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Consultation

Review of Prior Permission Conditions for Consumer Credit Services Operating on Premium Rate

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.

General

AIME welcomes the opportunity to respond to this consultation on changes to the prior permission requirements for PRS Consumer Credit Services. The proposal outlines its objectives to bring the prior permission requirements in line with recent changes to OFT regulations and BIS guidance for the marketing of Consumer Credit Services generally, as well as proposing additional controls for PRS specifically, due to the nature of the payment mechanisms up-front transactional environment.

AIME members currently operating these services already seek to provide a high quality professional service for consumers and are keen to ensure those consumers are provided with clear terms. Full refunds for dissatisfied customers are already made available as standard, providing an additional incentive for providing a high quality service from the outset.

In any retail environment, some level of customer dissatisfaction is generally to be expected. We are pleased to report that from an average of 15K transactions a week our members receive only a handful of complaints - all of which are promptly and sympathetically handled. Consumer awareness of the provider's identity is clear and consumers have easy access to customer service facilities. We therefore believe this low complaint rate to be testament to the high standards already in place amongst our membership.

AIME welcomes PhonepayPlus' acknowledgement of the extremely low level of consumer complaints it received in relation to consumer credit services, as noted in the OFT report. Likewise it is reassuring to note that other agencies do not appear to be processing any significant volumes of consumer complaints relating to PRS Consumer Credit Services.

We note that these high standards may not be as ubiquitous amongst companies not signed up to AIME's code of ethics. In particular we note the use of PRS lines by some non-member companies for customer service purposes, or promotion by telemarketing without explanation of call costs, practices that prompted references to PRS in the 2011 CAB super-complaint. These practices reflect badly on the industry as a whole and are strongly opposed by AIME; it is also against the principles of the PhonepayPlus Code of Practice in relation to all service types. In these particular cases PhonepayPlus should be in a position to apply the Code of Practice without requiring a change to the prior permission rules.

In general AIME members already meet and exceed the standards required and have no objection to the majority of proposed conditions. We would however seek assurance that the independent debt advice could be implemented by way of a signpost to full online details of appropriate counselling. We would also wish to raise concern over the suggested prohibition on consumers making a 2nd call to a PRS number, a requirement we believe goes beyond the OFT guidance.

Questions

Q1. Do you have any views on the PRS consumer credit model, the potential benefits and risks to consumers and the interaction between OFT, BIS and PhonepayPlus regulations?

The proposals brought forward in the consultation are framed as adopting existing OFT requirements into the prior permission rules. We believe that drawing providers' attention to this existing guidance is appropriate, though the encapsulation of standards that are subject to interpretation by OFT within the PhonepayPlus Prior Permission regime is not a sound basis for regulation.

We would caution against PhonepayPlus giving regulatory weight to requirements that are contained only in the form of guidance by other government bodies. AIME members are not fundamentally against the majority of the proposals though we would note that the OFT would be best placed to pursue its own regulations in priority to PhonepayPlus and that in the event of a breach a provider should not be placed in a position of double jeopardy. Where regulatory overlap occurs (as has been the case in the past with the ICO and ASA) we would hope to see a memorandum of understanding (MOU) put in place with the OFT to ensure there is regulatory clarity. We would hope to see the MOU structured based on the principle that PhonepayPlus should enforce regulation specific to the promotion of numbering and of premium rate services; though pass any matters covered by existing Consumer Credit Regulations to the OFT as the competent authority in this field.

Our members operating Consumer Credit Services advertise loans generally and do not target those who are debt ridden. We acknowledge that there will be a very small minority of consumers that have a high level of unsustainable debt and we support appropriate safe guards to ensure they are provided with access to counselling.

Our members would not object to the principle of signposting consumers to free independent debt advice, prior to charges being incurred. We believe the appropriate mechanism would be online signposting to appropriate counselling, supported by simple messaging within advertising enabling consumers to enquire about additional support. This would be analogous with the drinks industry which carries the short "drink responsibly" or gambling Industry which promotes "gamCare" messages in adverts.

Q2. Do you have any views on the new conditions we are proposing for transparency around rates of interest charged and their impact on either consumers or providers? Please provide any evidence to support your views.

AIME supports the principle of consumers being fully informed at point of sale.. Our members have raised no concern over the practicability of the proposal.

We note it is proposed that interest repayable must be displayed as an amount in cash terms as well as a percentage. We would be keen to clarify that providers have liberty to provide this information using daily, weekly, monthly, or an annual scenarios, as circumstances dictate.

Q3. Do you agree with our assessment that publishing the average acceptance rates of lenders will help consumers to make an informed decision? Please provide any evidence to support your views.

Our members are not fundamentally opposed to the requirement to provide an average acceptance rate. However, the acceptance rate alone is unlikely to provide a meaningful guide to consumers, as acceptance is based upon each applicant's personal circumstances. We would hope to work further with PhonepayPlus to improve the clarity of this message to ensure it provides a meaningful guide for applicants from all demographics and that it might appropriately disguise outcomes based on the quality of the applicant from those related to the quality of the service provided.

Q4. Do you have any views on the impact this may have on PRS-based providers? Please provide any evidence to support your views.

We do not believe publishing the acceptance rate will have an undue impact on providers.

Q5. Do you have any views on the new condition we are proposing for the price transparency of calls and its impact on consumers or providers? Please provide any supporting evidence.

We have no concerns over pricing transparency measures.

Q6. Do you have any views on the new conditions we are proposing around the total number of calls and their impact on consumers or providers? Please provide any supporting evidence.

Unlike other PRS services, the application fee is capped by PhonepayPlus at 15 minutes. In conjunction with Ofcom tariff cap of £1.53 per minute, the maximum charge for an application is £22.95 (£18.36 excl VAT).

The spend caps on consumer credit services are also significantly below the £30 per call cap applied to live PRS entertainment service. We would hope to have further discussions with PhonepayPlus on the prospect of extending the current time limit placed on the initial call to ensure that providers have appropriate charging flexibility where required.

Providers of Consumer Credit Brokering services have significant overheads, the application fee having to cover network charges, marketing and the PRS call operative, in common with other PRS services, as well as operatives for the pre-application service, plus the administration required to process the application, aggregate the loan offers and then notifying the applicant of the results post the call. With refunds also taken into account, the operating margins are incredibly slim.

Considering that banks still charge up to £25 to administer an overdrawn account (a charge which must be a fair reflection of costs following the high court ruling), the fee charged by PRS providers could reasonable argued as capped below a reasonable operational level.

As a result providers of Consumer Credit Services are currently reliant on second call PRS revenues to keep the business sustainable. We have been informed that the removal of the second call revenue stream would result in the closure of one of the largest providers and the loss of 200 jobs.

We note that the second PRS call restriction is stated as an OFT requirement within the consultation document. Whilst we can find reference to a requirement for a non-PRS customer service line, we can identify no specific restriction on the number of PRS calls.

AIME would support the principle that consumers should be able to achieve an outcome to their application from the first PRS call and that results should be made available without further charges having to be incurred. We do not believe the principle of allowing a seperate PRS call to be directly in conflict with this premise, where it provides a clearly separate service compliantly promoted .

Where the consumer has called the service on the premise of paying for 'a basic service' whereby results are provided via email, should they require a more tailored service to discuss the result verbally, 'a gold service', it is a reasonable premise that a further charge is payable. We distinguish this from a call to enquire about the billing of the service, the refund mechanism, or the general operation of the service; which would be fairly defined a customer service call.

We would emphasise our support for the principle that all information necessary for a complete application must be collected in the initial call and consumers should not be forced or cajoled into a second call in in the belief that it will help to achieve a successful outcome. The second call scenario must be a distinct standalone element of the service, which presents a reasonable and clear added value.

We would not seek to arrive at a full definition of what constitutes added value in this response, though would seek to establish that the principle that added value exists and that there are circumstances in which the door to using a second PRS call should remain open. We would welcome further discussion with PhonepayPlus on this matter.

Q7. Should PhonepayPlus consider introducing new measures to improve refund rates for eligible consumers?

AIME feels that our members currently work within the requirements of the Consumer Credit Act in handling all refund request promptly and without argument.

Consumers must be provided with details of refund arrangement and it is important that this message is clearly presented. It is our belief that industry currently discharges it duty in this regard, though we would welcome any evidence of consumer dissatisfaction so that this can be investigated and promptly acted upon. AIME would be happy to work closely with providers to structure best practice and would be happy to engage with PhonepayPlus on this project.

Q8. Do you have any views on what steps could be taken to improve the current refund rates?

AIME members already actively promote the availability of refunds within promotional material and within pre-call announcements. We would be happy to consider all evidence which might help improve the effectiveness of this messaging to ensure consumers are clear on refund rights and are able to exercise those rights without restriction. AIME would be happy to work closely with providers to structure best practice and would be happy to engage with PhonepayPlus on this project.

Q9. Do you agree with our impact assessment? If not, why not?

We believe the impact assessment to be broadly accurate, though reiterate the input we have been given in Q6 that operational costs now exceed the maximum revenues that can be generated from a single PRS call.

Conclusion

AIME supports and encourages the principle that consumers should be fully informed at point of sale and should be provided with clear information to support the buying decision. AIME members already abide by this philosophy and support the majority of proposal outlined in the proposal. There are three elements of the proposal over which we have significant concerns, namely the suggested prohibition on a separate PRS call, the clarity over regulatory lead and the meaningful presentation of acceptance rates. AIME would welcome further discussion with PhonepayPlus on these points. AIME also notes the situation with consumer refunds and welcomes the proposal that improvements should be industry and not regulatory led. AIME would be happy to work closely with providers and PhonepayPlus to structure best practice.

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**