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Representing:

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What do you want Ofcom to keep confidential?:

Keep nothing confidential

If you want part of your response kept confidential, which parts?:

Ofcom may publish a response summary:

Yes

I confirm that I have read the declaration:

Yes

Ofcom should only publish this response after the consultation has ended:

You may publish my response on receipt

Additional comments:

24 Seven Communications Limited ("24 Seven") welcomes the opportunity to respond to Ofcom's latest consultation on PRS Bad Debt Surcharge. 24 Seven provide a variety of NTS and PRS services to reseller and direct customers in the UK and around the world. Approximately 95% of 24 Seven's income is from PRS revenues.

OFCOM indicated in the original July 2009 Consultation that they anticipated obtaining updated regulatory accounting information from BT for 2008/09 during the consultation period in the summer of 2009.

Due to delays in BT OFCOM did not receive this information until August 2010 and were therefore only able to forward it to BDO for their assessment and verification at this time. This was a full year later than planned.

BT originally wrote to CPs to inform them that from 1st July 2010, the BDS would rise from the current level of 3.03%, to just under 10% - this is a huge loss of revenue to any organisation and something 24 Seven as a business would not have been able to accommodate easily.

24 Seven, in common with other CPs, objected to this percentage figure as being artificially high and refused to sign the OCCN. Another reason for 24 Seven's refusal to sign the OCCN, was that if we had signed it, and agreed to the lower revenue share out-payments, at the time our existing customers would simply move their call traffic to a CP who had not signed the OCCN and were still able to pay revenue at the higher rates. As 95% of 24 Seven's income is from PRS revenues this would have meant that we were no longer competitive and this would most likely have put us out of business.

Ofcom then carried out their own review, together with BDO accountants, and it was proven that the figure BT had calculated was far higher than the findings of those by BDO (5.24%). As there was a reluctance by the industry to sign the new OCCN and to protect business from competitors who are doing likewise 24 Seven have been continuing to pay revenue share to customers at the older, higher rates. It is impossible for us now to collect the difference from our customers and we feel that it is not fair, nor reasonable, for BT to retrospectively collect this extra 2.2%. It has taken a whole year for Ofcom to act upon this, and 24 Seven do not feel BT should be able to backdate these payments to July 2010. 24 Seven would have serious financial difficulties if it meant having to repay almost 12 months of PRS business at 2.2%.

BT has always maintained that the new PRS BDS should be applied from 1st July 2010, irrespective of the fact that the process had been delayed by a year due to BT's late filing of updated regulatory accounting information with OFCOM. If OFCOM uphold the 1st July 2010 date in the current consultation, published 10th February 2011, then BT will be able to retrospectively recover the 2.2% difference in PRSBDS from CPs on PRS POLO payments (already made) backdated to 1st July 2010. Whilst BT will have the right to do this if OFCOM determine the 'effective date' to be 1st July 2010 in the conclusion of the current consultation, 24 Seven along with most CPs have no means of recovering the 2.2% from out-payments they have made to SPs and Content Providers since 1st July 2010.

In summary it seems unusually unjust that BT should be allowed to maintain the 1st July 2010 date, when it was their late posting of information to OFCOM that caused the one year delay in reaching the final stage of the consultation process and by doing so this decision could put at risk the future of a significant numbers of market competitors.