NTS Retail Uplift Charge Control and PRS Bad Debt Surcharge

PRA

Response to consultation by the Premium Rate Association for and on behalf of its members.

September 2009

Introduction

On behalf of its members the Premium Rate Association thanks Ofcom for this opportunity to add comment to this consultation piece.

As a non profit, membership driven, trade organisation operating in the Premium Rate telephony sector our goal is to find solutions which balance the needs of all companies in the value chain and provide a sustainable market.

The PRA is mindful of the competing interest of BT and those of its other members and seeks in this response to outline the views that have been expressed to us by members operating at each point in the value chain. The identity of the contributors has been withheld, though the responses outlined below are the verbatim responses submitted from members, which the PRA has not added or subtracted from.

The detailed views and position of BT are contained in the Ofcom consultation document and therefore have not been replicated in this response. We note that BT has sought to introduce an increase in the retail uplift and bad debt charge at least twice in the last 5 years and has failed on both occasions.

View put forward by Service Provider

"The proposal to allow BT to reduce the out payment by up to 8p is outrageous. It is their responsibility to collect their accounts and allowing 9% of bad debt is simply an example of appalling management. They should get their credit control department in order.

No well-run commercial concern allows bad debt of more than 3% to continue. BT has the massive advantage of being able to withdraw their service for non-payment.

The effect on our business would be disastrous. In a mature highly regulated industry, margins are obviously slim. Our premium rate sector turnover last year was nearly £20 million. We use £1.50 per minute almost exclusively so we cannot migrate to a higher tariff. More than half of this would become unprofitable if rates were reduced by 8p. The immediate effect would be to reduce our turnover by £10 million. Clearly this would have a major effect throughout the Group. We currently employ 180 people; so between 90 and 100 would have to be made redundant immediately.

This is a blatant example of BT using its massive market power to fix prices and expand its margins. If this proposal goes ahead, I would be forced to appeal to the Competition Commission."

"We do not see why Service Providers and Network Operators should be responsible for BT's mistake of giving credit to the customers who do not pay their bills. It is not the responsibility of other providers to vet these customers/businesses it should be solely BT's due diligence and fraud department who should disconnect customers with irregular calling patterns or request pre-payment from high risk customers to eliminate such bad debt.

In addition, we fail to see why 09x out payments from Orange, Vodafone, O2 etc are being decreased too, as BT suffers no bad debt from other companies who fail to pay their bills. Therefore, we believe any reduction should solely be BT originated calls, calls from mobiles and other networks such as Virgin Media landlines should not be decreased."

“For services providers like ourselves, working on very tight margins, the proposed increase could have serious effects as to our continued use of PRS as a payment mechanism, which in itself could be easy be defined as a trade restrain.

A greater transparency of information on how BT is justifying this increase provision is vital to any future debate and that this information must be made available to industry stakeholders by OFCOM before any decisions are finally made.

The redefining by OFCOM as to what now constitutes a premium rate service should be once again be investigated given the vast array of services which are now covered. What part of PRS is causing the bad debt problem?

Yesterday in a conversation with the account manager at our Network Provider, I was informed they would no longer be offering or making available 090 numbers to potential or new customers. Given this and the behaviours of BT, these are worrying trends.”

View Put Forward by Information Provider

“A reduction in out payment from the network to the reseller and or Service provider will result in this reduction being passed on to the promoter, At the moment the margins taken by the network and the SP are very low an in some cases as low as 1p per min, A service provider passing on the reduction will maintain the margin but the company advertising the service (Number) will get a huge reduction in payment and in most cases this will wipe out the margin they make.

With the cost of advertising and promotion increasing year on year and the response declining from traditional promotion and the increase in regulation of PRS then the result will be one that sees most SP's and IP's going out of business, many will in turn to other billing mechanisms that will result in an unregulated market with services running on international numbers credit card billing mechanisms.

If OFCOM wish to see an obliteration of a multi billion pound industry in the UK this is one sure way to achieve it.

We have already been approached by alternative billing platform *providers that are offering us the ability to bill the end user in an unregulated manor, we see this as very concerning and area that we feel OFCOM may have not looked at.*

Another area is that the proliferation of scam MOBILE SMS services will increase as some of the more dishonest promoters try to retain some sort of revenue stream that has been lost from other more legal 09 services....

This huge increase would take revenue out payments back to a level they were at many many years ago whilst the cost of running a business and promotion of services has risen in all areas.

If BT have such a large bad debt issue then it is very obvious even to a layman that they have fundamental billing & collection issues that other originating Operators seem not to experience and expecting the rest of the industry to bail out BT due to their own inefficiencies seem grossly unfair."

View Put Forward by Networks:

"*The proposed level in the increase in PRS bad debt provision does not in any way appear to be reflective of the trading market in the PRS sector over the last 4 years, particularly in the BT Retail arena. In fact the internet dialler debacle, which can be the only main reason for the justification of such a large increase in bad debt for BT Retail, happened well before 2005. BT must offer far more evidence of how the figures were derived.*

Given that a PRS charge on a consumer telephone bill would only be part of that bill and that the total PRS call revenues are only a fraction of BT Retail revenues when compared to landline and mobile calls it would appear that BT have their sums wrong. This could perhaps be due to BT factoring the whole bill as a debt in the event of a dispute with a customer who only has a dispute with the PRS element of the bill. We would expect that the independent scrutiny of the BT sums initiated by Ofcom to uncover any such practice.

Of course the assumption of bad debt being largely in the retail arena may be misguided, it has been clear that other areas of the BT operation have been somewhat unsuccessful over the 4 year period, BT Global Services being an example. Ofcom will have to be mindful not to penalise industry with lower termination rates, that will more than likely result in a dispute, particularly if industry feels that BT is recovering losses incurred by its own mis-management.

When the numbers our crunched, putting aside whether the proposed increase is accurate or not we do believe it will become apparent that an 80/20 scenario will become evident, by this we mean 80% of the bad debt has been incurred through 20% of the TCP,s from whom BT purchases PRS call termination. We believe there should be a degree of transparency in the presentation of this information from Ofcom. Given this is an industry issue it is only fair and appropriate that industry forms its own view on the bad debt provision with the benefit of detailed information, perhaps suggestions of a polluter pays principle may follow.

While we appreciate BT is subject to the NTS condition and the end to end obligation, there is after all a stipulation that BT should only purchase termination on reasonable terms. It is fair to assume we would consider it unreasonable to have to accept lower termination rates if the only mechanism for BT to recover its losses is to penalise industry as a whole due to having no control over the activities of a handful of TCP,s that have caused 80% of the bad debt problem. We would expect this to form part of the scope of any dispute that may follow."

Conclusion

The majority view expressed by our members, indeed all industry comments received other than those of BT, raise substantial concern over the impact that the proposed increase in the bad debt surcharge would have on the market.

Comments received indicate that the level of the proposed increase would place in jeopardy the future of many companies operating in the sector. The proposals therefore present the likelihood of job losses and company closures on a major scale.

A question remains as to the calculation method that BT has employed in calculating PRS bad debt and whether data submitted by BT is an accurate reflection of PRS bad debt specifically, or whether it in fact represents BT bad debt more generally. Complaints concerning fixed line services made to the industry regulatory agency, PhonepayPlus, have fallen dramatically and consistently over the past few years, which tend to support concerns over the accuracy of the data.

It has been submitted that the level of bad debt incurred by other network operators is far lower than figures recorded by BT (additional sources place bad debt in the 1.5% to 2% margin for other networks). It has been suggested that mitigation rather than compensation may be a more appropriate and sustainable solution to BT’s bad debt issue, call barring, or prepayment from high risk customers being some of the possible solutions.

Based upon the falling complaint levels and assuming these to be indicative of bad debt, it would appear that an annual review of the NTS charges would be more appropriate than the current quadrennial cycle.

There is a general theme amongst responses that compensation for bad debt should be more tightly linked to the sources of the problem, rather than applied in a uniform fashion to all TCP.

The majority view of the industry is in opposition to the proposals.

We hope that this document proves helpful to Ofcom in understanding the views of those at all levels of the value chain and the possible implications for their business.

We trust that this response will be read alongside BT’s own submission and evidence in order to reach a balanced conclusion.