

THE CODE COMPLIANCE PANEL OF PHONEPAYPLUS

TRIBUNAL DECISION

Thursday 1 October 2009
TRIBUNAL SITTING No. 37/ CASE 2
CASE REFERENCE: 777583/JI

Network Operator: Plaza Telecom Limited (formerly Hotchilli Communications Limited), London

THIS CASE WAS BROUGHT AGAINST THE NETWORK OPERATOR UNDER PARAGRAPH 9.1 OF THE CODE

BACKGROUND

In July 2008, the PhonepayPlus Executive (the 'Executive') received complaints from members of the public regarding missed calls being made from 070 prefixed numbers which were operating on the Hotchilli Communications Limited network. Hotchilli Communications Limited changed its name to Plaza Telecom Limited on 8 August 2009.

The complaints were linked to six separate service providers and, as a result, six separate investigations were initiated by the Executive in relation to the following service providers: Starwire Limited (Case reference 748452); Speedreview Limited (Case reference 765871); Jay Singh t/a JST Promotions (Case reference 774947); PCB Telecom Limited (Case reference 766056); Enbel Limited (Case reference 767427) and Symtek Communications Limited (Case reference 751193). All six service providers were found to be in breach of the PhonepayPlus Code of Practice (11th Edition Amended April 2008) ('the Code').

The Executive was concerned as to the apparent failure of the Network Operator to comply with its due diligence obligations under the Code and specific directions issued by the Executive which enabled the six service providers to operate in breach of the Code.

(i) Initial findings

The Executive, during the course of its preliminary investigations, identified a number of 'issues' which it believed were in potential breach of the Code, they were as follows:

- Due diligence records showed missing or incorrect service provider contact details.
- The Network Operator failed to carry out identity and credit checks, and provide the full name of the director of the Service Provider known as JST Promotions.
- Full contractual documentation with regard to 070 number allocation was not made available to the Executive.
- Revenue and call log data supplied was discrepant, incomplete and not submitted on time.
- Full terminating number data was not supplied.
- Formal directions were not complied with.

(ii) The Investigation

The Executive conducted this matter as a standard procedure investigation in accordance with paragraph 9.1 of the Code.

The Executive sent a breach letter dated 17 July 2009 to the Network Operator raising potential breaches of paragraphs 2.1.1b, 2.3.1a, 2.3.1b, 2.3.1c, 2.3.1d, 2.3.1f, 2.5.1a, 2.5.1e, 2.5.1f and 2.5.2d of the PhonepayPlus Code of Practice (11th Edition Amended April 2008) ('the Code'). A formal response to the breach letter was sent by Maxima Holdings Limited ('Maxima'), the parent company of the Network Operator on 20 July 2009. A further reply was sent by Maxima on 31 July in which it was said, "*On the basis of the information you have supplied it is difficult to argue against most of the points you raise and so I do not attempt to do so*". Maxima failed to provide specific responses to the potential breaches raised by the Executive. The Network Operator also failed to provide responses to the potential breaches raised by the Executive.

The Tribunal made a decision on the breaches raised by the Executive on 1 October 2009 having heard informal representations from the Network Operator. The Network Operator explained that there had been a change of ownership of the business on 31 July 2009 and that those that had been responsible for the services in question were no longer employed by it. It was further explained that it had been unable to locate many of the records that had been requested by the Executive. By way of general comment, the present owner of the business argued that, if it had been thought that the 070 numbers were being used legitimately, they would not have been subject to regulation as premium rate numbers. It was further observed that the previous directors seemed to have regarded some of the service providers which had been defined as re-sellers, rather than service providers.

SUBMISSIONS AND CONCLUSIONS

ALLEGED BREACH ONE

GENERAL RESPONSIBILITIES (Paragraph 2.1.1b)

"Network operators must ensure that PhonepayPlus regulation is satisfactorily maintained by:

b taking all reasonable steps to prevent the evasion or undermining of the regulation of premium rate services."

1. The Executive submitted that the Network Operator had not taken reasonable steps to prevent the evasion of the regulation of premium rate services by the use of numbers it owned being linked to the compromising and tampering of Virgin Media equipment. The Executive submitted that, if the Network Operator had undertaken a reasonable level of due diligence in relation to the sub-allocation of the number ranges used to operate the service, it would have realised that, at the minimum, the contact details for the three individuals associated with the service provider known as 'Royal Northern Star' were not accurate, and that it was not operating a contact and dating service as it had stated.
2. The Network Operator did not formally respond to this alleged breach of the Code.
3. The Tribunal considered the evidence as a whole and found that the Network Operator's approach to its due diligence obligations and procedures was severely deficient. The Tribunal found that the Network Operator had not taken all reasonable steps to prevent the evasion and undermining of the regulation of premium rate

services on the grounds alleged by the Executive. The Tribunal upheld a breach of paragraph 2.1.1b of the Code.

Decision: UPHELD

ALLEGED BREACH TWO NETWORK OPERATOR'S DUE DILIGENCE REQUIREMENTS (Paragraph 2.3.1a)

“Before making their network and/or services available to service providers for premium rate services, network operators must (unless PhonepayPlus waives any such requirement in writing):

- a collect and maintain such information as PhonepayPlus may require them to hold in respect of their service providers in order to ensure effective identification of and communication with service providers, and in every case must collect and maintain the following information:*
 - i the full address where their service providers are located and (if different) the address within the UK where they may be contacted,*
 - ii in the case of a limited company, its registered number and the name and home address of each of the directors,*
 - iii the name of the director with primary responsibility for premium rate services,*
 - iv the name of the person responsible for the day-to-day operation of each service provider's premium rate services,*
 - v phone and fax numbers and e-mail addresses for their service providers and the individuals named under iii and iv above, enabling contact to be made with any of them at all necessary times.”*

1. The Executive raised a paragraph of 2.3.1a on the following grounds:

Ground 1

The Executive submitted that the Network Operator had provided it with an incorrect email address and telephone number for the service provider known as Enbel Limited ('Enbel') (case reference 767427), resulting in the Executive being unable to make immediate contact with Enbel by either email or telephone. Enbel eventually contacted the Executive six days after the breach letter was issued using an email address which was not supplied by the Network Operator.

Furthermore, the Executive requested an alternative contact number on two occasions whilst attempting to make contact with Enbel but this was never supplied. The Executive submitted that, as the Network Operator was contracting with Enbel at the time of the investigation, it would have been privy to such information. The Executive submitted that the Network Operator's failure to provide a correct email address and contact number for Enbel prevented the Executive from making contact with this service provider and delayed the receipt of important correspondence, hence obstructing the investigation.

Ground 2

The Executive submitted that the Network Operator had failed to provide the full name of the director associated with the service provider known as JST Promotions (case reference 774947), despite that fact that JST Promotions had been involved in obtaining revenue in relation to four of the services investigated which were found to be in breach of the Code, and was associated with numerous other services in which it contracted with the Network Operator for the provision of 070 personal numbering services.

2. The Network Operator did not formally respond to this alleged breach of the Code.

3. The Tribunal considered the evidence and concluded that, in relation to Ground 1, the Network Operator had failed to maintain a valid email address and phone number for the service provider, Enbel. In relation to Ground 2, the Tribunal concluded, on a balance of probabilities on the evidence before it, that the Network Operator had not collected and maintained the names of the directors of JST Promotions so as to ensure their effective identification. The Tribunal upheld a breach of paragraph 2.3.1a of the Code on both grounds.

Decision: UPHELD on both grounds

**ALLEGED BREACH THREE
NETWORK OPERATOR'S DUE DILIGENCE REQUIREMENTS (Paragraph 2.3.1b)**

"Before making their network and/or services available to service providers for premium rate services, network operators must (unless PhonepayPlus waives any such requirement in writing):

- b obtain satisfactory evidence that their service providers have sufficient financial and other resources necessary to discharge their obligations under this Code in the light of their intended premium rate activities"*

1. The Executive submitted that the Network Operator had failed to carry out credit checks on a service provider which was found to be in breach of the Code (JST Promotions, case reference 774947). The Executive submitted that the Network Operator's suggestion that due diligence checks carried out on JST Promotions were not necessary as payments were not received and no numbers were allocated to them was invalid. It made reference to evidence that confirmed that this service provider had received revenue in relation to four services being investigated and was allocated six 070 prefixed number ranges.

The Executive submitted that there had been a breach of paragraph 2.3.1b as the Network Operator had failed to obtain satisfactory evidence that JST Promotions had sufficient financial resources necessary in light of its intended premium rate activities.

2. The Network Operator did not formally respond to this alleged breach of the Code.
3. The Tribunal considered the evidence and concluded that, on the evidence before it, the Network Operator had not obtained satisfactory evidence to establish that JST promotions had the sufficient financial resources necessary to discharge its obligations for its intended premium rate activities. The Tribunal upheld a breach of paragraph 2.3.1b of the Code.

Decision: UPHELD

**ALLEGED BREACH FOUR
NETWORK OPERATOR'S DUE DILIGENCE REQUIREMENTS (Paragraph 2.3.1c)**

"Before making their network and/or services available to service providers for premium rate services, network operators must (unless PhonepayPlus waives any such requirement in writing):

- c make sufficient inquiry so as to satisfy themselves fully that the information supplied to them by service providers is accurate. In undertaking these inquiries, network operators must obtain clear evidence, in particular in respect of the identity of the people named in accordance with paragraph 2.3.1a iii and iv above"*

1. The Executive submitted that the Network Operator had failed to provide it with any evidence in respect of the identity of the director of JST Promotions (case reference 774947) who was known to the Executive under various different names. The Executive submitted that the Network Operator had failed to carry out fundamental due diligence checks.
2. The Network Operator did not formally respond to this alleged breach of the Code.
3. The Tribunal considered the evidence before it and concluded that the Network Operator had failed to make sufficient inquiries so as to be satisfied as to the identity of the director of JST Promotions, and that the information that it supplied to the Executive was accurate. The Tribunal upheld a breach of paragraph 2.3.1c of the Code for the reasons given by the Executive.

Decision: UPHELD

ALLEGED BREACH FIVE

NETWORK OPERATOR'S DUE DILIGENCE REQUIREMENTS (Paragraph 2.3.1d)

“Before making their network and/or services available to service providers for premium rate services, network operators must (unless PhonepayPlus waives any such requirement in writing):

d retain the information collected and the records of the inquiries made and responses to those inquiries and a copy of all evidence obtained, and make those records and copies available to PhonepayPlus upon being directed by PhonepayPlus to do so”

1. The Executive raised a paragraph of 2.3.1d on the following grounds:

Ground 1

The Executive submitted that the Network Operator had failed to provide a contract for the use of 070 numbers allocated to the service provider known as Enbel prior to 20 October 2007 despite evidence that calls were made to 070 prefixed numbers allocated to Enbel and that the Network Operator had confirmed that it had contracted with Enbel prior to 20 October 2007.

The Executive stated that, during a meeting held at the Hotchilli Offices on 11 March 2009, Hotchilli had stated that a further or updated contract had been provided to Enbel on 20 October 2007, but that the original contracts were no longer in Hotchilli's possession and that system changes in its database had resulted in only the most recent contractual information being retained, not historic information. The Executive also submitted that the Network Operator had not provided sufficient evidence to show that Enbel had been provided with contractual documentation of its relationship with the Network Operator, or any other relevant financial documentation with regards to those relevant numbers allocated by the Network Operator.

Ground 2

The Executive submitted that the Network Operator failed to provide a contract for the use of 070 numbers allocated to the service provider known as PCB Telecom Limited ('PCB') (case reference 766056) prior to 19 October 2007, the date PCB began operating the service according to a contract of the same date. The Executive submitted that as the Network Operator had supplied call logs indicating that calls were made to 070 prefixed numbers allocated to PCB within the period 4 January and 18 October 2007, the Executive would have expected that revenue was generated by those calls and it followed that PCB would have received further revenue than that stated by the Network Operator. The Executive submitted that the

Network Operator could not confirm whether the call logs referred to above related to PCB or another party as it had failed to retain records of 070 number allocation.

2. The Network Operator did not formally respond to this alleged breach of the Code.
3. The Tribunal considered the evidence and concluded that, in relation to Ground 1, the Network Operator had failed to retain the contractual information relating to the provision of 070 numbers allocated to Enbel which it had confirmed had been in its possession previously, but had been overwritten by system changes in its database. In relation to Ground 2, the Tribunal found that, on the balance of probabilities, there had been a contractual relationship between the Network Operator and PCB from 4 January 2007 (and as previously found in a Tribunal adjudication against PCB on 2 April 2009). The Tribunal concluded on the evidence before it that the Network Operator had failed to retain the contractual information requested and, as a result, could not provide this to the Executive. The Tribunal upheld a breach of paragraph 2.3.1d of the Code on both grounds.

Decision: UPHELD

**ALLEGED BREACH SIX
NETWORK OPERATOR'S DUE DILIGENCE REQUIREMENTS (Paragraph 2.3.1f)**

“Before making their network and/or services available to service providers for premium rate services, network operators must (unless PhonepayPlus waives any such requirement in writing):

f satisfy themselves, by taking reasonable measures, that their service providers have in place adequate customer service and refund mechanisms including a non-premium rate UK customer service phone number in order to enable service providers to discharge their obligations under the Code.”

1. The Executive submitted that the Network Operator provided a customer services number in relation to JST Promotions which did not appear to exist. The Executive submitted that the Network Operator had failed to satisfy itself that JST Promotions had adequate customer service provisions and refund mechanisms in place.
2. The Network Operator did not formally respond to this alleged breach.
3. The Tribunal considered the evidence and found that the Network Operator had not taken reasonable measures to ensure that an adequate and valid customer services number was in place for JST Promotions. The Tribunal upheld a breach of paragraph 2.3.1f of the Code.

Decision: UPHELD

**ALLEGED BREACH SEVEN
SPECIFIC OBLIGATIONS (Paragraph 2.5.1a)**

“When directed to do so by PhonepayPlus, network operators shall provide to PhonepayPlus within such time as it shall specify such information (including copy documents) as it requires in relation to any complaint received or investigation being carried out by it. Such information may include, but is not limited to:

a service provider details and copies of contracts with service providers and/or any agents or other parties concerned in the process of providing the network operator's network facilities or other communications services to service providers”

1. The Executive raised a paragraph of 2.5.1a on the following grounds:

Ground 1

The Executive submitted that, as the Network Operator had supplied, in response to a request made by the Executive, a contract in a Word document format for a service provider containing a number range which was, in fact, allocated to another service provider, the contract could not be deemed accurate. It noted that the Network Operator had suggested that the discrepancy was due to the information being extracted from one reporting system due to convenience, but the Executive did not accept this as a valid explanation as the information contained within the word document (i.e. the number ranges) would have been entirely independent of the data within the system. The Executive submitted that the contract provided in response to formal directions had contained inaccurate information and it followed that this specific obligation had not been met.

Ground 2

The Executive stated that a breach of paragraph 2.5.1a had occurred as the Network Operator had failed to supply all service provider details, including a regulatory contact telephone number and fax number as requested in the Executive's directions for service provider details for a 070 prefixed number, within the time period set out by the Executive.

Ground 3

The Executive submitted that it was of the opinion that the Network Operator had failed to supply a valid contract with PCB as the one that was supplied was not signed and did not confirm PCB's acceptance of the 070 numbers allegedly allocated to it (case reference 766056). It further submitted that, as a result of the omission of key information in the contract, including name, position, signatory, date of commencement of service and date of contract, the Executive was forced to withdraw three number ranges from the investigation of the service, for which revenue had been generated. The Executive submitted that this was aggravated by the submission of a Master Services Agreement document between the Network Operator and Enbel (case reference 767427) which the Executive submitted was not accurate or complete. It submitted that the Master Services Agreement was signed by Luca Pepere of the Network Operator whilst recording that Simon Smith was the authorised signatory of the Network Operator. Additionally, the name of the signatory for Enbel had not been stated.

2. The Network Operator did not formally respond to this alleged breach of the Code.
3. The Tribunal considered the evidence and concluded that, in relation to Ground 1, and, on the balance of probabilities the contract provided by the Network Operator was not the operative contract between it and JST Promotions as it had contained details of number ranges allocated to another service provider. Accordingly, the Tribunal concluded that the Network Operator had failed to provide the Executive with the contractual information requested. In relation to Ground 2, the Tribunal found that the Network Operator had failed to provide the regulatory contact number and fax number relating to JST Promotions at the time requested by the Executive. In relation to Ground 3, the Tribunal considered the contractual documents provided by the Network Operator and concluded that, whilst the documents supplied appeared deficient in various respects, there was insufficient evidence to show that there was no valid contract in place, and therefore such contractual information as existed had been provided. The Tribunal upheld a breach of paragraph 2.5.1a of the Code in relation to Grounds 1 and 2 only.

Decision: UPHELD on Grounds 1 and 2

ALLEGED BREACH EIGHT SPECIFIC OBLIGATIONS (Paragraph 2.5.1e)

“When directed to do so by PhonepayPlus, network operators shall provide to PhonepayPlus within such time as it shall specify such information (including copy documents) as it requires in relation to any complaint received or investigation being carried out by it. Such information may include, but is not limited to:

e all details of out payments including amounts, bank details and dates of payment to service providers (which may include such proof of payment as PhonepayPlus shall specify)”

1. The Executive submitted that the revenue figures for the four service provider investigations were not supplied in full within the Executive’s requested timeframe. It submitted that, between the date that the original formal directions were sent (29 August 2008) and the submission of the revenue figures on 11 March 2009 (seven months later), the Executive had liaised with the Network Operator on a regular basis via email and telephone, requesting the same information on multiple occasions. It submitted that it constantly received information relating to the revenue which was incorrect, incomplete and did not correspond with the call traffic logs which the Network Operator had supplied. The Executive noted the explanations put forward by the Network Operator for this failure (namely that the information could not be obtained due to a change in Network Operator management, maintenance of the database systems and the transfer of revenue documentation being kept offsite), but maintained that the Network Operator had still failed in its duties to provide fundamental information in an accurate and timely manner. It submitted that this had been exacerbated by the fact that the revenue figures supplied failed to identify the call traffic to which each payment related.
2. The Network Operator did not formally respond to this alleged breach of the Code.
3. The Tribunal considered the evidence and concluded that, although the Network Operator had supplied the information requested by the Executive, it had not done so within the time specified by the Executive. The Tribunal upheld a breach of paragraph 2.5.1e of the Code.

Decision: UPHELD

ALLEGED BREACH NINE SPECIFIC OBLIGATIONS (Paragraph 2.5.1f)

“When directed to do so by PhonepayPlus, network operators shall provide to PhonepayPlus within such time as it shall specify such information (including copy documents) as it requires in relation to any complaint received or investigation being carried out by it. Such information may include, but is not limited to:

f details of other numbers held by relevant service providers.”

1. The Executive raised a paragraph of 2.5.1f on the following grounds:

Ground 1

The Executive submitted that the Network Operator did not supply a full list of the number ranges allocated to JST Promotions until eight months after the initial request was made, and after the specified time. The Executive submitted that the failure to supply this information on time was aggravated by the Network Operator's statement that the numbers were not allocated to JST Promotions at all which was inconsistent with documentation that it had already provided.

The Executive submitted that this breach was exacerbated by the Network Operator's submission of a range of 070 prefixed numbers which it initially indicated was allocated to a company called 'Bridgemill', then retracting this statement and stating that this company was not known to the Network Operator, and the numbers had in fact been allocated to JST Promotions. The Executive submitted that this inaccurate information created confusion and contributed to a delay in the investigation. The Executive also submitted that further aggravation was caused by the Network Operator's submission eight months after the formal directions were issued that one of the 070 prefixed number ranges was, in fact, allocated to another service provider known as 'Takhar Travel Limited', which was not under investigation. The Executive submitted that this resulted in the Executive having to notify the Tribunal that the number range in question should be removed from the case one week before adjudication and, more importantly, the Executive was unable to initiate an investigation against the service provider responsible for operating a missed call service on that number range.

Ground 2

The Executive submitted that the Network Operator had failed to provide the terminating numbers for 070 prefixed numbers, following the issuance of formal directions. Two of the service providers for which it failed to provide terminating numbers for were under formal investigation and were subsequently found to be in breach of the Code ('Speedreview' – case reference 765871 and 'PCB Telecom' – case reference 766056). The failure to provide such information hindered the investigations of the above mentioned cases. The Executive also submitted that the Network Operator failed to confirm whether the scripting data it supplied regarding Enbel (case reference 767427) related to the 070896 prefix allocated to Enbel or a different service provider, making the information unusable and again obstructing the investigation. The Executive submitted that the Network Operator would have had reason to suspect that traffic on its network was not genuine, and therefore should have maintained records of terminating information as part of its due diligence requirements.

2. The Network Operator did not formally respond to this alleged breach of the Code.
3. The Tribunal considered the evidence and found that, in relation to Ground 1, the Network Operator's initial response to the Executive's request for information on 23 July 2008 was incomplete and that the full response was not provided until 24 March 2009. Accordingly, the Tribunal concluded that the information it had requested had not been provided within such time as had been specified. In relation to Ground 2, the Tribunal found that the Network Operator had failed to provide the information in relation to the scripting data and the number ranges requested by the Executive. The Tribunal therefore upheld a breach of paragraph 2.5.1f of the Code on both grounds.

Decision: UPHELD on both grounds

ALLEGED BREACH TEN WITHHOLDING OF REVENUE (Paragraph 2.5.2d)

"When directed to do so by PhonepayPlus, network operators shall immediately:

- d withhold such an amount of money as PhonepayPlus may require out of monies payable by the network operator to a specified service provider until permitted by PhonepayPlus to do otherwise, or withhold some or all money payable to a specified service provider in respect of certain numbers or premium rate services (as may be specified) until permitted by PhonepayPlus to do otherwise, or withhold all money payable to a specified service provider until informed by PhonepayPlus that it may do otherwise”*
1. The Executive submitted that the Network Operator paid over monies to a company known as Esse Solutions Limited, in relation to a service being operated by the service provider known as Starwire Limited ('Starwire') (case reference 748452), despite the fact that the Executive directed the Network Operator to withhold all revenue in respect of that service in a formal direction two working days earlier. The Executive submitted that the formal directions were sent by email from the Executive to the Network Operator's General Manager who had received the directions on the same day, and who had been liaising directly with the Executive with regards to the same investigation over the previous month. The General Manager later stated that the Executive should have also addressed formal directions to two other employees of the Network Operator. However, one of these employees had not responded to any information requested by the Executive for at least a month before the directions had been issued, and the second employee had not been included in any previous correspondence with the Network Operator. The Executive submitted that it later received an email from Enarpee Services Limited that stated that it was the regulatory and compliance contact on behalf of the Network Operator, and therefore the formal directions should have been sent to Enarpee Services Limited. However, the Executive submitted that Enarpee Services Limited had not been included on any correspondence by the Network Operator and had never contacted the Executive with regards to the investigation over the previous month. The Executive submitted that the formal directions were sent to the correct party as that party had been the sole liaison for the investigation in question over the previous month. It submitted that the Network Operator had received the directions on the same day they were sent, yet failed to comply with a direction to withhold revenue.
 2. The Network Operator did not formally respond to this alleged breach of the Code.
 3. The Tribunal considered the evidence and concluded that the Network Operator had failed to comply with a direction from the Executive to withhold all revenue in respect of the service being run by Starwire. The Tribunal found that the formal directions had not been properly served and upheld a breach of paragraph 2.5.2d of the Code.

Decision: UPHELD

SANCTIONS

The Tribunal's initial assessment was that, overall, the breaches taken together were **serious**.

In determining the sanctions appropriate for the case, the Tribunal took into account the following aggravating factors:

- There were outstanding service provider fines from previous adjudicated cases which breached PhonepayPlus' Code as a result of the Network Operator's due diligence failures. Starwire Limited (Case reference 748452) which was fined £250,000; Speedreview Limited (Case reference 765871) which has an outstanding fine of

£57,848; Jay Singh t/a JST Promotions (Case reference 766056) which has an outstanding fine of £25,657.48; PCB Telecom Limited which was fined £500,000; Enbel Limited (Case reference 767427) which was fined £110,000; and Symtek Communications Limited (Case reference 751193) which was fined £250,000;

- There was material consumer detriment given the large gross revenue attained from consumers of the above services, which was in the approximate sum of £1.5million.
- The Network Operator's breach history.

In mitigation, the Tribunal noted the following factors:

- The Network Operator co-operated with the Executive and informed the Executive on 12 August 2009 that all 070 services had been terminated.

Having taken into account the aggravating and mitigating factors, the Tribunal concluded that the seriousness of the case should be regarded overall as **very serious**.

Having regard to all the circumstances of the case, including the number and seriousness of the Code breaches, the Tribunal decided to impose the following sanctions:

- Formal Reprimand;
- A fine of £175,000;
- A bar on the Network Operator providing its network and/or services for the carriage of any premium rate services for three months, commencing 21 October 2009, or until the following conditions have been satisfied, whichever is the earlier:
 1. That the Network Operator commissions an audit from an independent third party into its due diligence processes and procedures.
 2. That this third party be of high recognised standing and is pre-approved by the Executive.
 3. That the third party be instructed to evaluate the compliance culture, policies and corporate governance of the Network Operator in relation to all present and proposed premium-rate activity and to report recommended changes.
 4. That the Network Operator undertakes to provide a copy of the report to the Executive within two months and comply in full with the recommendations of the report, subject to any express exemptions or modifications agreed with the Executive.
 5. That the Executive is satisfied that the third party's recommendations have been implemented and is satisfied with the Network Operator's due diligence processes.