



**PhonepayPlus' response to
Ofcom's consultation
"Simplifying Non-geographic numbers"
issued in December 2010**

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Section 1

Background

The Executive of PhonepayPlus welcomes the opportunity to respond to this consultation, as we believe there are issues of particular relevance to consumers of premium rate services, and ourselves as the regulator, contained within the document.

PhonepayPlus is the day-to-day regulator of the content, promotion and operation of premium rate services using a Code of Practice approved by Ofcom. Our vision is that anyone can use premium rate services with absolute confidence. Whilst parts of this consultation are relevant to consumers of PRS, others are not. We have discussed the content of the document with parts of the PRS industry, but rather than replicate their comments on the possible effects of Ofcom's proposals on the market we will address only issues which we see as being directly relevant to consumers of PRS or ourselves as a regulator.

In light of this consideration, we have chosen not to comment on individual questions asked within the document, but to highlight three general areas of relevance to our remit. Where appropriate we have cited the relevant parts of the consultation for reference.

About us

PhonepayPlus is the body responsible for day-to-day regulation of premium rate services that are accessible in the UK. Our primary task is to set and enforce standards for the content, operation and marketing of phone-paid services. These standards include an Ofcom approved Code of Practice that sets rules for the marketing and content of such services. The Code covers many areas including, most relevantly to this consultation, those about how the cost of such services should be transparently communicated to consumers. Further information on PhonepayPlus' work, and the Code of Practice, can be found at: www.phonepayplus.org.uk.

About premium rate services

Premium rate services offer information and entertainment via platforms such as phone, fax, PC (e-mail, Internet, bulletin board), mobile (SMS/WAP) or interactive digital TV. Services range from sports, voting and adult entertainment lines to competition, directory enquiry, chat and business information services, and currently voice or IVR-based

services (again, the focus of this consultation) vary in cost from 10 pence per call to £1.53 per minute from a BT network, with other networks often charging considerably more. The money paid for the call (with the exception of any additional network charges above the BT charge) is shared between the telephone company carrying the service and the organisation providing the content.

Section 2

In view of the highly detailed nature of the consultation document, which extends wider than our remit to protect consumers of PRS, our response consists of the following points, which we consider to be relevant to our role and the market for which we are responsible.

Proposals around network pricing transparency

Rule 5.7.1 of the current edition of the PhonepayPlus Code of Practice states the following:

Service providers must ensure that all users of premium rate services are fully informed, clearly and straightforwardly, of the cost of using a service prior to incurring any charge

As such PhonepayPlus fully agrees with the statement made at paragraph 6.13 i) of the consultation – i.e. that in order for consumers to make choices that are in their best interest they need to have sufficient understanding of the prices involved. We note that currently in the UK market the ability of most providers of PRS to comply with this provision is undermined by the current way the tariffs are structured and determined by networks over whom they have no control. This undermines the effectiveness of our Code in terms of the outcome we seek to deliver.

In our response to the call for inputs to Ofcom's review of Non-Geographic Call services (dated 28 May 2010), we expressed concern about the consumer outcome of pricing transparency, and the difficulties that consumers face in determining what they will be charged for accessing a premium rate service.

In PhonepayPlus' 2009 market review of the premium rate sector, our research partners established a purely indicative figure of £62.6 million of additional revenue created and retained by originating call providers (other than BT) who set access charges over the advertised PRS tariffs. Whilst this figure was a result of simple estimates and calculations, rather than a detailed examination of price points or the exact share of PRS which carry additional access charges, it was based on an informed view of how the PRS market operates and suggests a significant potential for consumer detriment arising from lack of overall pricing transparency to PRS consumers.

In addition a 2008 market review, carried out for PhonepayPlus by Analysys Mason, accurate pricing information was cited as the single most important factor to help improve trust in PRS by 40% of phone-paid services.

With this consideration in mind, PhonepayPlus welcomes any measures that provide greater transparency to consumers around network charges attached to the advertised cost of a PRS call. On the two key options to achieve this which Ofcom set out – unbundling of access and service charges, and maximum total charges – we would consider the following:

Unbundled tariff

We consider this option would improve the current level of pricing transparency to consumers. However this is with the following qualifications:

- This approach may end up causing consumer confusion if Originating Communications Providers' (OCP) access charges are not consistent or multiple charges are offered by each operator.
- In order for it to be fully effective in terms of transparency, OCP billing systems will need to have the granularity to clearly separate access and service charges on a consumer's phone bill.

We would also note that paragraph 6.7.4b) of the consultation states that the Service Charge is potentially constrained by competition between two Service Providers (SP), and that where two SPs offer similar services a consumer would only need to compare their Service Charges to find out which SP is the cheaper. Whilst this is reasonable, we do not consider that SPs currently compete significantly and consistently around service price.

At present PhonepayPlus identifies that there is, understandably, no definite strategic plan for implementation of this option at this stage in the process. We look forward to continuing to provide input regarding implementation if this is the chosen option, particularly in relation to raising consumer awareness of any change.

Maximum Prices

We consider this option would also improve the current level of pricing transparency to consumers, albeit with less clarity than the above discussed option. We note that with this option it would be possible for providers of PRS to incorporate a price or prices into their advertising which included both service and access charge, and so leave the consumer in no doubt as to the total cost they would pay. As with our comments on unbundled tariffs, this is partly dependent upon OCP access charges being simple and consistent. However we note that there is no need to advertise different prices based upon higher or lower access charges in this scenario, only the maximum price.

We have concerns that this option does not offer pricing transparency in terms of the actual price consumers may be charged, just a maximum possible cost. This may also harm take-up of PRS services, where the maximum cost may be significantly higher than the price many consumers might pay, but nevertheless gives the impression the service is much more expensive.

Notwithstanding any concerns above, we would support this option if other more transparent options proved impractical to implement.

Proposal around higher maximum tariff for 09 numbers

PhonepayPlus notes that the £1.53 tariff cap on PRS service charges to a "fixed line" number has gone unadjusted for 13 years. We would also note that the caps on service charges from mobile shortcodes are now as high as £10 in some cases (although mobile phones may carry less risk of bill shock from unauthorised usage given their personal nature), or fraudulent activity such as PBX hacking.

PhonepayPlus would not object to further extensions of the current pricing cap for 09 numbers, provided that consumers are clearly and straightforwardly informed of the price of using services prior to incurring a charge. We recognise that depending on the rate of any increased pricing cap, there is likely to be a need for some additional measures to ensure consumers are fully informed, and that higher price points are not misused.

If Ofcom decided to extend the tariff maximum then PhonepayPlus would, as is always the case, consult fully with stakeholders about any additional safeguards that it may feel are warranted, possibly through a Prior Permission regime for higher rate fixed line services, along with other possible options for providing proportionate consumer protection.

Proposals around regulation of 0843/4 number range

PhonepayPlus notes the consideration at paragraph 7.68 of the consultation, and in Annex 7, that there may be a case for extending the current PRS condition to make 0843/4 ranges subject to our regulation.

We note that any regulatory regime would need to be appropriate to the level of risk and identified consumer harm. We note Ofcom's preference for 0843/4 numbers to include a service charge in all advertising, were the PRS condition to be extended to them.

Were PhonepayPlus to assume regulatory responsibility for these ranges, we recognise that we would need to discuss with Ofcom and the industry how to proportionately apply regulation to this market, so as not to place unreasonable burdens on these lower rate services. This consideration would need to extend to the appropriate funding mechanism to support such regulation.

Proposal around lowering of the maximum tariff for 070 and 076 ranges

Lastly, we agree with Ofcom's preference expressed at paragraph 6.159 of the consultation that the available revenue for calls to 070 and 076 numbers is reduced to bring them closer to the revenue available from standard mobile calls. Such an action will reduce the incentives for activity designed to create fraudulent share of revenue, which as ofcom are aware, has been a source of complaint and abuse for several years.

In addition to the 070 (originally "follow-me") and 076 (originally pagers) number ranges, we have also received a very low level of complaints about fraudulent usage of 075 numbers (originally intended for wi-fi). Ofcom may wish to note this, and the potential for such fraudulent activity as is carried out on 070 and 076 to also be carried out on the 075 range.