

CONSULTATION RESPONSE



Alex Littlemore
Senior Strategy Executive
PhonepayPlus
Clove Building
4 Maguire Street
London SE1 2NQ

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TO: - Alex Littlemore
RESPONSE BY: - Dr Robert Reid

Which? response to PhonepayPlus' consultation on regulation of 08xx

Which? Welcomes the opportunity to respond to PhonepayPlus' consultation on the extension of its regulatory remit to include 08xx numbers. In the response to this consultation we have focused only on the suitability of the current regulatory framework employed by PhonepayPlus to the regulation of 08xx revenue sharing numbers. This response is independent of our response to Ofcom's consultation process on non-geographic numbering. We have focused our comments on the potential impact of its Code of Practice on 08xx numbers and the impact that the extension of the regulatory remit could have on the current services that are offered through 08xx numbers and in particular public services.

Ofcom suggest that extending the remit of PhonepayPlus to include 08xx numbers would mean that transparency obligations contained within the PhonepayPlus Code of Practice could be made enforceable in relation to 08xx numbers. It also suggested that the redress requirements within the code could help to build consumer confidence in the number range. Given that consumer confidence and transparency of pricing were cited as key issues with the current market for non-geographic numbers, the extension of the Phonepay Plus' remit to include these number ranges is one option to address these issues.

**For all
consumers**

www.which.co.uk/policy

Which?
2 Marylebone Road
London
NW1 4DF
T 0207 770 7000
www.which.co.uk



Question 1: Do you consider that PhonepayPlus' consumer protection rules are appropriate for the lower-cost revenue-sharing ranges if they were to be administered by PhonepayPlus? If not, why not? Please supply any evidence that supports your view.

The Code of Practice by which PhonepayPlus currently regulates premium rate phone numbers has been written with this market in mind. PhonepayPlus acknowledge that this framework would need to be adjusted to allow for the differences between the premium rate and 08xx markets. It is difficult for us to give a considered opinion on whether their consumer protection rules are appropriate without first understanding how they would be altered to allow for these differences. We would ask that Phonepayplus consult on more detailed proposals for changes to the current codes to allow them to be applied to the 08xx market.

The Code is based on splitting the market into three categories of providers: Level 1 providers that provide a platform through which the service is accessed, level 2 providers who controls or is responsible for the provision and promotion of the service and network operators. The level affects the obligations on the entity under the code. 08xx revenue sharing numbers are used by a wide range of service providers or level 2 providers under the code. These can vary widely from television game show quizzes, customer services helplines to public services provision. We are concerned that the level of diversity within the market for 08xx numbers is not adequately reflected in the current category-based obligations. It may not be appropriate to require providers of GP appointment booking services to meet the same obligations as providers of a TV gameshow competition, yet they would currently fall under the same category of the code.

This could lead to specific issues in a number of areas. Firstly, section 2.2.1 (a) of the code states that '*promotional material must contain the name (or brand if part of the name) and the non-premium rate UK contact telephone number of the level 2 provider of the relevant premium rate service*'. In cases where the 08xx number provides access to a booking system or helpline rather than a service as is usual in the premium rate market, the impact of this obligation on the service provided should be considered. Using 08xx numbers for customer services and booking systems is often driven by the added functionality that these numbers allow, such as the ability to take simultaneous calls. By requiring the service provider to provide a non-premium rate number that may not be capable of coping with large numbers of calls at the same time the obligation could have the effect of 'jamming' the service providers non-premium line.

Section 2.3 on fairness also raises some questions as to the relevance of the codes to all providers of 08xx numbers. Section 2.3.3 requires evidence that users have consented to be charged the premium rate. Presumably such a requirement would involve consumers hearing a message telling them of the cost of the call prior to being charged. While we applaud this





requirement on price transparency and we also disagree with the use of 08xx numbers for public services, the fact remains that while public services are permitted to use 08xx numbers this requirement, whilst giving consumers transparency, may also deter them from getting valuable advice on public services or health. Section 2.3.6 requires level 2 providers to take reasonable steps to prevent excessive use of premium rate numbers. It may be difficult to define excessive use of public services.

The impact of registration costs on the providers of some 08xx services as outlined in section 3.4 should be carefully assessed. Where the services provided are essential public services the added cost burden of registration must not be passed on to consumers. Requiring such an agreement may help in encouraging public service providers to migrate to cheaper 03 numbers to avoid the registration fee and in the process benefit the general public.

The sanctions outlined in section 4.8 are not appropriate for all providers of 08xx numbers. The back stop for the sanctions is to bar access to the service. This is not a desirable outcome when the service provided is an essential public service.

These examples highlight the need for the current Codes to be assessed for their impact on the 08xx market.