



**Review of non-geographic calls services –
Call for inputs:
PhonepayPlus’ response to a consultation
document issued by Ofcom**

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Section 1

About PhonepayPlus

1.1 Under the Communications Act 2003, Ofcom has responsibility for the regulation of premium rate services. These are the premium rate goods and services that you can buy by charging the cost to your phone bill and pre-pay account. In December 2007 it was confirmed that PhonepayPlus will act as the agency which carries out the day-to-day regulation of the PRS market in the UK on Ofcom's behalf.

1.2 Many premium rate services (PRS) operate on the 09x and 0871/2/3 non-geographic number ranges. PhonepayPlus has also taken action against rogue services operating on the 070 number range.

1.3 We focus on pre-empting and preventing problems – the key, we believe, to effective long-term consumer protection. We regulate services using our Code of Practice. This sets out the rules with which all providers of phone-paid services must comply. Among other things, we require:

- clear and accurate pricing information;
- honest advertising and service content;
- appropriate and targeted promotions.

1.4 We investigate consumer complaints about phone-paid services. Where we decide that our rules have been broken, we can fine the company responsible, bar access to its services and even bar the individual behind the company from running other services under a different company name. Our investigations and adjudications service is free to consumers and fully independent.

1.5 PhonepayPlus also undertakes consumer research to inform the development of its Code of Practice and also to further understand consumers' experience of using phone-paid services.

Section 2

Pricing transparency

2.1 Rule 5.7.1 of PhonepayPlus’ Code of Practice (11th Edition) requires that:

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.

2.2 The clarity of this rule, however, does not always translate into pricing clarity for consumers of phone-paid services. This is because different originating communications providers (OCPs), or the consumer’s billing telecoms network, have the option to charge different tariffs to the one chosen and advertised by the premium rate service provider. The exceptions to this are BT, where prices are fixed by Ofcom’s Numbering Plan (although the future of this forms part of this review), and services charged by Premium SMS text messaging or mobile payment checkout services, such as Payfort, where the advertised price is the price consumers are ultimately charged.

2.3 The practical reality is that all of the mobile networks and some fixed line OCPs charge higher tariffs for calls to 09 and 0871/2/3 numbers than those advertised by the premium rate service provider and fixed by Ofcom’s Numbering Plan and BT’s tariffs. PhonepayPlus does not have a view on the commercial decisions taken by telecoms companies about their tariffs to consumers; our concern relates to 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.

2.4 PhonepayPlus carries out a market review each year of the PRS sector and this year we asked our research partners to try and establish what the additional cost was to consumers for PRS that were charged over the advertised tariffs. In other words, how much additional revenue OCPs gain from increasing tariffs on PRS. According to Thinktank who carried out the research:

Premium rate services also generate additional communications revenues, which, within the scope of this research, we can only roughly estimate.¹ Assuming that 40% of all premium rate call and directory enquiries revenues are generated through mobile or non-BT fixed line calls, and that these carry an average 40% additional cost to the consumer, the market drives an additional £62.6 million in voice communication revenues for telecoms providers.²

2.5 While admitting that this figure of £62.6 million additional revenue³ for OCPs from choosing to impose higher rate tariffs on premium rate services can only be indicative, it is based on an informed view of how the PRS market operates and does suggest that the potential consumer detriment from the lack of pricing transparency in

¹ Please note that these are simple estimates and calculations, designed purely to give an indication of the value of additional communications revenues. Thinktank has not examined price points or looked in detail at what share of PRS carry extra communication charges.

² *Current and future market for Premium Rate Services*, Thinktank for PhonepayPlus, February 2010, p.13

³ Revenue may not equate to profit given the cost base for different telecoms companies and MNOs in particular may differ markedly.

the overall market is significant. This figure equates to around 7.5% of the total PRS market in 2009⁴.

2.6 In the 2008 market review carried out for PhonepayPlus by Analysys Mason⁵, accurate pricing information was the single most important factor that would help improve trust in PRS, with around 40% of phone-paid services citing this as a factor.

⁴ Thinktank estimate the PRS market in 2009 to be £826.2 million. Ibid.

⁵ *UK Phone-paid services market: current conditions and future trends*, Analysys Mason for PhonepayPlus, December 2008, p.46

Section 3

Consumer research for the new Code of Practice

3.1 PhonepayPlus has recently carried out consumer research for our new Code of Practice to test out our proposed new rules on pricing transparency. The proposed new rule 2.2.1 in the Code, which is currently being consulted on, is a slight amendment to our current rule:

Consumers of premium rate services must be fully and clearly informed of all information likely to influence the decision to purchase, including the cost, before any purchase is made.

3.2 The research is due to be published in July, but we are content to share some early insights into consumers’ experience of calling non-geographic numbers from mobiles. Consumers find the pricing of PRS on mobiles to be confusing and very non-transparent. There is some awareness that premium rate numbers could be more expensive from non-BT lines, particularly mobiles, mainly from hearing consumer advice on TV. This means that typically consumers would cast TV votes using landlines⁶. The consumer expectation of the increased charge can range from those that think it may be double the advertised price to those that expect it would be the advertised price plus the normal mobile network call rate.

3.3 Many consumers think it is their responsibility to find out how much calls will cost, but they believe this information should be readily available. Consumers suggested that they should be able to easily find such information on the websites of their OCP, the service provider or promoter and on PhonepayPlus’ own site. It was felt that the primary responsibility should lie with the party advertising the service to confirm the prices. However, Ofcom’s own scope review of PRS found that the compliance costs from implementing such a proposal would be disproportionate to any possible consumer benefit and stakeholders were almost uniformly opposed to that suggestion for resolving pricing transparency.

3.4 Once this research has been finalised in the coming weeks, we will share the full results with Ofcom ahead of our planned publication in July in order to assist this review.

⁶ However, industry figures suggest that around a third of TV votes are being placed from mobiles [source, AIME].

Section 4

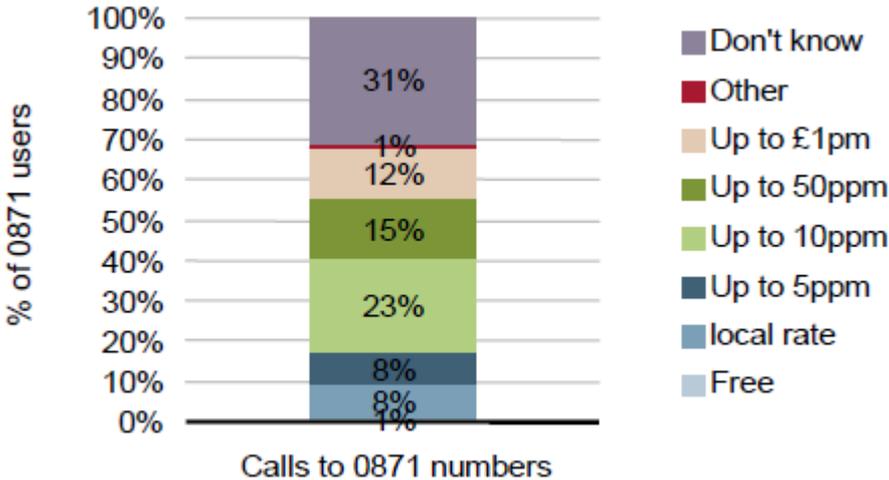
0871 research

4.1 In May 2009, PhonepayPlus commissioned Analysys Mason to carry out research into the 0871/2/3 market ahead of this becoming part of the controlled PRS regulatory regime in August 2009⁷.

4.2 Part of the research focussed on the experiences of consumers in this market. This research found:

- 31% of consumers surveyed who had called an 0871 number in the past 6 months did not know the cost of calling an 0871 number from a landline;
- a further 12% of 0871 users thought that it cost between 50ppm and £1pm to make a call to an 0871 number from a fixed line (see Figure 16);
- 3% thought that calling an 0871 number from a fixed line was free (see Figure below).

Figure 1: Perceptions of cost of calling an 0871 number from a landline⁸

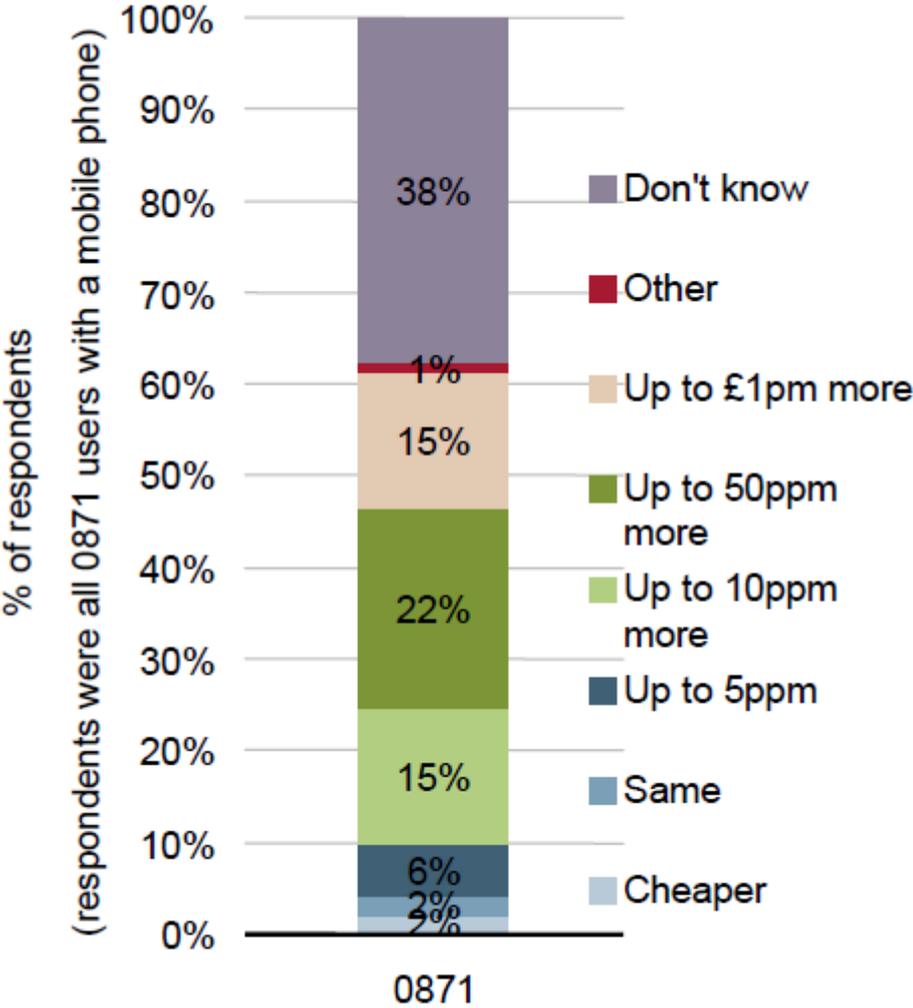


4.3 The research also discovered that 40% of consumers did not know the additional cost for calling 0871 numbers from a mobile and less than a quarter could accurately estimate the cost. Figure 2 below shows the estimates consumers made on the additional costs of calling 0871 numbers from a mobile. Only 22% of users estimated within the range Analysys Mason suggested was the usual additional cost (between 11 pence and 50 pence per minute more than on a BT line). This meant that 25% were estimating the cost to be less expensive than it actually was and 54% were over-estimating the cost. While under-estimating may lead to “bill shock” and potential harm, over-estimates may deter consumers from using 0871 services owing to a perception that the costs are more expensive than they actually are.

⁷ 0871-based phone services, Analysys Mason for PhonepayPlus, May 2009

⁸ Ibid. p. 35

Figure 2: Perceptions of the additional costs of calling an 0871 number from a mobile compared to calling from a landline⁹



⁹ Ibid. p. 36

Section 5

Industry Views

5.1 In the 2008 PhonepayPlus market report, Analysys Mason found that for industry:

“..the single biggest issue damaging consumer confidence and causing harm is the MNO [Mobile Network Operator] surcharge issue. MNOs impose arbitrary surcharges over and above their interconnection costs. This is a major failure of price transparency. Consumers don’t know what a call will cost, and often they can’t find out either. For example, I called T-Mobile and asked what a 1.5-minute call to a GBP1-per-minute line would cost me and they couldn’t tell me. Broadcasters are addressing this issue as best they can, giving warning such as ‘calls from mobiles may cost considerably more’.” [Service and content provider]¹⁰

5.2 Analysys Mason noted, however, that it is not only mobile operators that apply surcharges to premium-rate numbers. For example, at the time of the report, for an 09x call on band p0, which costs 150ppm from a BT line, TalkTalk charged its customers 165ppm, and AdEPT Telecom charged customers on the ‘Hometalk4free’ tariff 175 ppm plus a 0.04p set-up charge.

5.3 Also in this report a stakeholder, addressing the general issue of price transparency and mobile surcharges in particular, commented that consumers were complaining that 08x numbers were not included in bundled minutes, especially on mobile. In his view, the mobile surcharges and lack of price transparency were causing general wariness about phone-paid services. This was not limited to mobile operators, however:

“Consumers don’t know what it costs to call 03. BT operators give the wrong rates for 03 calls 5–10% of the time. 01, 02, OK, otherwise people are unsure of the rates”. [NTS vendor and service provider]¹¹

5.4 The report stated that the issue of surcharges, especially by mobile operators, had been repeatedly raised as an issue both by stakeholders and consumers:

This is seen as a cause of particular annoyance, or even of actual harm, to consumers, most frequently with regard to calls to 0800 and other 08x ranges. Mobile operators are generally opposing the Ofcom proposal that calls to most 08x and to 03 numbers should be included in bundled minutes. This is a matter for the regulators to resolve; however, we might note here that a primary concern for mobile operators is the risk of such numbers being used by third parties to provide indirect-access calling for the end-users, undercutting the mobile operators’ prices especially on international calls; the mobile premium¹² in the UK is about 74%.²³ [source: Analysys Mason Research, 2008.]¹³

¹⁰ UK Phone-paid services market: current conditions and future trends, Analysys Mason for PhonepayPlus, December 2008, p.46

¹¹ Ibid. p. 56

¹² Mobile premium refers to the difference between the average cost of calls made on mobile and those on fixed lines

¹³ Ibid. p. 56