

aimm response to the PSA Consultation on Business Plan and Budget 2022/23

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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 Business Plan and Budget Consultation. To assist aimm in providing a comprehensive input to the Phone-paid Services Authority, aimm communicated with its Members in the following manner;

- Whole Membership workshops (moved online due to Government advice on social distancing)
- Membership sector specific workshops (moved online due to Government advice on social distancing)

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

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 Network Operators, L1 community, L2 community, Third Party Verification and Anti-Fraud Specialists, Broadcasters and Charities 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, and where the term "Members" is used this refers to those Members who engaged with us during the consultation process. 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 2022/23 sufficiently deliver our role as a regulator? What else do you think we should be doing or not doing?

Members note the extensive work carried out by the PSA to consult on, produce and publish a new Code of Practice set to launch in April 2022, whilst also working remotely and with the added complications of Covid-19.

Members have the following comments to make on Q1.

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- 1) Members are concerned about the level of staffing in these plans and associated cost of this. With staffing costs making up 70% of the budget, and no visibility of who those staff are and what they are doing, it is impossible to say whether the role of regulator is being efficiently delivered. With £2.8 million in people costs allocated, but with no transparency over what those people are accountable for, delivering or targeted to do, Members are unable to judge whether this business plan will effectively deliver the role of regulator. The consultation document states that there were 193,300 contacts, of which 99% were dealt with via automated channels. This means there were 1,933 contacts that required the contact centre – averaging out at 7 per working day. With “consumer complaints at record low levels (down by 93% from 2015/16)”, seemingly no fine collection taking place (see below) and staffing being at a similar level to the previous year, Members would like to know more about the deployment of staff. Members would be encouraged to see that staffing resource was being directed towards commercial growth and business development in the sector. The last two years have been extremely consultation heavy, taking away valuable time from commercial progress and innovation in the market. Members note at 2.3 the intention from the PSA that they be: “enabling of responsible innovation.” As the market attempts to move towards high value services (transport/ticketing/pay-per-view etc), competing with other payments, pricing is more sensitive than ever. Now much is needed to stimulate new growth in these currently untapped sectors and Members would greatly appreciate a commitment from the PSA to help move phone-paid service growth in the right direction. Members would like the PSA to consider this and suggest models where the levy can be reduced to improve the commercial viability for these high value services.
- 2) Members note in the 20/21 review within the consultation, at point 3.5, “Enforcing Our Code of Practice” that this has included:

“implementing our commitment to a legally exhaustive debt recovery process of unpaid fines and admin charges, so that those adjudicated against fully understand that we will always chase down all outstanding debts over a significant period of time”.

However, the PSA Annual Report showed fine income of £3,635,000 for 20/21 and expenditure of £3,667,942 as bad debt. Members question whether this demonstrates that in fact no fine income was collected and there was a further £32,942 of bad debt on top of that, possibly from fines not collected in the previous year also?

We note in the consultation document that:

“2021/22 was the first year in which the amount of levy required to recover the full cost of the PSA’s operating budget (after income from Registration Scheme fees and bank interest) remained unadjusted by deductions in respect of collected fines and admin charges.”

With a second year of this situation continuing, and there seemingly being no accumulated fines being available to adjust the levy, Industry is again picking up the tab caused partly by the non-collection of fines by the regulator. If this is the case, then this cannot be seen as effective delivery

of regulation. Members would like to see accurate reporting in place around the efficient collection of fines.

3) Members also note at 2.2.3; *“Gathering intelligence about consumers, the market and individual services”*. The PSA state that:

“We actively monitor the wider market to identify potential consumer harm, address issues early and share information.”

In last year’s response we said that:

“Operator and Level 1 Members have been asking for over a year for the resumption of basic data reports (which they have received historically) to assist them in identifying high risk services as described above. This has not happened, so to note it as fact in this consultation is false.”

We understand that the resumption of these complaint reports which would allow Operators and Intermediary providers to understand how agents are handling complaints and what customers are saying about merchants.

However, the status quo means that whilst the PSA and Operators/Intermediary Providers know there is a complaint, the PSA do not provide enough information to allow Operators/Intermediary Providers to allow them to resolve the source of complaints. This does not seem to be an efficient way of delivering regulation.

4) Members note that at 2.2.5 the consultation document states:

“2.2.5. Enforcing our Code of Practice; Where apparent breaches of the Code are committed, we investigate and enforce where appropriate in the most efficient and effective way possible”

Members are looking forward to learning more about the new ways of working that the PSA are developing to better improve efficiencies, as currently enforcement is well known for being a process that sees long drawn-out case investigations that can stall for many months, with little communication to those affected. This is acknowledged at 4.5.3 where for 22/23 the PSA state that they intend to:

“ensure we balance our investigative resources to improve the efficiency and timeliness of investigations, while ensuring we remain fair and proportionate in our approach”.

Members are keen to see these improvements come into effect – at which stage they feel that the PSA will be better delivering their role as regulator.

5) Members note at 2.2.6. in *“Delivering organisational excellence”* that the PSA state;

As a regulator, we are committed to acting in a transparent, accountable, proportionate, consistent and targeted manner in everything we do.

And also at 3.6.4 state that:

“In 2021/22 this included: further developing our balanced scorecard approach to considering overall organisational effectiveness, including a review of underlying qualitative and quantitative measures to ensure operating efficiencies continue to be identified and pursued”

In order to deliver the aforementioned transparency, Members would appreciate visibility of the scorecard each year, in order that they can see the direction of travel of the organisational efficiencies. Members also suggest that the PSA might see value in including Industry opinion with an engagement piece- carrying out a 360-degree review (used commonly in many businesses) with the market to establish a rounded view of their work over the year. This will help the PSA measure their effectiveness in delivering their role as regulator.

6) Members read in 3.2.1 that the PSA have/are:

“updating and developing our Registration system in line with the new Code”

In order to best deliver regulation in this area, Members would remind the PSA again that they are able and willing to offer their services to test new versions of the Registration system to avoid repeating the technical difficulties that beset previous versions. Members also ask for visibility of a timeline and test plan for the release of the next version.

7) Members note at 3.4.4 that the PSA state that:

“In addition to engagement specifically around Code 15, during the year we continued to build consumer confidence in phone-paid services through:

- reviewing the impact of our refreshed consumer education programme and making adjustments to improve this programme within the resources available*
- engaging constructively with media opportunities to support and inform consumers around their positive use of phone-paid services and how to deal with issues in the market”*

- Members agree that both consumer education and positive PR is essential to grow consumer trust and understanding in the market and aid commercial growth. They are keen to gain visibility of the education programme that ran last year and that is intended for this year to see if they can complement this or add resources to the programme. Equally Members remind the PSA that the Industry website phonecharges.org is a tool that is built and ready to inform consumers about all aspects of phone-paid services, should they be able to point consumers towards it – with no extra cost or requirement on the budget. Additionally, the Mobile Network operators also have extensive information available to customers on their websites.

In terms of positive PR, Members would again like to gain visibility of the PR that was disseminated in the last year so that they can point towards it if required and are also keen to understand what positive PR is planned for the forthcoming year that they can be involved with (if appropriate).

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.

Members commented as follows:

- 1) Members note that the budget set once again makes the regulator a larger entity than many that it regulates in the Industry, at a time when the market size is expected to reduce and complaints are at an all-time low. In a webinar on the 25th January '22, it was estimated that the coming year would see complaints drop even further, to around 2,000 for the 12 month period.
- 2) Although the PSA have described savings in real terms since 2015/16, Members are concerned that this is not an easily understandable way of explaining the budget as it can depend on the calculation of inflation. Members feel that the budget shows that costs have been controlled but not necessarily cut, and in a declining market, with complaints at an historic low, there should be significant cost savings that can be made.
- 3) Personnel costs make up 70% of the budget yet there is very little breakdown or explanation of how these costs are made up within the consultation document. Members would like more clarity here. In last year's consultation response we stated:

“However, it is not simply a matter of cost; transparency is also crucial. Industry should be fully aware of how people are being deployed if they are to pay their wage bill. The market is aware that the PSA personnel do not just take complaints, but a detailed schedule of how costs are spent would seem to be reasonable. In any business, a request to double costs would be met with a requirement for a solid business case to justify that expense. With an extra £2 million being required from Industry due to a zero balance in retained funds, there needs to be much more transparency in this area if industry is to understand and accept such a large increase.”

Unfortunately, this was not forthcoming on last year's consultation document and has not been forthcoming in this consultation document.

We would request that it is essential – in order for Members to have the necessary information to be able to properly respond to this consultation next year - that there be included in the consultation document a benchmarking exercise comparing the cost of employment for PSA staff this year against the forecasted next year. For the avoidance of confusion, we would like it to show a transparent budget breakdown of staff, their responsibilities, departmental split, lines of accountability and the cost of their employment within these brackets:

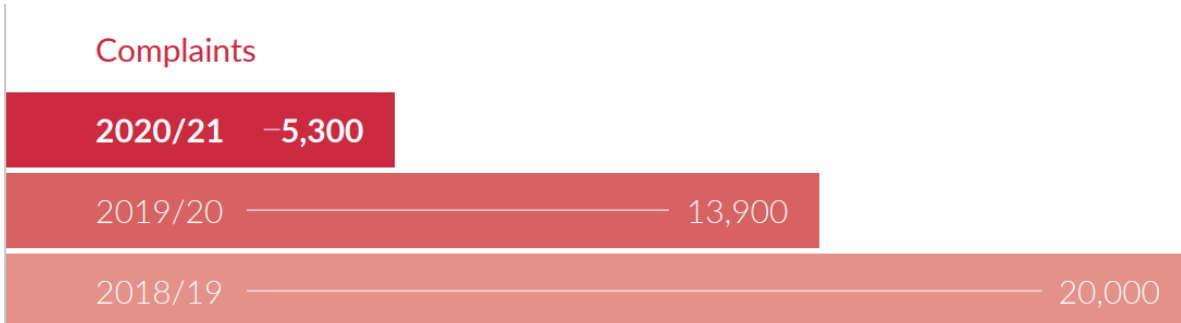
£40,000 - £60,000

£60,000 - £80,000

£80,000 - £100,000

£100,000+

With Code 15 being live from April, and complaints at their lowest to date, as demonstrated in the Annual Report (see below) this is an exercise that would make it easy for the PSA to demonstrate that staff costs are at the right level, and where resource is being used.



4) Members note that it is stated that:

“our legal fees budget is £76k higher, reflecting the costs of an outsourced data protection officer.” As such, they question the statement from the PSA that there has been a reduction in staffing of 0.8 FTE staff to 42.2. Is this member of staff included in the 42.2 calculation? Additionally Members would like clarity on whether the DPO role is full time and costed at the full £76,000. Members would like to have visibility of the cost/benefit analysis that led to the decision to outsource this post and the savings or efficiencies that have been made as a result of this decision. It may be that this has been a very efficient use of funds, but there is no visibility of the numbers to allow Members to judge this and as such allow an informed response to this consultation question.

Equally, Members note that in 3.6.4 it is stated that:

“During the year we have successfully brought the software development of our website and its programmatic interfaces in-house for greater efficiency and effectiveness”

As with the case for outsourcing the PO position, Members would like more visibility of the cost/benefit analysis that led to the decision to bring these interfaces in house, and the savings or efficiencies that have been made as a result of this decision. As above, it may be that this has been a very efficient use of funds, but there is no visibility of the numbers to allow Members to judge this and as such allow an informed response to this consultation question.

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

As above, Members were disappointed to see that for the second year running there appears to be no accumulated fine income to balance the Levy requirement and have commented as follows.

1) The PSA state that:

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1.6. Prior to 2021/22, the end of year levy reckoning-up process generated either an overall over or under recovery of the levy, depending on the variance of the actual size of the market compared with the estimate used to calculate the levy %. For 2022/23, as with 2021/22, the PSA will make year-end adjustments with each of its funders such that: • the budget is exactly recovered, without any over or under recovery of the levy required to fund the PSA operating budget • each funder collects the correct apportionment of the levy on PSA's behalf, based on their share of total outpayments for the year.

We note that the Levy reconciliation is a process that takes place at the end of the year and Members ask for more clarity on this process as the numbers are not shown in this document. Members have two questions:

- 1) Is the year end reconciliation that sees money passed back to Operators a result of (a) fines being collected which have balanced the Levy requirement or (b) a result of market revenues being lower than expected?
- 2) Is it possible to have a quarterly update on fine collection, so that Members can transparently view the process as it is unfolding, rather than have to wait for the end of the year to establish if there is to be a return of Levy funds?
- 3) The Levy reconciliation numbers for the previous year do not appear in this document which is surprising. This makes it impossible for Members to adequately respond to this consultation question. Members ask for visibility of this process for last year and for subsequent years as they arise, on a quarterly basis if possible.

Members would like to see a three-year plan demonstrating a commitment to making efficiencies (that may or may not lead to cost savings but will offer a more effective way of working) that would ease the burden on Industry. Members believe this should focus mainly on staffing structure and associated accountabilities.

- 4) Members look forward to learning more about a premises saving after the tenancy on the Bank Street offices has completed and ask if they will be consulted on a short list of new premises option, potentially outside of London (or certainly with a lower cost per head than the current building).

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

Members generally agree that the market shows little sign currently of new areas of growth and requires a commercial boost. Members would ask that the PSA become better equipped and prepared to help stimulate new areas of business, to aid Industry in bringing new, innovative revenues into the market. Currently member feel that the threat of thematic reviews and over regulation could be doing the opposite.

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

Members have the following other comments.

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1) Members have a concern about the accuracy of data in the consultation (which Members believe has come from the Annual Market Review – though this is not referenced) which states:

“The key challenges in the market that this business plan seeks to address through the successful delivery of Code 15 are: • continuing to minimise consumer harm. While complaint levels are at record low levels, our research suggests around 25% of consumers still claim to experience issues and we need to ensure we are able to identify issues and deal with them quickly. “

The Annual Market Review states that:

“Our survey of consumers implied that 54% of the British population aged 16 or above used phone-paid services in 2020–2021. The drivers of phone-paid service use were similar to those in 2019–2020: convenience was the most important driver, followed by impulse purchases and affordability. 25% of users reported problems with phone-paid services in 2020–2021, primarily when accessing or using a service. Both the scale and the nature of the problems reported were broadly consistent with what we observed last year. Problems were most likely to occur when using sexual entertainment, personal and relationship services and connection services; these three categories accounted for an increased share of respondents experiencing issues than in 2019–2020.”

Members note that 9,274 people were surveyed in the Review, and simply cannot believe that the 25% of those respondents that cited problems with their service is in any way representative of the scale of problems actually being experienced. This is borne out by the complaint numbers being at record lows. If 54% of the British population (over 16) used a phone-paid service and 25% of those experienced a problem, logic tells us that the complaint figure should be much higher than 5,300. If around 25-30 million people (over 16s) are using phone-paid services then the figure of 5,300 complaints is exceptionally impressive.

Members are concerned that - as this statistic appears in the consultation – budget calculations may have been based on figures that feel out of kilter. Additionally, the AMR is published some time after the research period specified, meaning that figures are historic when the report is first read. Therefore, we would urge caution if statistics such as this are being used to shape future regulation.

2) Members would be interested to see an impact assessment that shows how ways of working have been affected by Covid-19, and how this has influenced efficiency.

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

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