

Comments:

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?:

We agree with the analysis of the characteristics and the related possible concerns.

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?:

We agree with the demand characteristics of PRS, although it should be noted that not all of the characteristics stated apply to all PRS (e.g. web to text, football goal services etc are not inappropriate or offensive). We are not aware of any additional characteristics not included in the analysis.

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

We agree with the assessment of potential consumer harm where regulation is ineffective.

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

We agree with the assessment of potential and actual consumer harm. However, we feel that it is (where the Code is being complied with at least) now straightforward for consumers to claim refunds. PSMS services all should carry information on consumer helplines, the name of the IP and pricing information. By contacting the consumer helpline, the consumer should be able to obtain refunds without significant difficulty, subject to claims being valid etc.

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

We agree with the application of the characteristics to the services.

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

In general we agree with the assessment of potential harm. However, we feel that the risk of ?lack of potential redress? for PSMS services is not at the same level as the risk of lack of price transparency and inadvertently entering subscriptions or over consuming.

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

There are a number of alternatives depending on the harm that has been caused to consumers. Although we agree that only on-portal services are covered by the ADR, we would expect (and wish) that consumers should first speak to the IP if they have an issue with

a service. Further protection/redress can be sought from/is provided by other members of the value chain such as the SP and from other regulators (e.g. the Information Commissioner's Office, the Gambling Commission etc). Indeed the rules of these other regulatory bodies are often more detailed than those of PhonepayPlus and therefore if these bodies are happy with elements of a service, so too should be PhonepayPlus.

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

We agree with the analysis of the appropriateness of self-regulatory initiatives.

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.:

We do feel that self-regulatory initiatives could be introduced for certain services and specifically even where there is a third party regulator, a more prompt and effective response for the consumer could be achieved by a proper process where all complaints (whether to the IP, SP, OCP or regulator) are passed to the IP for resolution. This could be strengthened by giving the SP responsibility to review the compliance performance of the IP and to let the SP have details of complaints passed to the IP to enable this.

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

This is not applicable to 2ergo as we operate mobile PRS.

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

This is not applicable to 2ergo as we operate mobile PRS.

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

This is not applicable to 2ergo as we operate mobile PRS.

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

This is not applicable to 2ergo as we operate mobile PRS.

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

This is not applicable to 2ergo as we operate mobile PRS.

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?:

This is not applicable to 2ergo as we operate mobile PRS.

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

This is not applicable to 2ergo as we operate mobile PRS.

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 is not applicable to 2ergo as we operate mobile PRS.

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?:

This is not applicable to 2ergo as we operate mobile PRS.

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

2ergo agree with the proposal to expand the number checker.

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)? :

It would be preferable to include all PRS numbers in the number checker. If this really was prohibitively expensive, then the numbers should be selected on the basis of volume of use and a threshold should be included for when a number not currently included would be added (e.g. more than 3 number checks in a week).

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

The number checker should include the price, the details of the promoter (i.e. the IP rather than the SP) and a service description (e.g. chat, ringtones etc). For shared short codes, details of all promoters should be included, but in such a way that if there was any doubt then the consumer would go to the SP who would then be able to direct them to the appropriate IP.

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?:

We disagree with the proposal that PhonepayPlus should carry out an analysis of adopting a formal complaints procedure. Rather, a principles based procedure should be mandated in the next version of the Code. This should be principles based to reflect that the actual procedure will differ depending on the relative size of the IP (and SP).

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?:

Zergo agree that IPs should be targeted as a point of regulation. SPs should be required to perform due diligence and ongoing monitoring on the parties that they contract with (and indeed any sub-aggregators beneath the aggregator connected to the OCP should be performing this due diligence on their own clients). SPs should only be held accountable for breaching their duty to perform this due diligence and monitoring or for any technical issues that are clearly attributable to their platform/systems. There should no longer be recourse to the SP simply because the IP doesn't pay or disappears.

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

Zergo consider that a registration database must have 2 vital properties: firstly it must relate to the parties that could cause a breach (generally the IPs) and secondly it must include reputational information on the parties involved. We consider that some of the options provided to contain these properties.

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

Our preferred option is Option F2, a new reputational database capturing the reputational information of individuals as well as companies. As it seems likely that a key piece of the due diligence that a service provider will follow will be to research the identity of the directors of a potential client, it seems sensible that this information should therefore be included in the database. Although the cost to PhonepayPlus will be higher, the cost to the industry as a whole would be less as individual directors and companies would only have to be researched once.

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

Zergo agree with this suggestion. It is important that all breaches and other information are updated as quickly as possible.

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

2ergo agree that it is appropriate to review call barring facilities and that this review should extend to include services such as PSMS which, as Ofcom note, is an area where children are particularly at risk of harm.