PSA Consultation on Business Plan and Budget 2022/23: Vodafone Response

Vodafone welcomes the opportunity to submit a response to Phone-paid Services Authority's draft business plan and budget for FY 2022/23. The MNO community and Vodafone in particular, has always advocated proportionate and balanced regulation designed to build trust in and assist the growth of the Phone-paid Services Market.

Vodafone has studied the proposal in detail and has referred directly to the PSA for clarification where necessary and Vodafone welcomes the detailed and meaningful dialogue with the Executive.

Previous budgets reflected PSA's approach that a sufficiently robust organisation needs to be in place to meet future (as yet unforeseen) threats of consumer harm. Vodafone is concerned that this future focus increasingly positions the PSA as divorced from an industry with low complaints levels and showing signs of consolidation. It stands to reason that proportionate and balanced regulation resulting in high levels of compliance across fewer participants should result in lower regulatory burden.

However, the new extensive powers of the 15th CoP, if not used judicially by PSA, could further reduce the viability of the Charge To Bill (CTB) and Premium SMS (PSMS) sectors. Vodafone calls upon the PSA to limit "Thematic Reviews" to the investigation of new threat vectors and to ensure that the powers to gather extensive market information are limited to matters that can be shown to risk material consumer harm.

Alongside industry maintaining low consumer complaints, this approach will allow the PSA to develop and implement a leaner and lower cost model, that is more representative of the market and reflected in the cost of employees and premises.

Q1 – Do our plans for 2022/23 sufficiently deliver our role as a regulator? What else do you think we should be doing or not doing?

Vodafone has submitted responses to the new 15th Code of Practice (CoP) coming into force at the beginning of April 2022. The PRS industry's long term out-look will be directly impacted by the way the PSA treats this first implementation period. Vodafone believes the new CoP will focus the attention of all elements of the value chain from Regulator to Merchants for at least 12 months, refining business as usual practices to ensure compliance. Vodafone cautions PSA that an overzealous application of the 15th CoP "hair trigger" adjudication opportunities during this period will have a detrimental commercial impact on the sector.

The PRS market is, as declared by the PSA, seeing an all-time low level of complaints based on a change of regulation in Nov 2019 and the massive reduction in the promotion of independent services on the internet. It is noted that customers can still access PSMS and CTB services directly from Media company interaction, directly from MNO own services or via the large brand App Stores.

This means that in the next year the PSA can focus on a limited number of areas that currently cause consumer harm. Vodafone identifies these as:

1. ICCS services that are inserting a charged for service between a business and their customers where there is already a free or low-cost access available to customers. There is no value to these services and Vodafone continues to urge PSA to remove all of these services that do little more than prey on the uninformed and the vulnerable from the market.
2. Legacy PRS customer service models that create a low level of consumer queries and complaints.
3. Technical malfunctions that can be investigated based on Code 15 compliance.
4. Clearing longer term investigations.
5. Horizon scanning and maintaining market activity surveillance to identify new areas of potential consumer harm.
6. Creating Thematic Reviews in order to understand these new threat vectors and the clearly identified risks posed.

Q2 – Do you have any comments on the proposed budget for 2022/23? If you recommend any changes, please clearly identify which areas of activity you expect this to impact upon.

Vodafone understands that the model of anchoring the budget comparison to the 2015/16 year is pragmatic in terms of explaining past performance however we do not agree with the illustrative table in 1.3 of the consultation which seeks to show an effective reduction in the PSA's cost base.

The first column of the table sets out the cash spent by the PSA per annum. The second column converts the historic spend into 'todays money'. As an approach showing the reduction in costs is highly reliant on the movement matching RPI.

Vodafone's interpretation of the table is that, particularly in the last three years, PSA's budget has been steady (£4,042, £4,087 and £4,063). If PSA costs had been increasing with RPI inflation during this period, then Vodafone would agree with the narrative that in real terms PSA had successfully reduced its costs and as a result is operating more efficiently. However, Vodafone does not share this interpretation for two reasons: i) RPI has fluctuated between 0.2% and 6% during the period (PSA has used the latest available and highest RPI rate in its table) and ii) PSA costs are predominantly staff costs and therefore the lower CPI rate would be a more accurate reflection of its costs. It is Vodafone's view that the PSA has controlled its costs but not that costs have materially reduced.

Vodafone believes that more needs to be done to reduce the PSA cost base. Industry revenue is flat over seven years, in decline over the last three and there is a marked decline in registration numbers forecast – 151 in FY22/23 vs 209 in FY 21/22. This suggests a market consolidating around fewer participants and it is shifting to big brand App stores. In the context of record low and sustained complaints numbers, the market requires less not more regulatory supervision and regulatory space for new service types to develop.

Vodafone is unclear why, when the cost of employment (direct and indirect) is such a significant part of the PSA budget (minimum of 70%), does the report not focus on that cost more clearly. PSA should take the opportunity to implement a leaner regulatory cost model that reflects market realities and the reduction in activity required for a market with fewer active participants..

Q3 – Do you have any comments on the proposed levy for 2022/23?

The PSA operates a unique funding model and Vodafone understands that the PSA does not apportion fines in adjudications in the pursuit of budget reduction but rather fines are a reflection of the seriousness of the offences found. Therefore, whilst the fact little of the £6 million of fines issued in 2021/22 is yet recovered is not material to the budget proposal, the fines that have been agreed to be paid or have been paid (even if simply added to levy due invoices) is material.

The PSA should each year declare the current state of fine recovery from each of the proceeding 3 financial years and the current year (to consultation date). This is not a comment on the PSA's debt recovery powers or whether debt has been sold on to debt recovery specialists or written off, rather a matter of reporting actual fines collected as part of the review of past business performance.

Q4 – What is your view on the estimated size of the market for 2022/23?

Vodafone has directly fed into the Annual Market review and if PSA adopts Code 15 in a proportionate manner and does not create Thematic reviews that stifle or chase out new/existing areas of business from the PRS market in 2022/23, then Vodafone remains optimistic that a compliant market can continue in the UK.

Q5 – Do you have any other comments on the Business Plan and Budget for 2022/23?

Vodafone agrees with market sentiment that this budget year is about implementing and working pragmatically with the new 15th CoP and to also determine what a leaner and more cost-effective PSA structure could look like.