

ImpulsePay Ltd
The Stables
Back St Georges Terrace
Newcastle
NE2 2HB

12th September 2016

Ref: Special Conditions for online competition and adult premium rate services

Dear Jonathan,

With regards to the above consultation, ImpulsePay would like to raise the following considerations.

1. We do not agree that additional responsibilities should be placed on level 1 providers to offer redress or inspect consumer complaints.

A level 1 provider typically has oversight of a small segment of a service and as such is unable to attain sufficient knowledge to make such a judgment call. Indeed complaints over complex services could take a long time to resolve, which may add to the consumer's dissatisfaction.

To address failings within the current eco-system, we believe your ambition should be higher. Mass-market payment systems typically have a vast online presence to aid consumer understanding, knowledge and investigation of charges and forms of redress, which to date the PRS industry does not.

Therefore, the ambition should be to establish a market leading online customer assistance service to handle the vast numbers of consumer using PRS, rather than simply passing the problem to level 1 providers or MNOs.

2. We do not agree special conditions are required for adult services.

During the monitoring period for adult services (FY201516), an RRT investigation was undertaken into Payforit Single Click, which ultimately led to an improved double opt in environment being implemented. This led to a very different experience for consumers, which resolved a lot of the issues raised.

Additionally, we note there is a long list of tribunals against adult/ glamor services for fraudulent and criminal practices. These complaints appear to significantly overlap the period in question and are of a sufficient magnitude to taint the monitoring period.

Due to these two reasons, we do not believe adult services have sufficiently accurate data to underpin the level of harm to move to special conditions.

3. We agree with the taxonomy of risk, however feel it is incomplete.

The categories used for the risk assessment appear to be well thought out and cover a sufficient range of options. However what is not apparent is the weighting given to each category to achieve a 'harm' rating.

For each section in the risk assessment matrix, a qualifying threshold should be given to underpin the decision-making.

For example, 3.3.1 outlines the average complaint in FY201516 was for charges of £42. This does not make reference to the overall number of service users (including complainants), which might mean complainants are 1% of the total users. Without benchmarking this against the overall number of users then the risk remains of using a small sample to extrapolate incorrect conclusions.

Additionally, this £42 figure should be compared against the average value that users satisfied with the service are prepared to pay. If this shows a higher figure, then it should be concluded the level of financial harm is not as indicated.

For the avoidance of doubt, ImpulsePay is an L1 provider and so we are unable to provide such benchmark figures. L2 competition & adult providers are best placed to provide this insight, should PPP request it.

4. We agree with the definition for competitions, but not for adult

We consider the definition given to competition services is sufficient. We do not feel the definition given to adult services meets the intention. For example, glamour services appear to be exempt, yet share many of the same characteristics of adult services.

5. We do not agree there is a problem with age verification technology.

However, if consumers do not know the technology exists then it won't get used. Therefore changes should reflect raising awareness instead of changing the technology used.

6. We do not believe the changes will reduce consumer harm

Analysing "complaint" data, there is a trend for consumers to ignore receipt, welcome and reminder messages, with a majority of respondents appearing to ignore repeated reminder messages, indicating a failure in the terminology used.

Phases such as 'FreeMSG' have lost their contextual meaning to consumers and mechanics like the STOP command have widespread distrust, following abuse.

To make significant improvements to the consumer experience the terminology should be overhauled and additional education messages considered.

Educating the consumer clearly and concisely about the service they are using allows them to make informed decisions on their continued participation. By resolving this confusion "complaint" numbers will decrease, as consumers understand the service and its intricacies.

7. We do not believe the special condition notices to be fair

The Craft report presents the Payforit regulatory interventions as the only suggestion and refers to re-designs of the Payforit screens. However, the appendices refer to 6 separate premium SMS promotions but offer no regulatory intervention suggestions.

This is of particular concern, as market research shows Premium SMS is now the prevalent mechanic for competitions and draws inaccurate conclusions that change to Payforit would address the problem areas of PSMS competitions.

8. We believe the draft special conditions can be further improved

The method of exit ONLC6 (a)(ii), ONLC6 (b)(ii), ONLA5 (a)(ii) & ONLA5 (b)(ii) require the consumer to use a free to use short code to opt out.

However Android devices, which represents over 50% of the smart phone market, will give the following spend warnings when a user attempts to send a text message to a free of charge short code:

“This may cause charges on this mobile account”

This clearly gives the impression the message is not free of charge. As Android has a significant market share, this is likely to undermine the intentions of the above special condition points and prevent people texting STOP.

Given PhonepayPlus’ strong relationship with Google, through which the Google Play App Store received special regulatory approvals, we believe PhonepayPlus should assert pressure to remove the spend warnings for free to use short codes.

This will ensure the effective implementation of this special condition and improve the overall user experience for free to use short codes.

This response may be republished as required.

Yours Sincerely,

Chris Newell
CEO
ImpulsePay