

Phone-paid Services Authority Consumer Panel

Meeting Six – 4 March 2020

13:00 – 16:00

Panel Attendees

Rhian Johns

Patrick Bligh-Cheesman

Paul Eaves

Nicola Wilson

Louise Baxter

Executive Attendees

Simon Towler

Jonathan Levack

Emma Bailey

Gavin Daykin (Agenda Item 2.1)

Agnieszka Taylor (Minutes)

Other Attendees

Rob Weisz (Agenda Item 3.1)

Charlotte DuBern

Julie McLynchy

} Agenda Item 4.1

Minutes

Standing Items

Introduction and Apologies

1. There were no apologies.

Minutes of the last meeting (September)

2. The Minutes were approved with no changes.

Action Log

3. The Panel asked that a presentation from Head of Investigations and Enforcement be added to the Action Log for a future meeting.
4. The Panel suggested that PSA consider framing the Panel's work programme in line with the priority work set out in the Business Plan and Budget.
5. The Panel would like to see a structured plan for how the Code 15 will take account of consumer interests and needs.

Executive update

6. The Executive noted:
 - the PSA consultation on new refunds guidance closed on 24th February. It focusses on consumers getting refunds easily and within reasonable timeframes, aligned with best practice
 - the PSA is reviewing its Guidance on due diligence, risk assessment and control to set clear best practice expectations for industry. The PSA intends to consult later in the month on updated Guidance and hopes to have a revised guidance in place by mid-July. The Executive agreed to send the Panel a link to the consultation once it has been published
 - the revised Consent to Charge guidance was published in mid-February. The new guidance ensures standards of payment/ consent platform security remain high throughout the phone-paid services market.
7. The Executive updated the Panel on the Business Plan and the Budget which has been submitted to Ofcom for approval. The Executive informed the Panel about the impact of its regulatory work including that it is seeing a decrease in consumer complaints but revenues holding.
8. The Panel asked about whether overall the number of transactions is also growing. The Executive agreed to report back on this.

9. The Executive will present its plan for a consumer education programme at the next Panel meeting in June.
10. The Executive informed the Panel that it has received number of applications for the panel vacancy and will update the Panel in due course.

Panel update

11. No comments.

Policy Item

Code 15 update

12. The Executive informed the Panel that Terms of Reference for the Review and Discussion Document, 'Developing the next PSA Code of Practice' was published in the first two months of the year.
13. The Executive gave the brief background of the Code 15 review process and timeline and asked for the Panel's views on:
 - how the consumer interest is captured in the draft assessment framework and if there is anything else that the Executive should take into the account
 - whether the key consumer concerns have been captured as part of the PSA's initial thinking.

Market entry

14. The Panel noticed a lot of progress since December in terms of the development of the Code 15. The Panel asked to be kept informed as the Executive considers approaches to enforcement.
15. The Panel asked about the PSA's ability to undertake checks on providers. For example, whether they have a criminal record or checking if they have moved from one questionable area to another. The Panel noted that any checks would need to comply with data privacy/data protection.
16. The Executive explained that under Code 14 Level 1 providers are primarily responsible for undertaking checks as part of their due diligence requirements, and that it is looking at opportunities to set clearer and potentially more stringent expectations across the value chain.
17. The Panel expressed it is important for PSA to be able to assess if start-up companies have proper secure systems in place.

Roles and responsibilities

18. The Panel suggested the PSA consider additional obligations on Networks, such as:

- providing information to their customers about the PSA's role and purpose while they are signing mobile phone contract. This would be the easiest way to raise awareness about phone-paid services and where to go if they experience an issue
- sharing data with the PSA about consumers that contact them, the services they experienced issues with, and what the issue was.

19. The Executive explained that the MNOs are regulated by Ofcom but that it was considering options as part of the Code 15 project.

Clarity for consumers

20. The Panel recommended the PSA explore opportunities to provide more information to consumers about different services, particularly those causing consumer harm. The Executive noted that adjudications are published on the PSA website and a press release issued and the Panel recommended that PSA consider other opportunities to share this information.

21. There was a discussion about what it means to have clarity in a purchasing environment. The Panel discussed what information should be provided for consumers when they are about to make a purchase. The Panel noted:

- the need to give clear information about what people are signing up to and who with when taking out a phone contract
- mapping up the full consumer journey would be helpful for consumers – who is responsible and who is accountable and who needs to be informed
- a degree of proportionality should be built in, for example with charity donations.

22. The Panel liked the idea of developing the 'best practice' purchasing templates which would provide a uniform customer purchasing experience.

Presentation

Fonix

23. The CEO of Fonix (a Level 1 provider) gave a presentation to the Panel about some of the opportunities and potential growth areas for the phone-paid services market, including in the areas of sport, gaming and charity and the opportunities that phone-payment presents for both organisations and consumers.

Vulnerability

24. Charlotte DuBern and Julie McLynchy – independent policy consultants attended the Panel meeting and presented their report on vulnerability, which:

- assesses best practice amongst UK regulators
- assesses how the PSA's approach to regulation on behalf of consumer vulnerability compares to best practice
- makes recommendations to the PSA.

They noted that:

- vulnerability is complex and multidimensional. People may be considered vulnerable because of their personal characteristics or circumstances.
- for other people, their propensity to vulnerability may be directly affected by the market. For example, someone with addiction problems may be vulnerable in the gambling market but not in the energy market.
- Some people may be considered vulnerable based on the characteristics of the market for example those associated with particularly stressful and emotional circumstances or markets that are hard to navigate for some individuals.
- Some UK regulators in their definition of vulnerability highlighted the importance of the behaviour of the players in a market. Organisations may seek to exploit consumers vulnerability, to ignore it or to address it.

25. In their opinion the inherent structures of the phone-paid services market and the behaviour of some players, mean that in some parts of the market almost all consumers could be considered as having the potential to be vulnerable in certain specific circumstances.

26. They recommended that:

- the PSA ensure it has a broad definition of vulnerability and that in common with other regulators it requires companies in the market to understand their consumer base and capture data that would flag vulnerability concerns
- the PSA segment the market by player behaviour in order to most effectively regulate it
- the PSA consider opportunities to educate consumers via the MNOs, including on how to put a spend cap onto their mobile phones.

27. The Panel suggested the PSA consider that consumers might be vulnerable for a short amount of time, as well as physical and mental characteristics. They highlighted the FCA model of dealing with vulnerability in their regulation as one that could be considered by the PSA. The Panel liked the six outcomes that FCA has set out for firms to achieve fair treatment of customers.

28. The Panel view was that Code 15 would be the appropriate place to consider the recommendations further.

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29. The next Panel Meeting is 3 June 2020.