Business Plan and Budget 2009/10 – a PhonepayPlus Consultation

Response from Invomo

January 2009

Introduction

Invomo welcomes the opportunity to comment on the PhonepayPlus (PPP) Annual Plan and Budget for 09/10.

PPP starts its consultation by setting out its purpose and role; once again we would point out that PPP's remit is to "administer a Code of Practice" and the terms of reference do not include dealing with issues such as consumer protection and research which are peripheral to this and should not be high budget areas.

We note that in Section 2, PPP states that it is moving the timescale for all lead cases into the complex plus category of over 12 weeks. We are slightly concerned by the statement that "lead cases are now therefore those that are more likely to result in adjudication at Tribunal" as any case where breaches have been raised formally must be presented for adjudication. It would be quite clear in the very early stages of looking at a complaint whether there was a case (breaches) to raise or not and thus it is not clear why all lead cases have suddenly become more complex.

Our answers to the specific questions raised follow:

Q1. 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?

The five objectives still seem relevant and put an appropriate weight on the regulatory duties of PPP. The second objective refers to securing compliance through "incentives" – it is unclear what these incentives may be as, to our knowledge, none have been offered to date.

Q2. Do you have suggestions on specific strategic objectives and tasks – or a re-prioritisation of existing ones - that you think PhonepayPlus should consider as and when we review our Strategic Plan in 2009?

We think it is correct under objective one that PPP regulation remains focused on the service provider.

Under objective four, transparency and accountability, we think that PPP needs to focus on proportionality so that providers and networks, as well as members of the public, have a clear understanding of how matters such as the number of complaints affect the urgency of case processing and the level of ensuing sanctions. The significant number of public complaints about unsolicited SMS does not appear to have been met with proportionate sanctions or an escalation of sanctions for repeat offences. Indeed one service provider has been given lower fines due to promises of future compliance!

Q3. What information or evidence do you have about market trends and about the overall size of the phone-paid services market in 2009/10?

Invomo has no further evidence to offer.

Q4. 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?

Invomo has no further evidence to offer.

Q5. Do you agree with these priorities as actions for 2009/10? If not, please explain why not with alternative suggestions.

Objective one – at the current time of financial difficulties for some companies, we question where PPP sees the "need to benchmark and report" and accordingly whether this is an area that merits an increase in activity and funding.

Objective two – if PPP could work as closely with the mobile network operators as it does with the landline networks there may be greater improvements in compliance amongst the mobile aggregators. Landline TCPs are well aware of the risks they run in repeatedly allowing offenders to operate, but the MNOs appear immune to this.

We agree that broadcast PRS needs to be kept under review. After the extended amount of time that it took to grant permissions, we feel that the licence could have been better worded to make it clear that it is generic and not granted in relation to a specific broadcaster relationship or programme.

PPP states that it will review customer service processes re enquiries and complaints. It has now, finally, in the Mobile Services Review statement admitted that what were previously counted as enquiries or out of remit and passed on to the MNOs are now being counted as complaints. We are concerned that this change was made without consultation and significantly turns around the practice of the last 15 or so years. Initially the helpline was outsourced by ICSTIS to BT, who would only forward relevant complaints on – perhaps it is time to consider this sort of arrangement again?

Q6. What action or support could industry providers offer in order to assist us in delivering these priorities?

If the ILP is used to its full potential, PPP should have no difficulty in gathering support and advice on delivering fair and effective regulation.

Q7. Do you support our proposed Budget changes for 2009/10 having regard to the activity that drives the changes? If not, please explain why.

We think that at a time when many companies are having to freeze pay rises and consider redundancies, an across the board pay rise of 2.5% cannot be justified and would wish to see this reconsidered.

As mentioned earlier we feel that consumer education is an area that is not as high priority as effective complaints handling and regulation and an increase of 35% seems excessive.

The 21% increase in external professional services for "unforeseen events which ...have been known to arise" seems somewhat contradictory.

Q8. 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

Invomo has no comments to add.

Conclusion

PPP became embroiled in the technicalities of supplying services in the mobile services review and, we think that for the coming financial year and, in combination with preparing for the 12th Code of Practice, it would do well to step back and look at principles of regulation which must be met, rather than imposing prescriptive regulation.