



PhonepayPlus 

# 2009/10 Annual Report



---

[Introduction](#) <sup>01</sup>

[Chairman's Statement](#) <sup>02</sup>

[Chief Executive's Statement](#) <sup>04</sup>

[Market Review](#) <sup>06</sup>

[Research & Monitoring](#) <sup>07</sup>

[Market Overview](#) <sup>08</sup>

[ILP Chair's Statement](#) <sup>10</sup>

[Industry Support](#) <sup>12</sup>

[Industry Relations](#) <sup>14</sup>

[Investigations](#) <sup>16</sup>

[Code Compliance Panel](#) <sup>18</sup>

[Consumer Support](#) <sup>20</sup>

[Consumer Literacy](#) <sup>22</sup>

[Keys to Success](#) <sup>24</sup>

[Our People](#) <sup>26</sup>

[Finance Figures](#) <sup>28</sup>

[IMCB](#) <sup>30</sup>

[Building on Success](#) <sup>32</sup>



Consumers young and old and from all walks of life use premium rate services (PRS). From using directory enquiries to find a cab on a night out to charitable text donations; from sports updates on the go to voting on favourite TV shows from the comfort of the sofa.

In a busy, fast-paced world, premium rate services offer opportunities for entertainment, information and advice – opening windows to worlds as diverse as mobile gaming, car maintenance advice and astrology.

Premium rate services – costing more than a normal call/text, charged to phone bills or pay-as-you-go accounts, and usually operating on numbers beginning 09, 118, 0871/2/3 or five or six digit mobile text shortcodes – generated a market worth £810 million in 2009.

However and whenever consumers access these services, PhonepayPlus is the UK regulator that ensures they give people what they expected at a price they expected to pay.

Our Code of Practice sets out the standards required, and breaches of the Code can result in stringent sanctions, including fines of up to £250,000 per breach.

We are an independent regulator with the public interest at our heart. Our Code of Practice is approved by Ofcom and our enforcement powers are derived from the Communications Act 2003. We are funded by a levy on the premium rate services industry without taking a penny from the public purse.

Regulating a technology-based, fast-moving market in today's economic climate requires a regulator that is effective and efficient in delivering to both consumers and industry. Our joined-up approach to research and enforcement, to consumer and industry support, is based on over 20 years' experience regulating the premium rate services industry. Together, this knowledge and experience gives us a unique window onto the premium rate market, enabling us to work closely with industry in open and transparent ways to improve the consumer experience for the benefit of all.

This 2009/10 annual report gives an insight into how we work, the market we regulate and our successes and challenges this year.

---

52%

The percentage **decrease** in consumer complaints in 2009/10

---

0%

Increase in the budget for regulation in 2009/10

---

£5.3m

Worth of fines in 2009/10, helping to drive rogue providers from the market



Sir Alistair Graham,  
Chairman, PhonepayPlus  
Reflecting on a successful  
year in building trust in  
premium rate services

**As I look back over the last year it would seem strange, perverse even, not to start with what I consider our greatest achievement: a reduction of 52% in the complaints we receive.**

This is not driven just by a decline in the market. Nor can we take all of the credit: PRS providers have clearly invested in compliance and heeded the lessons of yesteryear. However, it is still a matter of real pride to me and everyone involved in premium rate regulation to see a reduction in complaints of this magnitude.

I believe there are several reasons for the apparent decline in consumer harm. First and foremost, new rules we put in place in early 2009 are clearly bearing fruit. These followed a strategic review of the mobile market which set out a proactive and multi-faceted approach to dealing with several significant issues facing consumers.

Second, the Code Compliance Panel (CCP) has adopted a zero tolerance approach to non-compliance, imposing stiff sanctions on providers and their services when found in breach of the Code. The CCP levied £5.3 million in fines last year – double the amount of the previous year which itself represented a record sum.

The CCP does not take this lightly, and exercises its duties more in sorrow than anger, but there is no doubt it had the right deterrent effect. It certainly cannot be said that the PRS industry is a soft touch for those with no interest in serving the consumer.

There is also no doubt that the recession bit hard. The market as was declined by some 11% in 2009 as consumers tightened their belts and discretionary spending took a hit. However, when you add revenues derived from 087 services, which came under PRS regulation for the first time this year, overall income was broadly flat so this cannot explain the decline in complaints on its own.

Finally, an effective counterweight to this enforcement action was a far more collaborative approach to working with industry. The vast majority of businesses want to provide customers with a valuable service at a sensible margin, and we were more than happy to help. Where we could remove regulation without harming consumers, we did so. Where we could work informally with providers to resolve minor complaints, we were happy to do just that. The result is, I think, greater trust between industry and regulator, and between business and consumers.

If we're honest, the PRS market still suffers from reputational damage caused by scams that, over the years, have dented the public's confidence in using premium rate services. The more we can work together to build and promote compliance, the more consumers will trust the services they see promoted. The more they trust, the more they will use.

I am delighted to welcome two new Board members – Hugh Griffiths and Howard Webber – who will bolster our industry and consumer expertise. I look forward to working with them and with all our stakeholders to continue this virtuous circle and see the number of complaints we receive fall still further.



Sir Alistair Graham, Chairman

**It is still a matter of real pride to me and everyone involved in premium rate regulation to see a reduction in complaints of this magnitude**

**I had in mind five clear objectives as I set out on my first full year as Chief Executive.**

First, I knew that effective regulation meant working with industry, not against it. We asked PRS providers what they wanted from their regulator, listened to what they had to say and, where there were good ideas for change, we worked hard to implement them. That's why we introduced a new Complaints Resolution Team, for example: to work with providers on a more collaborative basis where there is evidence of minor non-compliance.

Second, as the PRS industry struggles through the worst recession of recent times I wanted to make sure that regulation was adding value and not causing an unnecessary burden. Our Business Plan concentrates on doing more with less and an ongoing commitment to cutting costs and delivering cost savings over time. In 2009/10 our budget did not increase from the previous year and our budget for 2010/11 is reduced by 3%. I intend to reduce our costs further over the next three years.

Third, we are intent on delivering a new Code – the most innovative and flexible in our 24-year history. Focusing on consumer outcomes instead of prescriptive rules, it will allow businesses to determine how best to look after their customers. It also applies regulation to the party responsible for the service – no longer will Service Providers be held directly responsible for the mistakes of others.

Part and parcel of this new regime will be a mandatory Registration Scheme that will help providers carry out effective due diligence and avoid doing business with rogue operators.

Fourth, the 087 number range (excluding 0870) came under our jurisdiction for the first time. It was important that this new community of providers knew what was expected of them and didn't impose an unnecessary burden on the rest of the industry in terms of our time and that of the CCP. I'm happy to say that, almost a year after we took over regulation of 0871/2/3 numbers, this sector of the market is broadly compliant and causing few problems for its customers.

Finally, we must continue to pre-empt and prevent problems for consumers and protect them when they come to harm. This can be done after the event – and I was happy to see the CCP's no-nonsense approach to problem services – but it's much better to nip a problem in the bud. That's why we invested in proactive monitoring to see what problems there might be before they cause complaints, and why we carried out research to identify where new market developments might create issues for consumers.

And that's why we continued to support consumers with targeted, low-cost literacy campaigns – to make sure they are able to recognise problem services or avoid bill-shock. PhoneBrain – our schools campaign that educates young people about premium rate services – is a huge success and continues to create a positive buzz around the PRS market. It even won in its category at the national marketing awards!

I am pleased with our progress this year, but I'm especially proud of the way we've worked with industry to deliver real positive changes for consumers. I hope you enjoy the summary of our year's work that follows.



Paul Whiteing, Chief Executive

I'm especially proud of the way we've worked with industry to deliver real positive changes for consumers

---

# Paul Whiteing, Chief Executive, PhonepayPlus

Developing an ongoing commitment to delivering cost savings



# Market Review

## Creating the clearest picture of the market

Phoneyplus' market review and overview combines research commissioned by the Research & Market Intelligence Team with analysis of our own data to give us as clear a picture as possible of annual trends relating to the PRS market and our regulation of it. On this page we give you a snapshot of the annual market review and on pages 8-9 we give you a more in-depth look at the market.

### The Long View – Phoneyplus' Annual Market Review

In recent years, Phoneyplus has commissioned an annual review of the premium rate market, looking at current status and future expectations. In 2009/10 this research was carried out by Thinktank and published as the 'Current & future market for Premium Rate Services' report.

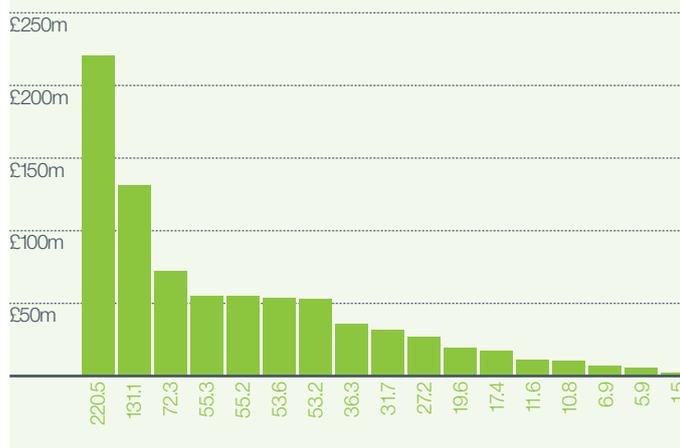
Using a combination of quantitative and qualitative research methods, talking to both consumers and industry, this report gives us a clear picture of the market as it stands and trends in its development.

The picture for the market this year is mixed. The recession has inevitably had an impact on the market, which also faces challenges from the ease of access to free content online.

However, some windows of opportunity are opening up. Mobile internet's increased popularity, with smartphones becoming more widely available, could provide new opportunities for PRS, with innovation continuing to be a critical factor in sustaining and growing consumer interest in services.

Over the next few pages we give you the headline figures and findings of this year's market review, alongside an insight into our Research & Market Intelligence Team's work.

Market size by service area 2009 (£m)



Directory enquiries	220.5
Adult entertainment	131.1
087 business information lines	72.3
Mobile games	55.3
Information services	55.2
Competition / quizzes	53.6
Other entertainment for mobile phones	53.2
Gambling / lotteries	36.3
Voting and other participation TV	31.7
Mobile personalisation	27.2
Flirt / date / chat	19.6
Tarot / astrology	17.4
Non-adult phone content / services	11.6
Charity donations	10.8
Call services	6.9
087 flirt / date / chat	5.9
Virtual gifts	1.5

# Research & Monitoring

## Understanding the mechanics of the market

**PhoneyPayPlus' research and monitoring is essential for us to have an open and objective perspective on how the market operates and how consumers engage with services. Put simply, if we don't understand the mechanics of the PRS market, how can we effectively regulate it?**

Much of the work we do in the Research & Market Intelligence Team helps us to understand what is really going on in a fast-paced, technologically-driven market, allowing us to benchmark how different services operate and to bust the less helpful myths about such services.

In 2009/10, the window that research and monitoring gave us on the PRS market and its products has opened up improved ways of working within and across teams. We have provided intelligence to the Investigations Team – our monitoring picking up on potential problems in services – and, more importantly, we have provided objective evidence to the CCP. We have followed innovations in the market, understanding cutting edge products as they come to market and where consumers might experience difficulties. This helps us talk to providers about how their service might be improved.

As the market changes, so must our approach to monitoring the promotion of services to consumers. This year we have invested in monitoring tools that really allow us to hone in on how, where and when services are promoted and delivered. One such tool 'listens' intelligently to online activity, finding and categorising PRS products by their potential for consumer harm. Additional functionality allows us to prioritise services by their popularity and assess the subsequent scale of any consumer harm.

This is a trend in intelligent research we expect to continue, as PRS become increasingly online and global in nature.

### Directory enquiries: 'A friend in your pocket'

Directory enquiries remains top of the consumer's list of trusted PRS products, reflected in its market share of 27.2%. Although PRS directory enquiries are under some pressure from the mobile internet, leading brands are seen by

some consumers as a 'trusted friend in your pocket'. Directory enquiries are particularly popular with young people, 51.1% of 18-24 year olds having used such a service in the last six months.

## Market Movement: Sharing the Pie or Growing the Pot?

In 2009/10 the PRS market experienced growth in some segments and decline in others. What does this mean to PhonepayPlus as a regulator and to the industry we regulate?

We mapped over a two-year period the outpayments for particular PRS numbers against consumer complaints. The graphs opposite show by sector how each PRS market is performing in terms of complaints relative to its market size.

Some service areas are bouncing back. TV voting is regaining consumer trust and is therefore seeing significant growth. Other areas of growth are in more innovative areas, closer to the cutting edge of mobile technology. Mobile gaming presents significant opportunities for PRS, although growth could be dependent on availability on devices that allow PRS as a payment mechanism.

One area of decline overall was premium SMS, although services such as charity donations and mobile ticketing may lead innovation that revitalises this area. Competitions entered via text remain key drivers of growth in the SMS sector of the market, with 41.9% of consumers in our research study having entered a competition by text in the last six months.

Fixed-line services saw some areas of decline and some interesting areas of growth. The industry has indicated to us that they expect a declining trend in the use of fixed-line adult entertainment services. There is, however, a suggestion that the unique nature of direct interaction offered by adult chat services provides a degree of resilience to the predicted decline. One PRS area that may have benefited from the recession was tarot, horoscope and psychic services, having an obvious attraction in uncertain times, backed up by a loyal user base.

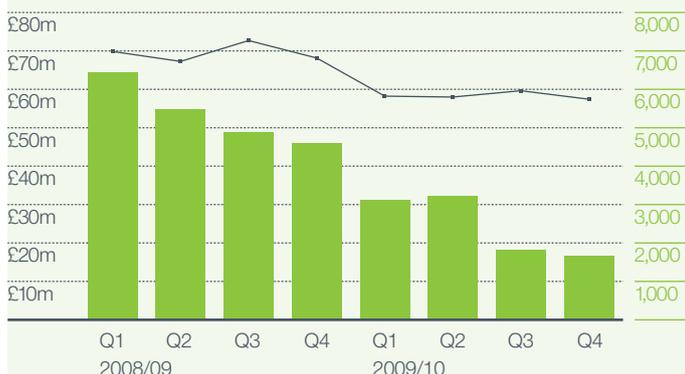
In the first eight months of PhonepayPlus' regulation of the 0871/2/3 number range, the market has only attracted a small number of complaints.

The question facing the PRS industry is whether more services will continue to share smaller slices of the same pie or whether innovative and engaging services will raise consumer interest and grow the market.

## Market Outpayments vs. PhonepayPlus Complaints

— Outpayments  
— Complaints

### Mobile



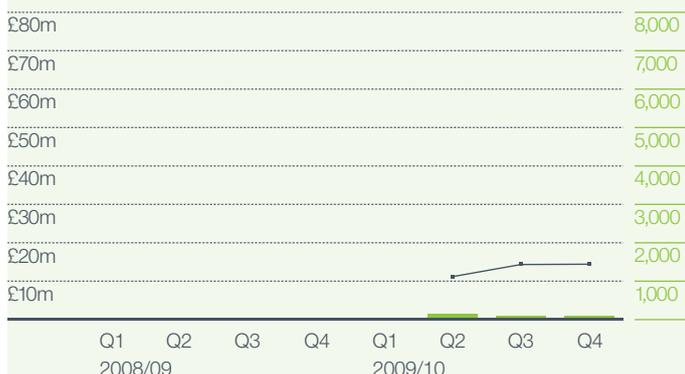
### Landline



### Directory enquiries



### 087



### Attitudes to the Market: Industry Interests, Consumer Matters

Understanding consumer attitudes to PRS is critical to the industry we regulate.

By far the biggest barrier to consumer engagement with PRS is lack of interest in the services offered, followed by a lack of trust in the services.

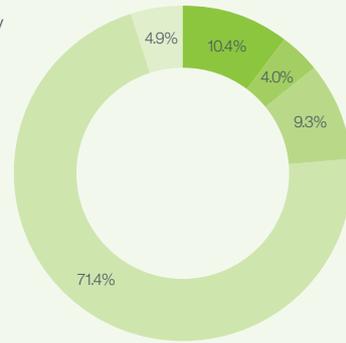
Building consumer trust in services is a bedrock of growth, and distrust can be a barrier that is difficult to shift. Consumer trust in the market can be improved by clarity and transparency in pricing, as well as building on other key consumer outcomes.

Co-ordinated work by the regulator has paid dividends in building this trust where it matters: with consumers. Last year we reported on the problems caused by unsolicited text messages alongside the high number of complaints we received regarding subscription services. New rules in our Mobile Review published last year allowed us to take swift action and step in quickly to stem consumer harm. Progress in this area can be measured by comparing complaints to us about services that consumers said they did not request in 2008/09 with those in 2009/10. The comparison shows a 58% drop in complaints this year.

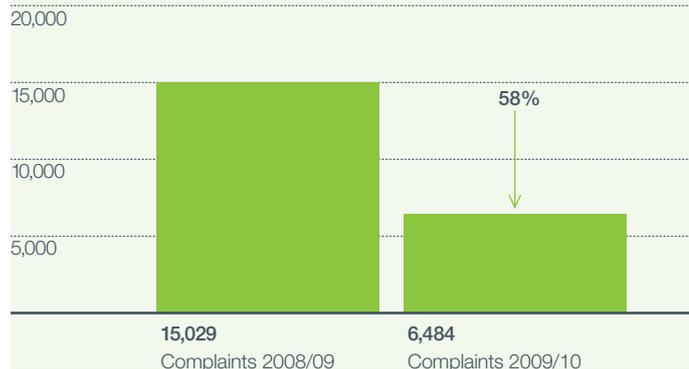
This reflects the general downward trend in complaints – across the market, there has been a 52% drop.

### Reasons why respondents don't use premium rate services

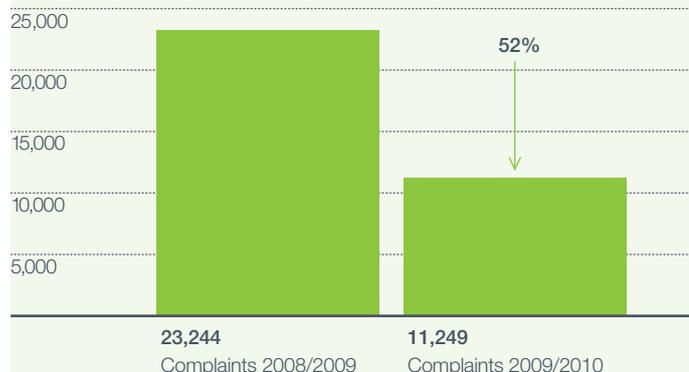
- 10.4% I don't trust paying this way
- 4.0% I often don't trust the companies I see advertising these services
- 9.3% The services are not good value for money
- 71.4% The services don't interest me
- 4.9% Don't know



### Operation of service: Product not requested



### Overall complaints



# Market Overview

## Building consumer trust in services is a bedrock of growth

---

# Jacqui Brookes OBE, Industry Liaison Panel Chair

## Providing valuable industry feedback





**The Industry Liaison Panel (ILP) is an advisory panel drawn from the industry that provides coherent and informed commentary and feedback on PhonepayPlus' activities and budget. The ILP has a specific focus on how the Code is implemented and aims to highlight at an early stage any emerging concerns within the PRS sector.**

ILP membership encompasses the major fixed, mobile, broadcasting and directory enquiry companies, as well as the relevant trade associations, throughout the PRS value-chain.

The work programme for the past year has resulted from Ofcom's PRS scope review and the development of PhonepayPlus' new Code.

During the PRS scope review consultation process, the ILP held a workshop with Ofcom to highlight issues for the PRS sector. Following publication of the review in October 2009, the ILP sought clarification from Ofcom as to whether certain services were, or were not, classified as controlled PRS, with Payforit as the first candidate. While call price transparency is a continuing theme in the PRS sector, the ILP has been able to pass its concerns to Ofcom for input into Ofcom's non-geographic calls services review, which is currently in progress.

ILP members have supported the principles of the new draft Code; in their feedback to PhonepayPlus, they aim to ensure the Code is clear and workable. There has been significant focus on the industry Registration Scheme as it develops to make sure that it is proportionate and effective. The ILP has provided industry feedback on the judicial process for complaints handling to improve the process for all parties.

As well as formal quarterly meetings, the ILP has set up a series of working groups with PhonepayPlus staff, which include looking at the Number Checker, mobile complaints recording and customer service handling. While many in the PRS distribution chain have regulatory obligations for customer care, such as the General Conditions of Entitlement, the working group has been developing a process to engage all parties in the PRS chain to provide a more coherent customer complaints experience.

The ILP looks forward to continuing its close working relationship with PhonepayPlus to ensure that the new Code and Registration Scheme are agreed and implemented in a fair and collaborative way. This will benefit the industry, as well as the consumers of the premium rate services that the industry offers.

Jacqui Brookes OBE, Chair

#### **Industry Liaison Panel Membership List**

ILP Chair: Jacqui Brookes OBE,  
Federation of Communication Services (FCS)

PhonepayPlus Chairman: Sir Alistair Graham

#### **With Representatives From:**

Association for Interactive Media & Entertainment (AIME)  
BBC  
BT  
BT agilemedia  
Channel 4  
Direct Marketing Association (DMA)  
Federation of Communication Services (FCS)  
ITV  
The Internet Telephony Services Providers' Association (ITSPA)  
Microsoft  
MKodo  
Mobile Broadband Group (MBG)  
Mobile Data Association (MDA)  
Mobile Entertainment Forum (MEF)  
Mobile Marketing Association (MMA)  
The Number UK  
Ofcom  
PhonepayPlus  
Premium Rate Association (PRA)  
UK Competitive Telecommunications Association (UKCTA)

---

# Industry Support

## What is good for consumers is good for industry as well

**The Industry Support Team takes the view that what is good for the consumer is good for industry as well.**

We work with industry to build compliance into premium rate services from the ground upwards, preventing the sort of consumer harm that can spoil the reputation of premium rate as a payment mechanism, particularly at a time when it has so many potentially valuable applications for consumers.

The good news is that in 2009/10 providers were more willing than ever before to seek compliance advice. The nature of the advice we were asked to give is changing for the better, too. Instead of providing simple copy advice, around promotional material for example, companies came to us much sooner – sometimes during the formation of an original business plan – to ensure that compliance was embedded into the very essence of a new service. As always, collaboration is the name of the game for us.

We have benefited greatly from the support and advice of our Industry Liaison Panel, which has helped us to keep our finger on the pulse of the industry and market. We have also worked with our international peers to identify rogue providers operating across borders, a challenge that will remain in an increasingly global market.

It's great from our point of view to see such interest in customer care. It will be great to keep the relationship between our organisations going

**Jenni Allen**  
Head of Technology Research  
[www.which.co.uk](http://www.which.co.uk)

---

# 3,398

Enquires to Industry Support Team

---

# 1,667

Written advice given by Industry Support Team

A photograph of a middle-aged man with glasses and a light blue t-shirt, and a woman with long blonde hair wearing a dark top. They are sitting together and looking at a mobile phone held by the man. The background is filled with green foliage.

## Better Betting: How Industry Support's collaborative approach helped consumers and business get a better deal

A company approached Industry Support with a request to expand its premium rate betting facility to allow consumers to place bets of up to £100 for key events in the sporting calendar, such as Ascot Races or the World Cup. This amount exceeds PhonepayPlus' restrictions on amounts allowed per bet using the PRS payment mechanism.

However, the company presented evidence that consumers wanted this facility and that lifting the restriction would benefit both business and its customers.

We worked with the provider to ensure that raising the limit would not be detrimental to consumers, looking at all aspects of the service, such as the retention of a monthly cap on spend and the provision of details for gambling counselling.

Six months since agreeing to the increase in spend for particular key events, we have had no complaints about the service. Further evidence, we think, of the benefits of an open-minded and flexible approach to regulation.

### Talking with Industry, Thinking Ahead

Industry Support's relationship with the PRS industry is not simply about compliance advice in the here and now, important though that is. As our work with the ILP shows (see p.10), talking with those who work in the market helps us to understand today's demands and tomorrow's challenges, ensuring our policy is both up-to-date and fit for purpose.

Throughout 2009/10 we have worked closely with and listened carefully to industry on a number of issues that will affect both industry and consumers in the near future.

From dialogue about the radical changes proposed to our Code of Practice in 2010/11 to discussion about the potential threat of malware on mobile phones, in 2009/10 we have aimed to engage with and inform industry about the issues that matter to consumers, business and regulation.

### Open Forums, Open Discussions

We hold at least three Forums a year with an industry focus, open to all. Honest and informed, two-way feedback is the hallmark of these events: from our July 2009 Forum that helped us and industry to think through and get to grips with our innovative approach to the new Code of Practice to an international expert panel leading a discussion on mobile security and the implications for the PRS industry in March 2010.

### Taking Notice

We regularly issue Notices to Industry and Help Notes on a variety of issues where advice and guidance is needed. In 2009/10, these ranged from a Notice to industry on Public Information Services to a Help Note on Virtual Chat.

I thought the security debate was unusual to include on the Forum agenda, but once it got started, I completely saw the relevance and importance. Excellent choice to include

### Ann Cook

Director of Interactive &  
Managing Director of ITL  
ITV

# Industry Relations

## Today's demands and tomorrow's challenges



---

£810  
million

The PRS market  
value in 2009

---

0.48%

The levy on industry for  
regulation in 2009/10

**A significant development this year was the widening of the type of investigations we undertook.**

Traditionally, PhonepayPlus has investigated the provider who is termed the Service Provider under our current Code. In the PRS value-chain, the Service Provider is the technical provider, usually the company that sells on numbers from networks and provides the technical infrastructure to allow the service to operate.

In 2009/10 a more targeted approach to enforcement saw us looking at all points in the value-chain and the roles and responsibilities of each provider when consumer harm was suspected. This approach very much previews the proposed changes to our Code of Practice and resulted in a greater variety of cases being investigated and brought before Tribunal, including cases that focused on Network Operators and Information Providers (those providers that provide and promote the content of a service).

Refining and developing our investigations to pinpoint those responsible for causing harm also resulted in landmark 'naming' cases at the end of 2009/10, where named individuals who were proven to be consistently associated with non-compliant, rogue services were barred for up to five years from operating premium rate services in the UK.

Our investigations process is about opening up the facts of a case to find out what really happened. While we must go about our work quickly – so as to provide consumers with redress – and effectively – so as to stamp out any malpractice – we must also make sure that sufficient time is taken to ensure the Tribunal is presented with an objective, evidence-based case.

With this in mind we take nothing at face value and dig deep to get as clear a picture as possible. We consider consumers' perception of harm, looking at data such as call logs. We examine the service itself and invite providers to respond to any breaches raised. As the market has become more sophisticated, the Investigations Team has had to become more sophisticated in the techniques we use to gather evidence and this year saw us working ever more closely with our Research & Market Intelligence Team to understand clearly and objectively the evidence available.

## Investigations

Opening up the facts of a case to find out what really happened

## When immediate action is called for: The Emergency Procedure

Where there is evidence of very serious consumer harm, including fraudulent activity, PhonepayPlus has the power to tell a network to stop a number from operating altogether while we investigate.

In 2009/10, for example, people placed advertisements on an online website that included their mobile phone numbers as contact details. Subsequently they

received texts asking them to text back to confirm the advertisement's placement. The return confirmation text was charged at £10 and had no association with the website. After we informed ourselves of the facts, we had enough evidence to invoke the Emergency Procedure, pulling the plug on the service and immediately stopping consumer harm at its source.



The Code Compliance Panel (CCP) is responsible for PhonepayPlus' adjudicatory function. Independent of PhonepayPlus and made up of six men and women, each with specialist legal or adjudicatory experience, the CCP forms PhonepayPlus' bi-weekly Tribunals, where its members hear and adjudicate on cases against providers of premium rate services that PhonepayPlus suspects to be in breach of its Code of Practice.



The Code Compliance Panel's second year of operation has seen a variety of new types of case brought to us for adjudication, demonstrating the pace of development of new premium rate services and the need for PhonepayPlus to be constantly vigilant.

A noticeable trend in our adjudications in 2009/10 has been the increasing number of cases in which the Information Provider took responsibility for the alleged breaches. This chimes with the proposed changes in the new Code of Practice, with its emphasis on targeting the most appropriate provider where consumer harm has occurred.

The CCP dealt with a disturbing number of cases in which there were found to be scams which caused deliberate consumer harm. Unsurprisingly, such cases resulted in heavy sanctions, with some individuals being barred for up to five years from operating any premium rate services in the UK.

The Tribunal also took a dim view of providers who failed to comply with the sanctions that had previously been imposed, compounding the original breach.

A further trend this year has been the increase in the number of providers who have chosen to make informal representations to the Tribunal. This is an opportunity for a provider to emphasise those aspects of its written case which it most wishes to bring to the Tribunal's attention. The Tribunal welcomes thoughtful and targeted oral representations, but a mere repetition of the written submissions adds little as these will already have been taken into account.

The CCP was pleased to observe that a number of its adjudications have resulted in Notices to Industry being issued by PhonepayPlus, particularly in the areas of Public Information Services and Virtual Chat. Whilst the CCP is entirely independent of the Executive, it is encouraging that the work of the CCP and the Executive can be complementary and serve the best interests of both consumers and the industry.

2009/10 saw the Tribunal issue many substantial fines to industry. It is for others to judge whether this contributed to the subsequent fall in consumer complaints.

The CCP will continue to perform its task with diligence, applying the Code to the facts and circumstances of each individual case. We look forward to continuing this work in the coming year.

The members of the CCP also look forward to the introduction of the new Code and the challenges that this will bring to all concerned.



David Cockburn, Chair

# Code Compliance Panel

## Performing its task with continued diligence



---

# 82

Cases adjudicated

---

# 44

Information Provider  
cases adjudicated

---

# 103

Applications were  
reviewed for prior  
permission to  
operate services

---

# Consumer Support

## Exceeding all our key performance targets

**PhonepayPlus' Consumer Support Team is the first point of contact for consumers who have a problem with a premium rate service or who want advice.**

In 2009/10 we made a concerted effort to be a proactive as well as reactive support to consumers: as well as continuing our high-quality telephone service, we looked at ways that consumers could self-serve to resolve problems quickly and effectively.

One simple but very effective way we have helped consumers to help themselves was by improving and updating our online Number Checker. This year we have made it possible to check 93% of mobile shortcodes and obtain details of the best company to help with any customer service enquiries.

We have also met with mobile network operators to improve customer service across the board in relation to PRS, making sure networks have the most up-to-date information about PhonepayPlus. We also share complaint data with them on a monthly basis, which allows networks to monitor the services that we have received complaints about and to take appropriate action.

In addition, we have worked closely with other teams at PhonepayPlus to streamline and improve how we deal with complaints effectively and fairly. Two innovations in our processes in 2009/10 have been significant here. We have started to gather additional evidence on every complaint, for example, approaching the appropriate provider for call logs. We have also introduced a triage system for complaints, so that we can prioritise the most serious and pass these to our Investigations Team for further analysis and evidence gathering.

We think the proof that our approach is working is seen in the fact that Consumer Support exceeded all its key performance targets, with an 88% score for consumer satisfaction. We are not, however, complacent and continue to identify and work on ways to help consumers. We are particularly proud of the fact, for example, that if a complaint is received that involves a vulnerable consumer group (children, for example) we now work with all providers and our teams from start to finish to achieve the best outcome possible.

---

# 707,997

Checks were made on Number Checker in 2009/10

---

# 93%

Of PRS shortcodes are now returned on Number Checker

## Scoring a complaint: How the triage system works

We have introduced a rigorous three-stage process for assessing complaints. At stages 1 and 2 the complaint is scored against a set of criteria, from 1 (low-risk or where there are mitigating factors) to 5 (high-risk or where there are aggravating factors).

Stage 1 is scored by the Consumer Support Team member who receives the initial complaint. The team member scores the complaint by asking the following questions:

- How misleading does the service appear to be?
- How likely is it that other consumers will be affected?
- How vulnerable is the complainant?
- How good is the evidence?

To ensure that this triage system is as objective as possible, this initial assessment is passed at the end of every day to the Prioritisation Team.

At this point, we aggregate all complaints and their scores so that we can work out the average score of complaints relating to an individual service. We will then score each service against a further set of criteria, asking:

- Is a re-offending service or provider involved?
- Have they reneged on compliance action promises?
- How many similar complaints have we received about the same service?
- Is there a pattern suggesting systemic abuse?
- Is there no work underway to resolve the underlying harm?

Based on this score, the Prioritisation Team assigns a priority level from 1–3, where 3 is urgent, 2 is important but not urgent and 1 is less urgent.

To guarantee that the process is as watertight and objective as possible, there is a third stage. Every week, the Allocations Team meets to consider and moderate all scores and to decide on the action to take. At this point the Allocations Team can ask for more information on which to base that decision, such as a clearer picture of the likely impact on consumers by requesting revenue figures from the provider.

**PhonepayPlus believes that the best and most cost-effective way to help consumers get the most out of premium rate services and prevent consumer harm is to help them help themselves.**

Our consumer literacy programme gives consumers the knowledge they need to make informed choices about the premium rate services they use.

Drawing on our research into consumer engagement with premium rate services, in 2009/10 we created and delivered programmes targeted at the most vulnerable groups and at particular points of need. The following examples show the range, diversity and impact of our consumer literacy work.

#### **PhoneBrain 2009/10**

PhoneBrain is our ground-breaking schools programme, uniquely designed by us with input from industry and teachers. We produce and promote to every secondary school in England and Wales curriculum-friendly lesson plans for ICT and Enterprise courses at GCSE level. We build information about premium rate services and good practice into those plans. These lessons draw on young people's natural enthusiasm for technology, with the option to enter a competition at the end, with prizes this year including a VIP shadowing event with our PhoneBrain 2009/10 ambassador, Fugative.

PhoneBrain's impact has been considerable. In only its second year we gained the support of the Department for Children, Schools and Families (DCSF) and won the Hollis Sponsorship Award Education Category for the 2008/09 programme. We continue to build on that success, working with a range of partners including Habbo, Ministry of Sound and Adobe.

#### **A Phone Is for Life, Not Just for Christmas**

With the assistance of Parentline Plus, a national charity that works for, and with, parents, the 'A phone is for life, not just for Christmas' campaign was designed to help parents and children better understand the charges that can be incurred whilst using their mobile phone, and accessing services from it. It also advised parents on how to put a few simple measures in place to arm their children with the information they need to use their phones without worry.

PhonepayPlus teamed up with parenting forums and price comparison websites to get the message out. SuperNanny.co.uk and Mumsnet.com both carried details of the campaign, and PriceRunner.co.uk also featured the logo and campaign information on the pages where users can compare mobile phone prices.

#### **New PhonepayPlus Website**

PhonepayPlus launched a new website in April 2009 with the aim to better protect consumers from harm while lowering the cost of regulation for reputable businesses.

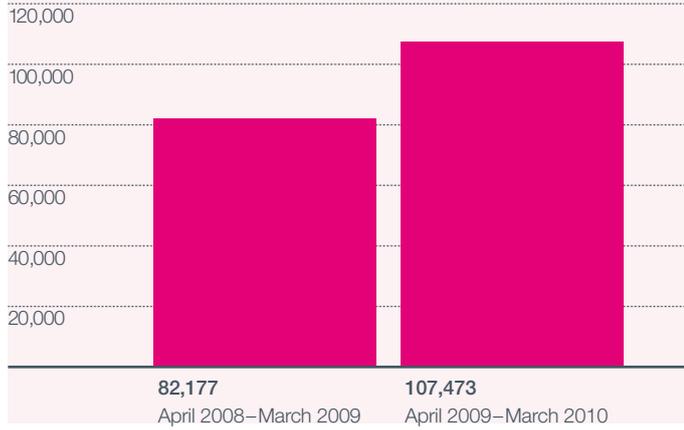
Improvements to the site mean that both industry and consumers are able to find the tools and services they need, or answers to questions they may have, quickly and easily; ultimately reducing the cost of regulation and easing the process of compliance for industry, and empowering consumers to engage with confidence in the premium rate services market.

Additions to the site include animations and video clips to help explain PhonepayPlus' Code of Practice and tips for consumers. Many features can also be lifted from the website and hosted on those of partner regulators and consumer groups, reflecting PhonepayPlus' aim to make information more easily accessible for consumers.

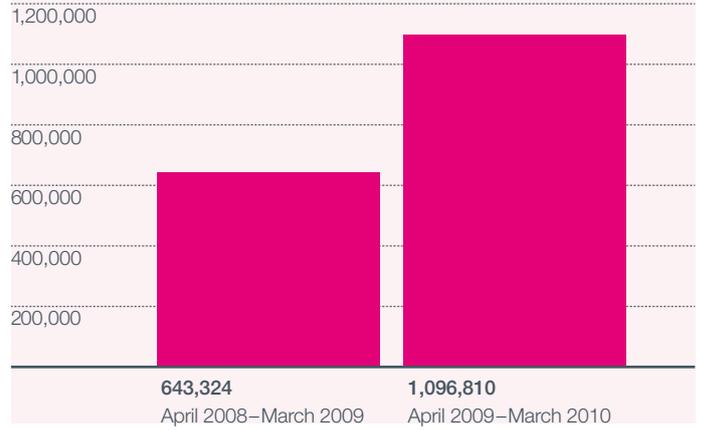
# Consumer Literacy

## Providing the knowledge consumers need to make informed choices

PhoneBrain website – visits by kids, teens and teachers



Increase in visitor traffic to the PhonepayPlus website



It sounds just the sort of thing my ICT diploma students would be interested in!

ICT Teacher



PhonepayPlus aims to constantly develop and improve, keeping pace with the industry we regulate and delivering the most effective regulation that we can. One way we do this is to measure our performance against key indicators agreed with Ofcom in 2005.

While our current Key Performance Indicators (KPIs) give us a good picture of both our successes and areas where we need to improve, we are also aware that the KPIs themselves need to be regularly updated to reflect a changing market and changing demands on us as a regulator. With this in mind, we reviewed our KPIs in 2009/10 and will be introducing new KPIs for 2010/11.

As can be seen from the graphs included on these pages, we have more than met expectations in a number of key areas, particularly where consumer support is concerned. In only one month throughout 2009/10 was a consumer support KPI not met or exceeded. Building on this success, we have looked carefully to see what we could learn and what we could do to ensure we meet our consumer support KPIs across the board.

We are particularly proud that complainant satisfaction has exceeded the KPI set for it and seek to sustain and improve on this performance.

Finance has also exceeded its KPI of issuing invoices within 10 days of the Tribunal decision, with all but one month having a 100% success rate.

In our other key area of performance, investigations, the KPI of closing lead cases within 12 weeks has been challenging. We are looking carefully at this KPI to see what this tells us about the efficiency of our investigative process weighed against the complexity of the cases and quality of investigations. An indicator of the quality of our investigations can be seen in the 90% of breaches upheld by the independent Code Compliance Panel on the basis of evidence provided by our Investigations Team, with only 5% of cases having some aspect reviewed.

As we move forward, we want to give careful consideration to getting the balance right between the speed of reaching a resolution and the quality of our investigative work, particularly in relation to complex cases. We want to learn lessons from our past performance – both positive and negative – and work with all stakeholders to continue to improve our performance.

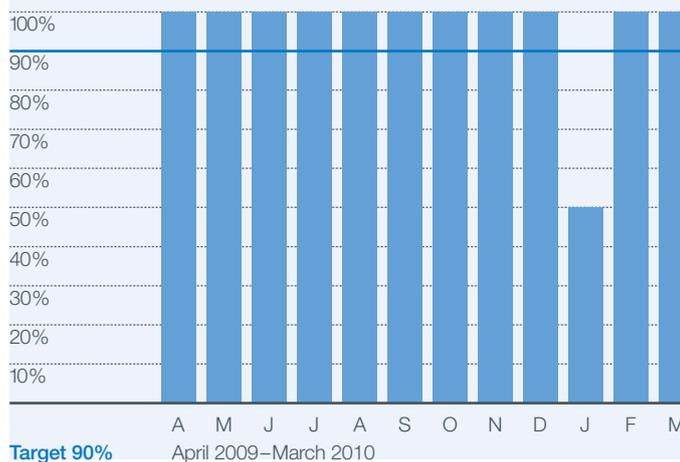
## Consumer Support Key Performance Indicators

### Calls answered under 30 seconds



### Out of remit correspondence replied to within 10 days

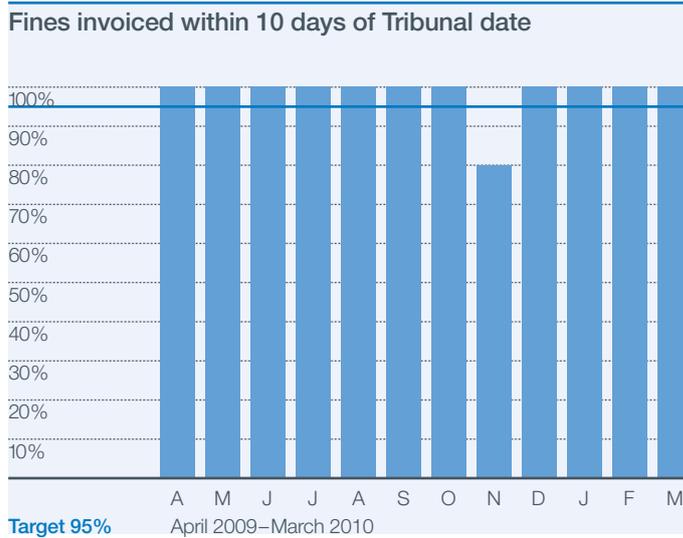
(Please note that in January, we only received 2 pieces of out-of-remit correspondence)



### Customer satisfaction



## Finance Key Performance Indicator



## Investigations Key Performance Indicator



288 breaches were raised, of which only 30 were not upheld. This gives a success rate of 90% upheld for those breaches put to a Tribunal

# Keys to Success

## Measuring up and learning lessons

# Our People



Sir Alistair Graham  
Chairman



Robert Chilton OBE  
Deputy Chairman



Paul Whiteing  
Chief Executive



Matti Alderson



David Clarke



Ruth Evans



Hugh Griffiths



Jeremy Hallsworth



Howard Webber

**The Board** currently consists of eight remunerated part-time members, and the Chief Executive of PhonepayPlus. Since the creation of the Code Compliance Panel in April 2008, Board involvement in PhonepayPlus' adjudicatory function has been gradually reduced, allowing the Board's bi-monthly meetings to focus on supervising the work of the PhonepayPlus Executive and establishing strategic direction for the organisation.

Seven of the Board members have no current connection with the premium rate industry, and the two members – Jeremy Hallsworth and Hugh Griffiths – who are currently active in the industry and impart their unique perspective take no part in any of PhonepayPlus' adjudications responsibilities.





David Cockburn  
Chairman



Emma Boothroyd



David Jessel



Paul Whiteing  
Chief Executive



Michelle Peters



Louise Povey



Maggie Redfern



Simon Bates  
Director of  
Standards &  
Communications



Bradley Brady  
Director of Strategy  
& Stakeholder  
Relations

**The Code Compliance Panel (CCP)** came into effect in April 2008 after Ofcom approved amendments to the PhonepayPlus Code of Practice, which transferred the majority of PhonepayPlus' adjudications work from the Board to an independent adjudicatory panel.

Currently made up of six men and women, each with specialist legal or adjudicatory experience, the CCP provides increased efficiency, consistency and impartiality in adjudications, while enabling the PhonepayPlus Board to focus on its strategic business.

**The Leadership Team** currently comprises the Chief Executive and two Executive Directors – Standards & Communications and Strategy & Stakeholder Relations.

The Leadership Team is responsible for directing the Executive operationally so that it meets the targets agreed by the Board. It also ensures that Board-approved strategies, plans and policies for PhonepayPlus are correctly implemented in a timely manner.



<b>Income</b>			
	<b>Notes</b>	<b>2010</b>	<b>2009</b>
		<b>£</b>	<b>£</b>
Levy on premium rate telephone services		2,633,105	2,169,587
Less: Surplus income received in advance		(2,635,824)	(336,992)
Net levy on premium rate telephone services		(2,719)	1,832,595
Administrative charges		338,832	267,011
Fines received	1	5,280,250	2,479,363
Other income		33,356	122,371
Funds received		<b>5,649,719</b>	<b>4,701,340</b>
Interest receivable		29,808	151,556
<b>Total income</b>		<b>5,679,527</b>	<b>4,852,896</b>

<b>Expenditure</b>			
Staff and related costs	2	2,536,352	2,815,824
Premises	3	433,129	338,534
Depreciation		170,100	171,022
Overheads	4	276,379	232,910
External professional services	5	380,164	236,587
Other	6	1,877,143	1,026,056
<b>Total expenditure</b>		<b>5,673,267</b>	<b>4,820,933</b>
Profit before taxation		6,260	31,963
Corporation tax		(6,260)	(31,963)
<b>Profit after taxation</b>		<b>0</b>	<b>0</b>

- The company is non-profit making. A service provider levy is collected via the network operators based on their outpayments in order to cover the proposed expenditure in any year. Any difference between the amount collected and expenditure incurred is taken into account in setting the following years levy. The company also received fines and administration charges from services that are in breach of its code.
- Staff and related costs include staff remuneration, recruitment, training, temporary staff and fees and expenses for the Board members, Code Compliance Panel, Independent Appeals Body members and the Adjudicator.
- Premises costs include rent, rates, service charge, repairs and maintenance, electricity and cleaning.
- Office overheads include postage, stationery, equipment and software maintenance, business continuity and offsite backup, insurance, travel and subsistence, entertainment, bank charges and general office expenses.
- External professional services include legal fees, consultancy fees and accounting and audit fees.
- Other costs include telephone, printing, website, events, research and bad debts.
- Tangible fixed assets include fixtures and fittings, office furniture and equipment, computer equipment and registration database assets in the course of construction.
- The company owns 100% of the share capital of IMCB Limited, a company operating as a mobile telephone services content regulator.
- Trade debtors include amounts due from the network operators for the levy and from service providers for administration charges and fines.
- Income received in advance represents the difference between total income and expenditure incurred, which is used to reduce the levy in future years.
- Creditors falling due after more than one year include a contingency fund and will be retained at this level for the foreseeable future.
- The emergency reserve fund is held to address unexpected changes in activity of the company.

<b>Balance Sheet</b>			
	<b>Notes</b>	<b>31 March 2010</b>	<b>31 March 2009</b>
		<b>£</b>	<b>£</b>
Tangible fixed assets	7	352,605	325,786
Investments	8	1	1
<b>Current assets</b>			
Debtors:			
Trade debtors	9	1,387,342	879,829
Amounts due from group undertakings		0	15
Other debtors and prepayments		285,894	174,941
		<b>1,673,236</b>	<b>1,054,785</b>
Cash at bank and in hand		6,875,735	4,749,459
		<b>8,548,971</b>	<b>5,804,244</b>
Creditors — due within one year:			
Overdrafts		(5,287)	0
Trade creditors		(375,674)	(292,114)
Amounts due to group undertakings		(11,840)	0
Other tax and social security costs		(101,048)	(87,384)
Income received in advance	10	(5,834,329)	(3,446,987)
Corporation tax payable		(6,260)	(31,963)
Other creditors		(14,444)	(18,096)
Accruals and deferred income		(334,583)	(35,375)
		<b>(6,683,465)</b>	<b>(3,911,920)</b>
Net current assets/liabilities		1,865,506	1,892,324
<b>Total assets (less current liabilities)</b>		<b>2,218,112</b>	<b>2,218,111</b>
Creditors — amounts falling due after more than one year			
Contingency fund	11	(1,995,000)	(1,995,000)
Emergency reserve fund	12	(223,112)	(223,111)
		<b>(2,218,112)</b>	<b>(2,218,111)</b>
<b>Net assets</b>		<b>0</b>	<b>0</b>

# Finance Figures

A closer look at the activities of PhonepayPlus

**IMCB, the Independent Mobile Classification Body, is a legal entity and subsidiary of PhonepayPlus.**

The organisation shares staff and office space with PhonepayPlus for reasons of efficiency and effectiveness.

The Board of IMCB is chaired by Sir Alistair Graham and has three other Board members – Matti Alderson, David Clarke and Ruth Evans. Paul Whiteing, PhonepayPlus' Chief Executive, is IMCB's Director and the PhonepayPlus Industry Support Team provides a compliance advice service for IMCB content classification matters.

IMCB's main responsibility is to set a Classification Framework for commercial mobile picture-based content. It is the responsibility of content providers to use IMCB's Classification Framework to self-classify their own content as '18', where appropriate. Where the content is classified as '18' under the Classification Framework, its access will be restricted by the mobile operators until customers have verified their age as 18 or over with their operator.

Between April 2009 and March 2010, there were no formal complaints submitted to IMCB about the misclassification of visual content. However, IMCB has continued to offer formal and informal advice, mainly to content providers trying to ensure that they correctly classify their content in line with the Classification Framework issued by IMCB. In 2009/10, IMCB dealt with five such requests for advice – the majority of these were related to content involving sexual imagery or nudity.

IMCB continues to work with content providers and mobile network operators and is planning to make improvements to its website in the coming year.



# IMCB

# Ensuring that mobile picture-based content is correctly classified





---

**2009/10 was a year of notable successes and some challenges for us.**

As we look ahead to next year we want to build on those successes. 2010/11 will be a ground-breaking year for PhonepayPlus, as we introduce a new Code of Practice with a radically different approach to regulation of the premium rate services industry.

We will shift the regulatory spotlight to focus on the provider who is ultimately responsible for the promotion, operation and content of a service. We will also move from a prescriptive set of rules that providers must abide by to consumer-focused outcomes that providers must achieve, whatever the service offered. Intrinsic to this approach to our Code of Practice and its enforcement is an emphasis on the responsibility of all providers in the value-chain – from the networks down, any company involved with the provision of PRS will be required to do due diligence on those they contract with.

This is a fairer and more flexible approach to regulation and we have consulted widely with industry and other stakeholders on the new Code. But such a significant change in the way we regulate the PRS industry is not without challenges. Not least amongst those challenges is the proposed introduction of a Registration Scheme in 2011 that will see almost every PRS provider registered with us, allowing the regulator, consumers and industry easy access to details about PRS services offered and the companies offering them.

The Registration Scheme has the potential to revolutionise the PRS industry and its regulation, giving greater transparency and openness across the board. But such an ambitious plan is also a complex one, technically and logistically. We know that we will be measured by the success of the new Code and Registration Scheme and that, at the same time, the success of both will be dependent on working closely with industry.

As we look ahead to 2011, we cannot be unaware of the economic challenges that face business in general and which, undoubtedly, impact on the industry we regulate. In such a climate, we aim to work with industry to build in compliance to new and emerging services. We believe that what is good for consumer confidence is good for industry, that a market with a low tolerance for rogues and unscrupulous practice is the base from which to grow and take advantage of technical innovation and secure business opportunities.

As the market develops and technology advances, PhonepayPlus wants to build on our experience and success of regulating a payment mechanism that opens up so much to consumers in the telemedia and digital worlds. In doing so we aim to meet the challenges of the future with an effective, flexible and knowledgeable approach to regulation, based on real understanding of the current industry and confidence in the future of that industry.

---

# Building on Success

## Meeting challenges and looking ahead



Design/Photography by KentLyons