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Ofcom Consultation
The PRS Scope Review

The MDA reflects the common voice of the mobile data industry. The Association promotes the use and benefits of mobile data throughout industry and business in the UK. Press, regular industry conferences and seminars, and the operation of websites (www.themda.org and www.text.it) help promote a high level of awareness amongst users and advisers, directly influencing operational management.

In addition, the Association provides a forum for members of the industry to meet and share information on technical and business issues.

Consultation Questions

The MDA and its members are generally in favour of the top-level areas for concentration and the methods proposed to address them within the consultation's analytical framework. However, it is aware of PhonepayPlus work in similar, overlapping areas - particularly with the imminent 12th Code of Practice review, and trusts that the necessary level of collaboration on shared interest issues is ongoing. There are valid concerns regarding duplication.

Of the measures outlined within the analytical framework, the reputational database appears the most challenging to practically implement and regularly update. Previous attempts at similarly assembling widely agreed "reputational" data have failed due to a lack of critical mass and commitment.

In its aim to 'futureproof' the regulation of Premium Rate Services, this Ofcom Scope Review appears to be limited. Further clarification would be appreciated on regulator remit of services which are NOT phone-paid, or charged to mobile phone accounts, but which are conducted over mobile devices. Entering credit card details on mobile internet sites, using Paypal and purchasing on-devices via pre-registered bank accounts, as in the Apple model – will all become more prevalent methods of mobile payment with the emergence of various App Stores. Will this fall within Ofcom / PPP's remit as well?

Question 4.1: Do you agree with our analysis of the characteristics of the PRS supply side and the possible concerns related to these characteristics?

Yes, this is a fair summation of the PRS characteristics in operation today.

Question 4.2: Do you agree with our analysis of the demand characteristics of PRS? Do you think there are additional characteristics which are not included in our analysis?

Again, the MDA would agree that generally this analysis is accurate and reflective. However, the work PhonepayPlus has done to educate the youth market in PRS should not be overlooked. There have been significant efforts made and budget allocated here. In spite of this, greater granularity than "children now make up a significant part of consumers of the market for certain PRS" would be welcome - if there was a solution available to definitively segment and categorise users in this way.

Question 4.3: Do you agree with our assessment of the potential consumer harm in a situation where PRS regulation is insufficient or ineffective?

The MDA agrees that the level of potential consumer harm in the face of insufficient or ineffective PRS regulation is as high as ever, due to the ever increasing technology penetration. Despite complaints being down according to the 2008/09 PhonepayPlus Annual Report.

Question 4.4: Do you agree with our assessment of the potential and actual consumer harm in respect of PRS?

Yes, this assessment is reasonable.

Question 5.1: Do you agree with the application of the characteristics to the services?

Yes, as far as it goes. It also needs to address elecronic communications – ie. the automated electronic dialling to users handsets, and also newer 3G Video technologies which are used for 3G Video chat and dating services over the 3G Video calling channel. These incur proportionately higher costs for richer, visual media.

Question 5.2: Do you agree with our assessment of potential harm for each of the services?

It is a fair generalisation, although it should be remembered that the technical implementation of such services vary and technology develops. Therefore, even as a generalisation these assessments may not remain accurate for long, irrespective of new regulation. For example, incrementally introduced functionalities for voice call horoscope services and the purchase of football goals on operators' portals may lead to improvements in user experience and price transparency. Just as there may be new areas of potential harm in emerging technologies, such as "Freemium" mobile applications which offer in-application billing options.

Question 5.3: Do you agree with our assessment of alternative means of protection for the new services in our analysis?

Yes, but PhonepayPlus commonly still forwards end user complaints to SPs or technical providers, which then has to forward them on to the true SP or information provider. Again, work is known to be ongoing about improving this customer care process through PhonepayPlus and the ILP. Improving the current content and capabilities of the PhonepayPlus number checker system is also key to enabling consumers to identify the route-cause and originator of communications.

Question 5.4: Do you agree with our analysis of the appropriateness of self-regulatory initiatives in the context of PRS?

It is appropriate for there to be a degree of self regulation in the operation of any PRS service. Further ideas might include strongly advised attendance at least one PPP Best Practice seminar for any SP who has secured Prior Permission, within six months of receiving approval. Attendance at such a seminar might also be strongly advised or included within a third consecutive adjudication judgement inside a six month period.

Question 5.5: Do you consider self-regulatory initiatives could be implemented for (certain) PRS? If so, please set out for which services, and what such an initiative would look like.

Existing Operator Codes of Practice suggest certain services are, to some extent, already being self-regulated, and have been for some time. Together with the appropriate legal and technical guidance supplied to Information Providers by technical providers and PhonepayPlus, existing though malleable measures and their continued strong monitoring and enforcement should be sufficient. Encouraging further self-regulation alongside existing measures endangers clarity and has the potential to lead to ambiguous interpretation.

Question 6.1: Do you consider there is a consumer benefit requiring all OCPs to offer the same retail price to a PRS number?

Yes. Pricing transparency and uniform presentation across all available suppliers is always desirable from a user experience perspective.

Question 6.2: If you do believe there is a consumer benefit, do you have suggestions as to how this option could be implemented?

For mobile, the cross network adoption of Voice Short Codes, and potentially Video Short Codes, has virtues of price transparency across all mobile network operators. However, the facility is not yet available to landlines and is predominantly applicable for Participation Television, rather than internet or content services.

The amount paid by the end user is always the same as the tariff rate advertised, with none of the "costs from a mobile may vary" ambiguity associated with calls to a long Premium Rate Number.
http://www.mxtelecom.com/uk/ivr/vsc

There are known, opposing, commercially held operator views on this which affect revenues earned from 0871 numbers, but there is still the potential for Voice Short Codes to be prominently positioned on advertising, together with supplementary, self explanatory copy illustrating the virtues of identical pricing across all networks.

Question 6.3: Do you consider this option could have any negative side-effects? If so, which ones?

The Voice Short Codes solution is restrictive to mobile users, rather than those with landlines. It is clearly only applicable for call-channel services, rather than data connectivity. Though this is not a negative side-effect; merely a limitation.

Question 6.4: Do you consider PCAs would improve price transparency in the PRS market?

Pre-call announcements, while a valid option to consider, are known to lead to a significant drop-off in call traffic, while DTMS-style opt-in (press 1 for an operator etc.) is not applicable to 0871. It may well improve pricing transparency, but at a significant cost.

Question 6.5: Do you consider Ofcom should carry out such a study? If so, which aspects should such a study cover?

It is worth carrying out a close study, specifically noting drop-off rates and categories of service studied.

Question 6.6: Do you consider including BT's tariff and a maximum tariff for the PRS in PRS advertisements would improve price transparency in the PRS market?

Question 6.7: Do you consider the name of the OCP with the highest tariff should be included?

Question 6.8: Do you consider there are any additional implications linked to this option, apart from the ones we have set out above?

This proposal to include a maximum PRS tariff may result in greater transparency, but is not worth the cost of consumer harm in uniform higher prices, when all competing providers raise their rates to the maximum, and the subsequently proportionate drop off rates in consumers using the service.

For mobile, Voice Short Codes with a single, agreed cross-network tariffs, in addition to a separate one for landlines with a maximum cost, may be an appropriate compromise.

Question 6.9: Could you provide us with an estimate of cost information regarding the collection and updating of tariff information (for SPs and OCPs)? Do you believe there are there any other costs involved under this option?

Question 6.10: Do you agree with our proposal to expand the PhonepayPlus number checker?

Yes. First and foremost, however, the number checker needs considerable attention to ensure it is more comprehensive in terms of its contents, and accurate. There is obvious additional consumer benefit in extending it, when the time is right, to include details of as many PRS services as possible.

This required improvement needs to address disciplined process and the routine methods by which the database is kept up-to-date, whether that is purely by PPP, or in collaboration with industry.

Question 6.11: Which criteria should be used regarding numbers to be included in the number checker (e.g. revenues, complaints over the last X weeks etc)?

Question 6.12: What information should be included per number in the number checker?

Simply the name of the service provider or merchant, together with appropriate contact details: postal, standard rate telephone and email – which are frequently checked for accuracy. Again, disciplined process and well monitored consistency of accurate data will be crtical.

Question 6.13: Do you agree PhonepayPlus should carry out an analysis into the benefits of requiring SP/IPs to adopt a formal complaints procedure?

Question 6.14: Do you consider that in light of developments in the PRS market, IPs should be targeted as a point of regulation, in addition to SPs or on their own? If so, what kind of rules should be applied to IPs and/or SPs?

An analysis would cause no harm, but Ofcom and PhonepayPlus should first consider how far they would be able to enforce uniform adoption of an extensive, formal complaints procedure within SPs and IPs. Beyond simply creating an additional layer of administrative procedure, its practical implementation and individual interpretation would be challenging and its ultimate value arguably limited.

However, a non labour intensive registration scheme providing a unique registration number for IPs could hold sigificant value. PhonepayPlus is undertaking considerable work in this area but it needs Ofcom backing. The MDA would support the introduction of a registration scheme through which every technical provider would manage their partners. As ever, smooth and transparent implementation together with the translation of key benefits would be critical in its successful deployment. It is vital that it is not perceived as an optional chore or burden, but as a simple and necessary passport process.

Recent changes PhonepayPlus has made in the representation of merchants or service providers over technical service providers should be acknowledged, as well as the appropriate rearrangement of naming within Adjudication notices.

Ofcom’s attention should also be drawn to the recent work of AIME on standard terms and points in the value chain, which the MDA fully supports.

Question 6.15: Do you consider there are other options for a registration scheme / reputational database which have not been included in these studies?

Question 6.16: Which is your preferred option, and what are the reasons for this?

Question 6.17: Do you agree with our analysis that PhonepayPlus should run a registration scheme / reputational database?

F2 is the MDA's preferred option. An independent reputational database could prove significantly more challenging than a registration scheme, as it may rely more on anecdotal evidence and be open to a degree of controversial conjecture. It would also require critical mass to earn value, needing a strong range of regular stakeholder commitment. The effectiveness of a reputational database would be enhanced by existing as an optional branch of the registration scheme.

Despite the associated extra costs, individual names of directors within the database would be of powerful specific value, and should ultimately engender trust in associated companies, services and the industry as a whole.

Question 6.18: Do you agree with the options identified regarding call barring facilities?

Yes, these are each reasonable options worthy of full individual consideration.