

The Right Hon Jeremy Hunt MP
DCMS
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29 June 2011

Dear Mr Hunt

Thank you for your open letter dated 16 May, seeking initial thoughts on the regulatory regime for UK Communications, looking forward to the new Communications Act.

Action4 is the trade association for companies involved in the provision of premium rate telephone services in the UK. Our members include network operators, broadcasters and service providers. We have always worked closely with PhonepayPlus, the regulator, to ensure that our members' needs are best served, whilst maintaining the integrity of the industry.

Since the introduction of premium rate services in c1984, key features of the industry have been the entrepreneurial spirit and the speed of change – largely driven by the promise of high earnings and rapidly evolving technologies. This has offered a challenge for the regulator in striking the right balance between preventing services that cause harm and allowing the industry to flourish by allowing growth.

Historically the definition of a premium rate service was straightforward (payment for content or a service, billed to the telephone with a revenue outpayment to a third party), under the current Act the view is that the definition is not as strong as it could be and this has caused uncertainty at times as to whether particular services fall within the definition. This has sometimes even led to the stretching of the definition to match, and therefore catch services that are causing problems.

Action4 would seek a straightforward and clear definition of what a premium service “looks like” which is flexible enough to cover new services and technologies as they appear over the next 10 to 15 years. This should also be accompanied by clear definitions of the key players in the value chain. Whilst agreeing with the essence of the response submitted by PhonepayPlus and the ILP, we are not happy with the recommendation that premium rate services should be renamed “micropayments, as this does not reflect the whole of the market.

Confusion for the consumer may be caused by the fact that services that look the same may be covered by different payment mechanisms and a different set of rules and regulations. They might purchase a product, such as a cup of coffee, via tap and go on their mobile – subsequently billed to their credit or debit card. Five minutes later they may purchase a cinema ticket, which is paid for via their phone, either PAYG or under monthly contract. In the event that they wish to complain about poor service,

they will find two different regulators and two different sets of rules covering the services. With increasing convergence, we would welcome consideration of introducing comparable consumer protection packages for these types of purchase, regardless of payment mechanism.

To answer your specific questions which are relevant to Action4:

Q1 what could a healthier communications market look like?

In 2009 the premium rate market was c£1.2b. Since then it has fallen to around £800m. This is an area that is ripe for new concepts and growth and it is important that innovation is not stifled by a fear of entry into the market due to overly burdensome regulation.

Q2 What action can be taken to facilitate greater innovation and growth...?

Action4 would welcome further deregulation in this part of the industry that is now mature enough to operate in this way. Overly burdensome or unclear regulation can be a barrier to entry – it is important that the regulator gives a clear line and that all parties understand exactly who and what is regulated.

Q3 Is regulatory convergence desirable?

As outlined above, there are instances in phone use where the consumer will not be clear who the responsible regulator is for their purchase. The problem with the two different regulators in this example is that the FSA is not going to become involved in a dispute over the payment for a cup of coffee, whereas the premium rate regulator has been involved in issues regarding often very small payments for years (there is a maximum cost on the majority of PRS of £30).

Q4 What barriers can be removed to facilitate greater exports and inward investment..?

It is important to encourage overseas companies to enter into the UK premium rate market but the high level of regulation and fear of getting it wrong may deter them.

Q13 Where have self- and co- regulation worked successfully..?

The premium rate industry has been a good example of co-regulation. In time, as the industry has developed, the regulator has seen the benefit of working with industry players to develop a regulatory system that is proportionate to the potential harms that exist.

Conclusion

Whilst the premium rate industry may be seen by some as relatively small in relation to communications overall, it has a long-established history and is viewed as the strongest market of its kind internationally. We would welcome any legislation that allows this sector to continue to thrive and grow without unnecessary restraint.

