

Action4 response to the draft Guidance on application-based payment in support of the PhonepayPlus Code of Practice - April 2013

Introduction

Action4 welcomes and thanks PhonepayPlus for the opportunity to respond to this consultation on behalf of its members. Whilst we commend PpP's intention of working with BIS and OFT and implementing some of their suggestions to this market sector we are worried that some of PpP's suggested measures are draconian, particularly the suggestion of stopping a consumer the ability to make a second call, therefore stopping their choice. This will in our opinion have 2 effects. Firstly that the potentially vulnerable consumer, perhaps keen to secure a loan, will be placed under more duress as they will not be able to get a progress report on how their loan is progressing. Secondly that this may mean that PRS sector will be potentially forced out of business. Part of PpP's job is to foster and work with industry. If it kills market sectors off, then ultimately it, itself, will not exist.

Q1. Do you have any views on the PRS consumer credit model, the potential benefits and risks to consumers and the interaction between OFT, BIS and PhonepayPlus regulations?

We welcome PpP interacting and working with other authorities but looking at the OFT report this was not a specific evaluation of the PRS sector but indeed a review of pay day loans and the credit sector *pre se*. Those operating in this market sector are regulated by OFT and have to have a Consumer credit licence. We are worried that like for like information is not being gathered. How many loans are secured in the PRS sector to non PRS? It appears from our information that non PRS routes can have high and repeated fees attached. Where in PRS market the average cost to secure a loan is around £25.00, one of our members even taking account of the cost of a second call has a total cost of £38.25 to the consumer.

Whilst we appreciate that one company led to a super complaint it was not in the PRS market.

We have seen other PRS market sector have complaints referred to OfT and other government agencies. But this has not ever led to the suggestion of allowing only one call or killing that sector. Why are you therefore suggesting such radical steps when the complaint that led to this review is not even in our industry.

Furthermore your code allows you to seek emergency procedures and stop a service if there have been complaints.

After consultation with our members we support your suggestion of:-

A requirement to display the repayment cost per £100 borrowed in addition to the annual percentage rate (APR); and

A requirement to provide signposting to free and independent debt advice prior to the consumer being charged

Transparency in any business is a good thing but we must appreciate the current financial situation and that many people are keen to secure financial assistance. By closing this market sector by effectively limiting revenue to £5.00 for the operator, you may actually yourselves damage vulnerable and desperate consumers who will have an honest route to solve some of their issues taken away. To operate a credit line like this has large costs attached to it in terms of staff and overheads- simply the honest service provider (SP) will not be able to provide a service. The dishonest SP will care little for fines or doing refunds.

Q2. Do you have any views on the new conditions we are proposing for transparency around rates of interest charged and their impact on either consumers or providers? Please provide any evidence to support your views.

We believe transparency is a good thing and should be encouraged however would have a concern with printed advertising. We would welcome clarification on exactly what you will require in the message. As an industry, we have seen lengthy messages which mean font sizes decrease and therefore there is less clarity for the consumer.

Q3. Do you agree with our assessment that publishing the average acceptance rates of lenders will help consumers to make an informed decision? Please provide any evidence to support your views.

We agree all information that a consumer can be given, which increases clarity and allows them to reach any informed decision, must be welcomed, as long as this does not lead to confusion. What information re acceptance rates are to be published that of a particular SP or the industry as a whole. Also will we see then this spread to other types of services, for instance, on a computer helpline, how many times the problem with a computer was fixed, or the number of times a tarot reader was accurate??

Q4. Do you have any views on the impact this may have on PRS-based providers? Please provide any evidence to support your views.

Dependent on the information to be published this could have a real effect on the industry. You state the success rate is 17%, however our information from our members shows this can be higher than 20% and is currently running at around 25% - yet across the industry the standard rate of success is 3%. The snap shot you have taken is exactly that and not a scientific analysis of both the sectors PRS and non PRS. Also if the levels are as low as 17% that potentially means 17 people out of 100 had a way to get a loan that they need to help their family and children. Pawn brokers where set up to give a short term fix and exist for that purpose still today. They are, it appears, also regulated by OFT.

A fee charging broker will offer to source a loan for a client in exchange for an upfront fee, anything from £30 to £70. The client will enter their details into a web based form and on completion of the form will be presented with a credit / debit card payment screen in order to "finalise their application and submit their application to a lender panel". The card payment is made and then the consumer is merely provided with a list of telephone numbers of 10 or so lenders that they must then call directly to make

an application. If the clients do not provide their card or bank details, no lenders phone numbers are provided.

None of the clients details are ever collated and presented to these lenders by the way of a loan application. The clients data captured from a web screen is merely sold on and monetised, and all the client receives in exchange for their fee is a list of telephone numbers that they could have easily obtained from the Yellow pages for free. Obtaining a refund can be difficult as most fee chargers use email only to discourage the clients from trying to claim a refund. The terms and conditions allow the fee chargers to attempt to take their fee from the clients account for a period of 90 days, so there could be as many as 90 attempts to a clients account to take money from it if the fee charger is unsuccessful at their first attempt.

The fact that Oft says the market overall has grown from £900 million in 2008/2009 to £2.0 to £2.2 billion in 2011/12 is a clear insight to the desperate economic times we are in as a country. The 2 worrying practices in particular in the overall credit industry to us are the use of roll over's to increase and extort monies and the other the taking of money out of bank accounts without consent. This is absolutely nothing to do with the PRS industry. Therefore why kill an industry, remove jobs and disallow the consumers the right of a simple and attractive way to get a loan due to others who operate in a different way to the PRS market sector in the credit industry.

Q5. Do you have any views on the new condition we are proposing for the price transparency of calls and its impact on consumers or providers? Please provide any supporting evidence.

We welcome clarity and see no issue with providing this information although would point out by doing this the customer will have an increase in the cost of the call whilst the message is spoken or played out. On mobiles this could well increase the overall cost by more than 10%.

Q6. Do you have any views on the new conditions we are proposing around the total number of calls and their impact on consumers or providers? Please provide any supporting evidence.

We have issue with this suggestion for various reasons. Firstly sometimes the second call is part of the services to obtain more information. Secondly people apply for loans for different reasons - for instance it may be to buy a car or book a holiday. They will need to know quickly if they can secure a loan and will want to be able to call to get an update, in order to secure a flight or stop another buying the car they want.

The other situation may be where a bailiff or debt collector has come to collect a debt. In this instance the consumer may be highly anxious and will, of course, want an update to stop their goods being ceased. In today's financial market whereby if you do not have a job, you have no hope of a loan from the banking industry. A quick and easy to use system like PRS is very good news. Those who do not have jobs may not have credit cards or bank account and therefore any other method of getting a loan is closed to them.

You monitored a limited number of services for a period of 4 months this may not be reflective of reality.

Certainly we know of issues in the military when a servicing member of personnel particularly NCO's are on tour, a bill will arrive at their registered address due to them not being there, and having no ability to answer correspondence they may well be serviced with proceedings. We have certainly seen this in relation to phone bills. They may then need to access a pay day loan, as they sometimes do not have any credit facilities because they are considered high risk. Therefore PRS is a simple easy and accessible route for them to solve their problems, when they return home from tour.

Q7. Should PhonepayPlus consider introducing new measures to improve refund rates for eligible consumers?

Upon seeking a loan it is reasonable to assume that the consumer does not think nor told that they will definitely receive a loan. In fact it is stated to them in the call that loans are not guaranteed.

Indeed there is no absolute right of refund in non - prs routes. Whilst we agree a consumer who seeks a refund should be given one if this is reasonable, we can not see the true rationale for blanket refunds. Would this slip to other PRS sectors? For example "my gambling tip was not accurate - I would like a refund". "You told me I would marry" on a tarot services yet I did not?? The Sales of Goods Act is clear in regard of the right and reason for refunds.

Q8. Do you have any views on what steps could be taken to improve the current refund rates?

Perhaps it could be considered that as part of an upfront message the consumer is told they can apply for a refund in certain circumstances. This way the onus of collecting a refund is on them not the industry.

Q9. Do you agree with our impact assessment? If not, why not?

We do know previous experience has taught us that if you make draconian measures then all that happens is the honest SP suffers and the deviant ones will continue until you get a complaint and they get a breach. Simply they will close down and re open in different guises.

How can anyone receive enough information re the reason for a loan and information in relation to a consumer financial circumstances within 3 minutes. Will this include or exclude your additional minute for warnings and information?

We agree clarity is of the essence for all PRS, but measures that stop businesses being able to operate are unhelpful. "You accept extra information" means more cost. The average cost of a call for one of our members is £22.95 from a BT landline and, you wish to add another £1.50 to that an increase of Circa 7% if on fixed line and "considerably more" if on a mobile. In reality people applying for loans may not have a land line but are calling from a mobile, therefore they will not have the ability to get a true understanding of the cost of the call, due to the complexity of the mobile markets pricing structure. In regard of refunds what do you seek that the SP refunds? The monies the SP has received from the network or the total cost of the call to the consumer which on mobiles will certainly differ?? Whether on mobile or not, therefore meaning the SP may have to refund more than they earn't even retaining the £5.00 allowed. Also the loan has to be open to be taken up for a period of 6 months

meaning an SP in reality would have no idea of what revenues they are actually making.

You accept your measures will affect the industry. Should a more measured place be considered to make sure the consumer has a route to get independent debt advice like Steps Change; and that they have clarity of costings and of the PRS process? But alongside of this that your regulation means that the PRS credit industry continues to exist and indeed potentially flourish's in today's economic climate.

Re your draft prior permission certificate:-

iv What is reasonable notice?

vi Why 2 days

vii Why does a consumer not have to provide proof is this because of pay as you go credit phones?

c how in effectively 3 minutes can any one determine enough information to decide if a consumer can have a loan and will this now include the extra minute you suggest for giving additional information

Conclusion

This seems a knee jerk reaction. We are more concerned by PPI services which seem to offer money back but in reality the consumer is bombarded by calls and promises of money. In reality, if any refund is achieved this comes straight off the credit card debt and then the consumer has to pay the broker plus also the lawyer who acts for them. There is a court ruling on this

We hope that PpP will think again in relation to some of their suggestions. We remember when The DCMS wanted to consider similar things for competitions and scratch cards but thankfully they thought again.

Having read all the various BIS, OFT and the Bristol report's which clearly "concludes that there is a role for short term credit in the UK credit market" as do both OFT and BIS. There is not one single reference to the PRS mechanism nor indeed the PRS market.

The company MCO capital limited that led to the super complaint did not use PRS, therefore it is reasonable to emphasis yet again that it would appear that PRS, SP's are being penalised for others, poor, duplicity and misleading practices in other areas of the loan industry. We welcome the introduction of the Financial Conduct Authority (FCA) in 2014, who will overtake the OFT obligations in relation to the industry as a whole. We will want to work with them to demonstrate how are member companies including companies with ISO 9000's seek at all times to act in best interests of their Customers. One of our members reports that 94% of their customers say they are happy with the service they receive.

If you press ahead in this one company alone in excess of 150 jobs will be lost. They accept that their conversion rates are at least 20% meaning 1 in 5 get a loan which will potentially change their current stressful situation. At one time PpP collection rates on fines were similar to this.

Your measures may lead to the increase of loan sharks as the need for loans for the consumer will not go away.

Having had the privilege of working in a different field, special needs education, with some disadvantaged families, many of those cannot understand, forms, the law or indeed complicated processes? Therefore PRS is a simple clear, accessible and affordable route for them to get help.

You must reconsider your position.