



The Mobile Broadband Group

www.mobilebroadbandgroup.com

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Mr Jonathan Levack
PhonepayPlus
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Dear Jonathan

Affiliate Marketing

The Mobile Broadband Group ('MBG'), whose members are EE, Telefonica UK, Three and Vodafone, welcomes the publication of the discussion document on affiliate marketing. The Premium Rate Services market is dynamic and over a number of years, it has been demonstrably apparent that a healthy commercial environment is best maintained if the regulator and leading industry actors work together to develop a regulatory environment that allows new and existing services to flourish while simultaneously protecting consumers.

The PRS market arguably provides consumers with access to one of the most comprehensive, quickest and simplest forms of redress of all payment mechanisms. It is therefore very important that it remains a payment mechanism that merchants want to offer alongside their products and services, in the face of increasing competition from forms of payment.

If merchants sense that PRS is disproportionately regulated and, as a consequence, are driven out of the market, it will be to the detriment of consumers.

With respect to affiliate marketing, the MBG agrees that merchants have to exercise due caution in selecting the channels through which they employ affiliate marketing techniques. The MBG is therefore very supportive of the work being initiated by AIME in the development of its 'Digital Marketing Guidance and Code of Practice'. We feel that this will place an appropriate onus on merchants to carry out due diligence, risk control and monitoring to a high standard, and also allow them to detect problems at an early stage. In this way, the merchant will have taken all reasonable steps to provide a compliant PRS to its customer, without being deemed negligent or accountable for all egregious acts carried out by an affiliate marketer without their knowledge or consent.

By way of analogy, a local council can be held liable for injury caused by negligently maintained pavements. That does not mean it is responsible for every personal injury occurring on its property (e.g. a mugging). The law offers other forms of redress. This is also the case where an affiliate marketer deliberately sets out to defraud, where criminal sanctions can be invoked and applied.

In publishing its guidance note, the MBG agrees that due diligence and risk control processes should be auditable, ethical, systematic and transparent. With respect to the detail, the MBG would encourage PhonepayPlus to reference the comprehensive document being prepared by AIME and to participate in the early warning system that they are establishing.

Following the meetings in May, when AIME, MBG and PhonepayPlus were able to have a constructive initial discussion about the AIME authored document, we are confident that the final version will meet the expectations and needs of all stakeholders. The proposed code of practice should represent the benchmark for affiliate marketing by market actors and provide a framework against which PhonepayPlus can regulate to the benefit of the market generally and consumers in particular.

Yours sincerely,

Hamish MacLeod

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Chair