

James McLarin
PhonepayPlus
1st Floor, Clove Building
4 Maguire Street
London SE1 2NQ

jmclarin@phonepayplus.org.uk

17th January 2013

Consultation

PhonepayPlus Business Plan & Budget 2013/14

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.

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 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, and our membership represents in excess of 80% of annual industry 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.

Summary of Points Requiring Response from PhonepayPlus

- Justification for maintaining large Code Development spend when main body of work should now be complete
- Breakdown of registration scheme maintenance costs
- Admin Fee forecast and explanation of continued poor collection rates/ strategy for improvement
- Analysis of fine collection rates in context of increase in average fine and strategy to improve collection
- Strategy to reduce call centre enquiries by directing 1st contact to industry
- PP+ consumer education material to focus on directing consumers to industry
- Funding to move from internal investigations to work with industry on self monitoring arrangements
- Reduction in research spend and direct role for industry in approval of projects ; ILP consultation on research rather than the annual market survey
- Pp+ to press for earlier introduction of HRPRS
- Introduce KPI for complaint pass through timescale, for example regulatory cost vs Industry revenue measure and registration scheme ROI measurement
- Complaint data to be reported with more context
- Introduce reporting criteria to aid transparency of fines and review proportionality
- Explanation for discrepancies between Ofcom market figures and pp+ outpayments and detail on measure to ensure no levy leakage

General

PhonepayPlus is seeking feedback on its budget and business plan for the forthcoming financial year, 2013/14. The proposal is for a core budget of £3,937,503, a 0.5% decrease (in cash terms) on the current 2012/13 budget, plus a proposed Registration Scheme budget of £364,346. This would result in an estimated 2013/14 levy of between 0.30 - 0.40% of outpayments. (a potential decrease of between 16.7% - 37.5% on 2012/13 levy). In response to this AIME has conducted a survey of member views on the budget detail.

The overall reduction in the adjusted levy appears to reflect the sharp increase in the scale of fines over the past year. The embracing of the polluter pays principle is supported, though we caution that fines must remain proportionate to the harm and intent of the code breach. We remain concerned by the apparent lack of transparency within the fine setting process, particularly how complaints are measured proportionate to revenues and scale of a campaign. We believe a fresh look at this area would be beneficial and would like to work with PhonepayPlus to review the current system and

whether proposals such as the scoring system previously proposed by AIME would improve transparency and proportionality.

Whilst the proposed decrease in the adjusted levy is welcomed, we note that the overall non-adjusted levy has risen from 0.71 to 0.73, an increase of 2.8% over that of the past year. In a declining PRS market this appears to be out of step with the market trend and we believe that further steps must be taken to reduce the budget in line with the difficult financial climate in which providers are now operating.

We would caution that irrespective of a greater proportion of overhead now being met by polluters, that a tight rein must be maintained on spending. While it is essential that PhonepayPlus maintain a budget level which supports core activity, we believe that further savings could be made in non-core activity, particularly with regard to supplementary research projects. Aside from the annual market review and risk assessment, it is the general view that wider research should be left to industry participants, or funded directly by Ofcom. Last year's charity and international market research are just two examples where the output provides general trend information but offers no significant information not already understood by market or that can be gleaned via other market reports or in partnership with other agencies. Where PhonepayPlus believes additional research is necessary in addition to these sources, a business case should be brought to the ILP to consider and approve appropriate allocation of budget.

Questions

Q1: During 2013/14 we will commence the preparation of the next Three-Year Plan covering the period 2015-18. Do you have any feedback on the continuing appropriateness of both our current Vision and supporting Values?

We would expect that with the increased accuracy of the Number Checker, consumers should increasingly be able to seek redress from merchants directly and that the need for PhonepayPlus intervention should diminish. As the handling of enquiries has a negative impact upon the PhonepayPlus budget, all appropriate steps should be taken to minimise the number of consumers contacting PhonepayPlus in the first instance. Consumers must be actively encouraged in PhonepayPlus communications to attempt to seek redress from the Level 2 provider (merchant) directly (or in the case of shared shortcodes, channelled through the level 1 provider) before escalating the matter to the regulator.

Monitoring of L2s' customer service call traffic by the L1 should provide a reliable early warning system to identify systemic issues with a particular merchant or campaigns and PhonepayPlus could substantially reduce its operating overhead by working more closely with industry to identify rogue merchants and gather any necessary evidence through the technology available.

In addition we are aware of significant investment by Mobile Network Operators and L1s to introduce systems to proactively monitor for compliance issues, which are then brought to the attention of the Level 1 or L2 (respectively) provider for resolution. Contracts have been updated with strict timescales and the penalty of service cut off if not resolved. PhonepayPlus' own monitoring and investigations department should therefore consider how it can support these industry self-regulatory arrangements and produce further efficiencies in operations.

We have seen an increase in the number of enquiries and complaints to PhonepayPlus this year. It would make a useful measure to monitor the percentage of enquiries or complaints passed by PhonepayPlus to Industry and which are successfully resolved. A review should also be carried out

on the root cause of complaints to see whether improvements to Industry customer care processes may improve resolution.

We would hope to see PhonepayPlus moving towards a strategy whereby it acts in a capacity similar to an ombudsman with resource streamlined towards managing the resolution of escalated cases. Returning the detailed investigatory and policing of the value chain back to the Networks and Level 1 providers who have the technology to cost effectively monitor and close down problem services.

It is also of great importance that PhonepayPlus avoid costs properly associated with statutory regulation under the auspices of Ofcom. General industry surveys along with the costs of organising and attending international regulatory functions are examples of areas that should not be funded by the levy.

Q2: Do you agree with our assessment of the PRS market and do you have any other information or data that you could share?

In previous budget responses AIME introduced a proposed Key Performance Indicator, which tracked the annual costs of regulation against the revenues generated by the PRS industry. Whilst we restate our agreement that the PhonepayPlus budget setting must be assessed on consumer protection need, we believe that it remains a valid indicator for tracking the trends of the regulatory burden on industry.

We have updated our figures to now reflect the PhonepayPlus financial year and included projected full year figures for 2012/13 and 2013/14 revenues. Revenues for 2013/14 have been forecast on the presumption that traditional PRS and PSMS service revenues are likely to show further decline, though this is likely to be mitigated by growth in Payforit, with the planned evolution such as version 4.1 for in-app billing.

Overall we would expect to see 2013/14 revenues ending slightly down on the previous financial year. Beyond this date market growth may rely on the success of PRS billing to compete in an online digital services environment and the opportunity for other off handset purchases of digital services or cash displacement (loose change scenarios) for quasi-physical goods (eg ticketing, parking, vending etc). We would caution that the viability of such off-handset purchases for quasi-physical goods remains squarely under the e-money directive and its interpretation by network operators under FSA Rules – and whether the phone bill is considered the best place for such services.

Industry billing revenues have been calculated as outpayments plus 30%, these are not intended as exact industry figures, but indicative of the regulatory cost trend.

	Registration Scheme	Regulatory Cost £M	Industry Revenue £bn	Regulatory Cost £ per £000 Revenue (excl Registration)
2007/8		4.02	1.2	3.35
2008/9		4.35	0.81	5.37
2009/10		4.4	0.8	5.50
2010/11		4.22	0.82	5.15
2011/12		3.8	0.79	4.81
2012/13	0.344	3.74	0.76 FC	4.92
2013/14	0.364	3.7	0.74 FC	5.00

* 2009 onwards industry revenue figures include 087

Last year we raised concern about apparent discrepancies between the PhonepayPlus outpayment figures and the market size statements in Ofcom's annual communication report (having made adjustment for the mobile uplift). A substantive explanation has yet to be provided and we reiterate the need for clarification on the measure in place to check the accuracy of outpayment returns and ensure there is no leakage or non collection of levy.

PhonepayPlus Call Centre contacts

Whilst PhonepayPlus has received more complaints this year, we are pleased to see that as a proportion of total contacts made, complaints are consistently falling.

	PP+ Contacts Classified as a Complaint 2011	PP+ Contacts Classified as a Complaint 2012	Change
Jan	67%	54%	-13%
Feb	58%	57%	-1%
March	60%	56%	-4%
April	57%	48%	-9%
May	65%	45%	-20%
June	65%	44%	-21%
Jul	64%	41%	-22%
Aug	71%	41%	-30%
Sept	73%	46%	-27%
Oct	56%	45%	-11%
Nov	56%	45%	-10%
Dec	58%	43%	-15%
Total	62%	47%	-15%

We note that over the past year the total number of customer contacts (excl number checks) received by the PhonepayPlus call centre has increased by 141%, which we believe is indicative of a growing consumer awareness of PhonepayPlus and not necessarily that non-compliance has risen. As noted above, analysis may demonstrate that this fluctuates dependent on network operator customer care policy at any one time. It is worthy of note that calls classified as enquires have risen significantly more than those classified as complaints.

	2011	2012	Change
Total Complaints	6952	12485	+80%
Total Enquiries	4251	14521	+242%
Total Contacts	11203	27006	+141%

We share concern at the rise of 80% in those contacts classified as complaints over the last 12 months. We understand that the majority of these complaints relate to only a handful of suppliers, who PhonepayPlus is currently targeting with enforcement action. This rise should therefore be viewed in context and not taken as indicative of a culture of consumer abuse in the wider industry.

It is appropriate to note that as a proportion of total industry transactions the level of complaint remains comparatively low compared to other sectors. For example British Gas reported, in the period Oct 11 – Sept 12, 319,234 serious complaints; equivalent to 2% of energy accounts (British Gas Residential Annual Consumer Complaint Report 2011/12). In comparison during the same period the PRS industry generated 11,314 complaints, on the back of total revenues of circa 572,699,833 (last 4 months of available revenue figure). This equates to roughly 5.6 utility company complaints for every 1 PRS complaint.

	PRS Industry	British Gas
Total Revenues	572,699,833	3,200,000,000
Total Complaints	11,314	319,234
Rev per complaint	50,619	10,024

We highlight this comparison as it demonstrates the need to view complaint trends within context. All retail environments will generate some level of complaint and PRS is therefore not immune. It is also important to note that higher revenue generating services, by merit of the fact that more consumers are using them are likely to produce a comparative increase in the complaint level. We feel that more work is required on the framework for publishing complaint data to ensure reporting makes clear the other relevant factors, so as not to give a misleading picture of the market. Where a significant number of complaints relate to a just a handful of low revenue services this too should be reported to ensure it does not adversely impact the overall complaint trend.

Despite the low comparative complaint level we are not complacent and we strongly support the need to drive good compliance and customer handling throughout the value chain. We believe that any complaints received by PhonepayPlus should be quickly channelled to the Level 2 provider for resolution and the L1 be informed, ensuring the response is appropriate and co-operation can be provided if further investigation or action is required. This should be done in a timely fashion and will help drive down complaints overall, thereby reducing the window of consumer harm. We are pleased to see steps agreed at the recent AIME/PhonepayPlus Industry roundtable to help facilitate this and would hope to see this supported by a relevant KPI to monitor the speed of referral.

Q3: What comments do you have regarding our themes for 2013/14?

Theme One – Strengthening compliance through improved due diligence & risk assessment and control and making polluters pay:

We believe that DDRC is an important component of improving compliance and we support measures, such as improvement to the Registration Scheme, to assist providers in fulfilling these responsibilities. It is important that realistic expectations are set as to the level of oversight that L1 providers are expected to have over individual L2 activity on a day to day basis and that providers are clear as to PhonepayPlus expectations.

As noted during the recent AIME/PhonepayPlus roundtable L1s would welcome greater oversight of complaints received by PhonepayPlus to enable prompt investigation of issues with client services. AIME looks forward to working with PhonepayPlus to take forward the proposals agreed in that

meeting, where legally and practically possible, which we believe will be significant in meeting the outcomes sought under this theme.

We support the polluter pays principle, though we reiterate the need for fines to remain proportionate to the harm and intent of the code breach. AIME recognises the work that has been done already to aid transparency through the publication of the sanctions guide, which we view as a significant step forward. We believe that to achieve full transparency measures such as history, mitigation and intent also need to be further quantified within case reporting. Cases of apparently similar severity and revenue level can often have large fluctuation in the fine level, which we are keen to see justified by a consistent measure. We also note that some cases seem to attract a maximum fine despite mitigating factors being present the reason for this needs to be qualified. We remain concerned by the lack of transparency within the fine setting process, which we believe should be reviewed and we would be happy to work with PhonepayPlus to consider any potential improvements, such as the implementation of the following scoring system:

	A	B	C	D
	Severity of breach	Magnitude of impact	History	Intent
Score	0-5	0-5	0-5	0-5
Note	i.e. judge potential impact on one consumer. Number of Code breaches, and severity. For example, a PECR breach alone has less severity than price obfuscation	i.e. judge number and type of affected users so far, and the likely extent of affected users if the service continued without change.	i.e. previous similar offenses by the responsible party(s)	i.e. deliberate attempt to mislead consumer, such as services which provide no genuine PRS content
	E			
	← Certainty of Evidence →			
	i.e. is the evidence of harm and or intent circumstantial or definitive and comprehensive? If in doubt, scorer should err on the low side on the basis that severity of procedure can immediately be escalated if additional information indicating a larger problem is discovered.			

	F
	Mitigation
Score	Minus 0-5 (subtracted from base score)
Note	i.e. actions taken to quickly mitigate impact. A low score would be given if the party(s) had avoided taking action on a known problem.

Use of this, or a similar scoring system, would produce a clear reporting style allowing the relative weightings to be recorded in adjudication reports. The cumulative total would then provide a multiplier for setting against revenues to produce a transparent and consistent fine total.

Theme Two – Improving consumer experiences, improving the customer journey and protecting vulnerable consumers:

Improving the consumer experience is the foundation stone of industry growth and is supported. However, to be successful, leadership must be driven by Industry rather than at the regulatory level. Documenting best practice to improve consumer engagement and aid customer retention we believe are generally better tools than micro regulation for this purpose. Whilst there remains a role for regulation in setting minimum standards we would caution against unnecessary market intervention and feel this is a role that is better left to trade bodies to fulfil. AIME remain happy to seek input from PhonepayPlus on the initiatives we undertake. A successful example of this co-operation was the publication in 2012 of the AIME Guide for PTV using Social Media Promotions.

Steps have already been taken through the Payforit process to provide a consistent user experience, where clear pricing and receipting is controlled to ensure a consistent experience. This is an ongoing process to refine and improve the process, which has the commitment of the Mobile Networks and APIs to drive it forward.

In a fragmented value chain it is difficult to overcome issues directing consumer to merchants where the consumer has deleted receipts from their handset, or where they don't immediately associate a charge on their bill with a transaction they have made. We remain committed to working with PhonepayPlus to improve the Number Checker to ensure consumers can obtain merchant contact details, as well as working with the Networks to ensure customer service representatives are able to direct consumers to the merchant with ease.

In the fixed line sector, pricing transparency remains a significant barrier, which we hope will soon be addressed by Ofcom's review of non-geographic numbers. The impact of any new rules by Ofcom will be lessened by growing market adoption of Voice Short Codes, which provide a clear method of access and transparent pricing for mobile calls.

We support the need to protect genuinely vulnerable consumers. We would caution that the term should not be too widely stretched, so as to absolve the non-vulnerable of taking reasonable responsibility for checking terms and conditions.

Theme Three – Preparing for the digital future, tackling the increasing risk from new online and security threats and PRS in the Future

We understand the need to proactively monitor new threats appearing in the market and would support reasonable activity in this regard. However this has to be proportionate, with research and any resource investment considered and aligned to PhonepayPlus core remit. We believe a number of security risks are not unique to PRS and we would expect closer co-operation and funding from other government agencies and regulators in these areas.

Q4: Do you agree with our proposed work plans for 2013/14? If not why not?

Technical review of the Code

Resource for technical review of the Code is welcomed subject to industry discussion.

Within this review we would hope to see further discussion as to the status of affiliate marketer under the Code and whether the Code requires adaption to place some direct responsibility upon them. Whilst we acknowledge that there may be practical issues that may ultimately prevent direct

regulation of this level of the value chain, consideration might be given to whether a requirement should exist for affiliates to register to help facilitate due diligence.

We accept the need to assess the effectiveness of moving to a principles based code structure, now that it has had time to bed-down. It is our expectation that the flexibility of the new code (supported by Guidance) will future proof it and will therefore reduce the need for regular review. After this technical review is complete we would not expect to see further reviews in the near future.

Develop market understanding about the future of payments:

At this moment in time and without thorough Industry discussion, we would not support greater investment by Phonepayplus to support market understanding of payments outside of those defined as PRS, apart from where the impact of regulation may be considered relative to the competitiveness of PRS against other micropayments.

PhonepayPlus research should remain focused on PRS trends and understanding of any associated consumer protection requirements – the Annual Market report covers these areas suitably well. Outside of this, the commissioning of other research and the staff time to consult on such projects does not appear to make financial sense as it is non-essential to PhonepayPlus core activity. Further consideration of wider research projects should be discussed with Industry representative bodies and if necessary, referred to the regulator Ofcom or other agencies who may be better placed to conduct such research, if it is at all necessary.

Work with Ofcom to ensure Higher Rate PRS and 070 enforcement are effective:

We support the objective to work with Ofcom to ensure that HRPRS enforcement is effective. Earlier this year we made proposals to Ofcom about the long overdue relaxation of the cap on PRS and submitted a response to Ofcom's Consultation on HRPRS. We also carried out a survey of major organisations in the industry on the subject and presented these to Ofcom, showing the options and readiness of the industry to move forward responsibly.

Unfortunately, Ofcom's current timescales will delay implementation until Late 2014. We believe that this will cost the industry between £50 million and £100 million in lost revenue and will discourage badly needed investment.

Ofcom is currently considering the responses to its consultation and AIME would welcome PhonepayPlus' support in persuading them that the risk of consumer harm can be minimised using straightforward controls for services over £1.53 (eg use of VSC alongside 090), before unbundled pricing is introduced and help responsible operators to offer new services and opportunities in 2013.

Work with providers and Networks to embed a culture of effective due diligence:

AIME supports this activity. Whilst we would not encourage any further inflation to the overall budget we note that with a decreased industry support budget this activity may be under resourced. We would encourage funding to be moved from the investigation budget for this purpose, as we believe aiding DDRC will address issues at source and thus reduce the burden on the investigation team down the line.

Undertake a review of the consumer journey:

We believe the consumer journey is already adequately understood and we would not support further costly research.

Deliver and embed the enforcement and compliance strategy

AIME supports this activity.

Make polluters pay:

We support the polluters pay principle, where fines must remain proportionate to the breach. As noted above, we believe the criteria for assessment of harm, application of fines and collection system warrants review. There should be analysis carried out of fines collected proportionate to size of fine and whether the current structure to impose fines above £250,000 and subsequently collect, is adequate.

Further work is required to increase fine collection rates as this remains a current weakness, which is likely to be exacerbated by the recent trend in increased fine levels. To increase collection rates it would be prudent to carry out an assessment of the provider's ability to pay.

Work with partners on ensuring children can use PRS safely

AIME supports awareness campaigns to ensure children are aware of the PRS payment mechanism and how to use it safely. Working with partners is the most cost effective way of doing this. We would like to see the continuation of PhonepayPlus working closely with industry to review and improve the education material, so as to ensure it provides a balanced picture of the benefits as well as practical consideration of using the payment mechanic. It may also be of value to assess the performance of initiatives such as Phone Brain over recent years and how children's general awareness and understanding of PRS services may have improved, so as to gauge best direction of investment. We would be happy to work with PhonepayPlus in this regard.

Work with Get Safe Online and others to ensure consumers are informed about how to use PRS safely:

AIME is supportive of widening consumers understanding of PRS. However, we are keen to emphasise that these projects should focus on directing consumers to relevant industry information sources in addition to PhonepayPlus, eg Payforit.uk.org. Consumers must also be actively encouraged to contact merchants directly, rather than drive traffic to the PhonepayPlus call centre.

Introduce a time recording system:

We support the general principle of a system to better record time spent administering cases to ensure that the cost can be appropriately proportioned. We would however wish to see more detail on the costs of the software solution to ensure this represents value. We would hope to see an off the shelf software package selected.

Introduce new outcomes-based KPIs and other management information

AIME fully supports a review of KPIs and would be happy to work through potential measures in more detail. As part of the review of PP+ KPIs we would hope to see measures put in place to:

- Ensure the Registration Scheme generates a return on investment through cost savings in PP+ core operation
- Track the annual costs of regulation against the revenues generated by the PRS industry
- Measure the speed at which providers are notified of complaints and service issues once identified by PhonepayPlus

Q5: Do you agree with our planned resource allocation and activities for 2013/14? If not, why not?

Code Development

We reiterate the view expressed in our submission to the 2012/13 Budget, that with the 12th Code now in place and the main body of Guidance complete there should be scope for substantial reductions in the Code Development budget line. Whilst we are aware of the need for ongoing monitoring and update, £280,105 seems disproportionate spend in this regard. We are aware of only one substantial addition to the published guidance in the current financial year; that being the consultation on information, connection and/or signposting services (ICSS). We are also aware of background analysis on the future regulation of Payforit and the regulatory position regarding connected individuals in the social media environment. Whilst the relevance and resource requirement of these projects is acknowledged, collectively the scope of the work does not appear comparable with that undertaken in 2011/12, on a 15% slimmer budget to draft and consult on 22 guidance notes and implement the new code. We are disappointed that we have still to receive a substantive explanation from PhonepayPlus as to this budget anomaly raised in our previous budget submission.

We welcome the commitment to work with AIME to align the Annual Market Report research to cover regulatory and Industry need. We believe this research project should be sufficient in providing PhonepayPlus with an opportunity to understand the consumers PRS experience. As the commissioning of separate research is a costly exercise we would encourage PhonepayPlus to make full use of this opportunity rather than commission any additional research. In particular we believe research, such as that recently announced on information, connection and/or signposting services, could have been built into the project and/or the outcomes sort could be understood in a more efficient manner.

With the Government currently undertaking preparation for the drafting of a new Communication Act, we would welcome details of the scope and budget of any work PhonepayPlus has planned to engage with Government and Ofcom on this matter, as well as any resource costs incurred in the current financial year. We believe that any such cost should more appropriately be met from a central government budget, rather than passed to industry and we hope that PhonepayPlus will make appropriate representations in this regard.

Registration Scheme

Improvements to Registration and Number Checker identified at AIME/PP+ Roundtable should not be resource constrained and we are pleased to see an increased budget (5%) set aside for the

Registration Scheme improvements, which should assist due diligence and risk control. However, at this moment in time we still view the Registration Scheme as a huge cost to Industry and as part of the review of PP+ KPIs we would hope to see a measure put in place to ensure the Registration Scheme generates a return on investment through cost savings in PP+ core operation.

The budget for general maintenance of the Registration Scheme seems significant and we would welcome a further breakdown of this spend

Complaint Resolution

It is concerning to note that the Complaint Resolution budget line has decreased (8.1%), whilst the Investigations budget line has increased (7.1%), suggesting PhonepayPlus is moving away from a policy of informal resolution of issues. By informing the provider of complaints without delay, action can quickly be taken to address any service issues, thus preventing wider consumer harm from occurring and thus mitigating serious issues requiring adjudication by tribunal. We would hope to see a KPI put in place to measure the speed at which providers are notified of complaints and service issues as soon as these are identified by PhonepayPlus.

Investigations

In cases of clear intent to defraud consumers, such as malware and 070 scams, we recognise the need for sanctions. We support an adequately resourced investigations department to tackle these issues and avoid reputational damage to the wider industry.

Where an oversight has resulted in an unintended code breach, we continue to believe the informal process to be the best course of action to resolve issues. Most providers are keen to provide compliant services and we would hope to see issues brought to their attention quickly and not left to stagnate whilst an investigation is undertaken. Where a provider is working in good faith to improve services and has taken steps to provide consumer redress where issues have occurred, a formal investigation and sanctions is counterproductive to the spirit of the code.

As we believe that administration fees are set with a view to covering the cost of investigations, we are also keen to see a closer correlation between this budget line and the fees invoiced and recovered. In our previous budget response we asked for detail to be provided on the admin fee forecast and the plans to improve collection rates. We are disappointed to once again find the budget lacking in vital detail. However, we acknowledge the proposal for a time recording system, which we trust will allow a more detailed analysis in future.

We are concerned to note that the admin fee collection rate in the last qtr is just 63%, well below the target of 80%, whilst fine collection is just 34%. Previous quarters have also similarly failed to hit target. We must reiterate with some emphasis the need to provide a full explanation for this poor performance and question why a robust plan for improvement has not been a central theme of the budget as requested in our previous budget submission.

If the low collection rates are due to the inability of providers to pay, as we believe, then we would expect to see PhonepayPlus reassessing its fine strategy to ensure that providers are not being systematically put out of business, thus aiding the prospect of recovery.

We note the legal budget has decreased by 18% as PhonepayPlus is predicting fewer legal challenges. Whilst we do not share this optimism that the providers subject to adjudication will

become less litigious, we support this decrease. So as to encourage prudence, we remain of the view that spending in this area should be funded from reserves and replenished from the admin fees collected and we feel the proposal will bring the budget broadly in line with this outlook.

Consumer Support

We believe that consumers are best served through directing consumers to the merchant for redress. For this reason we have previously and continue to support investment in the Registration Scheme and Number Checker to enable consumers to quickly and easily reach the merchant in the first instance. We note the 4.5% increase in the Consumer Support budget line, though believe this could be better utilised in assisting organisations such as Citizens Advice to direct consumers to the Number Checker and merchant level rather than PhonepayPlus attempting to directly educate the consumer.

We note the significant increase in calls to the PhonepayPlus call centre and acknowledge in the short term that additional funding may be necessary to cope with the volume of enquiries. We would hope to see a strategy proposed to reduce the number of consumers directly contacting PhonepayPlus, enabling resourcing to be decreased in the medium term.

Industry Support

We are pleased to see proposals to divert some resource away from the compliance advice service; a function which we believe should be commercially funded. We would have preferred to see this resource directed toward processes to support industry DDRC and are concerned that there has been a decrease (7.3%) in the Industry Support budget line more generally.

We are keen to emphasize that we are not proposing that PhonepayPlus further increase its overall budget, rather we would suggest resource may be better directed from the investigation budget to work constructively with industry in the support of due diligence and self-regulation. We believe addressing problems at source would produce cost saving down the line whilst producing a better outcome for consumers.

We note that PhonepayPlus has reduced unnecessary overheads throughout the year, such as not providing lunches at its forums and reducing the number of staff sent to overseas conferences. This is acknowledged and should be commended.

Corporate Governance

We have no comments or concerns on the budget line for corporate governance.

Q6: Would you support extra cost for a Funding Review in 2013/14?

We have previously raised the need to review the funding arrangement of some areas of PhonepayPlus' operation and would welcome discussion between PhonepayPlus and industry on future funding arrangements more generally.

In particular AIME would also welcome a review of how non-core activity is funded, in particular the provision of project specific compliance advice, with consideration given to it drawing its financing

from a separate usage charge, rather than the levy and trust that these matters will form part of those discussions.

To aid discussion as to whether the cost of regulation is proportionate across the different parties regulated, we would welcome an analysis of the budget spend separated across the products of 09, 0871, DQ, SMS, detailing roughly what amount of the budget is spent on investigations and complaint handling per product and access type. A similar analysis would be welcomed of fines and administration costs invoiced and recouped for each.

We wish to reiterate our view that such discussions should take place at an industry level initially without recourse to costly external consultants, enabling the cost to be contained within the current budget for Industry engagement. If there is general Industry support for a review of how and by whom PP+ is funded, then outcome of the initial Industry exercise should be discussed with Ofcom and as the Regulator they should make appropriate provision for a funding review of PP+.

Q7: Do you agree with our assessment that the charging model, and exemptions, should remain unchanged during 2013/14? If not, why not?

We agree that the charging model and exemptions should remain unchanged for 2013/14, though must be supported by a continual drive for efficiency savings.

Conclusion

AIME is supportive of the work that has been done so far to reduce the PhonepayPlus operating budget. Whilst progress has been made we feel there remains some further savings that could be achieved by a reduction in non-core activity, including research.

The emphasis on the polluter pays principle is welcomed, though we feel further work is required to underpin the effectiveness of this strategy. Specifically, greater transparency in how fines are set, a strategy to improve collection rates and an assessment of fine level to ensure they remain proportionate.

We welcome the spirit of engagement to identify how the Registration Scheme can be used more effectively to aid DDRRC. We believe that through the early visibility of complaints industry can more effectively tackle issues down the value chain. We believe that by working more closely with industry in this and other areas, that efficiency saving can be identified and the consumer experience can be further improved.

We note the increase in consumer contacts received by the PhonepayPlus call centre. We believe that a central theme of the PhonepayPlus strategy should focus on how these consumers can be best directed to merchants in the first instance. Working with other consumer bodies, the tone of PhonepayPlus communications and improvements to Number Checker will be central themes to achieving this goal.

Finally we note that whilst complaints have increased, this must be viewed in context. The culture of the industry is one striving for compliance, with considerable success.

Statement of Representation

AIME confirms that this response has been compiled following a process of internal discussion and

distribution of the relevant Consultation documentation to all AIME members. 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 responding 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 Amy- Beth West at +44 (0) 1252 711 443, or amy-beth@aimelink.org

Sincerely
AIME