

# Statement following consultation on the Business Plan and Budget 2017/18

Issued on 21 March 2017

## **1. Consultation process**

- 1.1. Our draft Business Plan and Budget 2017/18 was put out for public consultation on 14 December 2016, with a deadline for comment of 27 January 2017.
- 1.2. We have received comment from two organisations:
  - Mobile UK;
  - Association for Interactive Media and Entertainment.
- 1.3. Our responses to each organisation are set out in part 3 below, and should be considered alongside the respective comment documents (published separately alongside this Statement).

## **2. Business Plan and Budget 2017/18 final version**

- 2.1. After due consideration of the comments received, we will leave our planned activity unchanged for 2017/18 (as set out in part 4 of the Business Plan and Budget 2017/18). In doing so, we note much of the comments submitted relate to the delivery of our planned activities, and not changes in the activities per se.
- 2.2. The final version of our Business Plan and Budget for 2017/18 is published alongside this Statement, and follows approval of our budget as £3,850k by Ofcom. It contains confirmation of the adjusted levy at 0.44% of outpayments for 2017/18, and incorporates changes in the funds available to offset the levy amount to be collected. The estimated size of the phone-paid services market (as measured by outpayments from network operators to their industry clients) remains unchanged.

## **3. PSA response to consultation comments**

### **3.1. Mobile UK**

- 3.1.1. Overall, we welcome the positive comments from Mobile UK and note in particular support for the current and planned work we are undertaking in the areas of monitoring, registration and data collection.
- 3.1.2. We also note the support for our efficiency savings, though would point out, as we did last year, that budget comparisons with 14 years ago are neither helpful nor valid. The services we regulate, the nature of our regulatory approach and the environment in which we operate has changed significantly in that period.
- 3.1.3. We are of course committed to minimising consumer harm at the earliest opportunity, and agree on the effectiveness of early intelligence sharing. We do not agree, however, that there is a failure of process - in the example presented by Mobile UK, our action (including detailed forensic monitoring) enabled the

app in question to be removed on 14 December 2016 and not in January 2017 as suggested.

- 3.1.4. We operate a Balanced Scorecard approach for our Board to assess the performance of our organisation, and have KPIs to help with that process. With regards to our investigatory and enforcement work, our focus is twofold: to ensure we have legally sound assessment, investigatory and enforcement procedures; and to have effective case management through the balance and volume of cases brought to tribunal. While we aim to avoid any undue delay in processing cases, speed is not the principal driver in our enforcement activity.
- 3.1.5. Our planned review of the implementation of Code 14 will include an analysis of the impact of withholding revenue earlier in the investigations process. We expect this to have a positive impact on fine collection rates, but point out that other factors outside of our control will continue to influence collection rates (e.g. Tribunals issuing a fine as a deterrent to the market, in the full knowledge that the company concerned has been liquidated).
- 3.1.6. As demonstrated by the 31% reduction set out in the draft Business Plan and Budget, we continue to remain mindful of the level of the levy to Mobile UK members.

## 3.2. Association for Interactive Media and Entertainment (AIME)

- 3.2.1. We welcome the broad support for the proposed business plan and budget, particularly around: our planned review of Code 14; further exploring ADR options; developing a regulatory map; and the proposed levy reduction.
- 3.2.2. We note the view on the estimated size of the market, but believe the rationale given for the suggested reductions applies not to the whole market but rather only the 10% of the market accounted for by online competition and adult services.
- 3.2.3. We would reassure AIME that all responses to any consultation exercise we undertake are fully considered, irrespective of how they are made in relation to the question structure. In particular, the Statement published by the PSA on 30 November addressed points raised by the industry, including by AIME, in detail and amendments were made to the original draft of the Special conditions as a result. However, weighing all the evidence available to us, we have in various places taken a different view to the industry, most notably in the need to apply Special conditions to service types as opposed to individual service providers, the latter approach being incompatible with the Code of Practice.
- 3.2.4. As set out in the Business Plan, we will review the effectiveness of the implementation of the new Special conditions for online competition and online adult services. This review will include consideration of how these special

conditions relate to the provision of well-designed and well-controlled services aimed at meeting consumer demand.

- 3.2.5. We disagree with AIME's characterisation of the consumer research commissioned in 2016 and note that in some of their communications with the PSA, AIME has selectively referenced aspects of the research and its conclusions. With the ongoing aim to better understand how harm happens and can be prevented, we will continue to build our knowledge with further research into consumer behaviour and experiences, including the current research being conducted into handling of consumer complaints.
- 3.2.6. We are disappointed in the assertion that there has been a recent deterioration in the clarity of communications from PSA to industry, and welcome the opportunity to understand the extent of this feedback. It is at odds with opinions expressed by others at the Industry Liaison Panel, our Autumn Forum and in numerous individual meetings with industry members. All of our communications are fully considered for their accuracy and comprehensiveness, and we have been happy to make amendments as a result of responses from the industry, including AIME, where further clarity was requested and seen as helpful. However, the specific assertion that it could be inferred from a recent PSA consultation that 15 year olds could access adult content is wholly inaccurate – the reference being to measures to be put in place to prevent under-age consumers from accessing age-restricted content.
- 3.2.7. We continue to review the sanctions regime available to us, including post-adjudicatory courses of action, and with particular attention to its effectiveness in deterring non-compliant behaviour.