



2009-10 Annual Plan and Budget:

**A Statement by PhonepayPlus following
its consultation published on
18 December 2008**

Issued by PhonepayPlus on 1 April 2009

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EXECUTIVE SUMMARY AND BACKGROUND

The PhonepayPlus Business Plan & Budget consultation document, published on 18 December 2008, invited replies by close of business on 29 January 2009. The document was made publicly available to all stakeholders, including those with consumer interests and those registered for our online alerts. The proposed budget was also the subject of a specially-convened meeting of the Industry Liaison Panel (ILP) comprising representatives from all parts of the industry.

The responses to the Consultation are set out in the next section of this statement, and a list of all respondents is set out in Appendix D.

As a consequence of the responses to the PhonepayPlus budget, and the decision to reduce the budget increase to nil, it has been necessary to revise the activities set out in the business plan. We set out in Appendix A, therefore, the amended business plan that we shall be following in the forthcoming year, and in Appendix B we have shown the expenditure headings that demonstrate how this revised budget is made up.

The PhonepayPlus budget, which was reduced to an increase of 0.0% following industry consultation, was formally approved by Ofcom on 10th March 2009. As a consequence PhonepayPlus has announced that its levy for 2009/10 will be 0.48%. Although an increase, this levy reflects the levels that were in place from 2000 to 2006. However, the size of the levy is determined by a range of factors beyond just the PhonepayPlus annual budget. A declining market is also an important contributing factor as is the income received from fines, administrative charges and bank interest.

We stated in the Consultation document that we were preparing a schedule of the research activities that will be undertaken during the forthcoming year. Taking into account the reductions in scope that have been made as a consequence of responses received, we set out in Appendix C the revised Research Plan for the forthcoming year.

SUMMARY RESPONSES

Responses to the consultation highlighted the following:

- continuing support for a well resourced and active regulator of phone-paid services, but with an emphasis on cost savings and intelligence led monitoring of high risk services
- general endorsement of the initiatives in PhonepayPlus' three year strategy
- wide agreement that the cost of regulation to the industry should be mitigated by proportionate application of the principle of 'the polluter pays'
- the phone-paid services rate market has suffered a decline and will remain flat or further decline in the short term
- there is an opportunity for industry, especially through the ILP, to help reduce costs by reviewing its own customer services processes to reduce the number of calls to PhonepayPlus, sharing industry research and making available to PhonepayPlus industry intelligence on new scams activity
- the OFT in its response concluded that it is 'looking forward to continuing to strengthen our relationship with PhonepayPlus at both a strategic and operational level'.

MARKET TRENDS

As part of our business cycle, we asked network operators for data on their actual outpayments for the first three quarters of 2008/9. In previous years, the timing of the consultation on our budget has only enabled analysis of a half year's data.

The information received suggests the market has reduced in size by 6% for these first three quarters, compared with 10% for the year 2007/08, and will continue to remain flat or in decline as a consequence of global, European and UK economic forces. We have therefore based the levy on a full year decline of 8% in 2008/09. We recognise however that there is considerable macro-economic uncertainty in the UK market and we will therefore keep this levy under review during 2009/10.

REVIEWING THE PLANNED BUDGET

On completion of our consultation and subsequent review, we reviewed and reduced our budget to reflect the comments and concerns received. This revised budget for our 2009/10 operations meant that a budget of £4,352,731 was submitted to Ofcom and received the approval of the Ofcom Board on March 10 2009. This constituted a like-for-like reduction on the 2008/09 budget. The budget includes a provision of £60,000 for the regulation of the 0871 number range; all other costs of 0871 regulation will be subsumed in 2009/10 budget and providers of these services will be covered by the levy from 1st August 2009.

THE RESPONSES IN DETAIL

The five objectives we set out in the Three Year Plan

The question that we asked was:

Q1. What comments do you have on the five objectives we set out in the Three Year Plan? What priorities or themes would you identify for consideration as part of our Review?

Our Three Year Strategic Plan, published in October 2007, outlined the way in which we would regulate the industry and run our business. Against this, we identified five objectives which would allow us to measure our success in delivering against the Plan. These were:

1. Providing effective and proportionate regulation to the industry, based on research, risk assessment, market understanding and strategic intervention;
2. Securing high levels of compliance within the industry through incentives, the consistent and high-performance application of our Code, and raising compliance standards;
3. Ensuring the public are better informed about the services we regulate, our role as the regulator and their rights under the regulations;
4. Be more transparent and accountable; and
5. Ensure resources are fit for purpose.

In general, we continue to receive support for the principal objectives we have set.

There was a range of opinion as to what constituted proportionate regulation, and a general consensus that intelligence led policing and pre-emptive compliance was preferable to prescriptive regulation. That is a course we have been following during the current year, and which we will be developing in the forthcoming year in work streams 1 and 2 of our Business Plan. However, there appeared to be some misunderstanding as to the application of our sanctions policy which (in accordance with objective 2 above) provides incentives to companies who have been in breach of the PhonepayPlus but are willing to take auditable steps to improve long-term compliance and thus break out of the continuing circle of breach, investigation and fine.

The application of such incentives appear inconsistent to some industry members, who see the purpose of the PhonepayPlus to punish companies in breach of the Code. We will explain to industry more fully in the forthcoming year the rationale, and effectiveness of this policy, which continues to punish with fines and service restrictions, but suspends these potentially harmful restrictions if overall compliance shows a marked improvement during the period of suspension.

Comments were also received as to transparency, especially in relation to the reporting of complaints figures. We modified our processes for collecting and recording complaints in February 2008, and our quarterly reporting to Ofcom and industry now shows the 10 shortcode services most frequently interrogated by the number checker, and trends in complaints received. We are also investing in an update of our charter information management system to

more accurately record certain complaint features which should improve our reporting to industry.

In this context, one respondent requested further information as to the application by PhonepayPlus of the 'polluter pays principle'. We gave this in our individual feedback to respondents, in the following summarised form:

'The administrative charges that are sanctioned by Tribunals against companies found in breach of the Code are designed to cover the full direct costs of those employed in a particular investigation, adjudication and report. The rates are validated by our external auditors, and carry an appropriate 'overheads' charge. They are reviewed annually in April to ensure they are both realistic and proportionate.'

There was a general recognition that the reference to accountability in objective 4 is both to Ofcom, who approve the PhonepayPlus code for the purposes of the Communications Act 2003 and with whom we have a Framework Agreement as to operational expectations, and also to the industry we regulate.

Specific strategic objectives and tasks to review

The question that we asked was:

Q2. Do you have suggestions on specific strategic objectives and tasks – or a re-prioritisation of existing ones - that you think PhonepayPlus should consider as and when we review our Strategic Plan in 2009?

In the Consultation document, we listed the principal achievements of the current year, which were:

1. The new membership of the PhonepayPlus Board, and a new arrangement with Ofcom created by the Framework Agreement
2. The launch of the Code Compliance Panel to provide independent tribunals to adjudicate on breaches of the PhonepayPlus Code
3. The launch of the Mobile Review on 17 July 2008, following a sustained period of growth in complaints about mobile premium phone-paid services.
4. The prior permission scheme for Broadcast PRS launched in February 2008, following the previous year's problems relating to premium rate interactivity on television
5. The growth of the compliance advice function within the Industry Support team
6. The launch of the extension to the PhoneBrain website, aimed at consumer education for young people
7. The review of the Live Entertainment Services Compensation Scheme Arrangements, and the decision for its dispersal

Respondents were supportive of these activities, but some commented that consumer education was not a core regulatory activity of PhonepayPlus and that at times of economic

decline, these activities should be reduced or deferred. We have replied to individual respondents that:

We recognise our remit as regulator covers the provision of education and information to consumers, and it is part of our published and approved strategy to better inform the public about the services we regulate. We find it more cost efficient to target the specific audiences that are affected by inappropriate practices and scams than it is to reach out to the public generally, and so we believe the exercises we undertake are cost-efficient. In response to industry concerns, however, we have reduced our planned spend in this area. This is also an area where we would be keen to work with parties such as the Mobile Network Operators to see how we can deliver messages jointly, and in ways that support their brands.

However, there was a general consensus that continuing emphasis on improving industry compliance was a valuable exercise for PhonepayPlus. One respondent commented that it would like to see the more proactive monitoring of high risk services. Our reply was as follows:

We operate one of the central tenets of our regulation, pre-emptive compliance, in three ways. Firstly, by using our emergency procedure to swiftly close down services that are in serious breach of the PhonepayPlus code. Secondly by our prior permission regime, which encourages compliance to be built into the business model of applicants. And thirdly, by analysing risks in the market place and deploying resources to monitor and report. We are therefore increasing our focus in the forthcoming year in this third area. In the absence of additional resources this can be challenging, but we have freed up some resources to facilitate this, and will be investing in monitoring software that will be a valuable aid to this activity.

Market trends and the overall size of the phone-paid services market in 2009/10

The question that we asked was:

Q3. What information or evidence do you have about market trends and about the overall size of the phone-paid services market in 2009/10?

There was a general consensus that the market in the forthcoming year would continue to decline, with little or no prospect for improvement in the short term. Our own analysis demonstrates that there has been a 6% decline in the market during the first three quarters of 2008/09, and we are projecting that the overall decline for the year will be 8%.

This is consistent with the decline seen in 2007/08. According to the Analysis Mason research referred to in our consultation document, the market reached its peak in 2005/06, but then suffered a 28% decline in the following year, and a further 8% decline in 2007/08.

Looking forward, no respondent indicated any prospect of improvement in the forthcoming year.

The potential for real growth or decline in segments or content areas over 2009/10

The question that we asked was:

Q4. What information or evidence do you have about any specific segments or content areas and their potential for real growth or decline over 2009/10?

None of the respondents offered any comments regarding this question, other than MEF who produced research from a quarterly survey of members that it intends to publicise shortly.

Priorities for 2009/10

The question that we asked was:

Q5. Do you agree with these priorities as actions for 2009/10? If not, please explain why not with alternative suggestions.

Respondents were supportive of the priorities identified for the forthcoming year, and in particular the following proposed activities were singled out for endorsement by one or more respondents:

- A strong response to stamp out the abuse of the 070 Follow Me Anywhere numbers
- The extension of the PhoneBrain consumer education programme
- The need to keep broadcast PRS under review
- Research activity to assist with intelligence led policing – subject to the qualification that shared research initiatives can generate useful cost savings
- The proactive monitoring of high risk services
- The review of customer complaint procedures – subject to any recommendations on network operators not being duplicated by similar work being undertaken by Ofcom

Some respondents identified certain issues that they felt needed to be addressed as a consequence of the proposed activity:

- The review of key performance indicators should identify agreed and objective measures that justify the proposed level of regulatory cost
- The operation of the funding model, and in particular the timing of payment withholds and releases
- Greater use being made of industry intelligence as to the opportunities for scams arising from new services or technology
- Greater financial transparency as to the operation of the 'polluter pays' principle.

The action that could be taken by industry to assist us in delivering our priorities

The question that we asked was:

Q6. What action or support could industry providers offer in order to assist us in delivering these priorities?

Some of the ILP respondents offered practical assistance in the form of joint research initiatives, which would enable non-conflicting research into consumer behaviours and market size/developments to be either jointly funded, or to include specific areas of investigation which PhonepayPlus wanted to cover additionally. We will pursue this through the ILP.

One respondent suggested that traffic into the PhonepayPlus call centre could be reduced by continuing work currently underway to improve the routing of consumer calls from the originating operator to the service promoter or technical service provider. Assistance was also offered in terms of improved data for incorporation into the PhonepayPlus number checker.

One industry group stated that PhonepayPlus would be able to 'regulate more cost effectively by building on existing stakeholder relationships and sharing with them a programme of activity targeted at services that are known to be high risk.'

Several respondents commented that using the Industry Liaison Panel to its full potential would help to deliver the PhonepayPlus regulatory remit. We agree and will work with ILP to pursue these suggestions more fully.

Support for our proposed Budget changes for 2009/10

The question that we asked was:

Q7. Do you support our proposed Budget changes for 2009/10 having regard to the activity that drives the changes? If not, please explain why.

As stated above, there was a general consensus among consultees that the proposed budget for 09/10 could not be justified in the current economic climate, and the majority felt that there should be no increase in the budget whatsoever.

One respondent felt that it would be diplomatic and prudent for PhonepayPlus in the current recession to accept a reduction in budget of around 10%.

Nearly all respondents felt that there were unexplored opportunities for cost savings, and many gave examples of areas where savings could be generated. Some have offered assistance, in the fields of research and making available to PhonepayPlus industry led intelligence.

We have taken these comments on board, and as a consequence have found savings that have enabled the PhonepayPlus budget to register a zero increase for 2009/10.

Unidentified risks that PhonepayPlus might face outside of the Business Plan design?

The question that we asked was:

Q8. Do you have any comments regarding any other risks that PhonepayPlus might face that are not identified above as part of the Business Plan design?

None of the respondents offered any comments regarding this question.

Appendix A
Business Plan 09/10



3 YEAR STRATEGY
Business Plan 2009/10

OBJECTIVE:		
1. PROVIDING EFFECTIVE AND PROPORTIONATE REGULATION TO THE INDUSTRY, BASED ON RESEARCH, RISK ASSESSMENT, MARKET UNDERSTANDING AND STRATEGIC INTERVENTION		
TASK:	ACTION:	STATUS
1.1 Be a better-informed and evidence-based regulator, producing an annual plan of research proposals. Working in closer partnership with Ofcom and others, we will maximise the potential for joint research initiatives in all aspects of the market.	Continue to look for opportunities to maximise the potential for joint research and encourage industry to share relevant research with us so that we can minimise costs. Benchmark and report consumer trust in the use of phone-paid services	Offers of assistance received from industry. Research plan developed. Meeting to be called to discuss joint initiatives Trust drivers analysed in budget consultation. Create methodology for research project and agree with Board and industry stakeholders
1.2 Audit of regulatory principles. We aim to work to the best regulatory standards possible. We expect to undertake research to benchmark what 'best' looks like and then agree a plan that challenges us to achieve best practice.	Incorporate this task into development of our next Code of Practice New key performance measures should reflect best regulatory practice wherever possible	The new Code project has now considered relevant regulatory best practice, especially in the context of principles based regulation. New KPIs are in the course of development and will be presented to the PhonepayPlus Board and Ofcom or approval and

		subsequent communication to Stakeholders
<p>1.3 Provide a structured and transparent framework in which we apply regulations. The Code of Practice is the cornerstone of our regulatory framework, and sets the standards for the advertising, promotion and content of phone-paid services. It is imperative that the Code is kept up-to-date, and can be flexibly adapted and applied to external changes in the market.</p> <p>One such external change, and a major one at that, will be the outcome of Ofcom's review into the scope of our regulatory remit. The 12th Edition of our Code will have to reflect the, as yet unknown, outcomes of Ofcom's review. The process of change should be as simple as possible so that it does not undermine the intended purpose that drives the need for the Code.</p> <p>We have evolved flexible regulatory and practical mechanisms for applying the Code in changing circumstances. This approach is unlikely to change over the next three years as it provides a simple method of responding, in the shortest time, to changing market conditions.</p>	<p>A project has been established to review the current Code of Practice, under the supervision of a Programme Board. This Board includes representation from Ofcom.</p> <p>Ensure that the outcomes from Ofcom's Scope review are fully considered alongside any proposals for changes to the Code of Practice.</p> <p>Review the effectiveness of the prior permissions regimes, and develop additional or substitute conditions to better reflect market practices and the level of consumer protection required.</p>	<p>We are working with Ofcom to establish the most straight forward way to ensure an effective consultation process, including the need for statutory consultation at a UK and EU level.</p> <p>We have provided and will continue to provide input to Ofcom on the Scope Review and have provided detailed information and data to them. The impact of the Scope Review will be the subject of Board discussion. An implementation plan will be agreed with Ofcom to deal with required actions.</p> <p>We are continuing dialogue with stakeholders regarding the following issues:</p> <ul style="list-style-type: none"> • the extent to which the Code should be driven more by clear principles and less by prescriptive rules • where along the value chain the burden of regulatory enforcement should be placed or distributed • the extent to which we should continue to make use of prior permission for the licensing of certain forms of service • the adequacy of the sanctions at the disposal of PhonepayPlus as a deterrent to repeat offenders • the arrangements and funding model for PhonepayPlus

<p>1.4 Subject to decisions arising from the Ofcom review of the scope of our regulation, we believe that our regulations should remain principally focused on the service providers, as defined by our Code of Practice, and that we should keep under review their relationships with the value chain for delivery of services and ensure that mechanisms remain, in a changing market, for applying regulation at the point deemed as appropriate and legally relevant.</p> <p>We want to support these parties to ensure compliance and so minimise the risk of consumer harm. There may be scope for PhonepayPlus to undertake a wider and deeper role in the registration process – we expect to explore this with Ofcom as part of its review exercise.</p> <p>.</p>	<p>The new Code project, supported by the Board have opened for question the best means by which regulatory compliance across the value chain can be secured in a way that minimises the regulatory burden and places responsibility appropriately with respect to the different roles and responsibilities of the many varied parties in the value chain.</p> <p>Continue to explore opportunities for extending this with Ofcom following the outcome of the Scope Review. Consider as a consequence the continuing obligations of service providers to carry out due diligence or their accountability to us in the event of consumer harm</p>	<p>Pre-consultation discussions with stakeholders have already taken place.</p> <p>Regulatory and Legal implications currently under discussion.</p> <p>Scope Review expected to be published by Spring 2009.</p>
<p>1.5 Make preparations to include regulation of 0871 numbers with effect from 1st August 2009.</p>	<p>Budget prepared and agreed.</p> <p>Develop implementation plan, including communication and education programmes for industry</p>	<p>Implementation plan finalised. Well attended workshops with industry have taken place in Manchester and London.</p> <p>Help Notes, Q&As and scripts are in the course of being prepared.</p> <p>Training for contact centre and industry support staff is underway</p>

<p>OBJECTIVE 2:</p> <p>2. SECURING HIGHER LEVELS OF COMPLIANCE WITHIN THE INDUSTRY THROUGH INCENTIVES, THE CONSISTENT AND HIGH-PERFORMANCE APPLICATION OF OUR CODE, AND RAISING COMPLIANCE STANDARDS</p>		
<p>TASK:</p>	<p>ACTION:</p>	<p>STATUS</p>

<p>2.1 Deliver an effective, consistent and high-performance Code Compliance Panel that will focus specifically on our adjudicatory work, leaving the main Board to dedicate its resources to other organisational and policy activities.</p> <p>Our Code of Practice provides us with the rules and guidelines to ensure that the premium rate market is fair for service providers and safe for consumers. Establishing a Code Compliance Panel allows us to put in place a professional body with the appropriate skills and principal focus of dealing with serious non-compliance with our Code.</p>	<p>The CCP was established in April 2008, following appropriate induction and industry training for its members. Its tribunals meet fortnightly, and hear investigated cases, together with applications for reviews and prior permissions. In addition, CCP members are called upon to deal with the application of emergency procedures for the investigation of very serious cases. Measure the success of the Panel by, among other things, analysing the number of reviews and oral hearings requested after adjudications have been made.</p> <p>Conduct a review as to the effectiveness of the CCP in achieving its stated outcomes, due before the end of the current financial year.</p> <p>Any operational recommendations agreed by the Board should be implemented immediately</p>	<p>The Chair of the CCP reports at each Board meeting on the number and type of cases heard by tribunals, emerging trends in complaints, policy issues, and matters of Code interpretation.</p> <p>The CCP meet together regularly as a forum to discuss consistency and transparency in decision making, and the effectiveness of the sanctions available to impose for breaches of the Code.</p> <p>The tribunal costs of the CCP are recovered by Administrative Charges. Other non-tribunal overheads for the CCP are factored into the Staff, CCP and Board budget for 2009/10.</p> <p>CCP members are subject to ongoing training, and have been appraised to consider their suitability for re-appointment</p> <p>The review is nearing completion and will be discussed at the April 2009 Board meeting.</p>
<p>2.2 Raise standards of compliance through monitoring and intervention. We will ensure compliance through strategic monitoring, focusing on specific markets and taking a holistic approach to correction of these markets.</p> <p>Inform stakeholders of trends discovered through our monitoring programme to raise awareness of issues in the market place.</p> <p>Measure the success of our monitoring and intervention by revisiting segments previously monitored to ascertain</p>	<p>In June 2008 the Research Team was created at PhonepayPlus by merging monitoring and research activities. This provided us with a centralised resource focused on understanding, from a variety of perspectives, the market, industry activities and operation of new and emerging platforms and services.</p> <p>Gather information about the market, industry structure, services, platforms and other technologies, and use the information gathered to ensure that the Executive and Board are kept abreast of market trends, product developments and consumer issues.</p> <p>Undertake monitoring activities to identify areas where breaches of the Code are occurring and to build up our knowledge of how the services, industry and market</p>	<p>There is now a thorough market risk management process in place. This is designed to predict likely issues associated with new and emerging services and platforms. These are generally identified through desk research, monitoring, complaints and engagement with stakeholders.</p> <p>Where we identify services and platforms where there is potential for consumer harm, we undertake thorough testing of the consumer's experience. Prior to taking any preventative or remedial action, we try to fill knowledge gaps by engaging with the industry, undertaking further desk research,</p>

<p>whether improvements have been made.</p>	<p>operate.</p> <p>Use the Research Team to introduce industry to the free compliance-checking function of our Industry Support & Policy Team.</p>	<p>and where necessary, commissioning consumer-focused research.</p>
<p>2.3 Develop an Industry Support and Compliance team. The Compliance Team will work with networks, trade bodies, sector groupings, publishers, broadcasters and other stakeholders to build understanding of the Code and compliance with it.</p>	<p>Work with all parts of the industry value chain to provide advice, support and guidance in order that providers can provide valuable services which are compliant with the Code.</p> <p>Operate the prior permission application service and undertake an increasingly wide range of industry engagement. This might include dialogue with providers wanting to discuss new service initiatives, or with aggregators with whom we are working with more closely in order to incentivise compliance.</p> <p>Work with the industry in developing best practice guidance and other published and online material to build understanding and trust in the sector.</p> <p>Manage relationships with a new stakeholders involved in the provision of services operating on the 0871 prefix, as PhonepayPlus takes over the regulation of this area in 2009.</p> <p>Plan an on-line toolkit that will encompass new ways of communicating with industry</p>	<p>We have merged the Industry Support and Policy functions to increase the effectiveness of our policy making function and better ensure that our guidance and support meets the needs of providers going forward.</p> <p>We are developing a fresh Stakeholder Relationship plan, and will use trade events, conferences and stakeholder management initiatives to build relationships and understanding.</p>
<p>2.4 Identify, assess and monitor market risk and compliance failings</p>	<p>Develop a market-risk based approach to evaluating and looking for early warnings of potential detriment and compliance failings in the market.</p> <p>Keep this model under review mindful of the need to watch for practices caused by a disruptive business cycle that has moved into recession. Some businesses will see an interest in running “scams” in such a market especially where their business model comes under</p>	<p>Market risk register maintained separately from PhonepayPlus organizational risk register. It is reviewed by management every six to eight weeks, and its findings are discussed with and reported to the Board twice yearly, and more frequently by exception. The top six risks are reviewed quarterly by the Audit and Corporate Governance Committee</p>

	sustained economic threat.	
2.5 Continue to take robust action against services with little or no value that are inappropriately marketed.	Continue to take action against a number of services which have sought to misuse the revenue-share opportunities available on 070 numbers	We continue to work with all relevant agencies, including law enforcement bodies, to stamp out these practices.
2.6 Keep Broadcast PRS under review	Having approved many providers to supply broadcast PRS services, undertake a range of spot-check monitoring and inspection visits of those providers to ensure that they continue to provide these services in accordance with their prior permission certificates.	This activity has the support of a number of providers in the industry who have invested heavily in compliance systems and processes designed to ensure that the problems of 2007 are not repeated. Inspection visits are being arranged.
2.7 Undertake a fundamental review of customer service and our complaints process	<p>Review from end-to-end the consumer's experience when s/he has a problem with a phone-paid service. Anecdotal evidence from our own Contact Centre, which will be tested through detailed research, is that the customer service experience through operators, service provider and information providers can sometimes be a frustrating one and lead the consumer to have to make many contacts in order to resolve their enquiry or possible complaint.</p> <p>Review our own customer service processes in terms of the handling of enquiries and complaints from the public, look to find better ways of helping to resolve queries and complaints, and look to develop more efficient and effective ways of working.</p> <p>Engage with consumers and industry providers to discuss these interface issues in more detail and identify better ways to serve consumers.</p> <p>Engage industry to find better ways for the handling of consumers in the value-chain. This is undoubtedly an area where some improvements and efficiency savings could be found.</p>	Project has commenced with project brief and objectives fully scoped. Timelines yet to be fixed.
2.8 Information Provider Cases ("IP Pass-Through"). The current Code makes provision for PhoneyPayPlus to	Keep these arrangements and our processes under review.	Review will be part of the new Code project. IP pass-through Help Note now issued and

deal with the Information Provider in certain circumstances when it comes to alleged breaches of the Code.	Produce additional guidance about the circumstances involved in allowing such IP Pass Through.	available from the PhonepayPlus website.
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<u>OBJECTIVE 3:</u> 3. ENSURING THE PUBLIC ARE BETTER INFORMED ABOUT THE SERVICES WE REGULATE, OUR ROLE AS THE REGULATOR AND THEIR RIGHTS UNDER THE REGULATIONS		
TASK:	ACTION:	STATUS
3.1 Work with networks and billing suppliers to understand and develop the scope for information about calls to phone-paid services appearing on customer bills. We want customers with queries to obtain information about the service used and contact details for the service provider concerned.	Continue to work with network and service providers to ensure that consumers are aware of PhonepayPlus and its work; and encourage their customers to contact us in so far as it would be helpful to them. Encourage these providers to help us to provide correct information to customers about our role and what steps they can take to resolve matters that do not require the intervention of the regulator. Seek to reduce costs, as each wrong referral or poorly advised customer we handle brings additional regulatory costs.	We have begun work on the lifecycle of a customer's complaint. An essential part of this will be to understand what information is currently available to consumers when they contact network and service providers.
3.2 Become a one-stop shop for advice, assistance and complaints. By developing these services, we will increase public understanding of phone-paid services and how they work.	Develop literature, and engage with the public using various media, such as web chat, SMS and websites. We have launched SMSus, an innovative text-based number checking facility to complement our online service so that we can now offer information and advice – and take complaints – whether consumers are at home, online or on the move. Rebuild our website to employ next-generation technologies to provide consumers and citizens with the	We have undertaken extensive work on our online number checker service to ensure we can return key service, cost and company contact details on 80 – 85% of all checks. This has been extremely successful with over 500,000 checks in the period April to November 2008. Website rebuilt and currently under testing. This is due to be launched in April 2009.

	<p>tools and information they need to protect themselves from harm in the phone-paid market.</p>	
<p>3.3 Continue to educate and inform the public about phone-paid services. Through utilising existing channels with phone networks and consumer bodies, and developing new partnerships, increase awareness of phone-paid services and PhonepayPlus to ensure all customers who speak to us get the right information.</p>	<p>Keep consumer education at the heart of our communications strategy.</p> <p>Carry out intensive PR and marcomms campaigns to ensure that consumers and citizens are kept abreast of the latest challenges in the market, and what we are doing to address them. Encourage consumer facing industry providers to support us in this work given the benefits it can bring to trust and confidence as well as the potential to reduce regulatory costs in the longer-term.</p> <p>Continue to work with peer regulators such as Ofcom, ASA and Gambling Commission – and government organisations like OFT, ICO and BERR – to ensure that consumers have access to the information and tools they need to make informed purchasing decisions.</p>	<p>We recently launched PhoneBrain, a campaign to educate teenagers about threats and opportunities in the phone-paid market</p> <p>The Events & Consumer budgets for 2009/10 include increases relating to our consumer education activities</p> <p>New initiatives have recently developed with the ASA and OFT as to joint action</p>
<p>3.4 Broaden consumer education campaigns in targeted ways</p> <p>Consumer education is an essential component to building trust in phone-paid services. Having access to the tools and information they require to make informed purchasing decisions gives consumers the confidence to take advantage of the many worthwhile services on offer.</p>	<p>PhonepayPlus has carried out a number of communications campaigns during 2008, such as the launch of SMSus and the PhoneBrain initiative. These campaigns highlight the positives in phone-paid services whilst also raising awareness and understanding to empower them to take decisions with confidence and understanding the nature of such services.</p> <p>We will seek to build partnerships with peer regulators, consumer protection agencies and industry and media owners/brands so as to extend the potential reach of the campaigns. We will also look to raise awareness of PhonepayPlus and the facilities and tools it offers consumers.</p>	<p>Further consumer education campaigns are planned throughout 2009, subject to agreed reduction in budget.</p>

OBJECTIVE 4:		
4. TO BE MORE TRANSPARENT AND ACCOUNTABLE		
TASK:	ACTION:	STATUS
<p>4.1 Build on the existing arrangements for stakeholder engagement.</p> <p>Report quarterly to the Industry Liaison Panel (ILP) and to stakeholders generally on key trends in market size and composition, complaint and enquiry traffic, and on trends identified through our monitoring, enforcement and industry support work.</p> <p>Commission an independent stakeholder audit at 18-month intervals (in 2008 and late 2009) to ascertain stakeholder views on our work against core objectives.</p>	<p>Continue to develop our arrangements for stakeholder engagement in ways that we suggested in our 2007 statement.</p> <p>Continue to support and engage ILP in the work that we do and share details of the trends in key data and performance as we are measuring it. In light of the potential for scams to emerge in a market facing a downturn, we also look to ILP, and their constituent trade body members, to provide intelligence of such problems so facilitating the early identification and removal of such problems which can only undermine trust and confidence in the market.</p> <p>Conduct a stakeholder audit</p>	<p>Our Events & Consumer Education budget for 2009/10 includes costs related to planned stakeholder engagement activities</p> <p>New ILP membership, Chair and Agenda has led to the start of a number of new initiatives. Data is now widely shared with ILP, and other industry stakeholders, and where appropriate made public.</p> <p>We are about to commence work on the stakeholder audit. Currently we are identifying themes and key messages</p>
<p>4.2 Plan to regularly publish a package of performance measures related to our complaint and enquiry handling, our compliance support activities, and our work to inform and educate the public in relation to the services we regulate.</p> <p>Introduce measures on 1 April 2008, review them on a quarterly basis with stakeholders and report on them annually.</p> <p>Benchmark levels of consumer</p>	<p>This information is contained in reports that we now produce for the ILP in a revised and improved format (see above) and we now put this in the public domain on a quarterly basis alongside the ILP meetings.</p> <p>Amend these reports where feedback suggests that such changes would be helpful and this is cost effective to deliver</p> <p>Undertake year-on-year research which contains benchmark data on consumer trust in phone-paid services.</p>	<p>We have been sharing with the ILP key metrics with regard to our performance and market data generally, which is now published on a quarterly basis</p> <p>As part of our Business Plan proposal for 2009/10 we plan to track this data on an on-going basis using a consistent methodology so that trends over time can be established and analysed.</p>

<p>confidence in phone-paid services and barriers to improving trust.</p>		
<p>4.3 Extend our work on cost-benefit analysis. Further develop our ability to present impact assessments in our consultations.</p> <p>Develop an agreed methodology for assessing the consumer and business benefits of regulation, and to set these alongside costs.</p>	<p>All of our policy consultations now, as a matter of routine, include an impact assessment. We will continue to develop this approach and ensure that the process of cost/benefit analysis forms a bedrock of our regulatory policy making processes.</p>	<p>A number of staff recently undertook further training in this area as part of our development of our approach.</p>
<p>4.4 Test forms of public meeting to better understand the views and concerns of the general public, as well as particular communities within the general public.</p> <p>Develop improved arrangements for engaging with the public in all four nations. We propose, in particular, to develop a network of those who make regular and substantial use of the services we regulate as a way of identifying possible problematic issues earlier.</p>	<p>We have undertaken work with consumers as demonstrated at our Forum in April 2008 where we dedicated the event to the consumer experience and included a panel of consumer/users of phone-paid services who discussed their experiences in detail.</p> <p>We also produced a video of 9-12 year olds who spoke of their understanding and experience of phone-paid services.</p>	<p>This activity is ongoing. However, the means by which we engage the public either directly or through those bodies who speak for consumers remains central to our vision and will form part of the stakeholder audit.</p>
<p>4.5 Recognise the need for a clear understanding between regulators and other public agencies with interests and responsibilities that, on occasion, coincide due to convergence.</p> <p>This can be the case, for example, with premium payment for gambling, charity and broadcast services, and in relation to data protection, advertising</p>	<p>Discuss and agree with fellow regulators the scope of our respective remits and the treatments of overlap.</p> <p>Extend these discussions with other regulators, including the ASA and Financial Services Authority.</p>	<p>During 2008 we have engaged in specific discussions about our remit and its potential for overlap with:</p> <ul style="list-style-type: none"> • the Gambling Commission, (with whom we published a Memorandum of Understanding), • the Information Commissioners Office in respect of our review of third party marketing activities as covered in the Mobile Review • the Office of Fair Trading in respect

<p>and financial services regulation.</p> <p>Establish effective relationships with fellow regulators and communicating more clearly about how we will deal with parallel regimes in order to avoid conflicting requirements or double jeopardy and to aid compliance.</p> <p>Publish an explanatory note on our relationships with key partners and refresh it on a regular basis. We will also seek to clarify relationships in future versions of our Code of Practice.</p>	<p>Publish explanatory notes once conclusions with the regulators are reached and finalised.</p>	<p>of our responsibilities under the Unfair Commercial Practices Directive and our responsibilities as the Established Means in this area – the subject of a Help Note we produced in 2008.</p> <p>The finalisation of arrangements with all regulators has however taken longer than expected as a consequence of other priorities, for example the resource commitment to the Mobile Review.</p>
<p>4.6 Ensure our accountability arrangements and dialogue with Ofcom are of a quality consistent with those to which Ofcom adheres.</p> <p>Ensure that our relationship with Ofcom is a collaborative working partnership based on a shared understanding of the scope and purpose of regulation, and on the contents of this Plan and our medium- term financial strategy.</p> <p>We will publish any changes relating to our governance, our Code, our financial operations and any other matters.</p>	<p>We believe that our relationship with Ofcom has become significantly more effective. The Framework Agreement put in place and published in December 2007 (in effect supersedes the MOU) has clarity as to our respective responsibilities in the regulation of phone-paid services and has paid dividends.</p> <p>Review the terms of our Framework Agreement with Ofcom.</p> <p>At an operational level, explore the scope for joint research and assessments in areas of shared interest, including common methodologies in relation to broadcasting.</p> <p>.</p>	<p>We are reviewing our internal complaints procedures (i.e. complaints against PhonepayPlus) to better align with similar processes at Ofcom.</p> <p>We are currently pursuing a joint research initiative with Ofcom.</p>
<p>4.7 Keep under review and improve the scope and presentation of</p>	<p>Make adjustments to the presentation of adjudication reports following stakeholder feedback and continue to</p>	<p>We have made improvements during the course of 2008. We are installing a new</p>

published adjudications	ensure that our published adjudications clearly and transparently set out the facts of the case and the extent to which each party was responsible for Code breaches	adjudications database which we plan to configure for better navigation and thus transparency.
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OBJECTIVE 5: 5. ENSURE RESOURCES ARE FIT FOR PURPOSE		
TASK:	ACTION:	STATUS
<p>5.1 Operate in a modern, high availability, technological environment, ensuring the integrity and security of our data, privacy to complainants and accuracy in our information.</p> <p>We will measure our success by our ability to provide accurate data, effectively and efficiently, to our stakeholders within cost-effective parameters.</p>	<p>Set up an environment for high availability, so that our vital services – data, email, databases – are mirrored across two servers so that should one server fail, the other will ensure continued service. Implement a high availability setup on our firewall and introduce a backup internet line.</p> <p>Employ 'Virtual Servers' so as to reduce the physical costs to the business, maximise the capabilities of the hardware, reduce our carbon emissions and facilitate administration of the setup.</p> <p>Undertake a security audit to understand the security threats to PhonepayPlus' systems and data and to then act on them. .</p> <p>Upgrade our business reporting tool, Business Objects, to provide us with a better platform for managing reports.</p> <p>Ensure we maintain routine expenditure for effective IT services and software in the Overheads and Depreciation budgets.</p>	<p>Now completed. New supplier to commence 18/04/09</p> <p>Complete</p> <p>Complete. The report was favourable although it highlighted a small number of potentially critical issues that have been addressed</p> <p>Complete. Further minor upgrade necessary as a consequence of new phone system being installed.</p> <p>Some services re-tendered for cheaper cost. 2009/10 budget contains appropriate provision</p>
5.2 Monitor changing risks to our	Develop and test our disaster recovery processes	Testing completed, but not wholly

<p>operations. Take appropriate action to minimise our exposure to damage and/or losses/business downtime in the event of an emergency/catastrophic disaster.</p>	<p>both from an operational and reputation perspective.</p> <p>Measure effectiveness by the level of our availability to stakeholders and our efficiency in dealing with any potentially damaging incident.</p>	<p>satisfactory. New service provider sourced for better facilities and systems at no extra cost. Testing will commence early summer.</p> <p>Our success in this area continues to be demonstrated by our ability to meet our KPIs, especially our availability to stakeholders.</p>
<p>5.3 Further develop our financial sustainability model, identifying emerging/receding revenue streams to sustain our financial viability and ensuring the reasonableness of charges to the industry.</p> <p>Endeavour to maintain a stable levy rate over the long-term where possible even though subject to the vagaries of changing market conditions especially so when the market declines.</p>	<p>Review and publish our revised Administrative Charges which are awarded to those who breach our Code so ensuring that our commitment to the principle of “polluter pays” remains fit for purpose. Ensure that the costs of the Code Compliance Panel for all Tribunal work are fully reflected in the new scale of charges.</p> <p>Measure our success by our ability to maintain a stable levy rate to the industry, without compromising our service quality.</p>	<p>To be issued on April 1 2009 and reviewed annually thereafter.</p> <p>Our External Professional services budget for 2009/10 includes provision for professional advice in respect of considering revisions to the Funding model.</p>
<p>5.4 Ensure our staff are skilled, rewarded commensurate with their skills and able to deal effectively with the changing environment in which they work, to deliver the necessary standard of services required.</p>	<p>Develop and agree with the Board’s Committee on Human Resources and Remuneration an HR Strategy designed to ensure that staff have the appropriate balance of skills and experiences, and are appropriately developed, managed and rewarded.</p>	<p>The HR strategy has been approved by the Committee and the Board and is being implemented.</p> <p>Each element of the strategy requires detailed planning and communication. The overall plan will be delivered over a period of 15 months.</p>
<p>5.5 Seek efficiency savings</p>	<p>Reduce staffing levels wherever appropriate. Seek outsourcing opportunities</p> <p>Acquire software that will automate job applications through our website, and software to automate the issue of invoices. This will make our small corporate</p>	<p>We have merged two senior management roles, lost one executive role through natural wastage and made an 0.83 FTE saving by revisiting job specifications in IT.</p> <p>We are outsourcing payroll wef 01/04/09 and are redesigning two other roles.</p> <p>To be sourced in 2009/10</p>

	<p>services team more responsive to the needs of the organisation without increasing headcount.</p> <p>Continue to reduce our dependency upon external legal advisers by undertaking significantly more work in-house. This has the added advantage of creating a database of knowledge and experience that can be shared more widely throughout the organisation, thus enhancing the quality of investigations and presentation of cases for adjudication, and improving internal decision taking.</p> <p>Improve procurement practices. Develop standard contracts for use with suppliers, and ensure better supplier management arrangements.</p>	<p>Below budget for y/e 2008/09. Further budget reduction in 2009/10</p> <p>New procurement model developed and in use. Savings generated from developing business cases, robust tender process and contract management. We have applied project management procedures for delivering key changes in our systems.</p>
<p>5.6 Ensure Financial Systems and controls are robust and effective</p>	<p>Review our financial controls and systems from the perspectives of the capacity of the systems to prevent fraud, and to respond effectively to perceived threat. Although we have never been subjected to instances of fraud, it is still considered essential that we have fit for purpose systems and controls in place, which the review confirmed.</p> <p>Review the efficacy of our Scheme of Delegation, and evaluate whether the intended benefits from our procurement model have been realised in relation to completed capital and other expenditure.</p> <p>Continue to ensure that our invested funds realise good rates of return within a safe environment.</p>	<p>Review completed and presented to Audit and corporate Governance Committee (ARCG). Considered robust, with no changes recommended.</p> <p>Review complete and recommendations implemented. ARCG have requested full mid-year review of the procurement processes and the delivery of benefits</p> <p>This is reviewed quarterly by the Finance Committee</p>
<p>5.7 Maintain and enhance IT systems</p>	<p>Continue the phased replacement of outdated desktops, and the upgrade of Microsoft Office to the 2007 version</p>	<p>Ongoing. We intend to complete this work during 2009/10</p> <p>Ongoing. We intend to complete this work</p>

	<p>Develop fixes and changes to our document management system, to ensure that it is operating at an optimal level throughout the organisation, and is used appropriately.</p> <p>Create a uniform information management system, with standardised taxonomy and advanced search features, thus saving time and effort in locating documents, and ensuring that corporate knowledge and know-how is effectively preserved and available for future use.</p> <p>Replace our existing outdated phone system with a new system that is more robust and flexible, and that will meet the current and future demands of PhonepayPlus.</p> <p>Develop a three year IT strategy that will meet business needs for updated, enhanced and additional systems in a planned and structured manner that can deliver demonstrable benefits within budgetary constraints</p>	<p>during 2009/10</p> <p>Completed</p> <p>Completed. The new system has a number of features essential to our regulatory function, and in April 2009 we will acquire additional functionality that will significantly improve our ways of working and of responding to both major and minor incidents affecting business continuity</p> <p>In the course of being developed. Expected to be available in May 09 and approved in June 09.</p>
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Appendix B

Summary Budget Table of Expenditure 2009/10

	Proposed Budget 2009/10		Budget 2008/9		Variance from 2008/09 to 2009/10	
	£	FTE	£	FTE	£	%
	Staff	2,653,827	49.8	2,693,019	52.8	39,192
Events	150,500		140,300		(10,200)	(7.3%)
External Professional Services	499,350		429,970		(69,380)	(16.1%)
Overheads	275,587		265,042		(10,545)	(4.0%)
Premises	364,259		337,900		(26,359)	(7.8%)
Printing	52,800		40,960		(11,840)	(28.9%)
Telecoms	81,962		87,375		5,413	6.2%
Website	81,000		77,520		(3,480)	(4.5%)
Depreciation	193,446		280,645		87,199	31.1%
	4,352,731		4,352,731		0	0.0%

Appendix C

Research and Monitoring Plan 2009/10

Research at PhonepayPlus

1.0 Purpose

Research at PhonepayPlus is critical to our ability to deliver on our promises to pre-empt, prevent, protect. Our enforcement work, compliance advice, policy-making and consumer advice all rely on evidence gathered about the industry, the market, technologies, and the consumers.

The stakeholder group that we hear from most are the general public. Their evidence and testimonies provide us with much of what we need in order to pursue investigations into breaches of the Code of Practice. Consumer testimonies continue to provide us with evidence that certain groups of consumers are more vulnerable than others. Children are well known to be more susceptible to consumer harm, and the Code of Practice makes provision for this. We can speculate as to which other groups of consumers are vulnerable too, but the process of investigation and analysis of complaints does not give the full picture of which consumers engage with services. Consequently, we need to conduct ongoing research to understand who the vulnerable groups might be, and which aspects of the promotion and operation of services are likely to confuse or cause possible detriment to consumers.

The other streams of research at PhonepayPlus are centred on understanding developments in technologies, services and marketing techniques, and the interplay of all of these with the functioning of the industry that provides these. It is vital that we keep up to date with developments in order that PhonepayPlus is effectively informed to take timely and proportionate action with respect to the regulation of developing services, and provision of accurate advice to the consumers who contact us with questions and complaints.

In piecing together these foci for research we have a good evidence base from which to undertake risk assessments of technological and market developments. This means that our evidence based-approach also informs the management of market risk – see also 5.0 below for more information on market research activity.

Where possible, PhonepayPlus seeks to publish the findings of its research, although this is not always feasible because reports can sometimes contain market-sensitive information provided by third-parties.

2.0 Research resources

The Research Team currently comprises 3 FTE's; a Head of Research and two Research and Monitoring Executives. In addition to this there is a budget in 2009/10 of £171,000 available for commissioned research, and circa £5,000 available for monitoring and testing services.

The Research Team has at its disposal a number of tools that allow us to undertake a range of research and monitoring activities. We maintain several dedicated media terminals for recording and monitoring services promoted on television, internet and radio. We are able to monitor and

record services through fixed-line handsets, and we have a large number of mobile handsets available and dedicated for monitoring and testing services accessible through the major M(V)NOs.

3.0 Monitoring and Compliance testing priorities

The Research Team also undertakes a programme of monitoring and compliance testing in order to identify trends in non-compliance, as well as more severe cases of potential consumer harm.

We have an ongoing programme of monitoring that looks at promotion of services through the likes of in-print publications; outdoor advertising, services promoted on TV, online, through WAP push and the mobile internet.

In 2009/10 we are also trialling a monitoring tool which automates the identification of online service promotion and compliance-checking. If this proves to be successful we intend to increase its functionality. We will also continue to explore other technologies that have potential to deliver intelligence on non-compliance.

The monitoring programme helps us to identify areas where consumer harm is occurring. Where necessary, the results of monitoring activity form the basis of the evidence for a formal investigation. We also use the findings of our monitoring to inform our Industry Support and Policy Team of trends in less serious non-compliance. Individual cases of less serious are dealt with through liaison with the Service Provider and ensure that the service is quickly brought into compliance with the Code of Practice.

We are seeking to maximise the impact of our monitoring programme in 2009/10, and in response to a request put forward through the Industry Liaison Panel (ILP), we will shortly be establishing a working group with them to look at the efficacy of sharing the findings of our monitoring activities with network operators and others. It is hoped that this collaborative approach will increase rates of compliance and reduce duplication of effort by all parties involved.

4.0 Paid for Research

PhonepayPlus strives to ensure that our policy-making, enforcement and internal operations are as effective and efficient as possible. We periodically review our processes and activity to keep apace of developments and best practice. Where possible, the research needed to underpin these activities is undertaken in-house by the Research Team. Typically this involves liaison with other regulators and industry stakeholders. We also keep apace of market developments by undertaking desk research and attending conferences and seminars. However, the resources and information available to us do not adequately address our needs. In order to get a better understanding of the challenges that face us, we commission a small number of research projects each year.

There are three main thrusts to the strategy for commissioned research:

- Core research: Keeping abreast of developments in the market for phone-paid services and patterns of service use by consumers
- Strategic research:
 - Exploration of topical consumer issues with phone-paid services and problems experienced by vulnerable consumer groups
 - Research into technological and industry developments that relate to phone-paid services
- Tactical research: Responding to research needs as they arise

Each of these is considered in more detail below:

Core research

- Market research. The primary piece of core research will retain the main components for our annual market review; to look at the current and future size and characteristics of the phone-paid services market. It will build on the evolving scope and outlook from the previous two years, while also exploring a topical theme in more detail.

Strategic research

- A small number of projects will be undertaken to address strategic goals for 2009/10 and the Three Year Strategic Plan. At present the scope of each project is at the preliminary stage, but they will focus on three areas:
 - Major market and technological developments that have potential to require policy, operational or other regulatory interventions.
 - Evaluation of stakeholder opinion, plus operational and policy effectiveness. As per the PhonepayPlus Three Year Plan, a stakeholder audit will be conducted early in 2009/10.
 - Obtaining a better understanding of consumer issues in relation to phone-paid services, the industry and relevant technologies. Issues where we have knowledge gaps include service use by children and younger people, and the collation, trade and use of phone number marketing lists.
 - Research to support evidence necessary for the review of the current Code of Practice

Tactical research

- In scope and nature, tactical research is likely to be identical to core and strategic research. However, it is expected that in spite of best efforts to predict market developments and suchlike, there will be a requirement to undertake research to address unforeseen issues, and we should ensure that tools and resources are available to respond as necessary.

PhonepayPlus aims to make the most efficient use of its research budget, and as part of this approach, is pursuing offers to share data, intelligence and research projects with Ofcom and members of industry. In particular, the ILP recently identified potential for collaboration, whereby phone-paid industry groups and their members could share data and research with PhonepayPlus. We look forward to pursuing this offer 2009/10.

5.0 Market risk management

In the course of the Research Team's activities we identify new services, platforms and marketing methods, and attempt to understand their likely ingress into the market for phone-paid services. These developments are for the large part exciting and innovative, but occasionally they pose a risk of consumer detriment, incidental or otherwise. These are recorded in a register of market risks. This risk register forms the basis of our ongoing risk assessment programme, whereby we research market innovations in terms of their likely market development, the potential for consumer detriment and the probability that any detriment will be detected and mitigated before it becomes widespread. The PhonepayPlus register of market risks allows us to prioritise our activities with enforcement and expectation-setting to mitigate the risks associated with such developments.

Appendix D

List of Respondents

Networks

BT

Invomo

Mobile Broadband Group (3, O2, Orange, T-Mobile, Virgin and Vodafone)

Trade Bodies

Industry Liaison Panel (ILP)

Mobile Entertainment Forum (MEF)

Association for Interactive Media and Entertainment

Regulators

Office of Fair Trading

Members of the Public

Dr. Mike Ward