

Mr Mark Collins
PhonepayPlus

11 October 2016

Sent by email only to consultations@phonepayplus.org.uk

Dear Mr Collins

Gambling Commission response to consultation - PRS development through outcomes-focussed regulation: A Review of PhonepayPlus' regulatory framework

The Gambling Commission (the Commission) welcomes the opportunity to provide a response to your consultation on premium rate services (PRS). Our response will be limited to their use as a payment method for consumers to use in order to participate in remote gambling.

As you set out in your consultation document PRS is an area where both PhonepayPlus and the Commission currently have regulatory requirements. We agree with the aim in your consultation to reduce the regulatory burden on businesses whilst maintaining the level of protection offered to consumers. Our consultation response therefore focuses on the areas where both the Commission and PhonepayPlus have a joint interest.

Q5 – Do you agree with the conclusions of our application of the new Risk Assessment Process to existing Special Conditions regimes, and the proposals to remove the current regimes around Consumer Credit and Remote Gambling regimes? Please give reasons, including for any changes or additions you would like to propose.

A5: - The majority of our response is focused on the special conditions for remote gambling and sets out the Commission's requirements in respect of the aims that the special conditions are intended to ensure. This is intended to highlight those areas of PhonepayPlus' special conditions that have corresponding requirements in the Commission's regulatory requirements.

RG1 Persons under the age of 18 years are not permitted to use the service – the requirement to prohibit children and young persons (ie those under 18) from gambling online is set out in both the Gambling Act 2005 (the Act) and the Commission's Licence Conditions and Codes of Practice (LCCP). Section 46 of the Act makes it an offence to permit a child or young person to gamble and social responsibility code 3.2.11 requires licensees to have and put into effect policies and procedures designed to prevent underage gambling.



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RG2 If a consumer is found to be under 18, they must be refunded and blocked from using the service - section 83 of the Act requires a licensee to return any money paid (fee, stake or otherwise) by a child or young person in respect of the use of facilities for gambling. Section 58 makes it an offence for a person to not comply with a condition attached to an operating licence by virtue of section 83 to return a stake to a child or young person.

RG3 Consumers must be able to access their playing history and account information at any time while using the service – RTS 1 (customer account information) and IPA 1 (customer account information) of the Commission's remote gambling and software technical standards require licensees to provide customers with information about their gambling activity.

RG4 The promotional material for the service must include the following information:

- **Any significant terms and conditions;**
 - LCCP SR code 5.1.7 (2) Licensees must abide by any relevant provision of the CAP or BCAP code, as the case may be, which relates to 'free bet', 'bonus' or similar offers and in that regard follow the CAP and BCAP 'Guidance on the rules for gambling advertisements'. In particular that:
 - Marketing communications (which include advertisements) must state significant limitations and qualifications. Qualifications may clarify but must not contradict the claims that they qualify.

The Commission's requirements do not currently include the remaining points required by special condition RG4 although the Gambling Industry Code for Socially Responsible Advertising does include some guidance on socially responsible messaging, the inclusion of www.gambleaware.co.uk in advertising and 18+ symbols in print and broadcast advertising. These are not, however, formal regulatory requirements. Elements of RG4 may be covered by other regulators such as the Advertising Standards Authority and the Information Commissioner's Office.

Q8 – Would a map of the digital payments regulatory landscape, setting out the intersecting remits and scope of different regulators, be of value? Please provide the rationale behind your answer.

A8: Yes. A map of the regulatory landscape would be of value with the main reason being identifying the overlapping regulatory responsibilities and therefore being able to either seek input from fellow regulators on specific issues, obtain general advice and gain a better understanding of the benefits of different regulatory approaches. In addition it may also prove useful in order to consider further areas where burdens could be reduced.

Q9 – Would a joint working group of regulators, to consider and provide a joint response to questions of regulatory overlap, be of value?

A9: Yes.

Q10 – Which regulators should we invite to take part in such a group, and why?

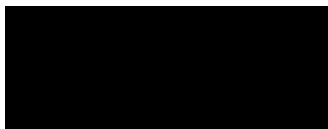
A10: We agree with the suggestions outlined in paragraph 2.46. The Gambling Commission would also be willing to be involved.

In summary, as the consultation sets out, there is some duplication of requirements for remote gambling in the regulatory approaches of the Commission and PhonepayPlus. Therefore if PhonepayPlus is seeking to remove the special conditions it should consider that RG1, 2 and 3 are

all included in full within the Commission's approach whereas the Commission's requirements do not cover the detail of the information required in promotional material.

If you have any questions regarding this response, please contact me by email or telephone.

Yours sincerely



Richard Bayliss
Senior Manager - Remote