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Consultation

PhonepayPlus Business Plan & Budget 2015/16

Submission by
Association for Interactive Media and Entertainment
(AIME)

AIME (www.aimelink.org)

AIME is the UK based trade organisation representing the commercial interests of member companies involved in the interactive media and entertainment Industry - where consumers interact or engage with services across converged media platforms, and pay for those services or content using a variety of micropayment technologies including premium rate services.

We uphold our Code of Ethics and Core Values to create an environment of consumer trust and industry confidence within which our members' commerce can grow. We are committed to furthering the interests of Interactive Media and Entertainment through the regular exchange of information and communication throughout the value chain, effective engagement with regulators and legislators and the presentation of a successful industry image to consumer and business media.

We are the only UK trade association with membership across all elements of the interactive media and entertainment value chain, which is generally supported by Premium Rate Service (PRS) billing facilities. Our membership represents in excess of 80% of annual industry PRS revenues.

AIME 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 are perfectly placed to exercise their freedom of choice and thereby enjoy the most effective form of consumer protection.

Member Input

AIME welcomes the opportunity to respond to PhonepayPlus Consultation on its budget proposals for the financial year 2015/16.

To assist AIME in providing a comprehensive input to PhonepayPlus, AIME researched its Members in the following manner;

- Written input from Members
- One-to-one discussions

AIME Members who operate in the PRS markets are broadly split into four categories although there is some overlap inside individual Member businesses.

- Fixed Line Networks, Fixed line L1 and L2 providers
- Broadcasters
- Charities and Charity enablers
- Mobile Networks, Mobile L1 and L2 providers
- Support companies

AIME sought responses from Members from all of the represented PRS industries, but traditionally we experience a low response for a budget consultation due to the levy effect normally being applied to the originating networks.

Some of AIMEs larger Members may input their response directly to PhonopayPlus through their regulatory staff or regulatory representatives. Where possible, we ensure that views of members through separate responses are in synergy.

As our response is guided and supported by Members input, some views that may be expressed are not necessarily those of the AIME Executive or AIME Board.

General

AIME recognises the significant changes that are underway inside the structure and operation of PhonepayPlus to cater for an increasingly complex technological environment, an increased propensity for consumers to complain about charges to their phone bills, high penetration and usage of smartphones and the small screen internet and a dramatic upsurge in low level fraud aimed at digital marketers that also creates consumer harm.

AIMEs role is to ensure that an effective and efficient regulator is in place to allow our members (who have signed up to a code of ethics) to operate in an orderly and level market with business confidence and surety. AIME also supports an operational and regulatory environment that supports and stimulates market growth and allows the introduction of new and innovative consumer products. Confidence in using premium rate as an alternative payment mechanism to other micropayments in the digital arena where affiliate marketing was the primary advertising model collapsed in 2013 and is slowly recovering through a different approach, greater industry engagement and collaboration.

We look to the regulator to keep bad practices by a minority of companies and individuals out of the UK, thus avoiding consumer harm and the negative press that ensues.

To foster industry growth, both businesses and consumers must be confident in this unique payment mechanism. It is reassuring to see that AIMEs engagement and collaboration with PhonepayPlus, plus structural changes are creating the opportunities for renewed confidence and the building of trust. We look forward to this trend continuing.

In 2014, AIMEs response to the budget consultation reflected industry unease with budgeted expenditure that remained broadly consistent while overall industry revenues were in decline representing a funding levy increase. This unease centred on costs that were not in control and the drivers of the increasing costs not being completely understood or managed. In the consultation document for this 2015/16 budget, PhonepayPlus has sought to reassure industry that it is addressing AIMEs concerns and is focussing on cost drivers in collaboration with AIME and its Members.

However, the budget remains at the same level as previous year, representing a levy increase and this is unsustainable in the long term. Other companies re-align their spending to reflect economic circumstances and regulatory agencies should also adopt similar commercial practices by cutting out low priority cost items and realigning its workforce and external costs to improve value for money.

AIMEs response for this budget year is again to focus on the drivers of costs and to encourage PhonepayPlus to review its operational structure, the cost of its engagement with certain sectors of industry, the cost of manual consumer support measured against its remit and the legal support costs.

A hard-hitting review in this financial year will act as an investment for a regulatory structure that should require fewer people to operate effectively and reduction in operational overheads.

In 2016/17, the investment should enable a budget that is proportionate with industry revenues at no more than 0.5% of revenue payments.

AIMEs detailed areas for review are as follows;

Consumer Support: Consumer contacts to PhonepayPlus continue to rise (24%) and PhonepayPlus should place investment decisions in improved techniques to handle consumers. Internet “chatter” cites PhonepayPlus as the body to get you refunds “only if you complain” and this myth needs to be countered with a firm statement to consumers of the role that PhonepayPlus is there to perform. Automated systems to deal with the 50% “out of remit” calls should be investigated, complaint resolution which is not in PhonepayPlus remit (as opposed to investigation of service models and individual corporate practice) should be a chargeable activity and consumer self-help facilities should take precedent over manual help. Indeed, there may be scope for PPP to outsource complaint resolution entirely so as to focus better on its remit, investigation and enforcement. We support the mission of “Helping consumers to avoid potential risks and to obtain redress when harm is suffered”, but further work is also required to avoid the cost of frivolous and vexatious consumer contacts, and to avoid misleading consumers into thinking that PhonepayPlus will resolve their individual complaint when in reality PhonepayPlus looks at clusters of complaints and does not consider individual circumstances

While we support the ability for a consumer to complain about charges on their communications bill that were not authorised or were greater than expected, we believe that a large number of complaints are from consumers that have knowingly used PRS or have ignored the pricing information contained in promotions and service text messages and are being misled to believe that PPP can organise a refund. Mechanisms and policy changes need to be put into place to ensure that less resource is needed to cover this area.

Automation, consumer self-help and advising consumers of the correct course of action are vital tools to stem the increasing calls and costs. Indeed, outsourcing complaint resolution may be appropriate.

It is understood that 50% of calls to PhonepayPlus are from one fixed line companies’ consumers querying their normal (non PRS) telecoms bill due to misleading information printed on the bill about where to go for support. By addressing call driver issues with the companies concerned, a large number of calls could be avoided providing relevant savings of at least £50k per 10% reduction.

AIMELINK recommends that a Customer Services operation and policy consultant is recruited who can advise on policy and procedural changes to review how consumer support is provided with a view to reducing costs.

Consumer support is primarily the responsibility of the Merchant first, with the billing agent second and PhonepayPlus as the final resort. PhonepayPlus remit is to investigate service models and individual corporate practice, not individual complaints, whereas a majority of consumers are just seeking a quick resolution. Complaint or dispute resolution is a chargeable activity that can be carried by an independent body, the activity and cost of which would fit with a polluter pays principle and will also direct consumers towards effective self help first.

Legal Costs: AIME notes that PhonepayPlus is reviewing the increases in legal costs (this year's budget is up 35.3% on last year) and would recommend at the least, a tender on the current external legal support company as it appears to be lacking in effectiveness and in providing relevant advice to PhonepayPlus and also, has been in place for three years, encouraging complacency. Indeed, PhonepayPlus might wish to have a list of approved law firms so as to avoid the perception that objectivity may be suffering. AIME appreciates a natural reluctance to bring a new legal company(ies) up to speed, but industry money should not be wasted on ineffective services, that may actually be increasing underlying costs, or on a legal approach that may be encouraging litigation.

AIME is encouraged by a commitment to review the investigations process, both the information that is provided to the CCP and the robustness of the challenge that the CCP will place on the executive to provide accurate and non-emotive facts for each case. We also understand that more time is being spent with providers to drive compliance rather than adjudicating on non compliance. We firmly believe that the revision of policies and practices and the consideration of the human and legal rights of providers will reduce the need for litigation and oral proceedings and thus reduce costs. AIME is committed to support PhonepayPlus to fulfilling these transitions, even if this requires a radical review of current practices

Changes to the enforcement processes could have an effect on fine revenues that will then affect the levy in the following year. It will be a welcome change to enable industry confidence to be restored and investment to proceed, but other mechanisms of ensuring that the polluter pays principle are upheld can be brought in to offset the consumer support costs.

Investigations & Enforcement; PhonepayPlus has proposed £1.34m of its budget on Investigations and Enforcement. While AIME understands that the PRS market is more complex, we believe cost reductions can be achieved by pooling resources with monitoring companies working under contract to MNOs. The priority for investigations is to target the services that appear to be causing consumer harm and to pre-empt harm such as malware using external specialists. AIME and its Members would be happy to work alongside PhonepayPlus to identify cost reductions in this area.

Complaint Resolution: The cost of complaint resolution increases by 33% to £390k which equates roughly to £195 per complaint. While we note that the increased cost is due to changes to procedures that reduces legal and investigatory cost drivers, we believe that complaints should be resolved by the providers that sold their service as a primary criterion before PhonepayPlus takes the consumer complaint any further than just logging.

This is the procedure adopted by credit card issuers and appears to work effectively. New Consumer Contracts Regulations bolster consumer rights and places burden of proof on the merchants (without which refunds are mandatory). Although this area does not constitute a significant part of the budget (<10%), it is an area that drives other costs and therefore needs focus. AIME can detail the recommended process changes further with PPP if required.

Earnings Capability; PhonepayPlus income is derived from levy with fine revenue offsetting the levy percentage. Several activities that are currently financed by PhonepayPlus and thus by the PRS industry are avoidable or can generate income. Consultative services, compliance advice etc are areas that PhonepayPlus should examine to reduce the cost burden.

Registration Scheme; We welcome the objective to review the operational costs of the registration database and make savings using modern hosting techniques, but the current staff costs, premises and overheads appear to be excessive for the function of the database. PhonepayPlus will struggle to fund these cost items from the current fees if the quantity of market entrants decline. A serious review of these costs has to be undertaken in 2015.

PhonepayPlus Questions

As an observation on the questions that are being asked as part of this consultation, questions 1 to 4 do not have a direct link to the consultation purpose and your own observations on trends. Market input is adequately covered by the current phase of research.

In a consultation request, we would expect directly related questions if you wish for meaningful responses to the consultation.

Our narrative above this line is more suitable for a consultation on 2015/16 Budget than our answers to Q1 to Q4.

As a result, we formally request that all of AIMEs response is considered and used in the aggregation of consultation responses.

Q1. What information or evidence do you have about market trends and about the overall size of the phone-paid services market in 2015/16?

AIME believes that the NGCS changes will create greater transparency for consumers and will stimulate growth in new voice based services that were not economically viable previously due to the restrictions on the maximum per minute and call pricing. The revenue growth curve will occur over 2016/17

Changes to the PSD exemption wording as a result of the combined efforts of AIME, PhonepayPlus and MBG will underpin the current PRS industries if the wording is ratified by the EU Parliament. New opportunities for digitally “ticketed” consumer goods that were previously avoided due to ambiguities will occur and create growth. AIME will be pressing UK Treasury for permission to use this new growth area ahead of PSD2 passage into UK law.

However, PRS has lost its dominance as a convenient payment mechanism and suffers from competition in other micropayment areas. It is vital for growth of PRS as a viable payment mechanism for digital content and services that a regulatory regime exists that does not disadvantage PRS, that negative PR is avoided and that complex rules and subjective interpretation of rules are also avoided.

PhonepayPlus should benchmark itself for regulatory application against the combined application of regulation by FCA, ASA, Trading Standards and OIC as these are regulatory areas that surround products sold via other payment mechanisms.

Q2. What information or evidence do you have about any specific segments or content areas and their potential for real growth or decline over 2015/16?

AIME believes that growth will occur in Direct Operator Billing through the use of App stores provided by Google, Windows etc for monetisation of Apps and in-App charges, growth through digital publishing to enable consumers to opt to avoid the bombardment of

advertising when consuming content, high value voice services such as professional advice broadcast interactivity and charitable donations, competitions and lotteries.

We anticipate a further decline in DQ services due to the competitive nature of free search engines and location aware apps.

Q3. What information or evidence do you have as to the types and overall volume of services which are likely to operate at higher price points and the most popular higher price points so far requested as a result of Ofcom's NGCS review?

This is too early to predict with surety. The industry that could have used the higher price points if they had been available in line with RPI since the £1.50 cap was imposed on BT 14 years ago would be mature now. This industry has developed using other monetisation forms, that are only capped by consumer choice and it will be difficult to persuade this industry to now examine PRS particularly with its additional complexities and risks. Anticipated growth will initially be on competitions, advice and entertainment services.

Q4. How do you see the phone-paid services market developing in 2015/16?

AIME has always avoided the use of the "phone-paid" term as it is outdated and open to misinterpretation that could cover more payment facilities than the 2003 Communications Act permits.

The PRS market could develop if several constraining factors were removed. This includes areas outside of regulation such as competitive market rates, fragmentation, consumer journey etc, but also includes the regulatory application, where the business risk of using one payment mechanism is no greater than any other if you comply with the rules as written. A considerable amount of work is required to create this level of confidence and AIME is committed to work with PhonepayPlus to promote business confidence.

Q5. What comments do you have on the priorities for 2015/16? Are there other projects or issues that you think PhonepayPlus should consider for the coming year?

Developing strategies for future cost reduction in line with practices deployed by commercial entities is critical for this financial year to enable a leaner organisation for future years. The increased levy from 0.45% to 0.65% was calculated prior to the outcome of the Judicial Review which we believe will affect reserves (unless this trial was insurance backed). The potential levy could be nearer 1% representing a 100% increase in costs to industry.

Review of all cost areas and developing opportunities to create additional income must be a priority.

Q6. Do you support our proposed resource allocation for 2015/16, having regard to the activities and strategy that drives the changes? If not, please explain why.

Please refer to our comments in “General” section above.

We do not entirely agree with the resource allocation for the reasons that have been detailed above in the section marked “General” as they are disproportionate for the ultimate objectives.

Dispute resolution would be better handled by an “ombudsman” type entity that would encourage consumers to go through appropriate steps for their dispute first and can pass back to PhonepayPlus trends and irresolvable complaints. This could remove approx £1m of costs.

The excessive registration scheme costs have to be resolved within a year.

Other cost areas such as PhoneBrain should be reviewed for effectiveness as the increased “savvy” passed to young consumers may not be having an effect on complaints from young people or their parents.

Q7. Do you agree with our approach to the charging model, during 2015/16? If not, please explain why.

In relation to the Registration Scheme system, AIME supports the charging model and would like to see a continuation of the zero cost for new market entrants and charities although a small fee could be levied without harm.

AIME cannot understand the costs to support the Registration Scheme system in particular staff, premises and overheads. The overhead for Registration Scheme is one third of the overhead for the entire regulator and for a mainly automated system, whose output must be duplicated by each market participant anyway so as to be DDRC compliant. It is unclear why the Registration Scheme requires £100k of staff to look after it.

Conclusion

As detailed in our section “General” above, AIME has a concern over the long term cost of regulation in this evolving market but will work with PhonepayPlus to investigate areas that may require procedural or policy changes to effect long term cost reductions or create new funding potential from saleable activities. AIME re-iterates the need to review consumer support and to take complaint resolution into another body and has identified a £1m saving opportunity.

Our concern regarding the cost impact of the Judicial Review will need to be covered.

AIMEs primary driver is to ensure that the premium rate industry builds confidence in order to grow new markets in particular with higher rate calling and that innovators are allowed to flourish. This will create the revenues that will in turn fund the levy.

Statement of Representation

AIME confirms that this response has been compiled following a process of internal discussion and opportunities for members to participate. A list of members can be found at <http://www.aimelink.com/home/members.aspx>

The views expressed in this response are a fair representation of the majority views held by the AIME membership. Individual members are actively encouraged to submit their own independent views as they deem fit and at their sole discretion.

Close

We assure you that, as ever, our comments are made constructively and with the intent of achieving an effective, fair and proportional regulatory regime for Premium Interactive Media and Entertainment services in the UK.

If any clarification to our response is required or if we can be of any further assistance please contact AIME office via info@aimelink.org

Sincerely

AIME