

# 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



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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 online workshops
- Membership sector specific online workshops
- Written input from Members
- One-to-one telephone discussions
- 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 can be Fixed line Intermediaries
- Mobile Networks
- Mobile Intermediaries
- Merchant providers of traditional PRS services (fixed line, PSMS, and DCB)
- Broadcasters (who are often Merchant providers)
- Charities and Charity enablers (who are often Merchant providers)
- Industry Support companies

aimm sought responses from Members across the Network Operators, Intermediary community, Merchant 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 – Is the activity set out in Section 4 sufficient for the effective and efficient regulation of the market in the period up until the transfer of responsibilities to Ofcom? Please identify any activities you think are missing or are not required.

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aimm Members noted the comprehensive work carried out by the PSA to consult on, produce and publish a new Code of Practice which launched, on time, in April 2022, and also the flexibility of the Code allowing for amendments and General Permissions to be put in place thus ensuring more effective, tailored regulation.

Members have the following comments to make on Q1.

- 1) Members are once again concerned about the level of staffing in these plans and associated cost of this. With staffing costs making up 75% of the budget (up from 70% last year), and no visibility of who those staff are and what they are doing, it is difficult to say whether this is a good use of funds and as such whether this will ensure efficient regulation. Over £2.8 million is allocated to people costs, but with little transparency over what those people are accountable for, delivering or targeted to do, Members are unable to judge whether this business plan is sufficient to effectively deliver the role of regulator. The Annual Report shows activity levels as being lower than ever:



The consultation document states *“We expect to maintain levels of 99% of contacts being handled through either Service Checker, our website, or information on our telephone interactive voice response (IVR) system”* meaning that staff are free to carry out other areas of regulation and Members would like

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to know more about the deployment of staff. Members would again be encouraged to see that staffing resource was being directed towards commercial growth and business development in the sector.

In our response to this consultation last year, we asked for visibility in this area, but it was not forthcoming.

2) Members note that at 4.5 Enforcing our Code of Practice includes this statement:

*“4.5.4. We will also continue to ensure the long-term effectiveness of enforcement sanctions by remaining committed to a legally exhaustive debt recovery process of unpaid fines and admin charges, so that those adjudicated against fully understand that we will chase down all outstanding debts over a significant period of time.”*

The PSA Annual Report showed 2022 fine income of £4,280,000 and expenditure of £3,580,753 as bad debt. Members note that this is an improvement of fine collection rates from the previous year and would like more information on how this has been achieved (more efficient enforcement under Code 15 for instance or simply businesses paying without needing intervention)? However, these statistics still demonstrate a high rate of uncollected fines, and to be assured that this year’s planned activity supports effective and efficient regulation, Members would like clarity on how this will be improved further in 23/24.

3) Members note that at 4.5 the consultation document states:

*“4.5.2. During the period up until transfer, we will continue to ensure that the aims of Code 15 are underpinned by effective enforcement through:*

- using our intelligence gathering capabilities to quickly identify any harm or potential for harm • in the first instance and where appropriate, using our codified engagement powers to try to resolve issues quickly without applying sanctions*
- formally investigating and seeking to apply sanctions where merited. Our aim in most cases is for this to be applied only where the engagement process has failed, although we will proceed straight to formal investigation for those cases where significant harm has occurred or we have clear evidence that co-operation will not be forthcoming.*
- applying the Procedures that support the Code and continue to review them for effectiveness”.*

There was an acknowledgement from the PSA that under Code 14, enforcement could see long drawn-out case investigations that could stall for many months, with little communication to those affected.

Members are keen to learn more about improvements since Code 15 has come into effect, allowing them to properly judge if the activity in this Business Plan is sufficient to be effective and efficient.

4) Members note at 3.2. in “Future of market regulation” that the PSA state;

*“3.2.3. During 2022/23 we have therefore worked closely with Ofcom to identify how best to deliver this transfer, with an initial focus on:*

- supporting Ofcom’s aim to incorporate as much of Code 15 as possible into their necessary legal frameworks*
- communicating the planned transfer to staff and creating opportunities for engagement with Ofcom colleagues*

- *relocating the PSA office into Ofcom's head office at Riverside House*
- ***communicating the planned transfer to industry and, where able, responding to queries as they arise***

Members cannot stress enough how important this communication to Industry is. The slippage in the consultation date has not yet, to our knowledge been widely communicated by the PSA, meaning that workflow was planned for January to manage this fundamental piece of work. Whilst we appreciate that the consultation is being operated by Ofcom, the timeline and dates of transition are available to, and hence expected from, our current regulator, the PSA. The transition was announced in May 22, and it is expected that there is a plan around this, but the timeline seems to be a moving feast. Members ask if they can have visibility of any plan that exists, which would fulfil the PSA focus around communication, as set out at 3.2.3

5) Members note at 4.4 that the PSA state that:

*"4.4.1. During the year we will continue to build consumer confidence in phone-paid services through:*

- *using our communication channels to help consumers best understand what they can expect from their engagement with the phone-paid services market, including the avenues of redress available to them*
- *responding to media opportunities as they arise to support and inform consumers about their positive use of phone-paid services and how to deal with issues in the market*
- *working with industry partners to promote advice and educational content to their own audiences."*

Members fully support consumer education and agree that positive PR is essential to grow consumer trust and understanding in the market and aid commercial growth. As with last year, they are keen to gain visibility of the education programme that is intended for this year to see if they can complement this or add resources to the programme. Equally they would like to remind the PSA that the Industry website [phonecharges.org](http://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 2023/24? If you recommend any changes, please clearly identify which areas of activity you expect this to impact upon.

1. Although the PSA have described savings in real terms since 2015/16, Members are again concerned that this is not an easily understandable way of explaining the budget as it can depend on the calculation of inflation.
2. Personnel costs make up 75% of the budget yet there is very little detail around how these costs are made up within the consultation document and what activity they can be attributed to. As above, Members would like more clarity here. It is not so much about questioning the amount, but whether this represents value for money and adds up to an efficient and effective staffing model. In last year's

response – and the year before - we asked for further information on this. This was not forthcoming in last year’s consultation document and has not been forthcoming in this consultation document.

3. Members note at 4.6.2 that: *“We have already transferred in 2022/23 our office location into OFCOM premises at Riverside House and we will continue to apply ways of working that are driven by business needs and the optimisation of staff engagement, productivity, and effectiveness.”*

Members ask for clarity over what these ways of working look like, and whether this includes some flexible working (from home). If so, we would ask about the office space allocation at Riverside House. The figure of £20,000, per month, that is being paid for space whilst the PSA are working in the Ofcom offices seems very high.

4. Members ask for more information around the Consumer Panel and whether those costs are included in the staff cost figure.
5. Members would like to see costings for the Annual Market review, as an increase of £15,000 this year is very high. To evaluate whether this is value for money, more information is requested about this costing.

### Q3 – Do you have any comments on the proposed levy for 2023/24?

Members were again disappointed to see that for the third year running there appears to be no accumulated fine income to balance the levy requirement. This is particularly frustrating as in 2022, the annual report suggests that fine collection of £699,247 has taken place. Members would like clarity as to why some of this figure cannot be used to balance the levy burden.

At 6.4 Members note that:

*“There are no collected fine charges available to offset the levy requirement from industry. Fines collected during 2021/22 were used to replenish the PSA retained surplus depleted during 2020/21, and any fines collected during 2022/23 and 2023/24 will be added to the retained surplus to ensure that there are sufficient funds for the smooth and orderly windup of PSA Limited”.*

With previous years’ incoming fine revenues being between £3.6 and £4.3million pounds, this feels like either a very sweeping statement and potentially a multi-million pound write off, or an acknowledgement that there is little expectation of the majority of this revenue being collected. If the full amount was collected, would there really be none available to offset the levy requirement? Members ask how much is needed to ensure proper winding up of the PSA and ask for a commitment that any fines collected that exceed this requirement be used to offset the levy.

As per last year’s response, Members would like to request a quarterly update on fine collection, so that they 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.

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Q4 – What is your view on the estimated size of the market for 2023/24?

Members generally agree that the market shows little sign currently of new areas of growth and requires a commercial boost. Whilst there are emerging technologies and aspirations in new sectors such as transport and ticketing, these are yet to be realised in terms of revenue.

The cost-of-living crisis will also no doubt impact users' appetite to spend money on phone-paid services, whilst very carefully watching their spending across all sectors.

Q5 – Do you have any other comments on the Business Plan and Budget for 2023/24?

Members have the following other comments.

- 1) As with last year, Members have a concern about the accuracy of some of the data in the consultation (which has come from the Annual Market Review) which states:

*“The AMR is still identifying around 26% of consumers claiming to experience issues with at least one service and we need to ensure we are able to identify and deal with any that require regulatory intervention quickly”.*

Members note that 8,384 people were surveyed in the Review, and again do not believe that the 26% of those respondents that cited problems with their service is representative of the scale of problems actually being experienced. This is borne out by the complaint numbers being at record lows *“Complaints are now at record low levels (down by 94% from 2015/16”* – PSA Consultation on Business Plan and Budget 2023/24.

If, as stated in the PSA Consultation on Business Plan and Budget 2023/24 *“around 60% of the UK adult population estimated to be using a phone-paid service at least once during a year”* and 26% of those are experiencing a problem, then the complaint figures should be enormous.

Therefore, we would urge caution if statistics such as this are being used to shape future regulation.

Additionally, aimm has communicated Member feedback to the PSA about the use of NPS scores within the AMR. Members are concerned that in its current format NPS is not bringing any value to the industry and instead is causing confusion. NPS and other customer feedback related metrics can be extremely useful to industries, and we have communicated our intention to try and provide the PSA and the corresponding research company some alternative questions which we believe would provide industry significantly improved feedback to work with. Asking *“would you recommend this service”* to a consumer, will not produce information that can be used to identify which area of the transaction the user is/is not recommending and paints an overly negative picture of consumer satisfaction.

- 2) Members note the use of the phrases *“retained reserves”* and *“retained surplus”* and ask for clarity on the definitions of both – unless they are describing the same thing.

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Our response has been 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](mailto:joanna@aimm.co)

Regards,

Joanna Cox

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