



Premium Rate Association response to

2010/11 Annual Plan and Budget:

A PhonepayPlus Consultation

The Premium Rate Association welcomes this opportunity to respond to your Business Plan and Budget 2010/2011 a PhonepayPlus Consultation, although we note that the better regulation task force do state that, rather than the 4 weeks you have allowed us to respond, there should be a minimum of 12 weeks. Certainly in light of Christmas this seems both unreasonable and unfeistic. Ofcom seems more receptive in their engagement re the PTV response for the same date.

As a membership driven trade association representing commercial businesses operating within the Premium Rate telephony sector we are starkly aware that effective regulation is intrinsically linked to the good levels of consumer trust and in turn a buoyant industry.

As a general note it seems strange to us that you mention the industry is to decrease by 8% but your budget only by 3%. On another note at our meeting of the 16th December 2009 you confirmed that still only 74% of fines are being collected, surely it would benefit industry if fines that are imposed are collected.

It also seems out of kilter that any industry worth £1.2 billion had a regulator costing the industry “just” £2.2million and now an industry you suggest is worth £900 million in your own budget prediction needs £4.2 million as a budget, rent will cost £500,000 for 7,000 square feet; whilst we as an association appreciate that people are intrinsic to any organisation we are happy to offer to you several well known property agents who will find you accommodation at a location well placed for your staff but at a vastly reduced cost.

However any commercial business with sound commercial advisors, we note yours are Grant Thornton's, would suggest the purchase of a property and then the industry would have some tangible assets to sell if, as you mention in your document, you need a contingency fund in case you don't exist - why not use the £2million to buy a building and therefore lower the industry overhead.

As an association we would like to question where in the Communications Act or in the Ofcom scope review it sanctions you to spend £750,000 worth of Service Providers money on educating their consumers. Ofcom has a budget to do this and it is not strictly in your remit nor sanctioned by your members.

As asked at our meeting of the 16th December 2009 why did you spend £100,000 of the SP's money on doing Phone brain research then state you cannot publish the results because they were children who were involved? As a regulator you need to remember who pays you.

However we note and encourage the ongoing development of working relationships with other regulatory bodies in the hope that regulation and responsibilities will be clear and regulation will not be over burdening.

We are well aware that the cost of regulation is not based on market size alone, but we must stress that PPP must be very aware in their actions and budgetary demands on diligent companies. With this in mind we are keen to encourage best value regulation which includes seeking cost savings for compliant businesses wherever possible and, therefore, fully support the "polluter pays" environment described. We currently have an industry which has suffered a massive reduction in revenues and a reported drop in consumer complaints and believe that the regulator must take these factors into consideration when setting its final budget figure.

We do also recognise that this year there will be a concentration on making sure that the 12th Code of Practice is fully discussed and shaped with the industry. Although we do note that the budget document contains a significantly changed mission statement, putting the emphasis on consumer protection, rather than Industry regulation, and would register we are concerned that your remit is beginning to creep.

Q1. PhonepayPlus will be developing a new Three-Year Strategic Plan in 2010. Do you think our purpose and role as set out above still describes the priorities for regulation in the phone-paid services sector? If not, how do you think this should develop?

We welcome a strategic plan and hope that this will mean involvement with the industry to establish the exact role and remit that PPP should fulfil to benefit all involved parties. We would however question whether it is PPP's job to educate consumer we would urge PPP to work with the providers of the service to ensure that consumers seek and get resolution from those that have provided the goods to the purchaser.

Q2. What information or evidence do you have about market trends and about the overall size of the phone-paid service market in 2009/10?

We would agree with PPP that there is a market decline due to economic pressure, and ask PPP to therefore reduce their budgetary requirement in line with this decline.

Q3. What information or evidence do you have about any specific segments or content areas and their potential for real growth or decline over 2009/10?

Increase in mobile sectors, mobile applications and software along with other payment methods seem to be the future.

Q4. How do you see the phone-paid services market developing in 2010/11?

The phone paid for market will develop as it always does with new delivery methods but with similar content and with enhanced flexibility of access to the consumer. It will be important that PPP works with the industry to allow cross integration of delivery.

Q5. What comments do you have on the priorities for 2010/11? Are there other projects or issues that you think PhonepayPlus should consider for the coming year?

We would ask for some form of clarity of the cost implications for the registration scheme and a clearly defined plan of how this will be managed and implemented. There has always been a requirement in the Code for service providers to register, to-date, there has been no significant enforcement of this. You say it will be self financing and then say there will be a annual fee. We do not think at this point there are any other “projects” that merit spending more money.

Q6. Do you agree that PhonepayPlus should increase consumers’ PRS literacy, in so far as it builds an appropriate level of trust in the market?

As mentioned before if the industry’s money is to be spent on work with consumers such as Phonebrain then at the very least the industry should be able to benefit from such work. In your communication re mobile phones some of your language was negative and would not encourage the use of premium rate services

“Be Aware

Talk to your children about how they’re using their phone. Kids love having the latest ringtones and games on their phone but, if they’re not phone-aware, it’s easy for them to sign up for a phone-paid services like this without realising that they might get charged on a regular rather than a one-off basis. This could mean you find yourself with an unexpectedly large bill or, if your child is on pay-as-you-go, they could use up all of their credit without realising.”

This does not seem to tally with your claim that you will not promote “fear and concern among consumers” - surely the industry must be involved in such communications.

Q7. How should PRS literacy work be funded, through the industry levy or through a new fine sanction imposed for breaching the PhonepayPlus Code of Practice?

We believe that all of PPP's work should be funded from the levy you collect on behalf the SP's via the network operators. We would question the legality of trying to impose yet another fine even for those that you have found guilty of a breach. PPP has always stated that fines are not raised with a view to directly off-setting the budget – this proposal would seem to go against that principle.

Whilst we welcome the notion of the PRS communication Advisory Group because of the involvement of industry is that not what part of the ILP role is?

Q8. What is an appropriate initial level of funding for our PRS literacy programme? As an indicator, the PhoneBrain initiative described below in the region of £100,000 as a single campaign.

Again would question your involvement in educating the consumer and would say if such activity is to happen that this should be raised and cleared at the ILP. To not be able to publish the findings of such activity is a blatant disregard of the funding you receive from industry to protect their interests.

Q9. What areas should PhonepayPlus focus its core research programme in the coming year? Do you have knowledge of any industry research initiatives in these areas that we could leverage?

We support the gathering of public market intelligence and the working and involvement of consumer agencies such as Which?, but surely your intelligence will increase through dialogue with the industry and those that actively engaged with consumers on a day to day basis. We question the level of spending and focus and emphasis being placed on work in consumer education. This is not to say that we do not believe that you have a role to play in such activity, it is the level that we believe should be discussed and set with industry support and agreement.

Q10. Do you support our proposed budget changes for 2010/11 having regard to the activity and strategy that drives the changes? If not, please explain why.

The areas that we question expenditure in are the cost of your premises, at £412,191, the cost of your website at £82,000. We have previously mentioned in other responses that at some point it may be worth the industry calling for an external auditor to look at the budgets as set. As your overheads are high, a more detailed breakdown of how many staff and their wages along with the clarity as to your tendering process for your printing and other supplying companies may allow the industry to help reduce such costs.

Q11. Do you have any comments as any other risks that PhonepayPlus might face that are not identified above as part of the business plan design?

The main risk for PPP is that it does not focus on its core activity which is to work with industry to establish a fit regulation model along with a workable code. PPP need to work with and be clear with the industry, the recent publication of the virtual chat advice note which seems not to have been consulted on and resulted from an adjudication appears to be a knee jerk reaction which ends up affecting good compliant businesses and does not stop those that are actually polluting the industry.

Conclusion

When looking at the split of regulatory activity our main and recurrent comment is that PPP should always strive to offer, effective, proportionate and best value regulation and must keep costs firmly confined within their scope of regulation and remit and must not be drawn into other arenas of regulation.

The PRA believes that the year ahead is bound to raise new regulatory issues and understands that research focussed on both industry and the consumer is necessary to pre-empt problems but hopes that all research is carried out in the most cost effective manner and is always targeted at improving regulatory activities rather than being general in its approach.

We are keen to see work commence on the 12th Code of Practice and will certainly be eager to add comment and information to the development of the new document both through consultation and direct input through interaction with the ILP.

Echoing our comments above we are very happy to see a collaborative approach to regulation which will explore the potential of working with the ILP and industry and are pleased to note the commitment to share information with stakeholders.

Outsourcing can deliver a business with immediate, skill specific and expert resource to cater for most eventualities and therefore setting aside funds for these services is a must but we would have certainly expected to find cost savings in staff cost as a result. This has not happened.

In regard of “depreciation” it would be useful to know what is being depreciated we understood in last year’s accounts this was for a telephone system.

On a related note, a common question regarding premises cost is whether PPP would not be better positioned away from Central London to provide better value regulation. We again note your point re staff but many businesses relocate for cost saving reasons and their staff move with them; in terms of a PPP relocation this could be on the outskirts of London.

In summing up our response, the main comments revolve around whether an increased budget is required or suitable when considering current market and consumer complaint conditions.

We also must make it clear that this year's budget document is vague in its description of the financial requirements listed consequently it makes it very hard to make constructive comments, it would also be of benefit when repeating this exercise to make the previous periods accounts available for comparison. This point was reiterated on presenting this budget document to a chartered accountant who was amazed that a budget of this size could be authorised on the back of a proposal with such a lack of financial information and justification.

We are aware that PPP do not need "sign off" regarding the budget proposal from any party other than Ofcom but hope that PPP still see the value in public consultation and the positive results that can be achieved from undertaking such an activity. This can only be realised if the consultation documentation is clear and fully descriptive in its reasoning.

As ever, should PPP require further comment we will always make ourselves available.

For, and on behalf of the members of the Premium Rate Association.