



**Consumer
Focus**
Campaigning for a fair deal

Consumer Focus consultation response: the new PhonepayPlus Code of Practice

July 2010

About Consumer Focus

Consumer Focus is the statutory consumer champion for England, Wales, Scotland and (for postal consumers) Northern Ireland. We operate across the whole of the economy, persuading businesses, public services and policy makers to put consumers at the heart of what they do.

Consumer Focus tackles the issues that matter to consumers, and aims to give people a stronger voice. We don't just draw attention to problems – we work with consumers and with a range of organisations to champion creative solutions that make a difference to consumers' lives.

The new PhonepayPlus Code of Practice

Consumer Focus welcomes the opportunity to put forward our views on the adoption of a new PhonepayPlus Code of Practice for regulating premium rate services (PRS). We are submitting this response to both the PhonepayPlus and Ofcom consultations on the new code, which are being run concurrently. This response is not confidential and we are happy for it to be published on the Ofcom and PhonepayPlus websites.

- **We are pleased to see a wholesale approach being taken to drafting the 12th edition of the PhonepayPlus Code of Practice, which will help to ensure the presence of a well-functioning PRS market that serves the consumers' interests**
- **We welcome the consumer centred approach of the new code, and support many of the new rules, guidance and definitions**
- **Currently, the wide range of charges for PRS and a lack of transparent information create a significant potential for consumer detriment, especially where services are accessed from a mobile phone**
- **We urge both Ofcom and PhonepayPlus to focus on the need to address currently low levels of price transparency in the premium rate services sector**

Consumer detriment

Consumer Focus believes that all consumers should have straightforward access to clear information about the costs of premium rate services. Transparent pricing information not only builds consumer confidence in services, but also enables consumers to control their spending, in order to avoid unexpectedly high bills.

However, research by Consumer Focus into pricing information in the PRS sector has indicated a concerning lack of transparency in the information available to consumers on the cost of services¹. These findings add to previous Consumer Focus research demonstrating that complexity in the mobile phone sector as a whole is a significant concern for consumers, with just one in five consumers finding the mobile market easy to navigate².

The premium rate services sector is popular among consumers, with over 10 million votes cast during the 2009 final of *X Factor* alone. The high level of consumer engagement in this sector means that a lack of pricing transparency potentially affects very large numbers of consumers.

In terms of the specific groups of consumers most affected, PhonepayPlus reports that the highest regular usage of PRS occurs among consumers on lower incomes, and in particular children from lower income families³. Charges for PRS tend to be highest for mobile users and can involve wide differences in price between mobile operators.

Ofcom evidence has highlighted a clear correlation between low income households and those without fixed-line phones, with 28 per cent of consumers with an income of £11,500 or below living in mobile-only households⁴. This means that those consumers that face the highest costs, and have the most to gain from transparent price information, often include those that are least able to afford them.

In addition, our research further suggests that the lack of transparent information could prevent some consumers from engaging in the market altogether⁵. It is in the interests of both consumers and businesses to ensure that accurate information on the cost of premium rate services is available to consumers.

PhonepayPlus Code of Practice

We are pleased to see a significant review of PhonepayPlus Code of Practice. The need for a step change in the rules and guidance contained in the code is illustrated by the fact that around two thirds of provisions in the 11th Edition of the code that could be raised as breaches have never been either raised or successfully upheld⁶.

We support moves to improve the transparency of PRS services. The measures that are being proposed, including the requirement on PRS providers to include their registration number and a clearly identifiable company name on their promotional material, should help to enhance consumer confidence in the market.

¹ This research is due to be published in summer 2010 and we will provide both Ofcom and PhonepayPlus with further details of its findings in due course.

² Research conducted by Harris Interactive for Consumer Focus in March 2009 found that, among an online panel of 2000 survey respondents, 22 per cent of consumers found the mobiles market easy to navigate.

³ PhonepayPlus consultation paper, *The new PhonepayPlus Code of Practice* (p.12)

⁴ Ofcom research report *The Consumer Experience 2009* (p.24) <http://bit.ly/caXeBG>

⁵ In an Omnibus survey conducted in March 2010 by ICM research for Consumer Focus, 81 per cent of respondents said they didn't vote for contestants on reality TV shows, with 21 per cent of these people citing the perceived high costs of voting as the reason.

⁶ PhonepayPlus consultation paper, *The new PhonepayPlus Code of Practice* (pp. 305.5)

We also support the move to a requirement for PRS providers to follow policies that ensure pricing information is 'prominent, legible, visible, and proximate to the means of access to the service'.

The information compiled by the registration database will allow more numbers to be added to the PhonepayPlus number checker, increasing its accuracy. The number checker is a valuable tool for consumers and the sort of measure that we would like to see rolled out across all network operators. In order to maximise the potential benefit that the number checker delivers to consumers, however, it could benefit from wider promotion to raise awareness among consumers.

The PhonepayPlus consultation paper explains that feedback during the life of the 11th Code of Practice suggested that the way in which the code's accompanying guidance relates to the code itself could be refined. In response to this, PhonepayPlus suggests simplifying the guidance into the fewest possible number of sources and formalising the status of the guidance in relation to the code. This should enable level 1 and level 2 providers to better understand their responsibilities and respond more quickly to new risks, as well as helping consumers to navigate and understand the code, should they need to. We support moves to increase transparency in the sector and pulling the guidance together into a single source is a welcome and logical step.

We particularly welcome the new rules intended to address issues of fairness in the delivery of PRS. These rules prohibit providers from taking advantage of any vulnerable group or any vulnerability caused to consumers by their personal circumstances, for example by targeting people on benefits, or those suffering financial hardship. We approve of the prior consent rules which put the emphasis on the company to prove beyond reasonable doubt that the consumer did consent to paying for a service.

The new rules that require companies to monitor and identify unusual patterns of behaviour and contact the bill payer in the event of unusually high usage are similar to those already in place in the financial services sector. We support moves to implement this regime in the PRS sector.

We support the suggestions made around spending caps which will give consumers more control of their use of PRS. Where caps exist on services that are aimed at, or expected to be particularly attractive to, children, we would add that an element of parental consent should be included in any agreement to engage in a premium rate subscription or one off service.

While there are many positive steps and suggestions in this consultation document, we have some additional comments about parts of the new code. The premium rate market can generate significant revenues for level 1 and 2 providers. This means it is a market that can attract scams which can lead to consumer harm. It is important therefore for PhonepayPlus to be able to identify and act on scams.

The proposals that will ensure the passing of responsibility for compliance with the code throughout the value chain are positive steps towards preventing fraud and reducing scams. However there will still be a need to monitor the market to prevent abuse of the new system and prevent providers from operating outside of the registration code.

Although the code marks a move away from prescriptive rules and a tendency toward guidelines rather than regulation, the new rules may require level 2 providers to alter contracts with their clients. It is important that an appropriate timescale for implementation is agreed, in order to avoid a situation in which the code itself or an individual contract is breached, without the safety net of a new contract or the new code being in place.

Recommendations to PhonepayPlus and Ofcom

While the changes to the code suggested by PhonepayPlus are positive steps, Consumer Focus remains concerned, for the reasons outlined above, about a significant lack of transparency regarding the price of premium rate numbers.

We understand that this is partly due to the reach of PhonepayPlus' remit, which includes regulation of the premium aspect of the cost of PRS, but does not cover costs added on by phone companies, which in some cases can be considerably higher than the costs regulated by PhonepayPlus.

However, we do believe steps should be taken by Ofcom and PhonepayPlus to address this lack of price transparency. Firstly, Ofcom should investigate the feasibility of a pre-call announcement, in order to provide accurate pricing information at the point at which a premium rate phone call is made. Secondly, Ofcom should use the opportunity presented by its review of non-geographic calls services to identify recommendations aimed at simplifying the market for consumers. Thirdly, PhonepayPlus and Ofcom should investigate and encourage ways for PRS providers to improve the communication of pricing information to consumers.

We look forward to continuing our engagement with PhonepayPlus and Ofcom to promote the interests of consumers participating in the premium rate services market.

Contact: Hannah Bullivant, Policy Advocate
Tel: 020 7799 7967
Email: hannah.bullivant@consumerfocus.org.uk

www.consumerfocus.org.uk

Copyright: Consumer Focus

Published: July 2010

If you require this publication in Braille, large print or on audio CD please contact us.

For the deaf, hard of hearing or speech impaired, contact Consumer Focus via Text Relay:

From a textphone, call 18001 020 7799 7900

From a telephone, call 18002 020 7799 7900

Consumer Focus

4th Floor
Artillery House
Artillery Row
London SW1P 1RT

Tel: 020 7799 7900

Fax: 020 7799 7901

Media Team: 020 7799 8004 / 8005 / 8006