

**PhonepayPlus Industry Forum**

**4 November 2015**

**Jo Prowse, Chief Executive, PhonepayPlus**

***Check against delivery***

Thanks very much David and good afternoon everybody. It's great to see so many of you here today and to be able to welcome you all to our new building in Canary Wharf.

I'm delighted that at this Forum I'm speaking to you as the confirmed CEO of PhonepayPlus. I was touched by the many supportive messages you sent me so thank you.

I'm also delighted that that the new members of my Leadership Team are also with us today, Simon Towler who you met at the last Forum and Peter Barker who joined us in July.

Today's agenda is very much about looking forward to new horizons - the future for the premium rate services industry and PRS regulation. I said last time we were committed to working even more collaboratively with you. Our panel session, on the market outlook, is not only forward looking but is being given entirely over to you, the industry, under the expert guiding hand of our new chair of the ILP Ann Cook.

We also committed to positive change at our last forum. Our final panel session will focus on a fundamental part of our change programme, the review of Part 4 of the Code.

The PhonepayPlus Board decided on a review into this last year, and I was also keen to review these processes because of the feedback that you gave us when we consulted on the 13<sup>th</sup> Code. I want PhonepayPlus to work in partnership with the industry, and that means listening when you suggest there are areas we could improve on. The session will give you more detail on our thinking, the next steps and timelines for your contributions.

But before we move on to the panel sessions, I will now give you a report on some of the tangible changes that we have been putting in place and to tell you about some of what is coming up in the next period. By the way we will be posting up this report on the website.

When we last met in April I talked about the principles that I want PhonepayPlus to work to under my leadership. Our vision is that anyone can use premium rate services with absolute confidence in a healthy and innovative market.

Now the healthy and innovative market bit of that is key. It makes, I believe, our vision one that gives all of us a common purpose.

In supporting a healthy market we are aiming for regulation that is "Right Touch" – that's right for consumers and right for industry.

In practice this means that PhonepayPlus is:

Proportionate – looking at all the options, only intervening to the extent necessary, and not just reaching for enforcement tools at the first opportunity. This is to ensure that consumers are properly protected, and industry is treated fairly.

Effective in stamping out harm – where we need to take action, the measures we take are efficient and effective.

Enabling for businesses – reducing barriers to entry, allowing you to be flexible in achieving Code outcomes and considering exceptions, pilots and grace periods to support new models and innovation.

Responsive and accessible – having an open door policy, being on the end of the phone and ready to have an open dialogue.

And finally taking a collaborative approach – I will say this again and again but we are absolutely better when we work together.

So these values are not just words on a screen but are actually driving what we are doing day to day – in other words we are not just talking about it but we are doing it.

### **Fair and Proportionate**

We've been drawing the line much more clearly between businesses who have inadvertently failed to comply and work with us, with those who deliberately break the Code bringing the industry into disrepute. As a result, we continue to see the majority of cases investigated through our informal procedures.

### **Effective in stamping out harm – RRT and Industry engagement**

Investigations aside, I think we all agree that pre-empting harm is key to keeping our market compliant. This summer we launched a joint industry and PhonepayPlus Rapid Response Team (RRT). This was developed from an initial proposal from AIME and can be called together at short notice to provide objective advice on specific emerging issues in the market.

There is a protocol now on our website which sets out how the RRT can be called into action and how it will operate.

The RRT has met over the course of the summer to tackle the increase in complaints that we reported on at the last Forum. You can see from the slide that the majority of complaints relate to online competition and adult services – over 80% of complaints received. Through a combination of work by the MNOs, on changes to the Payforit scheme, guidance and advice from AIME and a compliance update from PhonepayPlus, overall complaints have started to decline from a peak in June with September levels just below volumes in January.

Within this, complaints on PFI services have dropped back to January levels. PSMS has a little further to go. AIME are seeking clarification from Trading Standards on compliance with the Consumer Contract Regulations which will probably lead to further changes to these flows. And we hope and expect that we will then see a further decline in complaint volumes.

The Rapid Response Team concept is still in development and there are lessons that need to be learned for future meetings – not least the need to focus on the word 'rapid' in the rapid response team. A key learning point is the need for quicker and more complete data, not

just from PhonepayPlus but from the networks, L1 and L2 providers. We are setting up a data group to work on this and we are discussing how to make this happen with Rory in the coming weeks.

However, despite the improvements we need to make, I think that this RRT can be judged as having been broadly successful. Yes there has been reaction from some in response to the changes made to the PFI scheme rules and this is still being worked through. The number of complaints we are receiving has come down, without PhonepayPlus having to take enforcement measures and as a result of industry coming up with solutions to the issues raised. This demonstrates that we are able to have significant impact in preventing consumer harm when we share information and work together.

### **Flexible and enabling – new Code, further review**

The 13<sup>th</sup> edition of the Code of Practice came into force on 1 July and we have been working with you to bed the Code in and to explain the key changes in it.

The Code continues our outcomes-based approach. This allows us to be flexible in how it is applied in order to support innovation, different business models and new market entrants.

Next steps, in addition to Part 4, is a review of guidance that was not updated as a result of changes to Code 13. We are currently planning to revise six pieces of guidance and to develop two new pieces and will be looking consult with you on these in January 2016.

### **Collaborative approach – clearer communications and industry reputation management**

I have spoken previously about our plans to improve our communications to you and to the outside world.

The reputation of the market is key and we want to play our part in ensuring the PRS market remains respected and trusted.

We have launched a new PhonepayPlus website and updated other communications, on email, social media and other channels, to make information clearer for both businesses and the public. We have also made a number of changes to the language and tone.

You will see on the site that we are now channelling consumers to our solutions centre which helps to educate on PRS. We are now offering help rather than encouraging consumers to complain and looking to dispel some of the myths which surface so readily on blogs and on social media giving PRS a bad name. This also goes for our call centre where we now pass the consumer back to you to resolve their enquiry in the first instance. And we worked with industry stakeholders to build the solutions centre, so this is another good example of collaborative working yielding great results.

We have continued with other work to educate consumers about PRS, completing this year's PhoneBrain campaign with a film screening and an awards ceremony at the British Film Institute on the Southbank. We'll be showing the winning films on the screens during the

session break and if you would like to be involved in this year's competition please speak to our Head of Communications Peter Morton after this session.

### **Responsive and accessible – industry engagement and ILP**

We are working with Ann Cook, Managing Director of ITL, who is the new chair of the Industry Liaison Panel (ILP), to support her in developing the ILP as a more industry-led and strategically-focused group.

I'm delighted that Ann agreed to take on the role and she is doing a fantastic job.

Ann is leading the next session today, so I don't want to steal her thunder.

But, from my perspective the relaunched ILP is a key part of PhonepayPlus' liaison and engagement framework because it brings us together, with you, to exchange ideas and look at trends and future developments and what it means for the market and regulation. So, it has been an active time for PhonepayPlus – plenty of change with a new Code, more industry engagement, and the Part 4 review.

With David's arrival as our new Chairman and two new Board members, Steve Ricketts and Kevin Brown at the beginning of the year, we have also had changes at Board level. Further change is afoot at the end of this year when Hugh Griffiths and Howard Webber's terms of office come to an end.

We would like to take this opportunity to give thanks to Howard and Hugh – both the industry and PhonepayPlus have benefited greatly from their insight and expertise.

In line with our commitment to further efficiencies and cost savings, David is only looking to replace one Board member, the industry Non-Executive Director position. The application pack for this vacancy is available on the website so please do take a look.

The Leadership team has also been refreshed with two new faces, Simon Towler in the role of Director of Policy and External Relations and Peter Barker Director of Corporate Services and Operations.

Both Simon and Peter are participating today and will be working with as many as you as possible in carrying out their roles.

### **Culture shift**

This all adds up to a culture shift within PhonepayPlus – work that my team is continuing, to ensure we are a more transparent and responsive regulator.

I want all of us at PhonepayPlus to embody the principles of good and right touch regulation throughout all aspects our work, in every team and in everything thing we do.

### **Efficiencies - new office, business plan, and compliance review**

Alongside this culture shift, we are looking to the future with a drive for continued efficiency and smarter working.

We are holding this forum in our new office building. We've managed to get a more impressive building but it is actually costing us less than staying where we were – a win-win.

We have a deal that will deliver half a million pounds of cost savings over the life of the lease. It also provides a better space for the team and is showing dividends in productivity and morale. I hope too that you have found it easier to get to us than to our old offices, and that we'll be seeing even more of you visiting us in the future.

I intend that PhonepayPlus in the next year continues to make efficiencies and to work in smarter and more effective ways.

The consultation on our Business Plan and Budget will be out next month.

We have, as you know, already achieved reductions in our budget at the same time as managing year on year increases in transaction volumes.

We also need to ensure that we are adequately funded to provide effective regulation, which is required by statute through Ofcom.

So we need to get the right balance.

Taking all of this into account we will be looking to make further savings on our budget.

The size of our budget however is only one component determining the levy that is charged to cover the cost of our regulation. The key drivers, which are not in our direct control, are the size of the market and the level of fines and administration costs collected.

A decreasing market and/or reduced level of fines will require an increase in the levy. Given the current market conditions and the unpredictability of fine income, we intend next year to undertake a comprehensive review of the basis on which we are funded. We believe it is right to look at the options and to consult with you as to whether a different model can provide further transparency, increased fairness and future proofing.

For the coming year, we are also looking to consult on an interim approach. This is to fund the budget without offsetting the levy rate with fine income, and to separately redistribute to you fines and admin charges collected over the year. This will do three things. Firstly, it will provide transparency and certainty as to the amount needed to be recovered by the levy. Secondly it will remove the need to undertake reconciliations of over or under payments at the end of the year.

And thirdly it will emphasise the independence of our operating costs from the fines and administration charges applied through regulation.

This is an area which I'm sure you have a keen interest in and will be set out fully in our consultation.

In any event, the market size and outlook remains a primary issue which determines funding levels.

## **Market**

Our research from Deloitte last year projected that UK consumers will spend approximately £14 billion on digital content in 2019 and that operator billing has a potential market of over £500 million.

The most recent Annual Market Review found overall PRS market revenues had continued to decline, although at a slower rate than previous years. The report forecasted further decline for this year.

The review also found changes in user behaviour. The number of people using PRS has fallen from 19 to 16m. This was for reasons such as free content elsewhere, lack of interest in the services and cost, but also perceptions of problems with PRS. However, that is still 1 in 4 of the population which tells us that people still want to use PRS.

The 3 Gs of gaming, gambling and giving are an example of services where revenue is growing. There is also the opportunity that operator billing brings in terms of convenience, trust and simplicity. In Q1 we saw operator billing outpayments grow by 98% on the same period last year.

## **Legislative work**

Legislation can of course have major impacts on the market. We want to work with you to ensure that the environment continues to provide strong consumer protection, but without stifling the market – and in particular, without stifling innovation.

One key piece of legislation coming soon is the revised Payment Services Directive, ‘PSDii’, which has the potential to impact on your activities. As some of you know, we have been facilitating the representations the Mobile Broadband Group and AIME have been making to the Treasury and the EU with particular regard to the so called ‘telecoms exemption’ which sets out when the full regulatory requirements of the Directive do not apply.

The European Parliament has voted on the Directive and the formal agreement is likely to happen by the end of November. Member States have 2 years after this to implement the Directive – so by the end of 2017.

The Treasury will lead on taking UK implementing regulations through Parliament and will be consulting with stakeholders on draft regulations by around Easter 2016. The implementation date in the UK will coincide with the implementation deadline; that is they will not come into force until then.

The Financial Conduct Authority has oversight and will be fully engaged in the implementation issues and guidelines. The main issue with regard to the telecoms exemption relates to the transactional and monthly limits at 50 euros and 300 euros respectively.

PhonepayPlus will continue to support the MBG and AIME throughout this implementation period.



Apart from PSDii, there is a great deal of legislative change either ongoing or under consideration at both the UK and the EU government levels.

The EU is just kicking off a comprehensive overhaul of the Regulatory Framework for Electronic Communications – which is implemented in the UK through the Communications Act. We are engaging through DCMS on that process. We are also working with BIS and DCMS on the EU digital single market overhaul announced by the EU Commission in May this year.

Other activity in this area includes providing regulatory clarity on e-money models in the market, monitoring of Ofcom's ongoing strategic review on digital markets and contributing advice to UK ministers on the implications of the new Investigatory Powers Bill for regulators including Ofcom and #ourselves.

We have also put up information on the new Consumer Rights Act, the Consumer Contract Regulations, and the Alternative Disputes Resolution Directive.

In light of the increasingly convergent market for digital content, services and payments we are, more and more, working in collaboration with other adjacent regulators.

We will continue to coordinate our work in the interests of consistency and to ensure we make the best use of our resources.

We appreciate that with all these legislative and regulatory initiatives it can be difficult, particularly for smaller providers, to keep up with everything that is going on. That's why we invest effort in keeping abreast of all such developments to ensure we are ready as a regulator for the possibilities and impacts. And we want to help you understand your obligations in these areas and so ensure a higher standard of consumer protection. If you would like any further information on these areas please do speak with us afterwards.

### **Vulnerability report key findings**

Another key consumer issue is that of vulnerability which is changing as a result of technological developments. This summer we published a discussion paper on vulnerability highlighting that traditional ways we think about people being vulnerable, for example those who are elderly or disabled, are too narrow in today's world.

This is because it doesn't acknowledge that consumers can be temporarily vulnerable because of their situation or a particular set of circumstances, such as financial hardship or bereavement. We are intending convening a small group to work through these important considerations. We will look to issue guidance to you in this area which again will be fully consulted on.

Holding working groups and seminars on key areas of interest is an approach we are looking to adopt more going forward. For example we are looking to hold a seminar, probably in January, on charitable giving through PRS to build on the good work being delivered through AIME's charity working groups and to support further this buoyant market sector.

### **Forward looking/horizon scanning/ research and intelligence**

In an industry that is changing rapidly, it is essential that the regulator is forward looking and does not stand still.

Our collaborative approach to identifying and preventing emerging risks through the Early Warning System and Rapid Response Team is crucial in protecting consumers - but we continue to do more.

We will be commissioning further consumer insight research in the coming months to update our awareness of consumer behaviour beyond our own contact centre data. One part of this research, which we have been working on with AIME, will look at understanding better consumer behaviour and interaction with chargeable services particularly on mobile.

As ever, I want to ensure that industry is engaged and informed throughout the research process in the coming year.

### **Conclusion**

So this is just a flavour of some of the key work that we are undertaking in support of the market and consumer protection over the coming months.

I think you'll agree there is a lot going on, and a lot to do.

We are aware that much of this will involve you responding to consultations and engaging with us in meetings and working groups.

We really do appreciate all the time you give to this and will do our best to manage the programme so as to ensure you are able to participate in full.

In the spirit of collaborative working, I am keen that we hear your thoughts and feed these into our developments and plans.

Each of us here today have different focuses, whether we are network operators, L1s, L2s, trade bodies or PhonepayPlus as the regulator. But we all have an interest in a healthy market that consumers have confidence in.

And we can best achieve that by working together.

I remain keen to hear what you think we can do better to make PhonepayPlus the right touch regulator. Your feedback will continue to guide my work as PhonepayPlus' Chief Executive.

Thank you for listening.

**ENDS**