. PhonepayPlus have commissioned the research company, Jigsaw, to carry out the project. The research project will survey a range of consumers and address issues around the consumer journey, customer care experience, trends, patterns, types of complaints and harm within PRS.

Benchmarking will also be undertaken on micropayments and findings will be shared with the ILP.

The ILP noted the update.

8.0 Polluter Pays: Industry Workshop Recommendations

Jo Prowse gave an update on the background to the polluter pays principle and summarised the work that has been undertaken in support by PhonepayPlus which includes:

- improvements in time recording by the Executive and more accurate and comprehensive allocation of administration costs, and;
- increased robustness of debt collection and bad debt recovery procedures including referral to debt recovery specialists.

A paper was circulated on the progress to date of the Industry Working Group which is looking at how the industry on its own and in co-operation with PhonepayPlus can improve the delivery of the principle and to agree of set of principles for roll out to industry. Initial considerations are focusing on the voluntary withhold process and mechanisms for sharing information with networks at an early stage. The next workshop is being scheduled for September.

The ILP agreed good progress is being made and thanked those contributing to the workshops.

9.0 Update: Ofcom NGCS Review

Graham Pottie noted apologies from Ofcom and that they were unable to comment on the agenda item.

Mark Collins gave a brief update of areas that PhonepayPlus was looking to address to be ready for the implementation of NGCS changes in Spring 2015. These included a review of spending caps, definitions and protecting against increased risks of consumer harm.

The ILP noted the update.

10.0 Review of PhonepayPlus Code of Practice

Mark Collins gave an update on Ofcom's NGCS review. He confirmed a review of the current Code of Practice is taking place in line with the NGCS review in order to create efficiencies around time needed for consultation with Ofcom and submission to the European Commission. Technical amendments to the Code cover areas around the polluter pays principle, streamlining investigations processes, and any other amendments required to future proof the Code and its supporting guidance.

The ILP noted the time table and key milestones of the Code review and that PhonepayPlus will be issuing a call for input to industry to provide feedback and comments, in due course.

The ILP noted that PhonepayPlus will be undertaking consumer research on the NGCS review on spending caps, prior to any release and testing the impact this may have on the industry and consumer.

(Action: Mark Collins)

11.0 Update: Quarterly Report

Jo Prowse presented the new quarterly report to the ILP. The report consists of four sections; market

indicators, key performance indicators, management information and Tribunal information.

The following points were noted:

- complaints are up year on year but levels remain broadly static month on month;
- number checker remains a popular tool with a healthy return rate on valid checks of over 85%;
- a new measure of market compliance has been included and was discussed by the group;
- In the year to date 85% of cases have been investigated through informal tracks with 15% of cases and 29% of complaints formally investigated. Formal investigations this quarter have been heard at Tribunal in 14 weeks (on target). The fine collection rate is currently low at 31% (adjusted) and 24% (non adjusted) which is due to non payment of fines by three providers all of whom are being pursued through our specialist debt recovery agency.

The ILP noted the update and recommended the content under key themes, p. 12, is reworded for improved clarity.

(Action: Jo Prowse)

12.0 AoB

Action 4 requested that PhonepayPlus consider publishing a current list of Live one to one providers with prior permission.

(Action: Paul Whiteing)

End of Minutes

ILP meetings in 2013 at PhonepayPlus Offices

- Tuesday 15th October, 10-1pm
- Tuesday 17th December Budget Meeting, 10-11.30am

ILP meetings in 2014 at PhonepayPlus Offices

- Tuesday 18th February, 10-1pm
- Tuesday 22nd April, 10-1pm
- Tuesday 22nd July, 10-1pm
- Tuesday 21st October, 10-1pm
- Tuesday 9th December Budget Meeting, 10-11.30am