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Consultation Review of Information, Connection and/or Signposting Services

Submission by

**Association for Interactive Media and Entertainment
(AIME)**

Background on 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 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. Our membership represents over 90% of annual industry revenues, which stood at £0.80bn in 2010 within the UK and which, we believe, have the potential to increase to £1.5bn - £2.0bn per annum over the next three years, assuming we have a healthy balance of self and formal regulation and that industry is successful in continuing to build consumer trust.

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.

Introduction

AIME welcomes the opportunity to respond to PhonepayPlus' consultation on the creation of a Prior Permission regime for information connection and signposting services (ICSS).

AIME is supportive of the outcome being sought by PP+ that consumers should be clear as to the company they are dealing with and that sites which seek to pass themselves off as the Government service they seek to promote would not be acceptable; this same principle would (or should) apply to any service type not just Government services.

AIME believes that it is reasonable that ICSS providers comply with all relevant data protection principles set out by the Information Commissioners Office (ICO). As such, consumers should be informed if their data will be collected and be provided with adequate information on how their data will be used. It is reasonable that ICSS services do not unduly delay calls, by asking irrelevant questions and we support the principle that consumers should only be asked to provide information relevant to the service they are accessing.

AIME members felt that the inclusion of the government service or source company's number directly within the advertising/ICSS provider's website would go beyond what was necessary for consumer protection and that a link to the homepage of the government or source company's website should be sufficient - in the case of government services the number is generally prominent on the home page.

AIME is of the general view that providing the price is clear, transparent and proximate to the call to action and it is made clear to the consumer that the source is not official, then the consumer is able to make an informed decision whether to obtain the information from an alternative source. If a consumer is dissatisfied with clear commercial terms from a provider, it does not present an unreasonable barrier for the consumer to click 'back' in their browser and look at different search engine results.

Vulnerability may carry a higher duty of care, though should not exempt a consumer from all responsibility for their action. We believe that the appropriate duty of care owed by providers should be judged against the standard of a reasonable person. Consumers 'wishing' to rely on the easiest source of information should not be confused with Consumers 'having' to rely on it.

It is important to note that users of government services are not intrinsically vulnerable and a distinction should be drawn between different types of government service. For instance consumers accessing passport information are distinct from those accessing information in an emergency, such as NHS Direct. Vulnerability therefore needs to be appropriately defined.

Q1: Do you agree with our definition of Information, connection and/or signposting services (ICSS)? If not, what alternative would you propose?

We agree with the proposed definition.

Q2: Do you agree with our description of how ICSS operate? Are there other variants not covered in this section?

AIME agrees with the description and has no variants to add.

Q3: Do you agree with the distinction we are making between the connection and signposting aspects of ICSS on the one hand and directory enquiry services on the other? If not, why not?

AIME agrees that there is a strong consumer association between the 118 number range and directory enquiries. The nature of the service is therefore more immediately understood by consumers than an ICSS equivalent.

Where pricing is prominent and proximate, the nature of the service is made clear and the identity of the provider is transparent within the page served, then we believe this distinction can be narrowed.

The value of the service, in furnishing the consumer with the number they seek, remains of equal relevance irrespective of whether the number look-up takes place after a call is placed; utilises search engine technology to preselect the number; or hosts a number look-up database linked to a PRS access method on the provider's site.

Q4 – Do you agree with our assessment of consumer harm in relation to ICSS? If not, why not?

Where services are promoted in such a way as to deliberately obfuscate the identity of the provider, or the relationship of the provider to the source company, we agree that the service is likely to present a consumer harm risk.

We believe that where a consumer is made clearly aware that the ICSS provider is a non-connected 3rd party and pricing is clear that potential harm is mitigated.

With the additional requirement that consumers are to be informed that alternative sources are available there should be no question that those going on to access the service have been provided with suitable information to make a fully informed decision to purchase.

Q5 – Is there other evidence of concerns and/or harm that you are aware of and which have not been referred to in this section? If so, please provide them and any evidence that substantiates them.

Providing Code principles around prominent and proximate pricing are adhered to, AIME has no additional concerns to add.

Q6 – Do you agree with our assessment that ICSS carry a level of risk which meets the threshold for a prior permissions regime? If not, why not?

AIME believes that a Prior Permission regime is only strictly necessary for high risk services dealing with primarily vulnerable consumers. However, to ease any confusion in defining vulnerable groups AIME is happy to support a blanket Prior Permission regime.

Q7 – Do you agree with our proposed exemptions from a requirement to seek prior permission? If not, why not?

AIME agrees with the exemption.

Q8 – Do you agree with this assessment and PhonepayPlus' proposed conditions around Search Engine Marketing (SEM)? If not, why not?

AIME supports the principle that SEM should not be used in such a way as to present a false association between the ICSS and the actual service.

It should be noted that search engines remain a commercial and not a philanthropic service and AIME would caution that no organisation, either private or public, should assume a right to either a search result listing, or particular prominence in the list of results.

AIME remains of the view that SEM and SEO is a valid method to promote all PRS services, providing the advertising copy and landing page comply with legal and regulatory principles.

Q9 – Do you agree with the need to require the inclusion of specific wording in SEM results as displayed to the consumer on-screen in search engine results that states “This is a premium rate telephone service”? If not, why not?

Providing the access number is not present within the adverting copy and the subsequent landing page is clear as to the identity of the provider and the price, the inclusion of the proposed wording would not appear strictly necessary.

With the widespread use of 087 and 084 numbers for the provision of the actual government service, which are often mistakenly defined as premium numbers by consumers, the proposed is also unlikely to provide the anticipated clarity.

Q10 – Do you agree with this assessment and PhonepayPlus' proposed conditions around promotion of ICSS? If not, why not?

With the exception of condition B (outlined below) AIME agrees with the proposed conditions around promotion.

Q11 – Do you have any views on whether condition B ii) should be applied to all ICSS, or whether an altered condition, as outlined above, should apply only to connection and signposting services which can prove they are not used mainly by vulnerable people and link to genuinely hard to find numbers? If so, please provide them, and any evidence which supports them.

AIME believes that in all cases a link to the 'home page' of the actual organisation should be sufficient. It should be clearly defined that the 'home page' and no other part of the website should be used as the target for the link.

ICSS providers have a duty of care not to mislead consumers. There should not be an obligation to go beyond this duty by providing information for free.

Where a site is clear and transparent about its identity, AIME is of the view that a link to the 'home page' already exceeds the minimum consumer protection necessary, though we are happy to support the measure as this provides consistency with Google ad-word policy.

Where a consumer is directed to the 'home page' in most cases the number will either be immediately present, or a link to the contact details will be provided. Where the home page fails to provide this information the value of the ICSS becomes self evident.

We view Google Ad Words to be a considered and accepted policy and PRS services shouldn't be subject to regulations of a higher standard unless there is clear evidence for such a requirement.

Q12 – Do you agree with this assessment and PhonepayPlus' proposed conditions once a consumer has dialled an ICSS? If not, why not?

Condition A, which proposed a requirement for the user to be informed that they should have a pen and paper to hand to record the number is micro regulation and is not supported as a necessary consumer protection requirement.

We note that pre-call announcements are used in directory enquiry services to provide pricing information when a call will be transferred. AIME believes a similar requirement would be appropriate for ICSS services and would support the requirement to provide pricing information in condition b.

Where consumers are provided with information without being transferred, we do not believe a pre-call announcement is necessary and would not support condition d. and e. unless there is reason to believe a consumer will access the number without seeing the advertising copy. This is unlikely given condition i.

In any respect a requirement to once again state alternative numbers, or website details should not be a requirement of any pre-call announcement.

It is important to note that pre-call announcements have an associated cost and this should be fully considered.

Q13 – Do you have any views on whether condition B should be applied to all connection and signposting services, or whether an altered condition, requiring that the consumer is given the website of the organisation they are looking for rather than the actual number, should apply to connection and signposting services which can prove they are not used mainly by vulnerable people and link to genuinely hard to find numbers? If so please provide them, and any evidence which supports them.

See answer to Q11.

Q14 – Do you agree with this assessment and PhonepayPlus’ proposed condition where an ICSS collects personal and/or confidential data from consumers? If not, why not?

AIME agrees that ICSS services should comply fully with data protection principles and should inform consumers when data will be collected and how this data will be used.

Further, AIME agrees that data should be collected only where necessary for the operation of service.

Q15 – Do you have any thoughts on whether a bond is necessary? If so please provide them, and any evidence that supports them.

AIME does not support the introduction of a bond.

Q16 – Do you agree with our impact assessment? If not, why not?

AIME broadly agrees with the conclusions of the impact assessment though cautions that a balance should be struck in relation to the conclusion formed in section 5.3.

Specifically, AIME is of the view that where the nature of the service has already been made clear, a requirement to state the actual number in advertising would place an unfair burden on industry. A link to the home page of the public or commercial organisation would adequately ensure consumers are protected.

We however would caution that the impact assessment is light on the financial detail we would expect to find in such an assessment, particularly in relation to the costs associated with the proposal to implementing free pre-call announcements. Pre-call announcements have an associated cost which should be fully considered.

Conclusion

AIME is broadly supportive of proposals put forward by PhonepayPlus to put in place a Prior Permission regime for ICSS services.

We agree that the marketing of ICSS services should not seek to mislead consumers as to the identity of the ICSS provider or imply a relationship with the actual service where this is not the case.

We likewise agree that ICSS services should make clear to consumers if personal data is to be collected, how this data will be used and that data collected should be directly relevant to the operation of the service, so as not to cause undue delay.

Whilst supportive of the majority of principles outlined for the Prior Permission regime, AIME does not support the proposal for pre-call announcements, or the need to provide the actual government number within promotional copy. AIME is of the view that a link to the home page of the government or company website should be sufficient to protect consumers from harm and maintain consistence with Google Ad Word policy.

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.

If any clarification to our response is required or if we can be of any further assistance please contact Bianca Saccu at + 44 (0) 1273 685 328 or bianca@aimelink.org