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Consultation

Proposed

PhonepayPlus (PPP) Business Plan and Budget 2009/10

AIME Submission

AIME (www.aimelink.org)

AIME is a UK based not for profit trade association that promotes excellence in the Interactive Media and Entertainment industry.

We uphold our Code of Ethics and 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 media.

We are the only trade association with membership across all elements of the Interactive Media and Entertainment value chain.

We welcome the opportunity to respond constructively to this Consultation on PPP proposals for Business Plan and Budget for 2009-2010.

AIME promotes 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.

General

AIME and PPP agree that interactive media services are continuing to suffer from a three year decline in market size and consequent revenues and that 2009-10 offers little or no prospect for improvement. While market size does not necessarily define regulatory requirement our members would have preferred to see a planned reduction in regulatory spend to reflect difficult market conditions, reduced revenues and reduced complaint levels since mid 2008. We take the

view that PPP would benefit from a critical examination of its costs base and AIME would be happy to assist PPP in this regard. As an example we believe improvements to the Number Checker facility could significantly reduce calls to the PPP call centre with resultant cost savings.

AIME is pleased to see references to productivity improvements although these could perhaps have been quantified more fully and we also note acceptance that PPP are incurring costs on activities which are actually beyond their core remit. A previous budget proposal estimated only 30% of expenditure as being appropriate to actually addressing the remit and it would be useful to have an update on this. AIME believes that there is an important role for PPP to play in areas like consumer education and industry research for example, but in close association with industry. We are pleased to see PPP working with ILP to explore opportunities to make cost savings by better utilising the resource that industry offers.

We have previously raised the issue of industry confusion regarding the PRS regulatory environment including the remit of PPP and overlap with other regulatory bodies concerning, for example, advertising and finance. These are issues with considerable cost implications that AIME would like to see addressed and resolved by Ofcom. AIME understands and appreciates that PPP are aware of this problem and are liaising with other regulatory bodies. It is also likely that it will be addressed in the Ofcom Scope Review.

AIME was pleased to see publication of the Framework Agreement which clarified PPP accountability to Ofcom for its performance within its allocated role. We look forward to an expansion of useful Key Performance Indicators along the lines of “cost per case investigated” and “cost per call handled” as mentioned in the proposal.

We note the figure of 56,000 calls from members of the public (April to November) to the PPP call centre although it is not clear what the content of or reason for these calls actually was. Previous PPP information suggested that less than 5% of calls translate into complaints and that the vast majority relate to requests for information which could and should have been handled by Telcos. The quoted figure of 16,000 complaints (95% mobile) requires closer examination as there is a likelihood that the majority of complaints actually involved one problem relating to subscription services. Clearly, the number of “complaints” should not necessarily translate into increased workload for PPP and need not be cause for an increase in Budget. Currently the term complaint is a “catchall” and perhaps it would be useful to have a clear definition of what actually constitutes a complaint and consolidate by category and also grade according to potential consumer harm. AIME would be pleased to work with PPP on this.

It is important to understand and appreciate the extent to which industry came together during 2008 and addressed and resolved many of its own problems regarding Interactive Broadcast Services, largely through the Interactive Broadcast Forum organised and managed by AIME. Through this Forum, to which Ofcom and PPP have an open invitation, we have heightened the awareness of the benefits of compliance and triggered considerable investment in this regard. The value chain is well placed to continue this development and avoid mistakes of the past through cross industry co-operation and without undue regulatory attention.

The Industry Liaison Panel (ILP) is an industry initiative which, while now successfully established, has yet to fulfil its true potential as a vehicle of co-operation between industry and PPP and we sincerely hope to see PPP make more use of its experience and expertise during 2009.

Purpose and Role

AIME would like to see industry input to PPP Vision and Mission statements to avoid any misunderstanding of a future role for PPP. AIME firmly believes in the importance of Industry/Regulatory co-operation going forward but it is essential to achieve industry “buy-in” to

the purpose and role of PPP. If we may comment constructively on extracts from the current statements;

“To deliver consumer protection”

AIME believes in and supports the need for consumer protection but this is not, so far as we are aware, a specific mandate separate from the protection implied from a properly applied Code of Practice. Such a departure from the currently understood remit would certainly have required industry consultation since it has considerable cost implications and would ideally require close industry co-operation. AIME would welcome a joint industry and PPP approach to consumer protection arranged through the ILP.

“provide the public with information to allow --- informed choice”

While it is certainly a regulatory function to ensure that the public are provided with sufficient information to allow informed choice it cannot be a regulatory responsibility or function, with associated costs, to actually provide that information. That is clearly an industry responsibility that should again benefit from close industry co-operation with regulatory bodies and, while PPP can offer valuable assistance to industry in this respect, it should be through liaison with the ILP as industry representatives.

“first port of call for advice, information and support”

As mentioned above, while PPP have a defined role to play in ensuring consumers are properly informed industry would not expect to fund PPP to actually provide a service role in this regard. The first port of call for service customers should be the “owner” of the customer at the point of sale i.e. the Service Promoter or the billing Telco. Similarly, where professional advice is required within the value chain it can be obtained by established consultants although there is of course room for PPP advice on basic compliance. PPP can and do provide useful information for consumers and the Number Checker service is an excellent example of this. However, AIME does have concerns where PPP takes market information to consumers (e.g. Phonebrain) and we believe this is an area where industry might usefully work with PPP on marketing based issues but in a cost controlled and co-operative manner.

We are pleased to note a PPP commitment to pursue more enabling enforcement policies during 2009 which will help industry to restore confidence and trust and encourage the return of investment for new services.

To address the specific questions raised in the Consultation:

Question 1

What comments do you have on the five objectives we set out in the Three Year Plan? Do you think they are still relevant and appropriate? What priorities or themes would you identify for consideration as part of our Review?

Answer 1

Objective 1

Providing effective and proportionate regulation to the industry, based on research, risk assessment, market intelligence and strategic intervention.

Comment 1

AIME suggests:

“Provide effective and proportionate regulation to the PRS industry in accordance with the requirements of the Framework Agreement.”

It should not be necessary to quantify how an Objective might be achieved within the Objective statement which should stand alone. PPP is directly accountable to Ofcom for Code approval and the proper performance of its allocated duties through the Framework Agreement.

Objective 2

Securing high levels of compliance within the industry through incentives, the consistent and high performance application of our Code, and raising compliance standards.

Comment 2

AIME suggests:

“Secure compliance with the agreed Code of Practice across the PRS industry.”

The term high levels is not necessary and is not useful without a definition of “high levels” and a related method of measurement of compliance. Again, as with the previous Objective, it is not appropriate to attempt to define how the Objective might be achieved within the statement.

Objective 3

Ensuring the public are better informed about the services we regulate: our role as the regulator and their rights under the regulations.

Comment 3

AIME suggests:

“Ensure the public are informed of the role of PhonepayPlus regarding PRS and the facilities offered by PhonepayPlus.”

As mentioned earlier ensuring the public are better informed on PRS services is a marketing function for the industry and PPP responsibility is to ensure services are offered according to the Code requirements including having consumers properly informed on services offered. That does not, of course, preclude PPP working closely with industry in this respect.

Objective 4

Be more transparent and accountable.

Comment 4

AIME suggests:

“Be transparent and accountable to Ofcom, Industry and Stakeholders”

This is a requirement common to best practice guidelines and AIME is totally supportive of this Objective.

Objective 5

Ensure resources are fit for purpose.

Comment 5

AIME believes this statement is redundant as an Objective since it represents a basic management responsibility.

Question 2

Do you have suggestions on specific strategic objectives and tasks – or a reprioritisation of existing ones – that you think PPP should consider as and when we review our Strategic Plan in 2009?

Answer 2

AIME believes any review of PPP proposals or plans should be conducted in close consultation with ILP as representatives of the industry and in the spirit of industry/regulatory co-operation.

Question 3

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

Answer 3

Our anecdotal evidence from members suggests that there is little or no prospect of market expansion or a recovery to declining revenues during 2009.

Question 4

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?

Answer 4

While there is evidence of limited recovery to the Interactive Broadcast market we refer to our answer to question 3.

Question 5

Do you agree with these priorities as actions for 2009/10? If not, please explain why not with alternative suggestions?

Answer 5

AIME would find the amended Objectives acceptable. We are unable to locate any “priorities” in the supplied documentation.

Question 6

What action or support could industry providers offer in order to assist us in delivering these priorities?

Answer 6

It is important that PPP forge closer links with the PRS industry and the most appropriate vehicle for this is the ILP. PPP would benefit from making better use of the experience and expertise available from ILP.

Question 7

Do you support our proposed Budget changes for 2009/10 having regard to the activity that drives the changes? If not, please explain why.

Answer 7

With Industry in general facing the worst recession in many years and the PRS industry in particular set for another year of declining revenues it would be diplomatic and prudent for PPP to accept a reduction in Budget at this time, perhaps of the order of 10%. We believe the true “complaints” situation to be under control by Mobile Networks since the majority of complaints relate to a common problem which is being addressed. AIME also takes the view that opportunities for cost savings exist within PPP and these should be fully explored to ensure that value for money is being delivered to the funders.

Question 8

Do you have any comments on any other risks that PPP might face that are not identified above as part of the Business Plan design?

Answer 8

AIME is not aware of any risks from PRS that might significantly impact PPP during 2009.

Conclusions

It is encouraging to see PPP adopting a more analytical presentation with this Budget and also that a Business Planning style is being introduced. We also recognise and welcome a more open approach by PPP which should encourage a closer and beneficial working relationship between PPP and industry. However, it is important to appreciate that where a traditional business is measured by profitable growth and managed expansion this yardstick does not apply to the regulatory scene where a successful regulatory body would actually demonstrate a reducing “hands on” role (and associated costs) with the progressive transfer of responsibilities for compliance to industry.

To summarise AIME conclusions:

- We can see no justification for PPP to increase its expenditure (including fines revenues) for 2009 and we recommend a reduction of 10% in the proposed Budget to reflect the continuing industry downturn and controlled complaints situation. We believe opportunities for cost savings should be explored within PPP.
- Regulatory confusion caused by apparent overlapping responsibilities between agencies and “out of remit” activities by PPP should be critically considered since these eventually translate into unnecessary costs. The ILP and its associated trade bodies are an ideal source for industry intelligence.
- PPP should focus on its core responsibilities and particularly on pre-emption and prevention by “intelligence – led policing” rather than relying on consumer calls as a trigger for regulatory action.
- Due regard should be given to the success of Industry in addressing problems, and particularly in the Broadcast arena, in a self regulatory manner. Co-operation across the value chain has been demonstrated, particularly under the umbrella of AIME, and will continue to lessen the need for regulatory intervention.

Statement of Representation

AIME confirms that this response has been compiled following a process of circulation of the relevant Consultation documentation to all our members. A list of our members may be found at www.aimelink.org/currentmembers.aspx

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

We look forward to your response and assure you that, as ever, our comments are made constructively and within our overall aim of achieving an effective, fair and proportional regulatory regime for the UK Telecommunications Industry.

If any clarification to our response is required, or if we can be of any further assistance, please contact Zoe Patterson +44 (0) 8445 828 828 or zoe@aimelink.org

Sincerely

Toby Padgham

AIME Secretariat