NOTES OF THE ILP (BUDGET) MEETING NO 28 HELD ON TUESDAY 13th DECEMBER 2011

Present:
Hamish MacLeod – MBG (Chair)
Simon Bates - MEF
Gavin Daykin - Ofcom
Jeremy Flynn – AIME
Hugh Griffiths – PP+ Board and Mobile Services
Jeremy Hallsworth –PP+ Board and BT Agile Media
Vildan Hasanbegovic - MEF
Andy Martin – FCS
Graham Pottie - BT
Katerina Vlachavas - Ofcom

PhonepayPlus
Sir Alistair Graham (Chair)
Paul Whiteing (Chief Executive)
Shirley Dent
Patrick Guthrie
Neil Hardwick
Alex Littlemore
Joanne Prowse
Stephanie Ratcliffe (minutes)

Apologies:
Paul Berney – MMA
Jacqui Brookes – FCS
Shawn Brown - MDA
Ann Cook – ITV
Michael Eagle - FCS
Suzanne Gillies – PRA
Mark Hawkins – MDA
Nik Hole – The Number
Justin Hornby - UKTA
Hannibal Latuff – BBC
Rory Maguire - H3G, MBG commercial
Neil Pepin – Channel 4
Emma Renaud - ITV

Welcome:

Hamish MacLeod welcomed representatives to the meeting and apologies were noted.

1.0 Business Plan and Core Budget 2012/13

Presentation

Paul Whiteing presented an overview of the PhonepayPlus Business Plan and Budget for 2012/13. He started by summarising what PhonepayPlus had delivered in 2011: the new Code of Practice; 22 pieces of more detailed guidance; the launch of the registration scheme; new investigations and sanctions procedures; a new strategic plan for 2011/14; a consultation on In App Billing guidance and a joint contribution with industry to DCMS's review of the Communications Act. Paul thanked the ILP for their contribution to and support for this work.

Paul noted that at the same time the Executive had restructured, reducing headcount and delivering a real terms budget reduction of 13% in 2011/12.

Paul explained that a key priority for 2012/13, consistent with the Strategic Plan, is to ensure that the new Code and investigations and sanctions procedures are embedded and the full value of the new approach delivered in practice. Other priorities are to help support growth and innovation in the market (for example in areas like text giving); to work with industry on a new thematic approach to improving compliance; and to ensure that we pre-emptively tackle emerging risks in the market, in particular around apps and malware.

Paul set out that the proposed budget for 2012/13 is £3,742,183. This represents a reduction in budget from the current year by 1.5% in cash terms and a 6.5% decrease in real terms, taking into account the current CPI rate. Together with this year's reduction, the proposed budget will mean a nearly 20% real terms reduction in the budget over only two years.

In terms of specifics budget elements, Paul noted that underlying staff costs are continuing to reduce – the staff budget is only rising by 0.4% next year because of some specific extra costs around the replacement of Board and Chair members and maternity cover. The legal budget is being increased by 27% because we expect a greater volume of more complex litigation in the first year of the new Code. Overall, of 12 budget headings 6 will be reduced and one remain static next year in real terms and, in line with our approach of seeking to pre-empt harm rather than just respond after it has occured, there is an marginal shift in the budget away from enforcement and towards industry and consumer support.

Based on the above budget, it was explained that the expected levy for next year will be within the range of 0.42% to 0.54%. The exact levy rate will depend on a number of factors that are not yet clear: the size of the market, our VAT status (which is under review by HMRC) and the amount of fines and other income. Paul noted that the outcome of Ofcom's current consultation on the scope of regulation may also affect the levy: if PhonepayPlus's regulatory remit were narrowed, this would tend to exert upward pressure on the levy, as the cost of regulation would fall on a narrower range of services.

Discussion

In discussion, a number of points were raised by the ILP. These included:

- Whether expected increased legal costs should be funded for in the legal budget, or rather in a contingency fund, as they may not need to be called upon. Paul said the Executive would reflect on this.

- How PhonepayPlus should prepare for the possibility of increased VAT costs next year in the event of HMRC's review not being complete by the time the budget is finalised. Paul said that the Executive would reflect on this, but we would wish to avoid a situation of the levy having to be adjusted in year.

- The need for the new monitoring strategy to focus on the genuine drivers of consumer harm rather than taking a “tick box” approach. Paul agreed with this and stressed that the new thematic approach was intended to deliver a more outcome and harm-based approach.

- The importance of ensuring that fines and admin charges are collected so that the costs for non-compliance are borne by those responsible for causing it and not by the industry as a whole. Paul agreed with this and said that the Executive would be reviewing what more could be done to entrench the “polluter pays” principle.

- One person raised the question of whether there should be a reduced levy rate for parts of the industry that caused less harm/fewer complaints. Paul noted that the levy system had been reviewed a couple of years ago, but it had not produced an alternative to the existing flat rate levy that commanded industry-wide consensus. Sir Alistair Graham noted that whilst differential rate levies could be introduced, experience from other regulators showed that such models could be very complex and more costly to administer.

2.0 Registration Scheme

Presentation

Paul Whiteing explained that the Registration Scheme has a separate budget from the core budget, with a cross-charging mechanism to reflect transparently the transfer of specific costs and benefits between the two. Paul explained that we hadn’t this year amalgamated the Registration Scheme and core budgets into a single budget for the overall cost of regulation. Because there was no Registration Scheme last year, amalgamating the two this year would give a misleading impression that overall costs have increased, when in fact they have decreased. But an amalgamated budget could be something to be considered for 2013/14.

Paul set out that whilst many of the costs for the Registration Scheme were fixed costs and therefore couldn’t be changed from now on, PhonepayPlus would look to continue driving down the costs of the Scheme where there is scope to do so, in particular on staff support.

The registration fees had been set on the basis of the scheme paying back over a 7-year period. Fees for this year had been set on the basis of uncertain projections. So far, around 3,200 PRS providers have registered, but only 1,800 of these are paying registrants.

Paul explained that we have looked at four main options for the fee structure for next year (although we recognise that other options are also plausible):

1. Maintain the status quo
2. Remove all exemptions and have a flat fee rate for all registrants
3. Remove the exemptions for organisations with a PRS turnover of less than £5K per annum
4. Keep the exemption on charities and re-design the exemption for smaller, new entrants into the market.

PhonepayPlus’s recommended option is Option 4, as we think this will spread the cost of the Scheme more equitably, whilst still supporting charities and new entrants to the market. It would also create a simpler model, helping to make the Scheme easier to administer and therefore supporting our goal of cost reductions.

Discussion

In discussion, a number of points were raised by the ILP. These included:

- A question about whether providers currently benefiting from the small business exemption were really small businesses, or larger businesses with only a small PRS operation. Paul explained that we had looked at this. It was not possible to answer this for all registrants, but our analysis suggested that many providers were likely to be larger businesses with just a sideline in PRS.

This was one reason why we favoured Option 4.

- Jeremy Flynn suggested that the budget for the IT development of the database should be increased as that would enable improved functionality for businesses, for example to search on directors. Paul said the Executive would consider this.

- Jeremy Flynn said that AIME had been considering a further option on the fee structure: all charities exempt; businesses with small PRS turnover to pay nothing in their first year and then around £75 after that; larger organisations pay around £125 per annum. Paul said that we had considered a similar proposal, but didn't include it in our final set of options because we thought our Option 4 was simpler to administer and may be fairer if a large proportion of benefiting from a lower rate would be large businesses with a small PRS turnover. But the Executive would be happy to consider further if there was industry support for this alternative option. We very much supported the view behind the proposal that the fee structure should not act as a deterrent for small businesses looking to enter and develop in the PRS market.

3.0 Conclusion

Paul Whiteing concluded the discussion by asking whether there was ILP support for the proposed business plan and budget for 2012/13. There was an agreed view round the table that the business plan and budget were very credible and should be supported.

4.0 AoB

08xx call for inputs – Hamish MacLeod asked whether there was scope to extend the deadline for responses to the call for inputs beyond 30 January to allow providers more time to respond. The Executive said they would explore with Ofcom as the deadline had been set to feed in to the next stage of Ofcom's consultation on non-geographic call services. Subsequently, it was confirmed that the deadline for the call for inputs could not be extended for this reason, but there would be scope for interested parties to submit more detailed evidence if they wished in response to the Ofcom consultation.

ILP meetings in 2012 at PhonepayPlus Offices
Tuesday 21st February 10-1pm
Tuesday 24th April 10-1pm
Tuesday 17th July 10-1pm
Tuesday 20th November 10-1pm
Tuesday 18th December Budget Meeting 10-11.30am