PSA
Phone-paid Services Authority

Statement following consultation on Business Plan and Budget 2024/25

March 2024

The UK regulator for content, goods and services charged to a phone bill

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1. Consultation process

1.1. Our draft Business Plan and Budget 2024/25 was put out for public consultation on 13 December 2023, with a deadline for comment of 1 February 2024.

1.2. We have received five consultation submissions:

- Action 4
- aimm (Association for Interactive Media and Micropayments)
- BT Group
- Virgin Media O2
- Vodafone

1.3. We have reviewed each submission in detail and our responses in respect of the published submissions are set out in section 2 of this document.

2. PSA response to consultation comments

2.1. Action 4

2.1.1. We thank Action 4 for its submission and support for the transfer of regulation into Ofcom.

2.1.2. In response to Action 4's main concern about funds held by PSA Limited:

- it is the intention of our Board that any balance of remaining funds will be transferred to Ofcom as part of our winding up process. This, however, is subject to agreement between Ofcom and HM Treasury, and the precise amount will be dependent on the actual timing of the transfer and the final costs required to effect a smooth and orderly wind up of the company – which includes meeting all contractual liabilities, liquidation of any contractual commitments beyond the point of transfer, and provision for run-off insurance;
- while it is true that in the past we have used collected fines to offset the levy requirement, the current level of surplus funds is required by our Board to cover any eventuality arising out of the wind up process;
- on the winding up of PSA Limited, our Memorandum and Articles of Association does not allow for the disbursal of any outstanding funds back to levy-payers;
- all assets of PSA Limited – which in practice will amount to a small amount of residual [fully amortised?] IT equipment – will be disposed of as part of the wind up process.

2.1.3. With regards to other points made by Action 4:

- our premises costs are subject to a long-term contract with Ofcom, which runs until the point of transfer;
- there appears to be a misunderstanding regarding our proposal relating to Registration charges, since our proposal was to <u>not</u> apply these from April 2024 onwards and we understand that is the position Action 4 is advocating;
- while we have never viewed the cost of regulation as a function of the size of the market, we are happy to again correct Action 4's figures and the conclusion that leads to. Total market revenues in 2014/15 were £686m (not £764m), and the comparable revenue estimate for 2024/25 is £625m. The cost of regulation as a percentage of these market sizes is 0.64% and 0.60% respectively.

2.2. aimm

2.2.1. We thank aimm for its submission and understand that it represents the varying views of its members.

2.2.2. We note that a number of points have been previously raised, and we refer to our responses given in last year's Statement.

2.2.3. With regards to new points raised, we are happy to provide the following clarity:

- the surplus funds held by PSA Limited will not be used to offset the levy before the transfer of regulation to Ofcom. This is because the PSA Board requires sufficient funds to ensure any eventuality arising out of the wind up process is covered and that PSA Limited is wound up as a solvent company;
- aimm is correct in identifying the constraints of our Memorandum and Articles of Association, and that therefore at the point of wind up any balance of remaining funds cannot be distributed to levy-payers;
- it is the intention of our Board that any balance of remaining funds will be transferred to Ofcom as part of our winding up process. This, however, is subject to agreement between Ofcom and HM Treasury, and the precise amount will be dependent on the actual timing of the transfer and the final costs required to effect a smooth and orderly wind up of the company – which includes meeting all contractual liabilities, liquidation of any contractual commitments beyond the point of transfer, and provision for run-off insurance;
- there appears to be a misunderstanding that PSA and Ofcom are able to merge operations ahead of the formal transfer. There are no shared resources and costs, and the office space we rent from Ofcom is done so at a commercial rate. Any extraordinary costs relating to the transfer arising on PSA will be funded from our retained surplus (as stated in the Business Plan and Budget), but any similar costs incurred by Ofcom – and how they are subsequently recovered post-transfer - is a matter for them;
- we do not understand the point raised about removing the Supervision model of regulation, since it is precisely that function which receives and analyses information from industry. As stated with the introduction of Code 15, we aim for "prevention not cure" and Supervision has been a key element in minimising levels of consumer harm. We note that elsewhere, in recent responses to Ofcom's consultation on the draft PRS Regulation Order, aimm and other industry participants have asked Ofcom to retain industry engagement including compliance advice and guidance, functions which are interdependent with the Supervision function

- presenting the budget in real terms over time makes the point that we do not set an activity level as a “norm”, and that we have managed the cost of regulation downwards significantly over the past ten years. In any case, the cash level of the budget is also presented for comparison and transparency. The budget for 2024-25 is over £600k lower in cash terms than the 2015/16 budget. This is further illustrated by the fact that our budgeted headcount for 2024/25 is 32.6 FTE, which we have steadily reduced from a peak of 49.0 FTE in 2016/17;
- for the reasons set out in the Business Plan and Budget, there will not be a reduced Registration Fee in place for renewals due in the first quarter of the 2024 calendar year;
- we have never received any income in relation to bonds. The requirement for some providers to lodge bonds as a condition of trading was removed as part of Code 15, and all monies previously held have been returned.

2.3. BT Group

2.3.1. We thank BT for its submission and note the issues raised.

2.3.2. We are happy to clarify that the budget set out is for PSA activity up until the point of transfer, and that any costs of regulation post-transfer are a matter for Ofcom.

2.3.3. We have once again reviewed the activity required to regulate the market in the consumer interest while under PSA’s remit, and have allocated staff resources accordingly. We do not agree that less Supervision is required, but would point out that we have further reduced our overall headcount for 2024/25.

2.3.4. We note the support from BT for aimm’s repeated point about consumer education and we refer to our response given to them in last year’s Statement.

2.4. Virgin Media O2

2.4.1. We thank Virgin Media O2 for its submission.

2.4.2. We are happy to clarify that we will continue to invoice the levy quarterly in advance, and that therefore on current timetable expect to only invoice for Q1 (Apr/May/Jun) and Q2 (Jul/Aug/Sep). Once we have greater certainty over the actual transfer date, we will then determine the basis on which we will do a final reckoning-up and ensure all levy payers only pay their fair share (i.e. based on total market outpayments) of the cost of regulation.

2.5. Vodafone

2.5.1. We thank Vodafone for its submission and welcome the recognition of the role that Code 15 has played in reducing consumer harm and complaint numbers

2.5.2. We also welcome Vodafone's support for efforts to address and reduce the harm associated with ICSS. We note that the scale of the harm associated with ICSS was able to be assessed through a Thematic Review newly introduced in Code 15 as part of the Supervision function. We are surprised therefore that Vodafone should be calling for a radical repurposing of the Supervision function given the continuing need to assess the impact of the new ICSS requirements introduced in October 2023 and to monitor compliance with them.

2.5.3. More generally it makes no sense to undertake a significant restructuring of this or any other part of PSA when we expect regulation to transfer to Ofcom on 1 October. This would only distract staff and management effort that is better employed ensuring a smooth and efficient transfer of regulation and has the potential to add cost in the short term, not save money.

3. Finalised Business Plan and Budget 2024/25

3.1. We have produced a final Business Plan and Budget 2024/25 that takes into account:

- the five consultation responses received, and
- our own full internal review of activities subsequent to the draft being written.

3.2. We have made grammatical changes where relevant, but the only (minor) changes to the draft Business Plan and Budget 2024/25 written in December 2023 are:

- based on latest network returns data, we have revised our estimated of the size of the market in terms of qualifying outpayments from £475.0m to £500.0m (paragraphs 1.8, 6.5, 6.6 and Appendix C)
- we have recalibrated real-terms savings to reflect current inflation rates (paragraphs 1.5 and 5.3).

3.3. The final version of our Business Plan and Budget for 2024/25 is published alongside this statement and follows approval of our budget as £3,818,616 by Ofcom. It contains confirmation of the levy at 0.76% of outpayments for 2024/25, based on estimated outpayments of £500.0m from network operators to their industry clients.