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## **Ofcom Consultation**

### **Wholesale Charges for Number Translation Services and Premium Rate Services**

### **NTS Retail Uplift Charge Control and PRS Bad Debt Surcharge**

## **Submission**

### **Association for Interactive Media and Entertainment**

### **(AIME)**

**AIME ( [www.aimelink.org](http://www.aimelink.org) )**

AIME is a UK based not for profit trade association that promotes excellence in the Interactive Media and Entertainment industry and is the only trade association with membership across all elements of the Interactive Media and Entertainment value chain.

We uphold our Code of Ethics and 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.

AIME also encourages its members to invest more in consumer care and to recognise that if there is to be sustainable growth in our industry then there must be more investment in consumer contact whether it be dealing with complaints or queries. The considerable investment effort expended over the last two years, and which is continuing, in improving compliance standards and consumer care for PRS has been reflected in reducing complaints, and particularly in the fixed line market where the suggestions for an increase in the BT Bad Debt Surcharge will have a major impact if implemented as proposed.

AIME promotes 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.

We welcome the opportunity to respond constructively to this Ofcom Review of wholesale charges for NTS Retail Uplift and PRS Bad Debt from the wider perspective of the entire UK Interactive Media and Entertainment Industry. Given that the proposals surrounding the PRS Bad Debt Surcharge have the potential to affect our industry in a catastrophic manner this response will focus mainly on Section 4 (Proposals for the Bad Debt Surcharge) of the document.

## **General**

AIME recognises that it is reasonable that while BT carries the statutory requirements inherited by Significant Market Power (SMP) status in the wholesale market it is justified to receive recognition of responsibilities associated with this through a NTS Retail Uplift Charge and a PRS Bad Debt Surcharge provided that the agreed charges are a true reflection of BT's justified additional costs.

With respect to NTS charges the RPI-x formula is a tested and effective method of applying charge controls. However, AIME does have serious reservations over the current and proposed PRS Bad Debt Surcharge including precisely how it is defined and calculated and how it may actually penalise services carried on all PRS numbers when the vast majority of these numbers create few problems, and hence bad debt, for consumers.

The history of PRS bad debt has been seriously distorted by previous problems involving internet diallers accessing international numbers during 2003/4 but this has been addressed and eliminated and has no relevance to today's PRS market environment. The PRS industry has invested, and continues to invest, heavily in compliance standards and improvements to customer care and this is reflected in current statistics (issued by PhonepayPlus) which show that landlines now account for a reducing minority of consumer PRS complaints.

AIME takes the view that today's PRS market is stable, responsible and well managed and that the Ofcom agreed surcharge should be properly assessed to reflect the current, and not historical, environment. This view is supported by anecdotal evidence from other networks originating landline PRS calls where overall bad debt, including PRS, is currently of the order of 1.5 % – 2.0% and where PRS is not considered to be an exceptional problem. It is noteworthy that networks other than BT employ monthly billing.

As reflected in its SMP status BT still originates the majority of landline PRS calls and the increase of bad debt surcharge from 3.03% to 9.7% would have a catastrophic impact on PRS operatives down the value chain and we are assured by our members that this would certainly translate into company closures and resultant job losses.

AIME is certain that if other networks were ever recognising bad debt approaching 10% on PRS business the subject would be attracting a great deal of justifiable attention. This is not happening and AIME believes that, for reasons not yet understood, the BT case justifying the bad debt surcharge is either incorrect or misinterpreted or BT have problems with billing presentation and collection that are not being experienced by other networks.

## **Questions**

***Question 1: Do you agree that RPI is the best inflation index for the proposed charge control?***

Answer 1:

Yes, we agree.

**Question 2: Do you agree that an RPI-X control is the appropriate form of charge control for NTS Retail Uplift?**

Answer 2:  
Yes, we agree.

**Question 3: Do you agree that a four year duration for the proposed NTS Retail Uplift charge controls is appropriate?**

Answer 3:  
With appropriate process in place and considering the competitive nature of the communications market today it should be possible to assess charges on a rolling annual basis.

**Question 4: Do you agree that there should be a single price control basket for all NTS calls including freephone calls?**

Answer 4:  
Yes, we agree.

**Question 5: Do you agree that a glide path, rather than a one-off adjustment at the outset of the control, is appropriate?**

Answer 5:  
See answer 3.

**Question 6: Do you agree that CCA FAC for NTS calls drawn from BT's regulatory accounting system is the appropriate cost basis for setting the proposed charge controls?**

Answer 6:  
We have no comment.

**Question 7: Do you agree with how we have proposed to adapt the cost recovery principles we established in our 2005 Statement to current circumstances?**

Answer 7:  
We have no comment.

**Question 8: Do you agree with the way in which we convert BT's mean capital employed into an annualised cost?**

Answer 8:  
We have no comment.

**Question 9: Do you agree with the way we propose to handle retail costs to freephone calls?**

Answer 9:  
Yes, we agree.

**Question 10: Do you agree that we should use NTS call volumes to forecast costs and our forecast for these traffic volumes?**

Answer 10:  
We have no comment.

**Question 11: Do you agree with our proposed approach to efficiency?**

Answer 11:  
Yes, we agree.

**Question 12: Do you agree that we should assume a Cost Volume Elasticity of 0.25?**

Answer 12:

We have no comment.

**Question 13: Do you agree with the way in which we have forecast 'normal' bad debt, in particular that it is reasonable to apply a CRR of 1 and no efficiency adjustment?**

Answer 13:

In the absence of clear definitions for "normal" bad debt and PRS bad debt in particular we are unable to take a view on this.

**Question 14: Do you agree that we should retain the PRS Bad Debt Surcharge in its current form to recover bad debt specific to PRS calls?**

Answer 14:

AIME believes it is essential that a clear definition of PRS bad debt be agreed before any meaningful analysis can be conducted. It is also necessary that Ofcom be satisfied that BT is taking all reasonable steps to effectively manage overall bad debt and a change from quarterly to monthly billing would, in AIME's view, make a major contribution to improving BT's credit management by greatly reducing the opportunity for consumer bill shock.

While BT retains SMP status for its wholesale products it is necessary to have access to an appropriate bad debt surcharge should it be required, but it must be clearly defined and understood and also justified in an agreed and transparent manner. As stated elsewhere the experience of other networks with bad debt seems to suggest that the BT experience is exceptional and we need to understand why this apparent discrepancy exists.

**Question 15: Do you agree that a four year duration for the PRS Bad Debt Surcharge is appropriate?**

Answer 15:

As with NTS (question 3). With appropriate process in place and considering the competitive nature of the communications market today it should be possible to assess any appropriate surcharge on a rolling annual basis.

**Question 16: Do you agree with approach for the PRS Bad Debt Surcharge and in particular use BT's own bad debt and retail revenue information to inform our proposal?**

Answer 16:

It is sensible that the BT experience should form the basis of any assessment for a PRS Bad Debt Surcharge but it is also essential that BT's own bad debt and retail revenue performance be independently assessed to ensure that the surcharge does not effectively subsidise any BT shortcomings.

We are aware from Ofcom that a significant proportion of alternate network traffic transits BT and therefore attracts the SMP PRS Bad Debt Surcharge. This effectively results in the majority of PRS traffic attracting the same surcharge as BT originating traffic with escalating impact on the PRS value chain stakeholders.

**Question 17: Can you supply any evidence or other insight about the incidence of bad debt on PRS calls and in particular whether the incidence of PRS bad debt has risen substantially in recent years?**

Answer 17:

Statistical evidence from PhonepayPlus indicates a significant and consistent reduction in the incidence of complaints attributable to PRS landline calls. Corresponding anecdotal evidence from network members supports this, suggesting that reducing PRS complaints is translating into reducing PRS bad debt together with the fact that PRS is not viewed as an

exceptional bad debt problem deserving of special attention. Members also consider that non payment of a telephone bill is almost exclusively down to inability to pay rather than a billing dispute.

***Question 18: Do you agree that in these circumstances that a one-off adjustment to the PRS Bad Debt Surcharge at the outset of the control, rather than phasing it in over time is appropriate?***

Answer 18:

Given that the unanimous industry view supports a continuing reduction in PRS complaints with a corresponding reduction in PRS billing problems AIME would like to see a system that ensures the lowest possible surcharge at any given time.

## **Conclusions**

This Consultation could perhaps have been less damaging to our PRS industry if handled as a normal regular review rather than a formal Consultation which has alarmed many stakeholders, including potential investors.

The absence of a clearly understood definition of PRS bad debt has made it difficult to comprehend how a proposal for a 300% increase in bad debt surcharge can be considered when our perception and experience of the PRS industry today is one of improving standards, reducing complaints and restored consumer confidence. This view is supported by anecdotal evidence from network members who believe a general bad debt figure of the order of 1.5% - 2.0% is currently the norm, including the PRS component.

We have no information that would suggest that BT is deficient at managing or collecting bad debts but we do take the view that BT's credit control management is not helped by quarterly billing which allows consumer bill shock to accumulate while delaying management attention to consumer payment problems. It is perhaps significant that the networks reporting much lower bad debt figures all employ monthly billing.

We are aware that specific problems can arise from time to time, albeit on a much reduced basis, regarding non compliant PRS promotions but there are solutions available to address these as exceptional cases. The Spanish equivalent of BT (Telefonica) employs a system of debt retention whereby a percentage of the outpayment on PRS numbers is withheld for a period (normally 3 months) until the actual bad debt on the specific PRS number can be determined. This system has the advantage of ensuring the "polluter" pays rather than penalising the vast majority of legitimate and responsible PRS operators. We are not suggesting that this needs to be regulated into the UK, but it does serve to demonstrate that there are creative ways to address such exceptions.

AIME would like to see the current surcharge of 3.03% being retained after the expiry of the existing agreement at the end of September 2009 until such time as Ofcom and industry can consider this important subject in more depth and reach agreement on a way forward. We cannot emphasise too strongly the devastating effect on our industry that a surcharge of 9.7% would have with seriously reduced revenues, job losses and company closures and we sincerely trust that this can be avoided.

## **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 [www.aimelink.org/currentmembers.aspx](http://www.aimelink.org/currentmembers.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 look forward to your response and 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. As with other past responses AIME strongly recommends that Ofcom convene a round table of major respondents to discuss their findings and recommendations before taking any policy decisions.

If any clarification to our response is required or if we can be of any further assistance please contact Zoe Patterson at 08445 828 828 or [zoe@aimelink.org](mailto:zoe@aimelink.org)

Sincerely

Toby Padgham  
General Secretary AIME