

## Formal Framework Agreement between Ofcom and PhonepayPlus

**Ofcom has overall responsibility for regulating premium rate services. PhonepayPlus is the agency appointed by Ofcom to carry out the day-to-day operations.**

### GOVERNANCE

Ofcom has responsibility and accountability for the regulation of premium rate services under the terms of the Communications Act 2003.

- Ofcom recognises PhonepayPlus as its agency, designated to deliver the day-to-day regulation of the market, by approving the PhonepayPlus Code of Practice. Regulatory strategy, scope and policy are developed in dialogue with PhonepayPlus, but final decisions will rest with Ofcom.
- Ofcom and PhonepayPlus will agree medium term and annual objectives, strategies and related funding arrangements. Final decisions on these matters rest with Ofcom but will be informed by recommendations from the PhonepayPlus Board based on their knowledge of the sector and relevant trends.
- The PhonepayPlus Board will have the following additional specific functions:
  - Using its expertise acquired through its proximity to the workings of the sector, to make recommendations to Ofcom regarding the most appropriate approach in policymaking;
  - To ensure mechanisms are in place for adjudication of suspected breaches of the Code;
  - To ensure effective governance of PhonepayPlus;
  - To monitor the work of the PhonepayPlus executive team and staff.
- A senior Ofcom colleague will become the sponsor for the relationship with PhonepayPlus. The sponsor will have observer status at meetings of the PhonepayPlus Board. The PhonepayPlus Chief Executive will provide reports to the Ofcom sponsor on a regular and on a 'no surprises' basis.
- Communications policy should reflect the division of responsibilities agreed. All major planned announcements and consultations by PhonepayPlus will be the subject of prior discussion. A no "surprises" policy will apply on all Communications.
- Ofcom will provide one member on the appointment or re-appointment panels of members of the PhonepayPlus Board and the Chief Executive. All appointments and re-appointments shall be subject to approval by Ofcom. Board members will be appointed for fixed terms of three years as now, and will serve a maximum of two consecutive terms.
- Where Ofcom identifies an issue it considers to be of particular importance or relevance, it will have the ability to give direction to PhonepayPlus. Such direction will be prior to – and in addition to – the reserve power that Ofcom may use to formally instruct PhonepayPlus, as described in the next paragraph.
- As Ofcom has the ability to reserve its right in advance to take decisions on specific matters there should be few circumstances in which Ofcom might need to formally instruct PhonepayPlus as to a course of action. Nevertheless, Ofcom will have a reserve power to issue directions to

PhonepayPlus to take certain courses of action; PhonepayPlus agrees to be bound by these directions.

## **POLICY MAKING**

- It is for Ofcom to agree/approve the scope and strategic approach to regulation.
- It is for Ofcom to approve the Code of Practice. It is for PhonepayPlus to make proposals on these matters and to produce a draft Code in close development with Ofcom.
- It is for PhonepayPlus to enforce the Code of Practice on a day-to-day basis.
- It is for PhonepayPlus to inform Ofcom in a timely fashion of any policy issues arising from application of the Code.

## **OPERATIONS**

Ofcom and PhonepayPlus should agree their respective responsibilities for operational activities, and their interfaces, within the new Framework. The following are proposed:

- In consultation with PhonepayPlus, Ofcom will create protocols to set out the respective responsibilities of Ofcom and PhonepayPlus for issues of shared interest. This should include Broadcasting, numbering policy and enforcement issues relating to disputes about the scope of PhonepayPlus regulation.
- Where rapid engagement is required, Ofcom and PhonepayPlus will both endeavour to act with due urgency to ensure that matters can be progressed quickly where appropriate.
- Where responsibilities cannot be predetermined, Ofcom will work with PhonepayPlus to develop a mechanism for the two organisations to deal properly together with new issues or uncertainties.
- PhonepayPlus will propose and agree with Ofcom performance measures and efficiency targets for these activities. These should at minimum cover complaint handling, the processing of serious cases that require adjudication, the operation of the Contact Centre and supporting web and Interactive Voice Response (IVR) services, the compliance support activity, and operation of the prior permission (licensing) arrangements.
- Reporting to the dedicated Ofcom sponsor would involve the sharing of monthly data, and quarterly summaries and trend reports to Ofcom. PhonepayPlus and Ofcom will also regularly discuss policy issues and seek to predict future trends in the sector, particularly those that may have a detrimental impact on consumers or regulation. A protocol for reporting exceptional activities will promptly escalate any unexpected developments to Ofcom.
- Ofcom's expectations should be reflected in individual and team targets for PhonepayPlus and reward mechanisms within PhonepayPlus should reflect these.
- Ofcom will approve the PhonepayPlus budget and activity plan on an annual basis, set within the framework of the PhonepayPlus three year strategic plan. PhonepayPlus will give the Ofcom sponsor regular updates on financial and operational issues to ensure that there is delivery against approved targets.

Ofcom will review these arrangements twelve months after introduction, and will do so earlier if there is a need to do so. Subsequent reviews will take place on a periodic basis.