

**NOTES OF THE ILP MEETING NO.31 HELD ON
TUESDAY 17 JULY 2012**

Present:

Hamish MacLeod – MBG (Chair)
Sean Ash - attending on behalf of MEF
Ann Cook – ITV
Jeremy Hallsworth –PP+ Board and BT Agile Media
Chris Handley – Ofcom
Hannibal Latuff – BBC
Rory Maguire - H3G, MBG commercial
Chris Newell - of ImpulsePay attending on behalf of AIME
Jasminder Oberoi – Ofcom
Graham Pottie - BT
Jeremy Stafford Smith – Vodafone

PhonepayPlus

Paul Whiteing (Chief Executive)
Patrick Guthrie
Joanne Prowse
Mark Collins
David Oatway
Stephanie Ratcliffe (minutes)

Apologies:

Andrew Pinder (Chair of PPP)
Paul Berney – MMA
Shawn Brown - MDA
Gavin Daykin - Ofcom
Michael Eagle - FCS
Jeremy Flynn – AIME
Suzanne Gillies – Action 4
Hugh Griffiths – PP+ Board and Mobile Services
Mark Hawkins – MDA
Nik Hole – The Number
Justin Hornby - UKTA
Andy Martin – FCS
Neil Pepin – Channel 4
Emma Renaud - ITV

Industry Liaison Panel – Ongoing Actions Log

Meeting/ Action number	Description	Owner	Status
27.1	To develop ID search functionality on registration database, and include a provision for industry agreed enhancements in 2012-13 budget. Functionality around renewals complete and provision for enhancements budget complete. ID search functionality in development and testing and scheduled for implementation in June. Agenda item for 17 th July meeting.	Joanne Prowse	CLOSED
27.4	Convene a sub-group to discuss integration of number checker onto third-party platforms. Update: Further discussion on this to be put on hold until such time the appetite for and value of such a project from key stakeholders is understood.	Joanne Prowse	CLOSED
27.5 & 29.1	Discuss outcome of charities research and consider proposals for related guidance and structure of charity donations.	Patrick Guthrie/Mark Collins	ONGOING
30.1	12 th Code adjudications - create a sub group to address the 'naming' issue and 'lessons to be learnt'. Produce a paper setting out the nature of the problem including preliminary thoughts for further discussion. It was decided that a sub group would not be appropriate at this stage as this concerns a specific live case.	Paul Whiteing/Jo Prowse	CLOSED
30.2	Update to be provided on soft opt-in issues following the review at Tribunal on 10 th May. Review undertaken and guidance issued on soft opt in.	Jo Prowse	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 Draft guidance to be circulated and timeline for the consultation document to follow.	Mark Collins	ONGOING
30.4	Q4 management report - clarify the procedures around 'write off's' following the 'polluter pays' principle and consider the context of exceptions by providing further context in the comments relating to the administration charge collection rate (p.2). Current report clarifies and encompasses KPI summary on fines and administrative charge rates.	Jo Prowse	CLOSED
31.1	Registration Scheme update – complaints data for all numbers to be available as soon as the data warehouse is in place, within the year.	Jo Prowse	NEW
31.2	Malware threats – further discussion to follow on information sharing at an ILP futures group in the autumn.	P Guthrie	NEW
31.3	Payfortit- issue a communications statement to the industry advising of changes, reassuring and addressing any concerns regarding its regulation.	P Whiteing	CLOSED
31.4	VAT status - a letter explaining PhonepayPlus' status to be circulated to the ILP and published shortly.	P Whiteing	CLOSED

Welcome:

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

1.0 Minutes and Matters arising from the minutes of the ILP meeting held on 24th April 2012.

The minutes of the 24th April 2012 ILP meeting were approved with no further comment.

2.0 Adjudications and emerging trends update

Jo Prowse provided the ILP with an update on adjudications since the last ILP meeting and confirmed the period has been busy with eleven cases heard. The main breach areas concern misleading information, failure to provide information and/or full costs of purchase, lack of pricing transparency and targeting of vulnerable consumers.

The following cases and arising issues over some services were noted:

- A recent case involving malware represents the first time the universal refund sanction was applied as part of the new sanction under Code 12. The service was found to be misleading and consumer consent was not obtained;
- Certain advice line services which were misleading and demonstrated lack of pricing information. Some services prey on the vulnerability of consumers, in a particular case those on benefits;
- Certain connection line services which fail deliver the service they allege to be and prey on the vulnerability of consumers;
- Certain prize winning services which rely on misleading promotions and make charges or lead consumers into subscriptions, without consent. The prizes these services offer can often not be supplied;

In response to the issues raised PhonepayPlus are due to consult on whether certain call connection services should operate under prior permission, are continuing to review the risks and arising issues around misleading digital advertising practices and are considering how to best engage further with providers on ensuring appropriate due diligence arrangements and risk management controls.

3.0 Update: Registration Scheme

Jo Prowse provided an update on the registration scheme and confirmed we have to date 3,912 registrants. Registrants consist of 54% payable providers, 7% exempt due to charity and 39% exempt due to turnover threshold. The renewals process is currently underway, monitoring is taking place and sample checks being carried out to identify any providers who have not renewed but continue to operate. Providers were reminded of the need to undertake checks to ensure their clients had renewed their registrations.

Organisation ID search, to aid the usability of the system, is scheduled for implementation shortly and this will be communicated in due course.

Development to enable registration of voice short codes (which can be up to 10 digits in length) is in progress.

The question of increasing the registration scheme renewal process from one year to every three or five years was discussed. The Executive advised that annual registration acts as a reminder and means of ensuring providers check the Scheme to ensure their contact details are current and accurate. The fee rate, which is based on the number of registrants, is also reviewed annually.

A question on which providers were named on prior permissions certificates was discussed and clarified.

The ILP asked whether the reports provided on complaints and number checker activity could be extended to cover all PRS numbers provided rather than the top subset. The Executive confirmed that development for this is underway and the data will be available within the year.

In response to a question on the general benefits and ongoing effectiveness of the Registration Scheme, the Executive confirmed we are looking at our enforcement and compliance strategy more broadly, which encompasses the Registration Scheme, and will keep the ILP informed as part of this regular update.

4.0 Update: Malware

Patrick Guthrie provided an update on malware and the following points were noted:

- Threats continue to exist within the UK but have not increased. The “Opfake ii” attack did not affect the UK, but did appear to affect neighbouring countries. PhonepayPlus is remaining attentive to malware developments;
- On the back RuFraud case adjudication, we have highlighted sensible messages for consumers around treating their phones like a PC and taking appropriate precautions;
- PhonepayPlus are looking at options for information-sharing with industry and others and are working with an increasing range of stakeholders to promote interest in the area of malware;
- At the recent GSMA Mobile Malware Group meeting we have been looking at improved partnership working;
- We will be working with the NFA/NFIB to get to the bottom of the data they hold on text-related crimes

The ILP reaffirmed its commitment to address the risks raised by malware and it was agreed to have a discussion on information-sharing with industry at an ILP futures group in the autumn.

(Action: Patrick Guthrie)

5.0 Update: Higher rate PRS

Chris Handley, Competition Policy Manager at Ofcom, gave an update on the Higher Rate PRS review. He confirmed that a consultation document would be issued before the end of July with a 7-week response period and he thanked PhonepayPlus and industry for their input on the matter.

Following the consultation, a decision is expected by the end of the year. The implementation period is likely to last 18 months, with completion mid 2014.

The ILP noted the update.

6.0 Scope of PRS

Paul Whiteing updated on Ofcom’s recent statement on the scope of PRS, following their consultation exercise. The Ofcom statement confirmed that on-portal services would not be regulated, but that Payfort services would be regulated by PhonepayPlus.

The Executive advised a communications statement will be circulated to the industry advising of changes, reassuring and addressing any concerns regarding its regulation.

(Action: Paul Whiteing)

7.0 Guidance on use of social media in PRS marketing

Mark Collins provided the ILP with an overview of draft guidance on the use of social media in PRS marketing. The draft guidance is intended to address two issues where the industry has asked for greater clarity: how to proportionately address the risk of services being promoted without appropriate pricing information; and how best to identify and deal with risks arising on children’s services.

The ILP concluded that the draft guidance was in the right direction, in particular in making a distinction between “connected persons” (where a provider may have some control over how they promote services) and “unconnected persons” (where a provider will have no control over promotion).

However, it was felt that parts of the document were still too prescriptive and that it would be better to give providers greater flexibility over how they met their responsibilities in this area, taking account of the specific circumstances of each service and what providers could reasonably do.

The Executive agreed to amend the draft to reflect the comments and to circulate a further draft to the ILP by email in due course.

(Action: Mark Collins)

8.0 Information/Connection and/or Signposting Services

Mark Collins gave an overview of information, connection and/ or signposting services (ICSS) and explained how these services, which operate mainly via search engines, can mislead consumers. He outlined that PhonepayPlus was about to issue a consultation document setting out proposals for a prior permissions regime for these services. He stressed that the proposals were not intended to apply to directory enquiry services, which we see as being quite distinct from ICSS.

The ILP noted the update and indicated that it was important to ensure that the definition of ICSS was sufficiently broad to capture the range of business models that cause consumer harm in this way, whilst not capturing other services which we would not consider to be ICSS. It was noted that the consultation exercise would invite views around the definition of ICSS, as well as other matters.

9.0 Update: Cold calling and unsolicited texting

Paul Whiteing confirmed there is growing concern over cold calling issues and a working group has been set up to tackle these issues. PhonepayPlus will deal with any premium rate related cold calling issues, but the wider issue falls outside of our remit.

The ILP noted the update.

10. Update: VAT

Paul Whiteing advised the ILP that HMRC has now reached a final decision on PhonepayPlus' VAT status and confirmed that PhonepayPlus will be partially exempt from VAT. Whilst the registration scheme revenue will remain within the scope of UK VAT, all other income, including the levy, will no longer be within the scope.

This will take effect from 1st June 2012 and will impact on our costs and hence levy rate setting for the next financial year. The Executive confirmed a letter explaining our status will be circulated to the ILP and published shortly

(Action: Paul Whiteing)

11. Update: Annual Research plan 2012/13

Patrick Guthrie explained a research plan has been published which highlights our intentions for the year. The objective is to encourage collaboration with the industry, Ofcom and other partners on research projects.

In particular five projects were noted;

1. Annual market review, which will be presented as two separate reports
2. Charitable giving
3. Internationalisation of PRS market and trends
4. Evolving monetisation and promotional strategies
5. Consumer identification of harm and redress

The ILP noted the update on research plans.

12. AoB

Quarterly Operational Report

Jo Prowse presented the quarterly operational report and explained that the fines and administrative recovery figures (p.2), which are below the KPIs, are due to non payment from two network operators

and six level 2 providers. These recovery figures highlight the extended responsibilities Code 12 brings to level 2 providers and the risks and issues associated with ensuring the polluters pay. These concerns and wider issues will form part of a wider discussion at the Board Strategy day on 18th July.

It was noted that there is a general increase in calls to the call centre and complaint levels remain relatively high. The Executive advised a large number of calls centre around a small number of services which are all subject to enforcement procedures. Our enforcement and compliance strategy will be further considered at the Board Strategy day on 18th July.

End of Minutes

ILP meetings in 2012 at PhonepayPlus Offices

Tuesday 20th November 10-1pm

Tuesday 18th December Budget Meeting 10-11.30am