PhonepayPlus draft Guidance and Special conditions associated with the 13th edition of the Code of Practice

UKCTA Response

Submitted to PhonepayPlus: 15th May 2015

Introduction

1. The UK Competitive Telecommunications Association ("UKCTA") is a one of the leading voices in the UK fixed telecommunications industry, counting the majority of the market's main players as our members[1]. Our aim is to foster a more competitive fixed telecommunications market in the UK, based on a regulatory framework that treats all competitors in this field equally and fairly. We believe that this is good news for consumers, the industry and the economy. Consumers will benefit from greater choice of more competitive, innovative products; network companies will be in a better position to compete; and the economy will benefit from greater investment.

2. We welcome the opportunity to comment on the above-captioned draft guidance from PhonepayPlus. We have reviewed the proposals in detail and although the majority of them seem sensible, we believe there are specific areas of concern which we address in the following.

3. We are very concerned about the proposed requirements on the provision of higher rate PRS. We do not understand why PPP is taking such an unjustifiably hard-line approach against these services which are not yet available in the market and for which there is therefore no evidence of consumer harm being caused. In essence, PPP is suggesting the following requirements:

a. A longer retention period of up to 60 days;
b. Requirement to provide a free call cost message at the start of the call;
c. Requirement to lodge a bond; and
d. Requirement to record and store calls.

4. Taken together, we believe these requirements are disproportionate and completely unnecessary and will risk stifling a new market from the start before any new services are actually made available. Addressing the individual proposed requirements in turn:

5. We believe that the current retention period of 30 days has worked very well since its introduction. Extending this to up to 60 days (we note the draft guidance says 60 days) would starve service providers running legitimate services of important cash flow. An excessive retention period would therefore prevent them from developing their existing services or bringing to market new innovative ones. We do not believe there is any evidence to suggest that a longer retention period would necessary to ensure

[1] UKCTA Members, EE and Gamma, do not support this submission

that rogue operators do not cause consumer harm. Any such harm would be adequately addressed by the current 30-day retention period.

6. We disagree with PPP's analysis that it would be technically feasible to provide a free call cost message. We would suggest that this kind of functionality would actually be very difficult to introduce at network level in a reliable fashion particularly for calls that may be carried across multiple network before terminating (e.g. originating network, transit network and terminating network). We understand that PPP has previously contemplated a similar requirement in other contexts but that it had to be abandoned following evidence produced by network operators. Additionally, given the introduction, by Ofcom, of unbundled tariffs on non-geographic ranges from 1 July 2015 with the specific aim of increasing pricing transparency, it would be entirely premature to overlay this with additional regulation before any assessment of the effect on consumers has been considered.

7. We believe the requirements to lodge a bond and to record and store calls should be restricted to certain service types as is the situation today. It would not be necessary to extend these requirements to all services on higher rate PRS regardless of their nature.

8. We agree that it is important to ensure that adequate consumer protection is in place for these services but one also has to ensure that an appropriate balance is achieved to ensure that consumers overall can enjoy and derive the benefits from the new types of services that we believe will be available on higher rate PRS numbers.

9. It is of particular concern that PPP's proposals do not make any distinction between a higher rate PRS at £1.54 pence per minute (i.e. just above the current ppm limit) and one at £3.60 pence per minute (the new service charge limit set by Ofcom). PPP proposals assume therefore that the consumer harm would be the same across this vast range of retail prices. This is clearly not the case and, if additional safeguards were indeed deemed necessary we would advocate a more reasonable and proportionate regulatory response to higher rate PRS.

10. In particular, a regulatory response needs to recognise that services at the top ppm limit of £1.53 have been in the market for well over 15 years (according to Ofcom's own number allocation information).[2] Even if one assumes that that the original intention when this cap was introduced was to ensure a degree of future inflationary impact, we believe that this cap today would be somewhere in the region of £2.00 to

[2] http://www.ofcom.org.uk/static/numbering/index.htm#prem

£2.20 (after inflation). This is a strong argument in favour of rolling over the existing regulatory requirements to services offered on price points up to this updated ceiling. Over and above such a ceiling, we believe there may possibly be a stronger case for more stringent regulation until the consumer impact of those higher rate PRS can be assessed with actual market evidence in hand. Such a staggered approach would be much more reasonable than the “one-size-fits-all” approach currently suggested by PPP. We would therefore urge PPP to consider this option in more detail and we would be happy to provide more input as required.

End.