



Business Plan and Budget 2012/13

MEF's response to the PhonepayPlus Consultation document

MEF RESPONSE | JANUARY 2012

About MEF

MEF is the global community for mobile content and commerce. It is the leading trade body for companies wishing to engage consumers and monetize their goods, services and digital products via the mobile connected device.

With global headquarters in London and operational chapters and offices in Asia, EMEA, Latin America, Middle East and North America, MEF is a member network with global reach and strong local representation.

Established in 2000, MEF provides an impartial, consistent and powerful voice for the foremost companies and entrepreneurs from across the mobile content and commerce value chain.

In 2011, MEF expanded its remit to represent the full range of players in mobile content and commerce – from mobile specialists to more recent mobile adopters, such as retailers, brands, publishers and financial institutions

Summary response to the consultation

A 1.5% budget decrease is a drop in the ocean compared to cuts that have already been made and continue to be made across the public and private sectors. However, MEF remains a firm supporter of PhonepayPlus' overall programme and direction. We are especially pleased that it has reduced the direct cost of regulation by almost 20% since 2010/11.

PhonepayPlus should continue to invest as much time and resource as is necessary to recover fines and administrative charges. This is one area where PhonepayPlus might even consider increasing the resource available to make sure no opportunity is missed to reclaim money owed. It is clearly an investment which will pay for itself.

Research is an area of budgetary concern for MEF. We are skeptical of the return on investment of expensive consumer-focused projects. MEF recognises the need for the regulator to understand patterns and trends in consumer behavior but only in so far as it helps uncover potential areas of concern.

We wholeheartedly support PhonepayPlus' thematic monitoring work. Such mystery shopping has proved a highly effective way to spot potential problems, and we welcome the impact the monitoring has had in holding non-compliant providers to account in front of the CCP.

We endorse and applaud the work done by the Industry Support and Code Development teams in the previous 12 months. However, MEF questions why there should be an increase in these teams' budgets in the year following the introduction of the new Code. Surely industry will only become less dependent on PhonepayPlus for support, and less resource will be necessary to provide guidance than write the Code itself?

MEF agrees that the registration scheme may offer opportunities for the industry down the line. However, the Scheme's first priority is to improve compliance. PhonepayPlus should not dedicate any great human resource to commercial considerations.

We agree with the registration financial model assumptions laid out by PhonepayPlus and are happy that, of the four options laid out to fund the Scheme moving forward, the fourth option is the right one. However, we would like PhonepayPlus to fully consider a fifth option laid out at December's ILP meeting.

Q1. What information or evidence do you have about market trends and about the overall size of the PRS market in 2011/12?

Q2. What information or evidence do you have about any specific segments or content areas and their potential for growth and decline over 2011/12?

Q3. How do you see the PRS market developing in 2012/13? In particular, do you have any insights into how PRS might develop on social media, smartphones or other platforms?

[CONFIDENTIAL SECTION]

Q4. What comments do you have on the priorities for 2012/13? Are there other projects or issues that you think PhonepayPlus should consider in the coming year?

MEF welcomes the introduction of the new Code of Practice and its outcomes-based approach to regulation. The new Code and its accompanying registration scheme seem to have been introduced with minimal fuss and at an appropriate cost to industry, which is no mean feat. However, the new Code will only be successful if each part of the value chain is held accountable for its actions under the rules of the new Code.

Where breaches occur, they must be enforced and, crucially, any fines recovered in order to implement the 'polluter pays' philosophy which is so important to the vast majority of industry, including our members, which have a good record of compliance. MEF has always supported effective regulation – and accepts it comes with a cost attached – but this is based on an understanding that miscreants will pay the lion's share, and compliant providers the minimum possible.

To that end, PhonepayPlus should continue to invest as much time and resource as is necessary to recover fines and administrative charges. This is one area where PhonepayPlus might even consider increasing the resource available to make sure no opportunity is missed to reclaim money owed. It is clearly an investment which will pay for itself.

MEF agrees that guidance is an essential area of investment at this juncture, when a new and ground-breaking Code is in its infancy. PhonepayPlus should continue to work with industry to identify new areas within the Code where companies may be confused as to how best to achieve compliance – and address these areas with detailed guidance.

Here and elsewhere PhonepayPlus should at all times look to minimize costs. For example, it might highlight the work already done by companies – programmes and systems introduced within their organizations - to achieve compliance. 'Best practice' case studies could be made available on PhonepayPlus' website to reduce the need to give out similar advice on an individual ad-hoc basis.

Research is an area of budgetary concern for MEF. We are skeptical of the return on investment of expensive consumer-focused projects. There is insufficient evidence that PhonepayPlus is plugging the gaps left by similar research carried out by others that could be leveraged at a lower cost. For example, what work does PhonepayPlus do to make sure it is not asking the same questions as other research projects? Has it analysed the difference in cost between doing its own research versus partnering with others or buying the latest research 'off-the-shelf'?

MEF recognises the need for the regulator to understand patterns and trends in consumer behavior but only in so far as it helps uncover potential areas of concern. PhonepayPlus should not be interested in identifying potential market opportunity or uncovering interesting sociological phenomena.

To that end, we recommend an urgent reexamination of the consumer-focused research budget

to ensure:

- PhonepayPlus knows what research industry and others are doing, and are not asking the same questions when the answers may be available elsewhere for a reduced investment.
- The research agenda is focused on uncovering only the potential for harm arising from new technologies and usage patterns.

MEF would welcome an approach from PhonepayPlus to influence our own research programme, and we would expect PhonepayPlus to do the same elsewhere, especially Ofcom which has an extensive research agenda in similar markets (also paid for by industry).

We wholeheartedly support PhonepayPlus' thematic monitoring work. Such mystery shopping has proved a highly effective way to spot potential problems, and we welcome the impact the monitoring has had in holding non-compliant providers to account in front of the CCP. We have no difficulties with the market sectors identified in the consultation, but we would ask that PhonepayPlus regularly cross-checks with other consumer research, such as our own Global Consumer Survey, for potential areas of concern. It should also work more closely with MNOs to make sure both parties are sharing complaint trend data.

Q5. Do you support our proposed levy budget changes for 2012/13, having regard to the activities and priorities in the first full year of the new Code that drive those changes? If not, please explain why.

A 1.5% budget decrease is a drop in the ocean compared to cuts that have already been made and continue to be made across the public and private sectors. On a macro level, it is therefore disappointing that PhonepayPlus could not find further opportunities to reduce its budget in line with this, and also the drop in PRS revenues identified in Annex C's outpayment report.

However, MEF remains a firm supporter of PhonepayPlus' overall programme and direction. We are especially pleased that it has reduced the direct cost of regulation by almost 20% since 2010/11. It has delivered a new Code and registration scheme without incident and we applaud its initiatives to work alongside industry to pre-empt problems and help individual complainants before it becomes an issue for many more people.

Consumer support

MEF agrees that the Consumer Service team should not be reduced further, as there is always the potential for a spike in complaints. It is important that PhonepayPlus continues to provide a helpful service to consumers.

Number Checker will only become more important as time goes on. Not only does it help provide consumers with piece of mind and with contact details for the company most likely to help with their enquiry, it also has the potential to divert traffic away from MNO customer service centres, freeing them up to help consumers with more complicated enquiries.

To that end, we believe it is right that Number Checker receives sufficient investment to remain helpful and relevant, and PhonepayPlus should explore any and all opportunities to place it when and where consumers most need it. If an additional investment is considered expedient then we would encourage PhonepayPlus to advise industry of this, and secure the investment.

However, consumers do not need not be aware of Number Checker's existence *per se* - there is no need for general brand campaigns. Instead, resource should be dedicated to ensuring consumers find Number Checker quickly and easily when they have a question about a PRS. Wherever there are opportunities to work alongside industry to make this happen, they should be taken.

MEF does not believe consumer education to be a core component of the regulatory agenda, so we welcome the proposal to reduce overall spending in this area. However, we do support the PhoneBrain initiative which has demonstrated clear value and a return on investment by educating young mobile phone users, and so pre-empting problems in the future. While PhonepayPlus should not increase its investment in the programme, we are satisfied the programme should remain at its current level.

Industry Support

We endorse the work done by this team, and in particular its excellent efforts in helping industry understand the new Code. However, MEF questions why there should be an increase in budget in the year following the introduction of the new Code. Surely industry will only become more confident with its application and use over time, and therefore less dependent on PhonepayPlus for support?

Code compliance and development

As we have said previously, we wholeheartedly support the need to deliver effective guidance and we expect this work to continue through next year. Also, the team should be applauded for its excellent work in developing and delivering the new Code.

However, as is the case with the Industry Support team, we cannot understand how more resource not less will be needed the year following the Code's introduction. Guidance is important and time consuming work, but surely not as time consuming as the development of the new Code?

Q6. Do you agree that we should make a provision in the Registration Budget for improved usability of the Scheme? Are there particular functions of the Scheme you would like to see enhanced? If so what are they and what benefits would they bring?

MEF agrees that the registration scheme may offer opportunities for the industry down the line (though we have no indication at this moment of exactly what these opportunities may be). However, PhonepayPlus' proposed business plan is unclear as to whether PhonepayPlus is thinking of these opportunities being of a regulatory or commercial nature.

The Scheme's first priority is to improve compliance and that should be PhonepayPlus' first concern. MEF is not against developing the Scheme to provide commercial opportunities where they might also benefit our members, so long as these developments do not impede or jeopardize compliance.

However, it is not for PhonepayPlus to dedicate any great human resource to commercial considerations. It might facilitate such developments – for example, by providing a liaison to an ILP working group – but any participation should be confined to ensuring compliance. This extends to financial and project management. PhonepayPlus should concern itself with managing the development of the Scheme from a compliance perspective. As soon as work is agreed to be done from a commercial perspective, this work should be handed on to others. Again, the ILP might be an effective facility here.

Q7. Do you agree with our Registration Financial model assumptions?

Yes.

Q8. Do you agree with our assessment of the options, with particular reference to our assumptions and our preference? If not, do you have other suggested options?

MEF agrees that of the four options presented, PhonepayPlus' choice of Option 4 is the right one.

However, we are mindful of a fifth option presented at ILP in December that presented the possibility of having one fee for those with PRS revenues of more than £10,000 pa, and another for companies earning less.

This fifth option has merit, in that charities would remain exempt and all companies would incur a fee (therefore spreading the cost around the market). This fee would also be commensurate on revenue, meaning the fee was fair and more sophisticated than an 'all or nothing' approach.

We recognize that this fifth option has drawbacks, in that it may complicate matters unnecessarily for industry and incur additional resource requirements for PhonepayPlus to administer.

With that in mind, we are happy for PhonepayPlus to select Option 4 as long as it has properly weighed the advantages and disadvantages of the additional option suggested at ILP.