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Dear Alex

I am responding to the PhonepayPlus call for views on possible extension of regulatory remit to cover all 08XX services with a revenue sharing element. The consultation document is commendably brief and my thoughts follow this principle.

I see logic but marginal consumer benefit in transferring compliance responsibility to PhonepayPlus if it does not come with the power properly to deal with the variations and mark-ups applied by networks to calls to non-geographic numbers.

Instead of piecemeal re-allocation of responsibility for elements of pricing clarity at the service provider level Ofcom should be looking at the fundamental implications of a situation in which the vast majority of public, voluntary and commercial phone-based services are on non-geographic numbers. This sits alongside a general belief that competition exists "in mobile" and that this belief seemingly prohibits Ofcom from addressing the fact that every mobile network applies up to 300% or 400% mark-ups on what the public still think of as free-phone and local, national, Directory Enquiry and premium rate calls.

The mark-ups bear no relationship to cost or risk – they seem simply to reflect what carriers think can be achieved. This is understandable from the perspective of carriers who will say they are feeling the pinch of EC and national regulatory intervention. But it does not sit at all well with the fact that mobile is seen increasing as the primary/sole source of telecommunication and the charges end up being levied for every call from every customer using any service on any of the Ofcom non-geographic ranges mentioned.

Does the PPP regime seem appropriate to low charge 08xx service?

There is an argument that content/value-add services have common characteristics and should be managed within a single framework. The framework clearly needs to demonstrate proportionality. PPP has experience of applying general rules and principles in a proportionate way.

There is an issue with 08XX services over the extent to which regulation should apply beyond issues of call cost and call-handling. Calls across 08xx ranges have a revenue-sharing element and this is clearly a conscious decision by the party involved. But the revenue – while valued and occasionally significant in aggregate is not the

reason the service exists. The substantive content/value lies on the information provided, the enquiry or complaint processed or the transaction managed during the call. These and other services are covered by a multiplicity of protective arrangements and relevant statutes. I think it would be wrong for PPP to assume responsibility for the substantive service/sale/activity provided in or as a result of a call simply because the called party had an arrangement with their telecoms provider to share one or two pence per call - or even less! I believe this was recognised and addressed in a proportionate way with services using 0871 numbers.

My greater concern is over the extent to which a transfer of responsibility will actually deliver arrangements in which the cost of these calls will be transparent to the caller.

There have been issues for a decade now over the varying mark-ups mobile and other landline networks apply to 08XX and 09 "premium" calls. These charges can turn a supposedly free five minute 0800 call into one that costs several pounds and can double or triple the cost of a directory enquiry call or calls to 09 numbers. The consumer impact increases with longer duration calls.

There is no objective justification for the level of mark-ups applied by networks. These are decisions taken by mobile and other carriers who operate under Ofcom jurisdiction. PhonepayPlus has very little authority over carriers generally, and less still in relation to pricing decisions made by carriers for "connectivity".

Content/Service providers can do nothing at present but recite standard and arguably meaningless messages to the effect that "calls from non BT networks may vary". These offer service providers a "get out of jail" card with PPP in terms of pricing clarity – as long as the base PRS cost is given clearly. But this does next to nothing to clarify the potential call costs at the point when this information is meaningful – before a call is made and cost incurred.

The consultation document refers to Ofcom thinking on "unbundling" call connection and call content. I am not clear whether this deals with inter-connect scenarios and whether it allows for information on cost at the time of the call - or offers the prospect of more information in a bill after the event. The latter is hardly progress if only a minority of mobile users are on contract and in receipt of detailed bills. And even a contract no longer, of course, assures a mailed bill. Increasingly networks notify monthly charges and make direct debits while consumers have to go online if they want any actual itemisation.

If the substantive issue of extreme network marks-up unrelated to cost of carriage is not being addressed in this exercise then I fear the change will do very little at all to bring real clarity to call costs. It would look like little more than shifting the deck-chairs for regulatory convenience.

The risk of stigmatising low tariff services as "premium rate"

While I am not convinced there is a case for change without real action on network charges as the actual "elephant in the room" I think a shift to bring all revenue-share services under one regime might further dilute the out-dated preconceptions over "PRS". It is unfortunate that efforts to move to reference to phone-paid services are of legal necessity accompanied by consultations and revisions to Ofcom designations that by law refer back to PRS and Controlled PRS.

The parallel Ofcom and PPP consultation process

Whilst I and others appreciate the opportunity to comment I am confused as to the need for separate consultations by Ofcom and PhonepayPlus. Ofcom has sole responsibility for decisions related to the use of number ranges and for the terms of the PRS Condition defining the services to be regulated by PhonepayPlus. Ofcom has previously made clear its responsibility for PRS policy and the PhonepayPlus responsibility for [day to day] delivery.

The Ofcom consultation on simplifying non-geographic numbering dates back to December 2010. It was not specific as to precise proposed changes in the PRS Condition. It seems certain, therefore, that a further Ofcom consultation would be required before any change could be made to the Condition amending the scope of Controlled PRS. If this is correct it is hard to see that there is particular value in a separate one-month consultation by PPP if the process does little more than collate responses that will go to Ofcom only to be followed by an Ofcom consultation inviting views on the very same issue. The issues of governance and policy making between Ofcom and PPP have evolved over the years but this kind of apparent duplication and/or hold-ups as sequential activity takes place seems to impose costs and delay that is avoidable.

I offer these thoughts in a personal capacity.

Regards

George M Kidd

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