

aimm response to the PSA Consultation on Business Plan and Budget 2020/21

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Introduction to aimm

The Association for Interactive Media and Micropayments (aimm) is the specialist UK-based trade organisation representing the commercial and regulatory interests of member companies involved in the interactive media and micropayment industries - where consumers interact or engage with services across converged media platforms and may pay for those services or content using a variety of micropayment technologies including premium rate. We are a not for profit organisation, funded by our members, run for our members. We create conditions for growth and protect the regulatory environment in which our members operate.

aimm has a membership that represents the entire value chain - from the providers and promoters of information to the network operators and technical service providers that deliver and bill them to customers. No other organisation has such reach or representation. Members of aimm work collaboratively to address key industry issues and to build a trusted business environment, encouraging investment, creating new opportunities and developing business partnerships.

aimm promotes excellence in the world of interactive media and micropayments. The purpose of aimm is to create an environment of consumer confidence and trust within which our members' commerce can flourish. aimm promotes and abides by the philosophy that consumers who are accurately and openly informed of the nature, content and cost of participation in an interactive service experience should be perfectly placed to exercise their freedom of choice and thereby enjoy the most effective form of consumer protection.

Membership input

aimm welcomes the opportunity to respond to the Phone-paid Services Authority (PSA) consultation on the Business Plan and Budget for 20/21. To assist aimm in providing a comprehensive input to the Phone-paid Services Authority, aimm communicated with its Members in the following manner;

- Written input from Members
- One-to-one telephone discussions
- Conference calls
- Individual meetings

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Information gathered from all those who attended meetings/submitted feedback in all these ways is presented below.

aimm Members who operate in the Phone Paid Services markets are broadly split into seven categories although there is some overlap inside individual Member businesses.

Fixed Line Networks who are often Fixed line L1

Mobile Networks

Mobile L1 aggregators

L2 providers of traditional PRS services (fixed line, PSMS, and DCB)

Broadcasters (who are often L2 providers)

Charities and Charity enablers (who are often L2 providers)

Industry Support companies

aimm sought responses from Members across the MNOs, L1 community and L2 community but also received feedback from some Industry Support Businesses and in this paper varying views are represented.

Some of aimm's Members may input their response directly to the PSA through their regulatory staff or regulatory representatives. Wherever possible, we ensure that views of members made through independent responses are in synergy with aimm's collective views.

As our response is guided and supported by Members input, some views may be expressed that are not necessarily those of the aimm Executive or aimm's Board of Directors.

Response to PSA questions

Q1 - Do our plans for 2020/21 sufficiently deliver our role as a regulator? What else do you think we should be doing or not doing?

Members generally agreed that the business plan delivers what they expect of a regulator, and some Members are satisfied with this year's business plan (budget aside) although have a concern about the following year. In fact, throughout this response you will see recurring themes around concerns for the year 21/22 and suggestions from Members across the value chain regarding the cutting of costs, efficiency of service and engagement with stakeholders which they hope that PSA will consider in order to ensure that there is the opportunity for growth in this industry in the year after next.

Generally, whilst the Code freeze was set to assure some consistency, some Members feel that the last year has been onerous in terms of consultations and resulting guidance and Special Conditions and have a concern that this year may be no different.

Some Members felt that there is an omission in Business Plan summary in point 4. 2020/21 Business Plan as there is no mention of increasing engagement from organisations that are not blue-chip/app store based and are concerned about this. Members are also concerned that - at 4.2.2 - the PSA may intend within Code 15 to take different approaches to those in the value chain, and are keen to be assured that this will not disincentivise smaller businesses looking to enter the market.

As mentioned in last year's response, some Members would've valued the chance to see a wrap up review summarising the affect of last year's business plan in order to contextualise and kick off the business plan for the coming year. They suggest that this would result in a clear focus on successes that have been achieved up until this point but would also highlight areas that need to remain on the agenda and require further work (along with the reason that these areas are as yet incomplete). This would also demonstrate that the PSA are working to one of their values at 2.3; Right Touch, Plan for the future and fully consider of the impact of their work. Members did feel that - at 3.2.1, the PSA are not entirely correct and that Registration was very onerous for some Providers. Following many Member calls for help in this area, aimm assisted the PSA in arranging a meeting with stakeholders in which they learned that development problems had caused issues that impacted the outputs of industry feedback following initial testing and hence those trying to register. In this meeting Members were able to discuss their issues and give further feedback to the PSA, and were pleased to be offered the opportunity to be part of the Beta testing for the next phase of development.

Members consulted would also like to see reviews such as this happen periodically throughout the year, to enable the PSA to measure the impact of their regulatory decisions on the industry and the consumer. Ideally this would always include a full feedback loop with a broad section of industry in terms of operational, policy and technical changes, for instance with Registration and Special Conditions.

The consultation document asks for suggestions for improvement and some Members would like to see more definitive outcomes when they seek compliance advice. They feel that when they communicate with the PSA in order to launch compliant services, they are sometimes provided with advice that is not conclusive. Whilst understanding that the PSA can only advise on a service at a given moment in time, they would like to see a more definite sign off service, giving assurance that they can proceed with confidence. Members also ask for clarity on the estimate of the 800 requests for advice expected this year and ask how this figure has been calculated in relation to requests over the last year. Members consulted generally feel that the investigation process could be improved, in a variety of ways. They agreed that the communication from the PSA in the event of an RFI or investigation can be sporadic and seemingly unduly delayed (when a comparatively short window is given to providers to respond to requests from the PSA). This is disconcerting and Members can be left waiting for a prolonged period of time to find out if the investigation is progressing, still open but with no current action, or closed. aimm notes that the PSA have shown intent to review this process, however last year's Business Plan (4.4.2) stated that the PSA would look to be "maximising the effectiveness of our sanctioning process, through *improving the efficiency of the interim

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measures process, allowing for earlier imposition of withhold directions and suspensions *managing the comprehensive debt recovery process of unpaid fines and admin charges”. Members would be keen to understand what progress has been made in this area.

Additionally, consulted Members generally feel that there have been instances where investigations have run over an extended duration, causing more consumer harm than necessary and increasing the likelihood of the party in question closing down their business and avoiding any penalty. This then impacts on fine collection and consequently on the funding model for regulation in our sector. Some Members cited the Veoo case as an example of this, and suggest that the extended period of investigation here has not only impacted on both consumer harm and fine collection but also has the potential to result in over-regulation in response to the harm caused, not only by the services themselves but also by the delay incurred in concluding the case.

Some Members are keen that the increase in data which the PSA will now have access to (following Registration changes) will result in more useful data being disseminated out to Industry, and will also allow for more ease of proportionate targeted regulation in order to avoid the risk of regulating to the lowest common denominator.

A suggestion from one Member was that the PSA should generally discourage the use of PSMS as a subscription acquisition tool (though noted that charity donation services use this to good end) and also advised that - were MNOs guided to have a pre-sales internet traffic analysis tool - it would be easier to determine the presence of malware and thus prevent consumer harm. Some Members were keen to learn what, if any, information the PSA hold on malware and what level of harm they feel it is currently causing.

Some Members note that in the Business Plan, the PSA state that they currently operate an outcomes-based Code but with a range of more prescriptive rules. Members are hoping that the 15th Code remains outcomes based and does not become so prescriptive as to decrease innovation and remove flexibility from the market (such as was seen in the 11th Code). There is further important Member comment on the 15th Code in Question 5.

Members note that in 2.2.4 there is intent to engage closely with stakeholders and some Members would be keen to engage more with the PSA. For instance, in order to foster a better understanding of the technicalities and logistics of a complex value chain they would encourage PSA employees to spend time within the businesses which they are regulating and are happy to accommodate such an arrangement. Some Members had concerns around those heading up the investigations process, specifically in terms of experience within industry and time spent on the ground getting to know how each level of the value chain operates.

Members were pleased to see the intent in 3.4.1 to identify “positive stories about phone-paid services and exploring the best ways to communicate them” as they feel this is vital to building consumer trust.

Q2 - Do you have any comments on the proposed budget for 20/21? If you recommend any changes, please clearly identify which areas of activity you expect this to impact upon.

Staffing costs were the main concern of Members who contributed to our response. These figures make up a high percentage of the cost of the Regulator in its entirety and Members would like the opportunity to scrutinise these in more detail, particularly with the forecast increased in the Levy on the horizon. Members felt that the regulation, specifically in the area of Subscription Services, which commenced in the main in the 1st November, was put in place with the aim of dramatically reducing complaints in this area. With complaint data demonstrating that 97% of 2019 complaints to the PSA came from Subscription Service queries, it was felt that these Special Conditions should result in a considerably reduced workload in this area for the PSA. This appears out of kilter with the People Costs which are increasing to £2.8 million and Members are very keen to see a reduction on costs in this area. Some Members feel this is an opportunity for transparency and would be interested to see an Organisational Chart demonstrating how this cost is made up to ensure the PSA are working by their values including - at 2.3 - being Value for Money

Members consulted generally suggested that a more efficient Investigations/adjudications process would be good opportunity to save on costs, streamline processes and optimise fine collection, which would all help to manage the budget. One suggestion around this is to enforce a simple sanctions 'fixed penalty' system for obvious and serious Code breaches. They are keen that this process be collaboratively developed and shared with Industry to foster a better understanding of how costs are spent in this area. Members sought clarity on how much fine collection revenue is accounted for in the budget. Some Members also suggested that a more realistic fine grading could be introduced so that - whilst still acting as a deterrent - fines are more likely to be paid, rather than going out of business.

Consulted Members generally questioned the requirement for Premises attracting a high level of rent and rates as presented in the budget. Many suggested that a Central London base is not a requirement for the regulator, in particular in relation to the call handling aspect of the role which could be housed anywhere. Members note that many businesses are increasingly moving to outer London, or out of London entirely in order to reduce their overheads, and decrease staffing costs - known to be higher for London employees.

Some Members queried the increased IT budget, with the Registration changes happening in the main in 2019, and suggested that there might be value in independently reviewing this in order to ensure best value is obtained and the best use is made of IT systems. Members point to the Registration project build in terms of an example of where - if it did not occur - an independent review of potential suppliers and costs might've obtained a better result and hence better value for the PSA.

Q3 - Do you have any comments on the proposed levy for 20/21?

Members welcome the news that there will be no change to the levy request in 20/21. Those consulted are - across the board however - very concerned that in 21/22 funding from Industry will have to cover the full budget with a consequent doubling of the levy. Members feel that it is important that the PSA take the opportunity now, following the reduction in complaints that will occur after the introduction of Special Conditions, to reduce its cost base significantly, to provide some cushioning in this fee. Whilst Members note that the PSA have explained that there is a base

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cost for providing their regulatory services, they would be very keen to work with the PSA to understand what this base cost is. They feel it is appropriate that there is a high level of transparency to this and that a working group/workshop should be held to scrutinise this figure to see if - collaboratively - ways can be found to reduce this base cost. With Credit cards and PayPal being the main competitors in terms of mobile payments for brands/merchants, Members are concerned that if the market cannot get to a long term vision of having low level cost of regulation then phone paid services will never be commercially attractive enough to compete.

Members are very concerned that the levy increase will result in higher costs of running services or reductions in outpayments, rendering mobile payments a considerably less attractive option for those businesses that we are trying to encourage into the market. There is a real fear that where mobile payments can already be a commercially tricky concept for brands, they will become even harder to get over the line. The PSA Business Plan sets out a desire for consumers to have increased engagement with phone-paid services, driven by price. Members feel that there is a risk that this competitive price is under threat if the cost base continues to go up. Members feel that - with the levy set to increase by such an amount, it is not unreasonable to seek more transparency in terms of the fine collection process, reserves held at the PSA and staffing costs to assure them that an increase can be justified.

Mobile network operators are concerned about the doubling of the levy and are discussing internally whether they will be able to meet this financial requirement.

Members consulted generally feel that the time for action is now, and suggest that an improved investigation/adjudication process could result in a cost saving as well as a better chance of fines being collected. Members are aware that not 100% of fines and administrative fees are collected with some significant amounts not being paid and would be keen to see this improve so that funding remains in line with the concept of 'polluter pays', thus reducing the levy burden for 20/21. Members feel that it is a concern that the levy is set to double without absolute confidence that the process for collecting revenue is optimum. With complaints set to fall, Members ask whether more resource can be directed to the area of fine collection.

Members question the assumption in 4.2020/21 Business Plan that states "We also assume that we will need to be equipped to respond quickly if new big issues emerge in the market...". With commercial challenges being tough, Members don't have the luxury of keeping big teams in place to deal with what may occur, and question whether this is a sensible use of funds for their regulator.

Finally, Members would like assurance that if - despite these challenges - the revenue grows in this market, corresponding Levy costs won't go up. If the market does find it is in a position to compete with transport/parking companies existing payment providers, any solution offered will need to be low cost. With a doubling of the Levy and hence a significant chunk of cost going to the regulator, this becomes a real challenge.

Q4 - What is your view on the estimated size of the market for 20/21?

Some Members were satisfied by the forecasts in the AMR, though have a concern that revenue will likely be enjoyed - in the main - by those higher profile big brands, and may not filter through to

aimm Members. Some Members feel that single entry Broadcast competitions and charity services will help shore up the market, however are very concerned about a drop off in revenue following the commencement of Special Conditions in November and suggest that they are forecasting significant reductions in revenue this year.

Some Members also consider that services utilising direct carrier billing do not provide the revenue returns required to make it a contender against other payment methods and that raising revenue from non-app store traffic will take a lot of work. They feel that a business plan that reflects these concerns would be more accurate for the coming year, and even more so if costs are to rise in the following year.

Q5 - Do you have any other comments on the Business Plan and Budget 20/21?

Members are very keen to work with the PSA on the development of the 15th Code and feel that it is critical that they will get to input into this document with a view to reducing regulatory cost and increasing opportunity and innovation in the marketplace. Members are pleased to note that there will be a Forum this year, and that it will be based on Code development. They strongly believe that the 15th Code needs to provide for a leaner business model, enabling the PSA to scale down its large operation (and attached costs) allowing Industry to be able to afford to pay for them. The alternative suggested is that Operators might decide they cannot/will not pay and have to pass large costs/reduced outpayments or both down the value chain. This will make mobile payments - as an alternative to other forms of payment - far less likely to attract new business/revenue/growth. As mentioned above, one suggestion around this is to enforce a simple sanctions 'fixed penalty' system for obvious and serious Code breaches. If this had a straightforward consequence of a fine within weeks of the breach, it could contribute greatly to revenue for the PSA and hence reduce the Levy burden on the value chain. aimm would be delighted to work with the PSA to jointly explore how the cost of regulation can be controlled and for ideas such as a 'fixed penalty' scheme to be explored within its workflow. Members feel strongly that the 15th Code offers an opportunity for the PSA to do something radically different in terms of leaner, more efficient regulation which still allows for market growth.

Members believe that this year more than ever it will be important for the PSA to engage with stakeholders and ensure that their intelligence and market insights are accurate. As such Members encourage close liaisons where possible and feel strongly that there is significant worth in the PSA taking every chance to talk to each level of the value chain at every possible opportunity.

Our response has been made constructively, compiled from member input and with the intent of achieving an effective, fair, economical and proportional regulatory regime for phone paid services in the UK. If any clarification to our response is required or if we can be of any further assistance please contact me personally at joanna@aimm.co

Regards,

Joanna Cox