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Consultation **Service Charge Caps for 09 and 118 Services**

Submission by

Association for Interactive Media and Entertainment (AIME)

Background on 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 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. Our membership represents over 90% of annual industry revenues, which stood at £0.80bn in 2010 within the UK and which, we believe, have the potential to increase to £1.5bn - £2.0bn per annum over the next three years, assuming we have a healthy balance of self and formal regulation and that industry is successful in continuing to build consumer trust.

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.

Introduction

AIME welcomes the opportunity to respond to this consultation which reviews price caps for PRS services operated on 09 and 118 numbers.

The current caps have been in place without increase or review since 1997. During this time inflation has eroded the maximum price point in real terms by 38%. For companies who must meet the increased cost of providing the service the inability to raise prices has placed considerable strain on finances and threatened the ongoing viability of many businesses. AIME has brought to Ofcom's attention the example of one business which will be forced to close before 2014, as staff costs are now overtaking the maximum income achievable under existing limits.

Further innovations in the market place have presented new service offerings, which are being constrained by the artificial price ceiling. This has seen PRS traffic lost to other micropayment and credit card transactions, where no such barriers are presented. AIME therefore views that any price increase should reflect current market conditions and not be pinned to a measure reflective of 1997 conditions.

AIME supports Ofcom's assessment that an increase should present no additional potential for consumer harm and is broadly supportive of option 2 as an initial measure which would provide room for market growth. We would welcome subsequent reviews of the new price cap with an option to further increase per call price caps if implementation is judged to be trouble free.

Question 4.1: Do you agree with the assessment criteria we are proposing to use for our analysis, and in particular the three additional criteria we have identified as relevant?

AIME believes that pricing transparency and protecting providers and consumers from fraud are the appropriate considerations for pricing regulation. Where a consumer is adequately informed of the cost of interaction and fraud protection measures are adequate, services should be allowed to innovate with minimal regulatory intervention.

Free market principles are best placed to govern service quality and variety with existing consumer protection legislation already an adequate backstop. Consumers, and not regulators, are in normal circumstances best placed to ascribe value to a service.

In most cases credit control of individual consumers by their network provider should be the most effective mechanism to minimise bad debt. Where individual credit checking is robust there should be little need for a blanket policy.

Question 4.2: Do you agree that a maximum SC should apply to 09 numbers for the reasons set out above?

AIME would like to see the regulation of Fixed Line brought in line with Mobile and other micropayments, with de-regulation where self regulation is possible.

Question 4.3: Do you agree that a maximum SC should apply to 118 numbers for the reasons set out above?

AIME would wish to see the treatment of 09 and 118 call pricing considered separately as we consider them to be separate markets with different features.

Question 4.4: Do you agree that a different maximum SC for calls charged on a per call basis and calls charged on a per minute basis is appropriate?

AIME agrees that there are fundamental differences in the types of service that operate on per call pricing, for example by allowing consumers to unlock content or buy access to services in bundles. These differences justify the need for higher per call price points.

Question 4.5: Do you agree that we should use the RPI measure of inflation to uplift the BT's current maximum retail price for 09 calls to derive the maximum SC under Option 1?

We believe that it is the development of the micropayments market that should be the basis for reviews.

Question 4.6: Do you agree that we should not uplift the SC caps by inflation on an annual basis?

The SC should be subject to an increase on an annual basis. This increase should reflect both inflation and innovation in the market.

AIME does not support the argument that Option 2 and 3 would weaken the need for an annual increase. An above inflation increase is appropriate to provide for service innovations since 1997. The introduction of an above inflation cushion does not remove the need for a regular review and is not an adequate justification for maintaining a system which prevents companies from adjusting prices in line with market demand.

We would also question setting price caps at a level dictated by the Mobile Networks' pricing strategy. The absence of regulation of mobile pricing provides for a situation whereby the Mobile Networks could raise pricing above the current level of £10. Fixed Line pricing cap should likewise be free to set pricing at a level appropriate for its own market demands. Other micropayments providers use higher levels than £10.

Question 4.7: Do you agree that the maximum SC cap should be set exclusive of VAT?

AIME views VAT to be a tax that the Government has targeted at consumer and not business. We agree that setting price caps exclusive of VAT would most effectively enable industry to pass on any future changes to Government tax policy.

Question 4.8: Do you agree that Option 2 (a £3 per minute and £5 per call cap) is the most appropriate maximum service charge limit for 09 and 118 numbers? If not, please explain why.

AIME welcomes the increase and broadly supports option 2 as the most appropriate proposal as a start point for re-alignment based on regular reviews..

AIME recently surveyed members and understands that £3 per minute would cover current market requirements; the results of the survey have previously been supplied to Ofcom. However, neither Ofcom nor AIME can say now what the market will demand in services or prices over the coming years. For this reason, regular review is essential.

The same survey indicated that there was significant support for a larger rise in per-call price points, with a demand for pricing up to £10 per call being indicated. AIME believes this to be the appropriate SC level for the range of current service offerings, allowing for the efficient pricing of products outlined in AIME's previous business case.

AIME members would be happy to support an interim increase of £5 per call providing this is accompanied by a commitment to review and further increase price limits if consumer protection measures are shown to remain effective.

Question 5.1: Are there any other consumer protection measures we should consider for the 09 and 118 ranges? Please explain why you consider any additional measures you identify might be appropriate.

AIME concurs with Ofcom's conclusion that an increase in price caps does not necessitate additional consumer protection measures being implemented.

AIME would be happy to keep consumer protection measures under review as higher price points are added.

Question 5.2: Do you have any comments on our assessment of the costs and benefits of a pre-call announcement on the 09 and 118 range? Please provide reasons for your view.

The need for pre-call announcements should be assessed on a case-by-case basis. Pre-call announcements are often viewed as more of a hindrance than a help by consumers and should be reserved for services where a clear requirement is demonstrated.

The PPP 12th Code mandates that all advertising of 09 numbers must make the pricing clear to the consumer prior to making the call.

Question 5.3: If relevant, please provide an estimate of the likely costs that you would incur if a pre-call announcement were implemented on these ranges, taking account of any benefits it may bring.

AIME has not carried out an impact assessment.

Question 5.4: Do you have any comments on our assessment of the costs and benefits of a consumer opt-in for 09 and 118 numbers? Please provide reasons for your view.

AIME has not carried out an impact assessment of the costs of implementing a framework for a consumer opt-in facility. AIME views such a facility as an unnecessary barrier to consumer interaction.

Question 5.5: Do you have any comments on our assessment of the costs and benefits of time-related notifications on the 09 and 118 range? Please provide reasons for your view.

AIME has not carried out a full impact assessment on the cost of implementation. In AIME's view the implementation of such a measure is unnecessary in the light of current PhonepayPlus requirements.

Question 5.6: If relevant, please provide an estimate of the likely costs that you would incur if time-related notifications were implemented on these ranges, taking account of any benefits it may bring.

N/A

Question 5.7: Do you have any comments on our assessment of the costs and benefits of dedicated number ranges on the 09 and 118 range? Please provide reasons for your view.

In the absence of more detail on a framework to provide a clear and unambiguous linkage between the number range and the call cost AIME sees little consumer benefit to dedicated number ranges.

Question 5.8: Do you have any comments on our assessment of the costs and benefits of an extension of the 30 day withhold period on the 09 and 118 range? Please provide reasons for your view.

AIME's industry survey indicated little support for extending the current withhold period. The current 30 day withhold is viewed as appropriate and provides adequate time to close down problem services before payout.

PPP already has the ability to extend this in individual cases if felt necessary.

Question 5.9: Do you agree with our assessment that additional consumer protection measures would only be justified if SPs are able to set SCs for services on 09 and 118 with the ranges proposed under Option 3? Please provide reasons for your view, including, if relevant, the measures that you consider would be appropriate.

We view current measures to be adequate for protecting consumers under existing price caps. If caps are raised over and above inflation then we see merit in reviewing consumer protection and price limits together.

Question 6.1 – Do you agree that the level of the SC should be set at £5 per call and £3 per minute and that no additional consumer protection measures will be required? If not, please provide alternative options and evidence to support your preferred option.

We agree with the proposal for a per-minute increase to £3 per minute as an initial measure.

Whilst we would support the proposed £5 per call cap as a temporary measure, we feel that subject to review there is a case for the introductions of even higher price points.

As identified in our previously submitted business case, we have examples of a number of services which would be able to utilise higher price points to bill for a phone related service, payment for which are currently being lost by PRS Providers to Credit Card. Price points at a comparative level would enable billing providers to compete more effectively. The most recent PhonepayPlus market report compared the PRS industry to other micropayments operating at up to £15 per transaction. This would indicate that £15 would be a comparative level for PRS to be able to compete on a level playing field.

If the proposed £5 per call price proves successful, we would favour moving to a limit of £10 as phase 2 and then £15 in phase 3.

We would wish to see a firm timescale for a price cap review put in place to ensure pricing remains in line with the market.

Question 6.2 – Do you agree with our proposals in relation to the timing of our proposals for a maximum SC charge for 09 and 118 numbers taking effect?

AIME does not support the proposed timing. With the implementation of the NGCS review not scheduled to be complete until at least mid 2014, an initial move to the Option 2 levels would encourage competition, development and be unlikely to raise potential consumer harm.

Within the consultation document Ofcom has identified no additional risk of consumer harm likely to result from increasing price caps. We believe that temporary concerns around bill shock do not present a new or greater risk and are an insufficient justification for delaying implementation. AIME would support the proposed tariff increases being applied with immediate effect.

As a minimum an inflation catch-up is necessary to prevent business closures and redundancies, accompanied by a commitment to a further increase in line with the main non-geographic number review.

Conclusion

AIME welcomes the proposal to increase tariffs and is broadly supportive of the levels proposed by Ofcom in Option 2 as an initial measure, providing this is accompanied by a commitment to a regular review to increase pricing in line with market need.

We have substantial concerns over Ofcom's proposed timescale. The proposal to further delay any increase until the completion of the NTS review would create undue pressure on businesses and risk business closures and redundancies

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.

If any clarification to our response is required or if we can be of any further assistance please contact Bianca Saccu at + 44 1273 685 328 or bianca@aimelink.org