

12 May 2017

CONSULTATION RESPONSE

REVIEW OF ALTERNATIVE DISPUTE RESOLUTION SCHEMES

SUBMISSION BY
ASSOCIATION FOR INTERACTIVE
MEDIA AND ENTERTAINMENT
(AIME)

AIME (WWW.AIMELINK.ORG)

AIME is the UK specialist trade organisation representing the commercial and regulatory interests of companies involved in the interactive media and entertainment industries - where consumers interact or engage with services across different media platforms, and may pay for those services or content using a variety of micropayment technologies including premium rate services.

Members uphold AIMEs Code of Ethics and Core Values to create an environment of consumer trust and industry confidence within which our members' commerce can grow and innovation in consumer services is encouraged. We are committed to furthering the interests of Interactive Media and Micropayments through the regular exchange of information and communication throughout the value chain, effective engagement with regulators and legislators and the presentation of a successful industry image to consumer and business media.

Our membership represents in excess of 80% of annual industry premium rate revenues.

MEMBER INPUT

AIME welcomes the opportunity to respond to Ofcom's Consultation reviewing the current Alternative Dispute Resolution (ADR) provisions for consumers.

To assist AIME in providing a comprehensive input to Ofcom, AIME researched its Members in the following manner;

- Written input from Members
- One-to-one discussions

AIME Members who operate in the interactive media and micropayment markets are broadly split into five categories although there is some overlap inside individual Member businesses.

- Fixed Line Networks, Fixed line Intermediaries and Merchants
- Mobile Networks, Mobile Intermediaries and Merchants
- Broadcasters
- Charities and Charity enablers
- Industry Support companies

Some of AIMEs larger Members may input their response directly to Ofcom. Wherever possible, we ensure that views of members made through their own responses are in synergy with AIME member's collective views.

As our response is guided and supported by Members input, some views that may be expressed are not necessarily those of the AIME Executive or of any individual on AIME's Board of Directors.

**Please note that we originally submitted our response on the Ofcom website only to discover a 1,000 character limit which does not allow for a meaningful response. We are grateful that Ofcom has allowed a second response using normal documentation.

GENERAL COMMENTARY

Our input to Ofcom is specifically focussed on the companies that operate in the premium rate industry and the consumer who may wish to use ADR facilities.

The Telecoms ADR scheme is not geared towards this purchasing environment, leaving both the consumer without an effective ADR facility and the merchants with a costly and inexperienced dispute agency.

We do not have any specific points on the two current participants in the ADR schemes and our members have not provided us with any real-life feedback on the participants. However, our analysis leads to the conclusion that these schemes, through the policies set, are unlikely to provide the correct facility for consumers.

As a result, it is rare that a merchant will recommend ADR, preferring to refer a consumer with an unresolved dispute back to the network operator or to the Phone-paid Services Authority (PSA). The former is likely to refund the consumer regardless of fault and the latter is not positioned to provide a dispute resolution.

The reason for its ineffective position is that Ofcom have only run with two parties for telecoms based ADR and have not sought out lower cost, specialised ADR organisations for the premium rate industry where the consumers position and the merchants position, particularly for digital purchases are not so easy to resolve.

The Alternative Dispute Resolution for Consumer Disputes (Competent Authorities and Information) Regulations 2015 placed premium rate merchants into a position of ensuring ADR was available to consumer, but due to the telecoms linkage of premium rate, limited the options to the two approved telecoms ADR entities.

The telecoms ADR companies deal, in the main, with telecoms based disputes whereas disputes regarding premium rate generally revolve around a charging /purchasing based environment and for a fraction of the telecoms bill, not the totality. The ADR companies require that providers pre-register and expect to deal with a small number of large communication entities. Premium rate companies are large in quantity (approx 3,000), but small in nature and cannot justify the cost of pre-registration.

Any consumer contacting either of the two ADR organisations is likely to be turned away as the company they will be disputing with is not "on the books" for the ADR companies. In the event that the ADR entity does take on the complaint, the fee to the merchant is likely to be disproportionate to the dispute.

As most premium rate merchants who have complied with the PSA code of practice will have robust evidence of the consumers opt-in to charges (the root of a majority of disputes) this high ADR fee will represent a significant loss to the company concerned. The companies would prefer to refer consumers to civil action (Money Claim Online) rather than ADR as the recovery of costs against a vexatious consumer can be virtually guaranteed.

Ofcom needs to review this situation as premium rate services fall under Ofcom's remit (2003 Communications Act) and accept input for a more effective, specialised and efficient solution from ourselves, consumer bodies and PSA.

CLOSE

We assure you that our comments are made constructively and with the intent of achieving an effective, fair, economical and proportional ADR scheme for consumers and for premium rate charged Interactive Media services in the UK.

If any clarification to our response is required or if we can be of any further assistance please contact the AIME office via regulatory@aimelink.org

Sincerely

AIME