

Extending Premium Rate Services Regulations to 087 Numbers



Response to consultation by the Premium Rate Association for and on behalf of its members.

June 2008

Introduction

The Premium Rate Association thanks Ofcom for this opportunity to add comment to this consultation piece.

As a non profit, membership driven, trade organisation operating in the premium rate telephony sector we welcome action to provide clarity to the consumer and create a trusted market place. Our members understand the need for balanced regulation to instil public trust in the premium rate billing mechanism and we supported all relevant and appropriate industry agreed regulatory change in this arena.

Question 1: Do you have any comments about the proposed extension of PRS regulations to 0871, 0872 and 0873 numbers?

The Premium Rate Association welcomes the decision to bring the 087 prefix under the scope of PRS regulation. The current exclusion of the prefix from regulation has allowed its use as a loop hole for the unregulated promotion of services often indistinguishable from those on the regulated prefixes. We share Ofcom's concern about the impact that this disparity has on consumer confidence and the need to provide the consumer with clarity. The real cost to industry must be fully assessed to ensure that measures are reasonable and proportionate.

We are concerned that whilst closing the loop hole that enables the potential abuse of the 0871, 0872 and 0873 prefixes for unregulated PRS content, the continued exemption of the 0870 prefix from PRS regulation will now leave it open, in turn, to abuse in that individual arrangements maybe made between networks and service provider companies. We believe that the exclusion of the 0870 prefix from PRS regulation will result in the companies that are currently seeking to avoid PRS regulation merely shifting their

operations from 0871, 2, and 3 onto the unregulated 0870 prefix. We hope that Ofcom will take note of this likely consequence and proactively take steps to prevent this trend through the inclusion of the 0870 prefix under PRS regulation.

Question 2: Do you have any comments about the PhoneyPayPlus Statement of Application and Ofcom's comments about the concerns that have been raised by stakeholders?

We would like to reiterate the comments we made in our submission to PhoneyPayPlus' consultation on the regulation of 087. If PhoneyPayPlus are effectively going to regulate on 0871 this should be the same code as applied to the rest of the PRS business, but with a clear migration path for service users to be compliant with the code. We have seen how the business has utilised such codes for SMS and short termination services and therefore the code must be fair, consistent and not allow abuse of any prefix and therefore a simple set of clear and concise rules that mean SP's have to be reasonable in their provision of services should help all.

It is unclear why Ofcom require a Statement of Application to implement the proposed regulation of the 087 prefix. Similar past changes to regulation have been done by way of a help note alongside the current Code of Practice. This provision would appear adequate to bring the 087 Prefix within the remit of PhoneyPayPlus and would ensure that the regulation of the prefix is transparent and based upon a level playing field.

We believe that it is important that these modifications to PRS regulation are included in the next PhoneyPayPlus Code of Practice and welcome this advertised intent in the Ofcom proposal. It is unfortunate that practicalities and timing do not allow this to happen sooner.

Whilst we welcome the broad thrust of the proposal to bring the 087 prefix under PRS regulation, we are concerned that in a number of areas the proposal seeks to regulate the 087 prefix more leniently than other PRS designated prefixes. We believe that a level playing field should exist across all PRS regulated services to prevent the creation of any artificial commercial advantage and more importantly to avoid the exploitation of certain prefixes for consumer harm.

We would consider it best practice to perform 'Due Diligence' on any companies seeking prefixes in the 087 range.

On a positive note we welcome the intention that complaints about service should be handled by the service provider in the first instance. We believe that this customer service ethos should be applied to all PRS service to enable the industry to build a relationship with the consumer.

Question 3: The proposed extension of PRS regulations would mean that service providers offering services on 09 numbers would not be permitted to use 0871, 0872 and 0873 numbers for complaints unless call charges are refunded. Ofcom would also welcome stakeholder comments about the secondary impact of the proposals.

It is our understanding that 087 numbers are widely used within all industry sectors for customer service purposes, which would also make them a likely method for submitting complaints.

The proposal that call charges are refunded is not realistic given technical limitations in refunding to the phone bill and substantial administrative cost involved in providing a refund by other methods.

Ofcom has not made explicit whether a requirement would exist for a company to issue a refund to customers who have chosen to call a 087 number, when a non-PRS alternative has been made available. We will therefore comment on both likely scenarios.

If it is envisaged that a refund would be required for any complaints received via the 087, even if a non-PRS line alternative exists, then we believe this proposal to be overly bureaucratic in order to except the consumer from the reasonable responsibility of dialing the correct number. If this is the intention then the Premium Rate Association is concerned that this proposal may lead to companies being exposed to an unnecessary and unavoidable financial liability, meeting the administrative costs of refund, should customers choose to phone the 087 number with their complaint rather than a dedicated non-PRS complaints line.

The alternative is that a refund would not be required providing an alternative non-PRS route exists for complaints. If this is Ofcom's intention, then we wish to raise concerns about the apparent lack of guidance on what would be considered the expect level and method for promoting the non-PRS route. We are also concerned that this will create the potential for public confusion in promoting multiple numbers and may lead to consumers, either mistakenly or intentionally, call the non-PRS line with other customer service related issues.

We believe that in either scenario the proposal to prevent companies from using the 087 prefix for customer complaints will create an overly bureaucratic system and inject ambiguity rather than clarity in the regulation of PRS services. Considering the low level of call costs involved we believe that the difficulties in implementation will far outweigh any public perception benefits.

Question 4: Do you have any comments on the proposed modifications to the PRS conditions?

We believe that one of the major hurdles to consumer confidence is the lack of pricing clarity regarding the cost of calls from mobile phones. Unfortunately, despite the considerable progress that this proposal is likely to make in providing consumer with

clarity regarding calls from fixed lines, callers using mobiles telephony will still be left uncertain as to the likely cost of their call. With a greater proportion of the population now selecting the mobile phone as their main and often sole form of telephony, it is becoming imperative that clarity is provided on mobile pricing.

It is our belief that Ofcom should use its position of influence to work with the mobile networks to address the huge disparity in call cost from mobiles to all PRS prefix. We believe that it through an amendment to the telephone numbering plan to reflect a straightforward and universal additional cost of call a PRS prefix from a mobile that customer harm can be minimised and consumer confidence restored.

The absence of an RRP for telephony is the crux of the problems affecting pricing transparency and hindering consumer confidence. Ofcom's failure to address this deficiency continues to be one of the major causes of consumer harm when accessing premium rate services.

Question 5: Do you have any comments about the Impact Assessment for these proposals?

Whilst there are some in depth calculations, these seem largely based upon hypothesis. Inadequate information is provided on the source of the figures used to carry out the assessment making it impossible to assess the accuracy of the findings.

The real cost to industry may be much higher in terms of the confusion over what needs to happen and by when to comply with indistinct regulatory proposals. Migration of numbers is a costly and complex exercise and a project of this magnitude needs to be performed based upon solid facts. No assessment has been made as to the loss of revenue suffered by organisations that have been forced to delay projects whilst this regulatory uncertainty is resolved.

Question 6: Do you have any other comments?

We believe that these proposals are well overdue. The slow process and uncertainty in their implementation has caused unnecessary cost to the industry and a needless delay in introducing measure that will benefit consumer. The industry deserves certainty in regulation and adequate time to implement agreed proposals, rather than months of ambiguity and little time to implement the specific requirements once agreed.

In conclusion the Premium Rate Association wishes to commend Ofcom for its decision to bring the 087 range under the scope of PRS regulation, thus closing the loop hole which has formally left the prefix open to possible abuse. We believe that these arrangements will provide much needed clarity and will lead to increased consumer confidence in the premium rate billing mechanism. Whilst we believe the proposals make a positive contribution to consumer protection, there remain a number of important issues that Ofcom must address, such as the implementation of a RRP for telephony to ensure that consumers are adequately protected.

