

Phone-paid Services Authority Consumer Panel

Meeting Eight – 23 September 2020

13:00 – 16:00 (via Microsoft Teams)

Panel Attendees

Rhian Johns

Patrick Bligh-Cheesman

Paul Eaves

Nicola Wilson

Louise Baxter

Fred Forbes

Executive Attendees

Simon Towler

Jonathan Levack

Emma Bailey

Gavin Daykin (Agenda Item 2.1)

Sarah Scott (Agenda Item 2.2)

Agnieszka Taylor (Minutes)

Other Attendees

Meg Munn (observing)

Minutes

Standing Items

Introduction and Apologies

1. The Chair welcomed PSA Board Member Meg Munn to the meeting who was observing.
2. The Chair thanked the Panel for their feedback about virtual meetings and in response suggested attendees stay muted and use the raise hand function when they want to speak.

Minutes of the last meeting (March)

3. The Minutes were approved with no changes.

Action Log

4. The Executive noted it had updated the Action Log so that it is easier to engage with. The Panel is happy with the new format.

Executive update

5. The Executive updated the Panel on consumer complaints, noting that complaints from consumers about phone-paid services continue to fall. The reasons identified by the Executive include:
 - policy work and new regulatory requirements (Special Conditions) around subscription services, ICSS, and consent to charge
 - improvements driven by enforcement work around due diligence.
6. The Executive noted that around two thirds of its complaints still relate to subscription services and that the majority of these relate to where a consumer had signed up before the new Special conditions were in place.
7. The Executive observed increased number in complaints related to ICSS services. It has also been noticed that some COVID related services are targeting HMRC and Universal Credit customers.
8. The Panel noted the contrast between the reduced number of complaints and the increased use of phones during lockdown.
9. The Panel also noted an issue in relation to Zoom scam text messages which is also being looked at by Trading Standards. The PSA noted that its monitoring suggests that the service is no longer operating.

Panel update

10. The Panel asked if there were any comments or feedback from providers or other stakeholders on the vulnerability report that has been published since the last meeting.
11. The Executive noted that it had presented on the report to key stakeholders and pushed it out through its usual channels but had not received any input or comment on it as yet.

Email correspondence / consumer reports

12. The Executive shared correspondence received by a consumer advocate, Mr Muggleton, previously operating under “Pay for it Sucks” that recently changed its name to the “Phone-paid services Consumer Group”. This group raises awareness of some consumers negative experiences with phone-paid services and offers advice to consumers.
13. The Executive summarised the issues highlighted by Mr Muggleton in respect of some particular services including subscription services for lifestyle, fitness and voucher alert services.
14. The Panel noted the risk of the similarities between the PSA Consumer Panel and the Phone-paid consumer group.
15. The Panel considered the correspondence it has received noting the issues raised in respect of:
 - overseas based providers
 - length of investigations
 - consent to charge
 - correspondence with consumers who have raised a complaint and how to best manage expectations.
16. The Executive noted that it continues to see some issues in relation to consent to charge from consumers who signed up to subscription services prior to the PSA’s Special conditions coming into effect.
17. The Executive noted there are issues with some overseas based providers and that investigations into these can take longer due to the need for the PSA to seek derogation. The Executive noted that the legislative process to amend this requirement is underway and that it continues to seek opportunities to reduce the length of cases where possible.
18. The Executive noted that it has an IVR in place which seeks to manage consumer expectations when consumers contact PSA to report an issue. The Panel suggested that the Executive could consider how its service checker tool could be used to inform consumers about services that are being investigated. The Executive noted that the tool does not currently have the functionality to do this but is something it may consider in future.

19. The Executive highlighted some of the changes it is looking to make in this area through Code 15, including enhanced registration, due diligence and information sharing requirements.
20. The Executive agreed to advise Mr Muggleton, at its next meeting with him, that his correspondence has been shared with the Panel and his concerns acknowledged and discussed.

Code 15 update

21. The Executive provided an update on the Code review, highlighting the PSA's new strategic purpose and focus being on building consumer trust in phone-paid services, making sure consumers are well served in the marketplace and that the market is delivering good outcomes to consumers.
22. The Executive highlighted the key shifts it is looking to make, including that:
 - new, clearer regulatory standards will be introduced across the market to replace outcomes, and flexibility will be built in where possible to support innovation
 - there will be a focus on being more proactive and preventing harm happening in the first place rather than cure
 - increased verification through enhanced registration information and greater due diligence, risk assessment & control requirements on Networks and L1s providers
 - setting clear definitions and obligations on the value chain
 - strengthened powers for information gathering and changing the ways that PSA engage with companies in the marketplace to resolve issues more quickly
 - streamlined enforcement procedures, to allow speedier resolution of issues where appropriate
 - retaining an exemption-based regime to ensure that the Code is responsive and provides flexibility to particular services and technologies which may benefit from delivering Code standards through alternative means.
23. The Executive noted that authorisation had been considered, where companies won't be able to operate in the market if they can't meet particular tests. It is however not possible to achieve this without legislative change.
24. The Panel noted the potential benefits for consumers, industry and PSA are a simpler, easier Code with healthy competition, more engagement, quicker resolution, better use of the organisation's resources.
25. The Executive highlighted the progress and the timetable of the Code 15 development, in particular that the first phase of stakeholder engagement has been completed, and

that the first draft of the Code will be sent to external legal Counsel for review in mid-October.

26. Once the Counsel review is completed, PSA will aim to submit the draft Code to Ofcom so it can carry out its formal approval as required by the Communications Act 2003 following simultaneous consultation around March/April 2021.

27. The Panel discussed the following:

- requiring providers to confirm whether they will align themselves with best practice, as part of registration
- that the consumer experience and customer care should be seen as an overarching goal of the Code
- the need to explain some terms in more detail such as 'reputable service'
- the importance of providers having data security measures in place while engaging with consumers.

Presentation – PSA Head of Investigations and Enforcement

28. The Head of Investigations and Enforcement presented data on open Track 2 cases and complaints attached to these. She explained that resource constraints mean it is not possible to keep all of the individual consumers updated on the case progress.

29. She asked how consumers expectations could be managed in the Panel's view.

30. The Panel suggested PSA could explore use of a 'Track and trace' system similar to parcel tracking system where consumers will receive the code to access case progress reports.

31. The Executive explained that this was previously discussed but not developed further as it may mean that consumers view PSA more as an ombudsman than a regulator.

32. The Executive highlighted the following:

- every case is considered individually, whilst observing the correlation between the seriousness of breaches and complaint numbers
- cases with 0 or 1 complaints will also be considered for investigation – complaints are one of many things the Executive looks at as part of allocation and its case prioritisation framework
- recent focus has been on due diligence cases.

33. The Panel suggested that consumer communications could include the sending of a general message thanking complainants and highlighting areas of concern that the PSA is looking into, as well as those issues that generate a lot of complaints.

34. The Executive agreed to consider post-consumer complaint communications and that this could be discussed further at a future meeting.

Future of the Market

35. The PSA presented an overview of key findings from the recent Annual Market Review, published in August 2020 and its key assumptions underpinning its assessment of the future of the market.

36. The Panel highlighted:

- growth in online gaming and controversies related to in-games purchases
- consumer education will become harder in the current circumstances
- the difficulties with identifying circumstantial vulnerability are likely to increase
- static number of consumers using PRS might indicate that the level of consumers. confidence in the market is not increasing.

37. The Executive noted that the issue of loot boxes as part of in-game purchases was picked up by its monitoring team and that it will continue to keep an eye on this.

38. The Executive agreed to update the Panel every 6 months on what it is seeing in respect of circumstantial vulnerability. It will also ensure that the market issues process is aligned with what we are seeing in terms of consumer engagement.

39. The Executive is not currently aware of any factors that may significantly change or increase consumer engagement in PRS, but that it is not the PSA's role to drive usage.

AOB

40. The next Consumer Panel Meeting dedicated to Code 15 is scheduled on 13 November 2020.