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30 July 2009

Re: Advertising Standards Authority (ASA) response to the Ofcom Premium Rate Services (PRS) Scope Review

The Advertising Standards Authority (ASA) is the UK self-regulatory body for ensuring that all advertisements, wherever they appear, are legal, decent, honest and truthful.

The ASA administers the UK Advertising Codes, which are written and maintained by the Committee of Advertising Practice (CAP) and the Broadcast Committee of Advertising Practice (BCAP). CAP is responsible for the non-broadcast Code and BCAP is responsible for the TV and radio Codes¹. Further information about the ASA and the work that we do can be found at www.asa.org.uk.

The ASA has a strong working relationship with Ofcom through our co-regulatory partnership for broadcast advertising and we are grateful for the opportunity to respond on the Ofcom PRS Scope Review consultation.

This letter is not a comprehensive response to the consultation, but rather a response to proposals outlined in sections 6.54 – 6.59, which consider requiring that BT's tariff and a maximum tariff for the PRS are included in PRS advertisements by amending the PhonepayPlus Code of Practice.

As the UK one-stop shop for advertising complaints, the ASA has a keen interest in any developments which impact on advertising regulation. Currently, PRS advertisers, like all advertisers, must adhere to the general provisions of the UK Advertising Codes, which are designed to ensure that all advertising is legal, decent, honest and truthful.

Under the current regulatory system for PRS advertising, the BCAP Television and Radio Codes require PRS service providers to adhere to the PhonepayPlus

¹ The Advertising Codes can be found at: <http://www.cap.org.uk/cap/codes/>

Code. In non-broadcast advertising, PRS advertisements are subject to both the CAP Code and the PhonepayPlus regulations.

Under this system, when the ASA receives complaints about a Broadcast PRS ad that appears to breach the PhonepayPlus Code, we will investigate and adjudicate on that ad, working closely with PhonepayPlus.

Under the non-broadcast CAP Code, complaints will again be considered by the ASA. If the issue is a possible breach of the general CAP Code provisions (such as harm, offence or misleadingness) then the ASA will investigate and adjudicate on that ad. If the issue is purely in relation to a possible breach of the PhonepayPlus regulations (for example, the requirement to include a customer-care phone number), then we may refer the complaint to PhonepayPlus. Possible breaches of both the general CAP Code provisions and the PhonepayPlus Code are considered on a case-by-case basis, by the ASA working with PhonepayPlus.

Although the proposals outlined in this Ofcom consultation, will not directly affect the CAP and BCAP Codes, the proposed changes will impact on the ASA complaints and investigations processes. Therefore we would be grateful if the ASA could continue to be kept up-to-date on developments with this particular proposal.

The ASA understands that as well as the proposal on advertising, Ofcom is also considering two alternative methods of delivering PRS pricing information:

- A recorded message explaining the call charges, which you would hear before you are connected to and charged for the PRS number; and
- More details about costs and tariffs from individual services telephone companies, sent with the bills from telephone companies.

The ASA recognises the importance of ensuring that consumers are given all the necessary information to make an informed decision when purchasing a PRS. However, advertising is not always the most appropriate medium for delivering detailed pricing information. It is our experience that too much mandatory information in advertisements can increase confusion for consumers, especially where the medium used to communicate the ad imposes limitations of space or time (e.g. SMS or radio).

Therefore, in considering further the three proposals in the consultation for delivering more detailed PRS pricing information, we urge Ofcom to take a flexible and proportionate approach, which takes account of the strict CAP and BCAP Code provisions, designed to ensure that all advertisements do not mislead, as well as ensuring they are legal, decent, honest and truthful.

If Ofcom would like to discuss any aspect of this response, please do not hesitate to get in touch.

Yours sincerely,

A handwritten signature in black ink, appearing to read "M. Todd". The signature is written in a cursive style with a long, sweeping tail on the letter "d".

Michael Todd
Public Affairs and Policy Officer