

**Business Plan and Budget 2009/10
A PhonepayPlus Consultation**

A PUBLIC CONSULTATION

Issued by PhonepayPlus on Thursday 18th December 2008

The deadline for comment is Thursday 29th January 2009

Contents

Section		Page
Foreword		2
Executive Summary		4
Section 1	Our Purpose and Role	7
Section 2	The Three Year Strategic Plan 2008 -11: A Review of Performance	8
Section 3	The Market and Other External Conditions	14
Section 4	Looking Forward to 2009/10	16
Section 5	The Financial Picture	22
Section 6	The Levy Setting Process	26
Section 7	Summary of Questions	28
Section 8	How to Respond and Next Steps	29
Appendix A	Key Performance Data April – November 2008	30
Appendix B	Three Year Plan Task Progress	33
Appendix C	Summary Budget Table of Expenditure 2009/10	43
Appendix D	Trust and Trust Drivers With Phone-paid Services	44

Foreword

2008 will be remembered as a year of highs and lows in the phone-paid services market.

It marked the return of interactive television services to many TV channels which have all invested heavily in improved compliance procedures. We expect that, alongside a tightening of regulation, to mean that viewers can once again take part in this incredibly popular pastime with trust and confidence. The premium mobile market continues to grow, with mobile products and services a particular favourite among young people.

Unfortunately, trust and confidence in phone-paid services remains low. We have received more than 16,000 complaints so far this year, 90% of which relate to mobile – especially subscription services such as ringtones and other downloads. It's clear there are issues around misleading and unsolicited promotions that will need to be addressed before the market can fully realise its potential.

The global turmoil in financial markets is forecast to have an impact on consumer spending in 2009, and phone-paid services will not be immune. We forecast a contraction of 15% in the market. Businesses, as well as consumers, are already feeling the pinch.

We should take all of this into account when planning ahead for our own business. We have to recognise financial hardship in the businesses we regulate – and which pay the Levy that funds us.

However, our overriding responsibility is to safeguard the needs of the consumer. We must make sure we are well placed to deal with any and all issues they encounter in the market. Consumers must be protected at all times from unscrupulous providers and sharp marketing practices, especially during a downturn when they will be especially sensitive to unexpected charges. People must be able to use phone-paid services with confidence knowing they will receive what they wanted at the price they expected to pay. Only then will the industry be able to grow in a sustainable way.

In October 2007 we published a three-year strategic plan that outlined how we intended to regulate the industry and run our business. Against this vision we laid out a number of objectives and, a year on, I'm very pleased with our progress. We have achieved each to some degree, and some we can tick off completely. You'll see our performance against these objectives later in the document.

We will continue to work with providers on a strategic basis to resolve compliance issues. It is neither in our interests, nor those of businesses nor consumers, to pursue an agenda based purely on enforcement and punishment (though this remains an essential component in building trust). Rather, we must work with providers to help them comply with regulation and so prevent problems before they reach the market.

When planning ahead we wanted first to recognise the difficulties faced by the businesses we work with. That is why we have planned a number of efficiencies that will see us cut costs in a number of areas.

However, we must also recognise that economic hardship could tempt some providers into misleading consumers for short term gain. As times get tough, some might resort to outright scams. We must be on guard against this, and ensure we are ready to move against such abuses quickly, and in such a way as to act as a deterrent for others.

I therefore want PhonepayPlus to continue to invest in areas which will help us rapidly build trust in phone-paid services and at the same time, act quickly when scams emerge. Consumer education campaigns, for example, are a vital step toward building trust; a modest investment in research will allow us to serve businesses better; and we must be prepared for an expanded role as we take on regulation of the 087 number range.

Our proposed budget for 2009/10 is £4.5 million, an increase of 2.4% over last year's budget but a decrease in real terms. I see this as a budget which will improve efficiency and effectiveness and which delivers excellent value for money for stakeholders. However, I'm eager to hear your views. Please take the time to respond to our proposed business plan and accompanying budget.

I look forward to working with you in 2009/10 and wish you all happy holidays.

A handwritten signature in cursive script that reads "Alistair Graham".

Sir Alistair Graham
Chairman

Executive Summary

The proposed budget for 2009/10 is £4.5m. This is an increase of 2.4%, or £106,000, but represents a decrease in real terms. We believe this to be a budget that achieves improved efficiency and effectiveness recognising financial hardship in the industry, while ensuring PhonepayPlus is able to protect consumers from any and all instances of consumer harm.

Phone-paid services offer a convenient way to buy and enjoy products and services spontaneously. Recent innovations have allowed people to interact with TV programmes, receive news and travel alerts, make charitable donations and personalise their mobile phone with ringtones, logos and other downloads.

PhonepayPlus is the organisation that regulates phone-paid services in the UK. Our job is to ensure that anyone can use phone-paid services with absolute confidence, safe in the knowledge that they will get the goods they wanted at the price they expected to pay. The way we set out to do this is to pre-empt and prevent problems before they occur and to intervene quickly and effectively to protect consumers from harm.

- We **pre-empt** problems by researching the market and developing safeguards in association with the industry.
- We **prevent** harm by offering advice to businesses to help them comply with regulation, and by educating and informing the public so they can make informed choices and protect themselves from loss or harm.
- We **protect** consumers from scams and irresponsible behaviour by investigating problems and taking timely and effective action to stop harm. Where appropriate, we use punitive sanctions as a deterrent to other companies.

Three-year plan

In October 2007 we published a three-year strategic plan which outlined the way in which we would regulate the industry and run our business. Against this, we identified five objectives which would allow us to measure our success in delivering against the Plan. These were:

- Providing effective and proportionate regulation to the industry, based on research, risk assessment, market understanding and strategic intervention;
- Securing high levels of compliance within the industry through incentives, the consistent and high-performance application of our Code, and raising compliance standards;
- Ensuring the public are better informed about the services we regulate, our role as the regulator and their rights under the regulations;
- Be more transparent and accountable; and
- Ensure resources are fit for purpose.

Section 2 of this document provides an overview of the extent to which, one year on, we have delivered these objectives. Appendix B provides an explanation of how we intend to progress our work against each in 2009/10.

2008 highlights

This year has seen significant developments in the regulation of phone-paid services.

A Framework Agreement between PhonepayPlus and Ofcom was published in December 2007 providing greater clarity around the division of responsibilities between the two regulators in the phone-paid services market.

In February 2008, we announced that service providers looking to provide premium rate services to broadcasters must first seek permission. Taken alongside tough new rules also announced by Ofcom – and investment in compliance processes by broadcasters - the new regulatory regime has thus far protected viewers from any possible harm when participating in interactive television shows.

In April, we announced a streamlined approach to enforcement with the creation of a new Code Compliance Panel. This has allowed for a greater level of separation between the Board and the Adjudication Panel to enable the Board to focus on its strategic business and ensure increased efficiency and consistency in adjudications.

In July, we published our review of mobile phone-paid services and their marketing following many thousands of complaints. A Statement due early in the New Year, will set out a series of measures to protect the public from harm in this market.

In November, we launched an extension to PhoneBrain, an ambitious campaign to build trust in phone-paid services among young people. By providing teachers with curricula-friendly lesson plans that explain how teenagers can protect themselves and their friends from harm, it teaches how to discern a reputable service from one that might result in harm.

More generally, between April and November we answered nearly 56,000 calls from members of the public, who checked some 550,000 premium rate numbers using our online Number Checker tool.

Our website received 4.6 million page views over the last twelve months resulting from 653,000 unique visits.

During the same period we offered advice to more than 550 industry callers about the compliant operation or marketing of phone-paid services. We dealt with over 2,200 separate enquiries from providers or would-be providers about different aspects of the provision and regulation of services.

Looking ahead

The market in 2008 is estimated at £920m, 15% down on the 2007 figure. Research suggests that this decline is likely to continue into 2009 for a variety of reasons, which include:

- the economic downturn and associated reduction in consumer spending;
- a lack of trust in the market;
- maturation of existing services on offer; and
- the widening availability of free alternatives, especially on the internet.

2008/9 has seen an increase in complaints, reversing a downward trend over the last three years. In the period April and November 2008 we received 16,945 complaints of which 15,421 (91%) related to mobile content issues.

Some providers, driven by decreasing revenues and margins, may be tempted to seek short term gain at the expense of their customers and consumers more generally. It is essential for the industry at large that unscrupulous businesses are not allowed to further damage the reputation of the phone-paid services market to the detriment of reputable companies.

In 2009/10 we expect to make substantial progress on delivering our three-year plan. Among our key priorities are:

- Begin the debate around the composition of a new Code of Practice. Up for discussion will be where along the value chain the regulatory burden should fall and the extent to which the Code is led by principles or prescription.
- Widen our scope of regulation to include 0871 numbers. Ofcom will soon decide whether to include the 087 number range within the scope of premium rate regulation. We must be prepared to assist companies, should they have to undergo the transition to regulation under our Code of Practice.
- Benchmark mobile compliance following our Mobile Review. New rules will come into effect early in the new year which we expect to resolve issues faced by consumers of mobile phone-paid services. However, we must not be complacent and we must monitor the market to ensure the right result has been achieved.
- Keep broadcast phone-paid services under review. A new prior permissions regime for service providers is underway, and several licences have been awarded. We expect this, along with other new regulation and compliance processes in place, to rebuild trust in this important area but, again, we must guard against problems re-emerging.
- Further develop targeted approaches to systemic compliance failings. We want to broaden our engagement with industry to develop a better understanding of what impact technology and market changes will have on regulation. We must also continue to work with businesses on a strategic basis to address systemic challenges to compliance.
- Finally, we will review the consumer's experience when his or her interaction with phone-paid services goes awry. We will evaluate the different approaches to customer services and complaints handling and, where necessary, recommend and implement changes.

We wish to gather your views on our priorities for next year, and the budget we have proposed to allow us to deliver against our objectives. Information on how to respond is contained in Section 8. The closing date of 29th January 2009 is a shorter time period than normal for PhonepayPlus consultations due to the need to seek Ofcom approval of the Budget and publish the Levy in good time for the start of the financial year 2009/10.

Section 1

Our Purpose and Role

Background

PhonepayPlus is the organisation that regulates Phone-paid services in the UK – the services and goods that we can buy by charging the cost to our phone bills and pre-pay.

OUR VISION

Our vision is that anyone can use phone-paid services with absolute confidence.

OUR MISSION

To deliver consumer protection where services are charged to some form of telecommunications account. We work with the industry to understand new challenges and pre-empt problems, to build understanding of our Code of Practice and to maximise compliance. We provide the public with information to allow people to make informed choices and protect themselves from loss or harm. Where necessary, we will investigate problems and take timely and effective action to stop harm.

OUR VALUES

Effective

We want a market in which the public can trust services in the knowledge that they can exercise choice with confidence. A market, too, in which businesses can trust in a well-designed Code, proportionately enforced, that allows them to invest and innovate with confidence. We pre-empt and prevent problems in the market we regulate and deal with misconduct in ways that ensure it does not happen again.

Accessible

We are a well-understood and easy-to-reach first port of call for advice, information and support for consumers, content providers, networks, the media, government and public agencies.

Independent

We will listen to both sides of the story, look at the facts and act decisively but always on a basis proportionate to the size of the problem. We will always work with industry and other bodies to build our understanding and improve our effectiveness. But we will not lose sight of the importance everyone places on the independence of decisions relating to our Code and its enforcement.

Collaborative

We will work closely with all interested parties to encourage a safe and dynamic regulatory environment. We aim to be more enabling, creating a climate for investment and innovation.

Principled

We ensure that real choice and genuine security are created by the standards we set. We aim to build more trust across the market.

Confident

Our action is evidence-based in such a way as to command wide confidence. Our decisions and communications are clear and give stakeholders certainty on where we stand.

Section 2

The Three-Year Strategic Plan 2008-11: A Review of Performance

2008/9 Performance to date

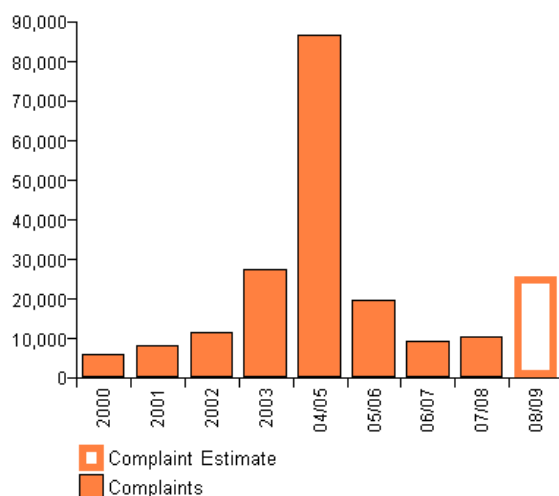
Under our Framework Agreement with Ofcom, PhonepayPlus is committed to measuring performance against a number of indicators. These relate to the efficiency of our contact centre, the speed with which we process complaints, the way in which we deal with 'out of remit' contact from the public, our speed in processing cases, to maximise the recovery of fines imposed and the general level of public satisfaction with our service. During 2009 we expect to review these key indicators with Ofcom to ensure they continue to be appropriately aligned with our strategic objectives.

Information on performance against these key performance indicators (KPIs) is set out in **Appendix A**.

In respect of complaints, as is seen from the table below, 2008/9 has reversed the trend in terms of a decline in complaints over the last three years. In the period April – November 2008 we have received 16,945 complaints of which 15,421 (91%) are mobile-related matters. The prime reason for this has been the overwhelming growth in complaints about mobile phone-paid services. The actions taken by PhonepayPlus to address this through the Mobile Review are set out fully later in this document. This is clearly a disappointing development but one that we are working to reverse. We will continue to engage the industry to support us in this.

In respect of the Lead Investigation KPI, after 1 August 2008 we altered the way we classify this aspect of our work. Lead investigations are now therefore those that are more likely to result in adjudication at Tribunal. The complex nature of these investigations together with the Tribunal processes have resulted in the majority of these taking longer to complete than the target of 12 weeks. This area of activity will be reviewed in 2009 as part of our review of our complaint handling processes – see Section 4 for more details.

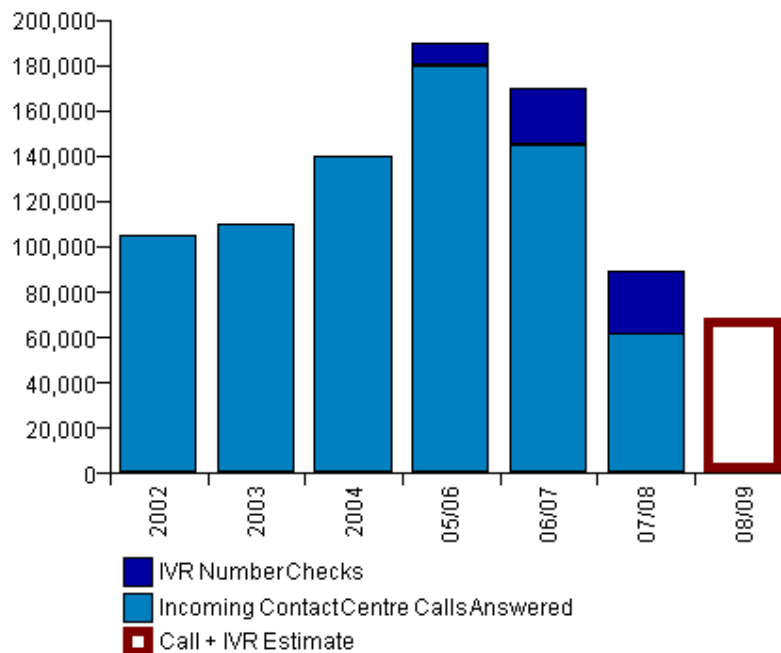
Annual Number of Complaints



In the period April – November 2008 we offered nearly **39,000** calls from the public and project this rise to 68,000 by the end of March 2009. This is shown in the table below. In addition consumers and businesses carried out **550,000** number checks using our automated Number Checker on the PhonepayPlus website. These checks were evenly divided between mobile short codes and 090 number look ups. As will be seen from **Appendix A**, in 6 of the last 8 months we met or exceeded our KPI target of answering calls within 30 seconds.

The website itself remains as well used as ever, having had **4.6 million** page views over the last 12 months resulting from **653,000** unique visits.

Annual Contact Centre Calls & IVR Number Checks



Industry guidance take-up

In the last 12 months we offered advice on **558** occasions about the operation or marketing of services. We dealt with just over **2,200** separate enquiries from providers or would-be providers about different aspects of the provision of phone-paid services – a 240% increase over the previous 12 months. This is separate from the numerous meetings we have held with service providers and others where we have discussed regulatory and compliance issues in detail.

The Three Year Plan

Our Three Year Strategic Plan for 2008 - 11 was published earlier this year and set out our strategic objectives for providing the best regulatory environment for consumers and industry alike. Our vision has at its core the need for all consumers to be able to use phone-paid services with absolute trust and confidence. If consumers are able to do this then the market will be less constrained than it is today by the poor perception that some consumers have about phone-paid services.

Our Three Year Plan identified five objectives which would focus our work for the life of the plan. These are:

1. **Providing effective and proportionate regulation to the industry, based on research, risk assessment, market understanding and strategic intervention;**
2. **Securing high levels of compliance within the industry through incentives, the consistent and high-performance application of our Code, and raising compliance standards;**
3. **Ensuring the public are better informed about the services we regulate, our role as the regulator and their rights under the regulations;**
4. **Be more transparent and accountable; and**
5. **Ensure resources are fit for purpose.**

These objectives were set alongside our medium term financial strategy where we made a number of assumptions about the market and its development and growth. In many respects, these assumptions have not materialised for reasons that could have been forecast when the plan was under construction.

The key financial assumptions we identified were:

The market size: That the market would remain subdued in 2007/8 but that it would increase during the period of the Three Year Plan, returning to or exceeding recent levels. This assumption paid regard to the inclusion of 0871 services which it was noted would be added shortly.

Complaints: Assumptions were made as to conduct in the market and the impact of regulation in preventing problems arising. We assumed, for example, that by the end of 2007/8 we would see some reduction in the need to open individual cases, and instead deal with issues in a more effective and strategic manner, working closely with industry to resolve consumer difficulties.

Cost of regulation: With assumptions of steady but unexceptional market growth and the goal of achieving further success in building compliance, we said that we would aim for a reduction of up to 10% in the cost of regulation in relation to the size of the market regulated. We further stated that this would pose a challenge in terms of achieving efficiency improvements in relation to core operational activity. Section 5 of this document explains how some of our activity costs are driven by stakeholders and therefore not entirely within our control. However, we asserted that we should aim to achieve a 10% reduction in real terms in cost per case investigated and an equivalent 10% reduction in the cost per call handled.

Each of these financial assumptions is in need of re-assessment in light of a changing market and changing issues in compliance failings. In respect of the market there now appears to be more uncertainty than was hitherto the case, in part linked to a global recession that the market will grow to the same extent that we predicted earlier this year.

In respect of complaints, the changes we assumed about achieving greater compliance and thus reducing the burden of complaints and inquiry costs have arrived slower than expected. The Mobile Review, published earlier this year, set out some specific concerns about the trend in complaints in that area, which now make up some 90% of our complaints on an on-going basis. That said, we remain confident over the medium term that the issues raised by the Mobile Review are capable of being addressed and greater compliance will be achieved in that market, resulting in a downturn in complaints.

In respect of the cost of regulation, we remain committed to being efficient and effective with our resources and to reducing the cost of regulation wherever this is possible. We explain this more fully in Section 4. Having altered some of our processes in the last financial year, we have no benchmark date for case and call costs which provide accurate comparison, though we have prioritised a further review of complaints and call handling in 2009/10. However, as we set out later in this paper, the cost of regulation has a minimum indivisible element attached to it – any regulator will need to incur certain costs in order to operate in such a way as to be of value. That said, where we can, we are seeking efficiency savings as we demonstrate in Section 5 of this paper where we set out our financial plans for 2009/10.

Q1. What comments do you have on the five objectives we set out in the Three Year Plan? Do you think they are still relevant and appropriate? What priorities or themes would you identify for consideration as part of our Review?

In **Appendix B** we outline the progress we have so far taken under the above five strategic objectives and the underlying tasks that we set ourselves over the three years of the Plan. During 2009/10 we plan to review the assumption and the focus of the objectives we set in the Three Year Plan to update it accordingly.

This assessment of our five strategic objectives, with a subsequent twenty specific and targeted actions, shows excellent progress already after just nine months. Indeed, we have achieved each to some degree, if not fully. As we move into 2009 we expect to review these objectives and underlying actions and re-prioritise them, or where necessary add new ones, reflecting a changing external and conditions.

Q2. Do you have suggestions on specific strategic objectives and tasks – or a re-prioritisation of existing ones - that you think PhonepayPlus should consider as and when we review our Strategic Plan in 2009?

Specific Developments in 2008

We highlight below some specific developments in 2007/8 that are worthy of particular note:

The PhonepayPlus Board and the Ofcom Framework Agreement

The Framework Agreement between PhonepayPlus and Ofcom was published on 3rd December 2007 and sets out in clear terms the relationship between Ofcom and PhonepayPlus for the regulation of phone-paid services. The relationship has worked well and delivered tangible benefits, delivering clarity for businesses in regard to the division of responsibilities between Ofcom and PhonepayPlus. This is supported at the Board level by the inclusion of a senior Ofcom partner at our Board meetings as an observer.

During the year some Board members completed their terms of office. Replacement members draw on a wide range of experiences, including industry understanding and knowledge, and are strategically focused on assessing the market and its regulatory needs in order to secure compliance. With the exception of a small number of non-industry Board members who maintain links with the CCP by sitting on a select number of hearings, there is now greater separation with the new adjudications process details of which are set out below.

CCP launch

In 2006, PhonepayPlus recognised the need to create a greater separation between the Board's strategic role and its adjudication function, and the benefits to be derived from separating these functions and their respective skill sets. As a consequence, following

consultation and Ofcom's approval of necessary Code of Practice (Code) changes, PhonepayPlus established a Code Compliance Panel (CCP) reporting to the Board.

The CCP consists of people with the professional and other relevant skills and resources necessary to assure the quality and timeliness of adjudicatory work. The CCP was established in April 2008, following appropriate induction and industry training for its members. Its tribunals meet fortnightly, and hear investigated cases, together with applications for reviews and prior permissions. In addition, CCP members are called upon to deal with the application of emergency procedures for the investigation of very serious cases.

The Chair of the CCP, a solicitor with substantial experience of chairing tribunals, reports at each Board meeting on the number and type of cases heard by tribunals, emerging trends in complaints, policy issues, and matters of Code interpretation. The CCP meet together regularly as a forum to discuss consistency and transparency in decision making, and the effectiveness of the sanctions available to impose for breaches of the Code. CCP members are subject to ongoing training, and are able to be re-appointed following an appraisal of their performance by the Chair.

A review is planned as to the effectiveness of the CCP in achieving its stated outcomes, due before the end of the current financial year. It is anticipated that any operational recommendations will be implemented immediately.

After almost one full year of operation a clear budget is now available for the cost of the CCP, which is charged for primarily under the 'polluter pays' principle by the Administrative Charges imposed on companies judged to be in breach of the Code.

Mobile Review

On 17 July 2008, following a sustained period of growth in complaints about mobile premium phone-paid services we issued our Mobile Review consultation document which presented the evidence of the harm generated by a persistent minority of providers in the market. The Review addressed itself to a range of issues which seem to lie at the core of the problems consumers are facing. These include issues relating to unsolicited SMS promotions, and a lack of transparency to the consumer as to the potential total cost involved in engaging with some services, especially those that charge "joining fees" and use the subscription model for charging for content. The Review closed for comments on 11 September. We received a good many constructive and helpful responses from a wide range of stakeholders. This will culminate in a Statement that will be issued shortly setting out the targeted regulatory action PhonepayPlus will take to address these issues.

Broadcast PRS

In February 2008, following the previous year's problems relating to premium rate interactivity on TV, PhonepayPlus announced that it was introducing a requirement that providers wishing to operate services for TV must be granted prior permission to do so. This would only be awarded where the service provider clearly demonstrated their ability to meet a series of strict conditions designed to ensure compliance and help rebuild viewer confidence in TV votes and competitions. Over 30 applications were received and, following a robust examination of the proposals by the PhonepayPlus Executive and CCP, the first tranche of permissions were granted in October. Further applications continue to be reviewed by Tribunals and in tandem with this work the Executive are making a series of visits to service providers responsible for high profile, high interaction shows to look at how the process is working in practice and ensure that standards are being maintained.

Industry Support

The Industry Support team has continued to grow its compliance advice function in 2008; developing lines of communication and beneficial relationships that support networks, service

and content providers, publishers and broadcasters in developing innovative products. In addition to the provision of advice, the team also meets regularly with stakeholders to discuss compliance with the Code and provide feedback on current hot topics. This year has also seen the team develop its role in working with service providers found in breach of the Code, where targeted sanctions have been imposed that seek to identify and correct the root causes of non-compliance. This has in turn led to the development of best practice material that can be shared with other stakeholders by way of the network of relationships built through the Industry Support function. The team has recently been merged with our policy function which will bring added benefits to the way we work and engage on policy issues.

PhoneBrain

www.PhoneBrain.org.uk is a website aimed at 7-12 year olds that we launched in 2006 to educate young people about phone-paid services: how to recognise them, the costs involved and what to do if they encounter a problem.

In November 2008 we launched an extension of the PhoneBrain brand, aimed at teenagers. This is based on evidence that shows that thousands of young people use these services every day to download ringtones and other mobile personalisation products, participate in TV programmes, enter competitions and receive information alerts. Unfortunately, some are subject to scams and misleading marketing practices – hence the need for the Mobile Review (see above).

The ultimate objective of PhoneBrain is to build trust in phone-paid services among this important demographic. It is an ambitious campaign to speak directly to teenagers about phone-paid services. We are providing teachers with curricula-friendly lesson plans that will explain the threats and opportunities presented by the market and how they can protect themselves and their friends from harm. By partnering with youth-friendly personalities like Peter Jones and brands such as Ministry of Sound and Adobe we've sought to make the lessons both fun and informative as possible.

Live Entertainment Services Compensation Scheme Arrangements

During the year we consulted on the adequacy of the compensation scheme arrangements for a small number of Live Entertainment Services. After consultation we concluded that the continuing need to retain a communal compensation scheme for such services would no longer be necessary. However, the continued need for a bank-based bond was seen as important and would continue to ensure that consumers are protected in this area. The Compensation Scheme Fund contains some £600,000 which the Trustees who administer it will arrange to be dispersed to relevant service providers during 2009.

Section 3

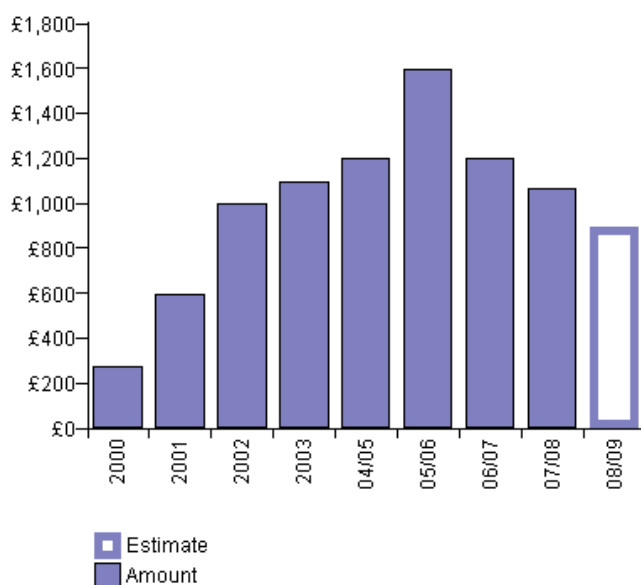
The Market and Other External Conditions

It was recently reported that Nokia, the handset manufacturer, expects global sales of handsets to contract in 2009, for only the second time. However, this overall decline may mask a shift, with the potential for significant growth in the sale of “smart” phones. Informa, the market research firm, reports that the market for smart phones will grow globally from \$39 billion in 2007 to \$95 billion in 2013. This change, combined with more customer-friendly data plans may incentivise the take-up and use of richer media services on mobile and encourage the growth of content and data services, some of which are likely to be monetised using phone-paid services as a charging mechanism.

Phone-paid services statistics commissioned by PhonepayPlus¹ points to a gloomy picture for the market in 2008; estimated at £920m, 15% down on the 2007 figure. This prediction, which was supported by a range of data including interviews with key industry stakeholders, is more pessimistic than quarterly forecast returns received from the Operators, which suggests that by the end of September 2008, on a like for like basis with the same period in 2007, the market had declined by 6%.

We set out below the annual size of the market in the UK phone-paid services industry for all areas regulated by PhonepayPlus for the period 2000 through to 2007/8. The figure for 2008/9 is projected at this stage.

Annual Size of UK Industry (£m)



The research also suggests that this decline is likely to continue into 2009, in part the result of the economic downturn, in part due to slowness in rebuilding trust, and in part because would-be consumers are reluctant to engage with what some industry stakeholders consider an ageing

¹ Research commissioned and undertaken by Analysys Mason on the Phone-Paid Services market is available to download at www.phonepayplus.org.uk

portfolio of services. The decline may also be attributable to the widening availability of free alternatives, especially on the internet, and because some providers may be finding alternative billing mechanisms outside the scope of regulation by PhonepayPlus.

Any predictions for this market are fraught with risks, because of the fact that many are bought on impulse. However, some services operating on the fixed line platform are considered to be most vulnerable to a reduction in revenue. Services operating on mobile handsets are likely to resist a downturn, and perhaps even grow, albeit those using subscription models may face a decline if they are operating outside of a compliant framework. Opinion within the industry varies widely; it appears that some providers are better placed than others to withstand changes in the economic outlook. There is optimism among some that their products are seeing growth, in some cases due to increasing popularity, in others because of consolidation in the marketplace.

In previous years, many new and exciting product developments have been touted as the next big thing. At present, expectations for 2009/10 appear more modest, perhaps restricted to growth in “richer” service use and “widgets” with the early-adopters; those who have embraced the functions that come with large-screen handsets.

One opinion that appears to hold up across different economic sectors is that during an economic downturn, unscrupulous activity is likely to increase. The phone-paid services market has always been vulnerable to scams, and in spite of increased attention to managing market risk, and changes in our regulatory practice, we are concerned that there will be a number of new and more sophisticated scams in the coming year. There is a likelihood of an increase in sharp practice as unscrupulous providers seek to protect their declining incomes by taking advantage of vulnerable consumers.

Q3. What information or evidence do you have about market trends and about the overall size of the phone-paid services market in 2009/10?

Q4. What information or evidence do you have about any specific segments or content areas and their potential for real growth or decline over 2009/10?

Section 4

Looking Forward to 2009/10

As we move into 2009/10 we have a clear sense of a number of challenges which, once met, will build trust in phone paid services. We also recognise, as the UK economy moves into recession, that this may have a range of consequences for the provision of phone-paid services. A recession will have a disruptive effect on some business models currently deployed in the market and in situations such as these it is not unreasonable to expect some players to exit the market in such tough trading conditions. As a regulator we are mindful of the need to watch for downside risks that some of those players may cause consumer detriment as their outlook moves from long-term to short-term.

The actions we detail below are the high level priorities which we have identified and which we believe, taken together, will enhance trust, consumer confidence and ultimately usage of phone-paid services. This is an ambitious range of activities and we recognise that their delivery in part rests on the support and co-operation of a variety of external parties. We are committed to working with trade bodies, our Industry Liaison Panel (ILP), fixed/mobile operators, aggregators, consumer bodies and other interested parties to deliver what is in many aspects a shared agenda.

We use the five strategic objectives from the Three-Year Strategic Plan as a framework in which we set out these actions and aims. These are:

1. Providing effective and proportionate regulation to the industry, based on research, risk assessment, market understanding and strategic intervention

Commit resources to a producing a new (12th) Code

Work has now commenced on scoping the project which will deliver a revised and new 12th Code of Practice (in 2010). As part of our planning for this review, we identified the need for extensive consultation at early and all relevant stages of the project life-cycle, to ensure that the views of all parties can be taken on board as we identify the key areas for review. As part of this exercise we have already undertaken an early round of pre-consultation in order to identify the big themes on which we will need to focus our resources. The early themes we have identified and which will need addressing through 2009 with stakeholders include:

- the extent to which the Code should be driven more by clear principles and less by prescriptive rules;
- where along the value chain the burden of regulatory enforcement should be placed or distributed;
- the extent to which we should continue to make use of prior permission for the licensing of certain forms of service;
- the adequacy of the sanctions at the disposal of PhonepayPlus as a deterrent to repeat offenders;
- the arrangements and funding model for PhonepayPlus.

These are significant issues. We recognise that getting them right is a considerable undertaking and that we will need effective dialogue and engagement with stakeholders on these matters at all stages of the project. Our project plan is designed to ensure that we achieve this and we look forward to working with everyone with a close interest to ensure we set a Code that continues to be fit for purpose in a changing and dynamic commercial environment.

Engage with Ofcom on its Scope Review

Closely linked to the review of the Code of Practice is our continuing engagement with Ofcom as it finalises its review of the scope of regulation of the services we regulate. We have provided

considerable input to Ofcom on this project and provided detailed information and data as it undertakes this review. We expect to continue to support this review as Ofcom finalises it during 2009.

Widen our scope to include regulation of 0871 numbers

Ofcom's second consultation on proposals to extend premium rate regulation to the 087 number ranges was published in May. PhonepayPlus immediately began work on a detailed implementation plan to ensure it – and 087 service providers – would be ready, should Ofcom decide to go ahead with its plans.

This plan highlights the work necessary to prevent and pre-empt problems following a transition to regulation under the PhonepayPlus Code of Practice. This includes the development of Help Notes, Q&As and scripts – as well as training for contact centre and industry support staff. We have begun to research likely migration patterns into and away from the number range following the changes; as well as consumers' expectations of regulation in this area.

The plan also includes training for the Investigations Team and Code Compliance Panel, so that – where necessary – cases of non-compliance can be resolved efficiently and proportionately, and consumers are protected from repeat offences.

Increase the research activity we undertake, especially in benchmarking trust

We have made provision for a modest increase in our budget for 2009/10 in the area of research. This is primarily driven by the need to benchmark and report consumer trust in the use of phone-paid services. The issue of trust and its measurement is a complex one. We explore the issues involved more fully in **Appendix D**.

As is said in **Appendix B**, for the first time in 2009/10 we expect to issue a plan outlining our main research priorities for the year. Such research we see as integral to being a well informed, proportionate and evidence-based regulator. We also recognise that such research provides the industry with useful market data about the sector, its make-up and customer behaviours and perceptions that may help with commercial planning.

2. Securing high levels of compliance within the industry through incentives, the consistent and high-performance application of our Code, and raising compliance standards

Continue to benchmark compliance and identify strategic solutions to address consumer concerns

As stated in Section 2, having concluded our Mobile Review, in 2009 we expect to keep the outcomes of the Review under close scrutiny and take such action as may be necessary to ensure that compliance in these services is achieved and that consumer detriment is minimised. In order to achieve this, we recognise the need for closer and better co-operation with parties across the value chain and want to build on opportunities to incentivise compliance. An example of this was ongoing dialogue with some aggregators during 2008 regarding various consumer protection issues and the agreed introduction of enhancements to their due diligence arrangements.

Beyond this, and recognising that a small minority of providers unfortunately will not respond positively to incentives to comply, we will also work to resolve those problems by a series of other measures. Where necessary engage other enforcement agencies with whom we have, or are building, good links. These include the OFT, Trading Standards and the newly created National Fraud Strategic Authority.

Market risks and compliance failings

We have been developing a market-risk based approach to evaluating and looking for early warnings of potential detriment and compliance failings in the market. In 2009 we will keep this model under review mindful of the need to watch for practices caused by a disruptive business cycle that has moved into recession. Some businesses will see an interest in running scams in such a market, especially where their business model comes under sustained economic threat.

Scams using 070 Follow Me Anywhere numbers

In 2008 we have encountered and taken action against a number of services which have sought to misuse the revenue-share opportunities available on 070 numbers. We will continue to take robust action against such services which seek to encourage consumers to call 070 numbers for no other purpose than to charge them a cost of call. We have a zero tolerance approach to scams and will continue to work with all relevant agencies, including law enforcement bodies to stamp them out.

Keep Broadcast PRS under review

In 2008 we put in place additional regulatory safeguards, via a prior permission regime, for service providers which provide components of Broadcast PRS services. Having now approved many providers to supply such services, we will during the course of 2009 undertake a range of spot-check monitoring and inspection visits of those providers to ensure that they continue to provide these services in accordance with their prior permission certificates. This activity is one that we know has the support of a number of providers in the industry, many of which have invested heavily in compliance systems and processes designed to ensure that the problems of 2007 are not repeated.

Undertake a fundamental review of customer service and our complaints process

During 2009 we will review from end-to-end the consumer's experience when s/he has a problem with a phone-paid service. Anecdotal evidence from our own Contact Centre, which will be tested through detailed research, is that the customer service experience through operators, service providers and information providers can sometimes be a frustrating one and lead the consumer to have to make many contacts in order to resolve their enquiry or possible complaint.

We will review our own customer service processes in terms of the handling of enquiries and complaints from the public. We will look to find better ways of helping to resolve queries and complaints and to develop more efficient and effective ways of working. As this project develops we want to engage with consumers and industry providers to discuss these interface issues in more detail and identify better ways to serve consumers. After all, a consumer's treatment at the point at which they have an inquiry or complaint can have a significant and lasting impact on their trust in, and future use of, phone-paid services.

This activity is one where we will engage industry to find better ways for the handling of consumers in the value-chain. This is undoubtedly an area where some improvements and efficiency savings could be found as currently a considerable amount of PhonepayPlus cost is wasted on dealing with poor communication and customer care in the value chain prior to a consumer reaching us.

Information Provider Cases ("IP Pass-Through")

The current Code makes provision for PhonepayPlus to deal with the Information Provider in certain circumstances when it comes to alleged breaches of the Code. We will keep these arrangements and our processes under review and have already committed to producing additional guidance about the circumstances involved in allowing IP Pass-Through.

Broaden and improve our engagement with industry in order to drive better compliance and understanding of market and technological changes

The Industry Support & Policy team has a number of key objectives for the next year that will seek to build upon existing achievements. Most important of these will be the management of relationships with a new stakeholders involved in the provision of services operating on the 0871 prefix, as Ofcom decides whether PhonepayPlus should take over the regulation of this area in 2009. The team is also planning an on-line toolkit that will encompass new ways of communicating with industry.

3. Ensuring the public are better informed about the services we regulate, our role as the regulator and their rights under the regulations

Broaden our consumer education campaigns in targeted ways

Consumer education is an essential component to building trust in phone-paid services. Having access to the tools and information they require to make informed purchasing decisions gives consumers the confidence to take advantage of the many worthwhile services on offer.

PhonepayPlus has carried out a number of communications campaigns during 2008 aimed at increasing consumer knowledge of – and therefore confidence in – the market and the way in which it works. These include the launch of SMSus (see below) and the PhoneBrain initiative discussed earlier. These campaigns highlight the positives in phone-paid services whilst also raising awareness and understanding to empower them to take decisions with confidence and understanding the nature of such services.

We will continue to carry out further consumer education campaigns throughout 2009 – see Section 5 for more details as to the budget implications.

We will seek to build partnerships with peer regulators, consumer protection agencies and industry and media owners/brands so as to extend the potential reach of the campaigns. We will also look to raise awareness of PhonepayPlus and the facilities and tools it offers consumers.

4. To be more transparent and accountable

Publish Quarterly Performance and Market Data

During 2008 we have been sharing with the ILP key metrics with regard to our performance and market data generally. From November 2008 we commenced publishing this information on a quarterly basis and will continue to do so in 2009. We will amend these reports where feedback suggests that such changes would be helpful and this is cost effective to deliver.

Published Adjudications

For many years we have published the outcomes of our adjudications and more recently published these in electronic form on our website. The precise format of the substantive and summary adjudication reports is one we keep under review. In 2008 we made some adjustments to the presentation of these reports following stakeholder feedback and we will continue to ensure that our published adjudications clearly and transparently set out the facts of the case and the extent to which each party was responsible for Code breaches.

ILP

The Industry Liaison Panel is an advisory panel that helps to identify emerging trends and issues, and more generally facilitate a two-way communication between the industry and PhonepayPlus. The relationship exists to ensure regulation is well informed by sharing concerns, information, ideas and proposals. We will work with the ILP in 2009 to develop a number of actions that are mutually supportive and build on our understanding and knowledge of the market, and better pre-empt issues in the market that may require regulatory action. We will look to the ILP to therefore take responsibility for a number of strands of work which could

contribute to a more compliant sector where trust amongst the public is enhanced as a consequence of improved transparency, service delivery and customer care.

In light of the earlier comments (in Section 3) about the potential for scams to emerge in a market facing a downturn, we also look to ILP, and their constituent trade body members, to provide intelligence of such problems so facilitating the early identification and removal of such problems which can only undermine trust and confidence in the market.

Develop a new website

During 2008 it became apparent that the current website was no longer fit for our regulatory purpose, particularly in its failure to properly address the needs of consumers and businesses. A new website will have greater functionality and will therefore better serve stakeholder needs with an enhanced online interactive experience.

That is why the decision has been taken to build a new web presence. One that would deliver the tools and information needed by consumers and industry; harness the opportunities of digital technology to educate and inform consumers more widely; and do all of this in the most cost-effective way possible.

PhonepayPlus will seek stakeholder input during its development with a view to launching the new site in the second quarter of 2009.

5. Ensure resources are fit for purpose

Seek efficiency savings

We have merged the role of Director of Legal, and Director of Corporate Services, thus making a considerable saving at Leadership team level. We have also reduced the IT support team by 1 FTE, by training existing staff to provide comprehensive desktop support and systems backup. This will create a net 0.83 FTE saving.

We are planning to outsource our payroll function. By acquiring an inexpensive software interface, we will be able to directly transpose HR information into the payroll database, which can then be co-ordinated off site – thus saving over 20 days work per year.

We are also acquiring software that will automate job applications through our website, and software to automate the issue of invoices. This will make our small corporate services team more responsive to the needs of the organisation without increasing headcount.

Notwithstanding a proposed budget increase for legal activities, we continue to reduce our dependency upon external legal advisers by undertaking significantly more work in-house. This has the added advantage of creating a database of knowledge and experience that can be shared more widely throughout the organisation, thus enhancing the quality of investigations and presentation of cases for adjudication, and improving internal decision making. We have also developed standard contracts for use with suppliers.

Invest in our staff and ensure they continue to be appropriately rewarded and developed in a continuing change management context

We have a long term strategic commitment to improve the quality and level of skills and experience of our staff, through our recruitment, training, and performance management processes. We have developed an HR strategy to achieve this, which will be implemented in the forthcoming year.

An HR strategy over a 1-3 year horizon is a new initiative for PhonepayPlus, which has been promoted and supported by the Board who can draw upon a wealth of experience in their own organisations, and can demand demonstrable and regular progress.

Financial Systems

During the course of the year we reviewed our financial controls and systems from the perspectives of the capacity of the systems to prevent fraud, and to respond effectively to perceived threat. Although we have never been subjected to instances of fraud, it is still essential that we have fit for purpose systems and controls in place, which the review confirmed.

Secondly we looked at our procurement and contract management practices, to ensure that we were getting best value for money from our suppliers. We developed a new and more comprehensive procurement model, have required a business case to be presented for key items of expenditure and have applied project management procedures for delivering key changes in our systems.

We intend to build upon these developments, and will conduct a formal audit of the effectiveness of our financial systems. We will also review the efficacy of our Scheme of Delegation, and evaluate whether the intended benefits from our procurement model have been realised in relation to completed capital and other expenditure.

We will continue to ensure that our invested funds realise good rates of return within a safe environment.

IT systems

During the course of the past year, we have continued the phased replacement of outdated desktop computers and the upgrade of Microsoft Office to the 2007 version, which we intend to complete during the forthcoming year

We have developed fixes and changes to our document management system, to ensure that it is operating at an optimal level throughout the organisation, and is used appropriately. We have created a uniform information management system, with standardised taxonomy and advanced search features, thus saving time and effort in locating documents, and ensuring that corporate knowledge and know-how is effectively preserved and available for future use.

We will shortly be replacing our existing phone system, which is now more than 6 years old, with a new system that is more robust and flexible, and that will meet the future demands of PhonepayPlus. The new system has a number of features essential to our regulatory function, and during the year we will acquire additional functionality that will significantly improve our ways of working and of responding to both major and minor incidents affecting business continuity.

Q5. Do you agree with these priorities as actions for 2009/10? If not, please explain why not with alternative suggestions.

Q6. What action or support could industry providers offer in order to assist us in delivering these priorities?

Section 5

The Financial Picture

The proposed budget for 2009/10 is £4.5m. This is an increase in spending of **2.4%**, £106k but in real terms a decrease. Taken together with the activities set out in Section 4 and RPI², we see this as a budget that achieves improved efficiency and effectiveness and which represents excellent value to stakeholders. We do of course recognise that market conditions are such that the appetite for regulatory cost to increase will be limited. However, it should be borne in mind that the size of the market and its growth cannot be the sole determinant of the necessary cost of regulating to protect consumers.

In setting our Budget we have included the additional responsibilities for regulating 0871 services just as we did in the current budget for 2008/9. The timing and actual level of increased workload that we are likely to face from this additional responsibility is extremely difficult to quantify at this time for reasons that are made clear in our Market research report produced by Analysys Mason and published alongside this document.

Regulatory and Activity Driven Costs

As well as detailing the costs associated with the Business Plan activities which we identify in Section 4 above, we have also identified, for the first time, the minimum activities associated with provision of a stand alone regulatory body, the cost of which are indivisible from any activity that we undertake as consequence of existing. These costs can be construed to be the core costs of PhonepayPlus and include items such as:

- The Board and CCP, both would be maintained at current level of members.
- Premises, reduced to reflect that smaller premises would be required
- Corporate services, finance and IT, assumed at current budget
- Obligations under Company Law and as a Public Body
- Overheads, these would be unaffected as costs such as business continuity, travel and maintenance of equipment are not driven by stakeholder activities
- Minimum level of headcount to service low-level contact centre and investigations functions, approximately 30% of current demand

These costs are within the direct control of PhonepayPlus and albeit there is a minimal point of lawful compliance which must be delivered. These costs equate to 53% of the 2009/10 budget, assuming minimum call levels, investigations and providing basic communications to the consumer and industry.

By contrast, the remaining other costs incurred by PhonepayPlus are activity driven and relate to, and are driven by, stakeholder demand. These costs are 47% of the 2009/10 budget. Examples include:

- Staffing costs for direct provision of industry and consumer facing services such as Contact Centre, Investigations, Industry Support and Communications
- Public/industry events
- Legal costs
- Telecoms and website

Such costs, while in part driven by the overall efficiencies in delivery, are largely outside of the direct control of PhonepayPlus insofar as their total use will be driven by stakeholders – the

² The Retail Price Index (RPI) as of November 2008 is 3.0% and the Consumer Price Index is 4.1%. The Bank of England, in their recent Inflation Report forecasts this to reduce over the next two years albeit they noted that their forecast for growth and inflation was unusually uncertain.

more enquiries and complaints we receive for example, the more we need extra staff in order to deliver and efficient an effective public service.

Attached at **Appendix C** to this Plan is a summary of the proposed Budget for 2009/10 with each activity set alongside the corresponding budget for 2008/9. In each case we set out below the key drivers for either an increase or decrease in each activity area.

Board, CCP, Staff and staff related cost budget £2.7m, 0.2% increase, £5k.

This budget item includes items such as Board costs, staff salaries, recruitment, and training. The budget represents 61% of the PhonepayPlus budget overall. An increase of 2.5% for salaries has been assumed across the organisation which we think prudent in this market and to ensure we reward staff performance effectively. This increase has been offset by a reduction in the headcount. This has been achieved by combining the role of Corporate services and Director of Legal and also some other modifications within the overall staff structure. This will continue to be kept under review to ensure we maximise the opportunities to be flexible and contain costs through more efficient ways of working.

37% of the staff budget relates to activity driven services; the Customer Contact team, Investigation team and the Industry Support & Policy team. As discussed earlier there is a minimum level of service that could be provided but the current staff levels are required to enable us to respond to demand.

The Code Compliance Panel attendance and preparation costs, which are 60% of the total costs for the Panel, will be funded by income received from the Administrative Charge recharged to service providers which supports our 'polluter pays' approach to regulation. The Administrative Charges will continue to be reviewed annually to ensure that the charges reflect costs. The next review is due by April 2009.

As a consequence of finding efficiencies and more flexible ways of operating, staff costs for the regulation of 0871 have been subsumed within all teams' current costs and work activities with the exception of the Customer Services Team. The reason for this is we have been unable to accurately estimate the impact that 0871 regulation may have on the number of calls from the public we might receive to that team. To be prudent we have set aside an additional £60k for additional customer service staff should call volumes exceed current capacity.

Events & Consumer Education budget £190k, 35% increase, £49k.

The costs within the events heading covers consumer education, industry forums, the Annual Report launch and policy and Code workshops. The increase is largely contributable to additional consumer education as discussed below. We have also made a provision for additional industry consultation in 2009/10 in relation to the drafting of the next Code.

We plan to run a small number of consumer education campaigns over the course of the year, each with a different scope, purpose and target audience. The aim of each, though, will be to build trust in phone-paid services among consumers; either by raising awareness of the regulatory process and tools available to protect consumers, or by communicating positive messages about the market and its regulator.

The indicative programme at this stage includes:

- PR campaigns targeting tailored messages at distinct audiences;
- A further youth marketing campaign in schools;
- Integrated marcomms launch of 0871;
- Web-based video tutorials distributed on new media platforms.

During 2008/9 we have found that there have been limited industry seminars for PhonepayPlus to attend. A reduction of budget in this area has been used to contribute to the extra resource required for the consumer campaigns.

External Professional services budget £519k, 21% increase, £89k.

Within this budget we have made a special provision of £95k for external professional costs for the 12th Code work we will undertake in 2009/10. Professional advice will be required, for example, to consider options for revisions to the Funding model.

A further element of the increase is due to provisions for legal fees relating to unforeseen events which can arise and have been known to arise in previous years.

The research budget has increased by a £6k. The research carried out supports our aim to provide evidence-based and proportionate regulation. The research also has a positive industry effect as it can contribute knowledge and understanding about the market, its developments and consumer attitudes and usage of different services.

Overheads budget £278k, 5% increase, £13k.

The more significant costs within overheads include costs such as IT maintenance, business continuity, stationery and business insurance. The increase is due to largely to maintenance of software for purchase of software in investigations and finance.

This software uses IT solutions in place of manual systems and will help teams work more efficiently. In the case of the finance systems this will help reduce the paper documents currently retained and the issue of paper invoices/ remittances. In addition this should reduce the stationery costs. The investigation software is specialised software for investigators to collect digital evidence from their computers/ wap sites and mobile phones. Spider software is becoming necessary with the increase in online advertising for mobile products and ensures a more thorough investigation.

Premises budget £364k, 8% increase, £26k.

The increase is wholly due to an anticipated increase in business rates outside of our control. Business rates are set by a government formula and we have provided for the worse case scenario.

Printing budget £53k, 29% increase, £12k.

The printing budget covers costs of the Annual Report and Code reprints. A budget has also been allocated for consumer and industry publications of which we expect a £13,000 increase in 2009/10. The additional printing costs for consumer publications are likely to tie into enhanced activity we expect to undertake in consumer awareness campaigns.

Telecoms budget £82k, decrease 6%, -£5k.

Efficiency savings have been secured as a consequence of switching providers.

Website budget £81k, increase 4%, £3k

We have identified the need to upgrade and redevelop our current PhonepayPlus website, which will be undertaken in the current year. In the process we have identified that current functionality on the site could be improved and so additional budget is required to build this in during 2009/10. The remaining overhead cost for the PhonepayPlus and Phonebrain sites remain largely unaltered.

Depreciation £193k, decrease 31%, -£87k

Capital expenditure is presented as depreciation in the budget and the large decrease is due to large capital expenditure in 2005 becoming fully depreciated.

The main capital expenditure in 2009/10 is for computer replacements £19,000 enhancements of the new telephone system £30,000 and customers services development in process and reporting £35,000.

Q7. Do you support our proposed Budget changes for 2009/10 having regard to the activity that drives the changes? If not, please explain why.

Budget assumptions, Risk and Control

We set out below some the strategic assumptions made in drawing up this Business Plan and Budget. Alongside each assumption we have identified the attendant Risk and Control mechanism we have in place to mitigate the risk from materialising.

Budget Assumption	Risk	Controls
Staff turnover remains static	Recruitment budget assumed for low to moderate level staff turnover	HR strategy and exit interviews with staff to monitor turnover HR strategies for staff policies and reward structures to aim to minimise high turnover
Legal costs remain broadly static with a small increase in assumed budget	Predicated on litigation and legal challenges within parameters as seen over the last 3 years. No adverse judicial review is anticipated	In-house legal team draw on necessary support and advice from external Counsel where needs arise and litigation risk considered at earliest possibility by Leadership Team and Board along with options for remedying the risk.
Code of Practice remains fit for purpose without the need for change before concluding the approval of a 12 th Code in 2010	Basis for the Code and its application is challenged through the Courts or through CCP tribunals and found to be flawed in its application to a high profile service	The Code has been approved by Ofcom following a rigorous legal assessment. Its application will be kept under review and Statements of expectation or prior permission continue to be utilised where necessary.
0871 regulation assumed by PhonepayPlus by summer 2009	The increase in number of complaints and enquiries cannot be managed within current capacity.	Conduct research to estimate current market size and impact on call volumes. On commencing regulation monitor number of calls and take appropriate action. Utilise contingency budget to buy additional resource.
Market risks and market innovation	New markets emerge in PRS that require research and code amendments.	Pre-empt emerging services by monitoring services in the market and continuing industry support relations.
PhonepayPlus remains at current premises	Served notice by landlords.	Lease in place until November 2010 with clauses in place to ensure notice is not served unless PhonepayPlus is in breach of the lease.

Q8. Do you have any comments as any other risks that PhonepayPlus might face that are not identified above as part of the Business Plan design?

Section 6

The Levy Setting Process

PhonepayPlus is basically funded by a levy on service providers deducted at source by network operators. Funds are withheld at network level and paid to PhonepayPlus. At the end of each year, these are reviewed against actual market activity levels and there is reconciliation, with any additional monies owed to PhonepayPlus paid over and/or any excess payments made by the networks on account refunded.

The levy rate is affected by a number of issues:

- The cost of regulation – the amount the levy and other sources of funds have to cover.
- The expected size of the market – the amount of expected outpayments on which the levy would be payable.
- Fines and Administrative Charges – these monies go towards the cost of regulation and therefore reduce the amount we need to collect through the levy.
- Market developments in the proceeding year – if the phone-paid services market exceeds expectations in 2008/9, the additional levy collected would go towards covering the costs of 2009/10. On the other hand, a fall in the market in 2008/9 would involve the repayment of excess levy collected from networks and this deficit would need to be made good in the following year.
- Any need to make changes to the PhonepayPlus contingency reserves. These exist to deal with the possibility of winding-up of the organisation at some future point, without defaulting on obligations, and the need to deal with any new, exceptional 'spike' problems that require extra staff and legal or other resources.

Our position on each of the issues is set out in brief below:

- **The 2008/9 market:** as explained, this is down against forecasts. Based on half-year figures, we believe that the market will be around 10% below expectation and that PhonepayPlus will need to refund around £270,000 at the end of the financial year.
- **Administrative Charges:** The Administration Charges are reviewed annually and will be notified along with the levy. We budget on the basis that we will recover and use in the same year a high percentage of the Administrative Charges levied.
- **Fines:** as of 30 November 2008 fines are down in 2008/9, compared to the same period in 2007/8. In 2007/8 there were significant penalties imposed on Participation TV services which has not been the case to date in 2008/9. We are assuming that approximately £1.3 million of fine income will be available for use in 2009/10. Our policy will continue to be that we should not budget on the basis that fines will be levied and used in any given financial year, but that any fines imposed should be retained and be available to meet the funding requirement in subsequent years.
- **Contingency reserves:** no reserves have been used during 2008/9. Our reserve level of £1.8 million as advised by our auditors in 2007/08 as "appropriate and reasonable" will remain. This means that there will be no need in 2009/10 to replenish these funds through a higher increase in the levy than would otherwise be necessary.

- **2008/9 budget:** we expect our 2008/9 year-end expenditure to be overspent by approximately £50,000, 1% of the budget. This is for unforeseen recruitment expenditure following leadership changes and will be funded by other income in 2008/9. We expect all other expenditure to be on target.

Section 7

Summary of Questions

Set out below are the questions raised through the consultation document on which stakeholder feedback is welcomed:

Q1. What comments do you have on the five objectives we set out in the Three Year Plan? Do you think they are still relevant and appropriate? What priorities or themes would you identify for consideration as part of our Review?

Q2. Do you have suggestions on specific strategic objectives and tasks – or a re-prioritisation of existing ones - that you think PhonepayPlus should consider as and when we review our Strategic Plan in 2009?

Q3. What information or evidence do you have about market trends and about the overall size of the phone-paid services market in 2009/10?

Q4. What information or evidence do you have about any specific segments or content areas and their potential for real growth or decline over 2009/10?

Q5. Do you agree with these priorities as actions for 2009/10? If not, please explain why not with alternative suggestions.

Q6. What action or support could industry providers offer in order to assist us in delivering these priorities?

Q7. Do you support our proposed Budget changes for 2009/10 having regard to the activity that drives the changes? If not, please explain why.

Q8. Do you have any comments as any other risks that PhonepayPlus might face that are not identified above as part of the Business Plan design?

Section 8

How to Respond and Next Steps

Where possible, comments should be submitted in writing and sent by email to response@phonepayplus.org.uk by no later than **Thursday 29th January 2009**. Copies may also be sent by mail or fax to:

Mr Ted Lean
Director of Corporate Services
PhonepayPlus
1st Floor, Clove Building
4 Maguire Street
London SE1 2NQ

Tel: 020 7940 7469
Fax: 020 7940 7456

If you have any queries about this consultation, please telephone or email Ted Lean using the above contact details.

Confidentiality

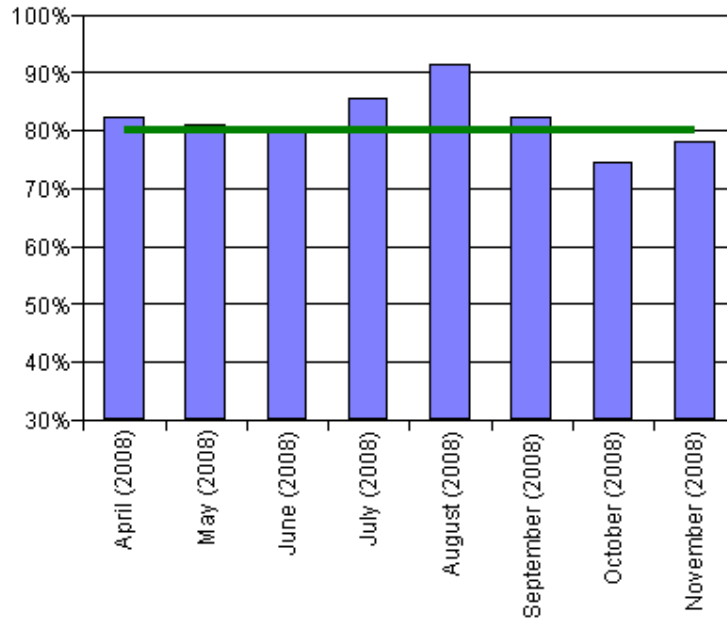
We plan to publish the outcome of this consultation and to make available all responses received. If you want all or part of your submission to remain confidential, you must make a specific request for this, along with your reasons for making the request.

Appendix A

Key Performance data April – November 2008

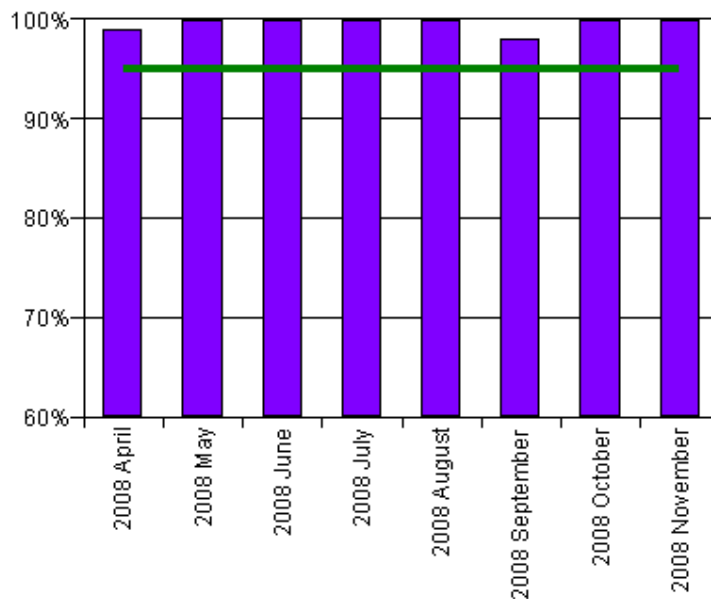
The following tables set out our key performances by month over the period April to November 2008. We provide a written commentary for those KPIs which were not fully met in any month.

KPI: Calls Answered < 30 Sec

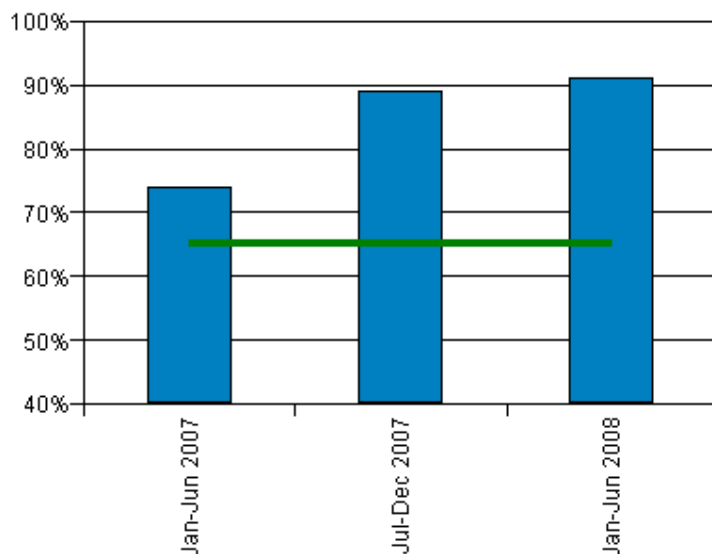


We are undertaking a detailed review of call volumes and scheduled resource for every 30 minute period throughout the day to ensure the Contact Centre can meet the target service level.

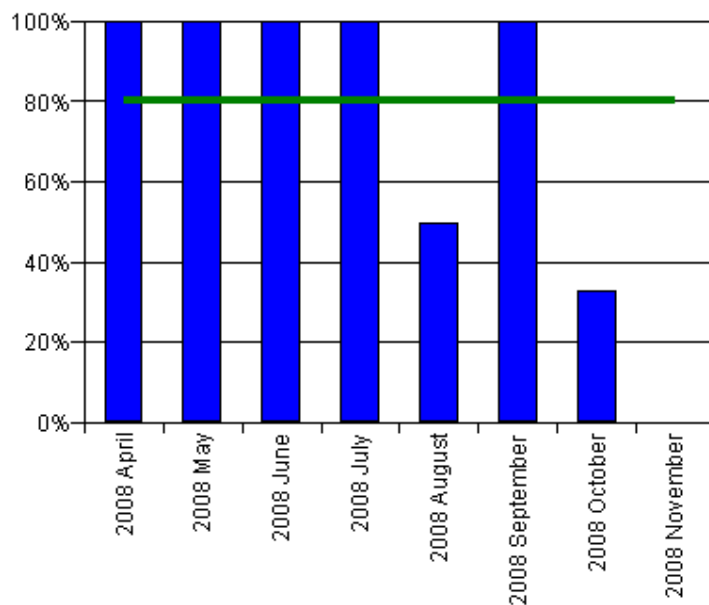
KPI: Out of Remit Correspondence < 10 Days



KPI: Positive Consumer Responses from Complainant Satisfaction Questionnaire

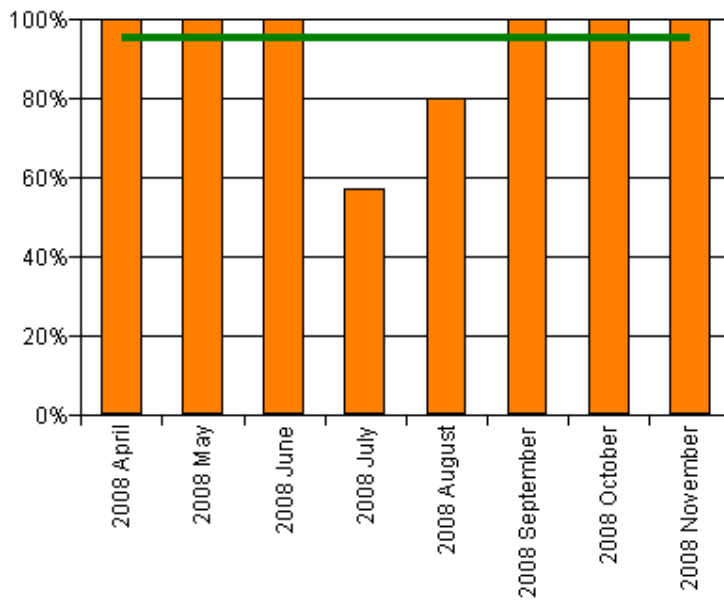


KPI: Lead Cases Closed < 12 Weeks



In respect of the Lead Investigation KPI, after 1 August 2008 we altered the way we classify this aspect of our work. Lead investigations are now therefore those that are more likely to result in adjudication at Tribunal. The complex nature of these investigations together with the Tribunal, processes have resulted in the majority of these taking longer to complete than the target of 12 weeks. This area of activity will be reviewed in 2009 as part of our review of our complaint handling processes – see Section 4 for more details

KPI: Fine Invoices < 10 Days of Tribunal Date



In July, the KPI for fine invoices sent within 10 working days was not met because of staff shortages due to holidays. In August the target of 100% of invoices sent out within 10 days was not met due to a delay in agreeing the minutes of the Panel of 28 August.

Appendix B Three Year Plan Task Progress

OBJECTIVE:	
1. PROVIDING EFFECTIVE AND PROPORTIONATE REGULATION TO THE INDUSTRY, BASED ON RESEARCH, RISK ASSESSMENT, MARKET UNDERSTANDING AND STRATEGIC INTERVENTION	
TASK:	ACTION:
<ul style="list-style-type: none"> We aim to be a better-informed and evidence-based regulator, producing an annual plan of research proposals. Working in closer partnership with Ofcom and others, we will maximise the potential for joint research initiatives in all aspects of the market. 	<p>We will continue to look for opportunities to maximize the potential for joint research and will encourage industry to share relevant research with us so that we can minimize costs.</p> <p>Once our Business Plan and Budget for 2009/10 is agreed, we will expect to agree, finalise and publish our research programme for the forthcoming year.</p>
<ul style="list-style-type: none"> Audit of regulatory principles. We aim to work to the best regulatory standards possible. We expect to undertake research to benchmark what 'best' looks like and then agree a plan that challenges us to achieve best practice as defined. 	<p>As part of our consideration of the development of our next Code of Practice, we plan to incorporate this task and consider other examples of regulatory best practice which may be relevant to us. This has been factored into the 2009/10 budget for External Professional services</p>
<ul style="list-style-type: none"> Provide a structured and transparent framework in which we apply regulations. The Code of Practice is the cornerstone of our regulatory framework, and sets the standards for the advertising, promotion and content of phone-paid services. It is imperative that the Code is kept up-to-date, and can be flexibly adapted and applied to external changes in the market. <p>One such external change, and a major one at that, will be the outcome of Ofcom's review into the scope of our regulatory remit. The 12th Edition of our Code will have to reflect the, as yet unknown outcomes of Ofcom's review. The process of change should be as simple as possible so that it does not undermine the intended purpose that drives the need for the Code.</p> <p>We have evolved flexible regulatory and practical mechanisms for applying the Code in changing circumstances. This approach is unlikely to change over the next three years as it provides a simple method of responding, in the shortest time, to changing market conditions.</p>	<p>A Programme Board has now been established to commence the review of our Code of Practice. This Board includes representation from Ofcom in order that we ensure that both the outcomes from Ofcom's Scope review are fully considered alongside any proposals for changes to the Code of Practice. We are also working closely with Ofcom to establish the most straight forward way to ensure an effective consultation process, including the need for statutory consultation at a UK and EU level.</p> <p>See also Section 3 for details on how we plan to deliver the new Code during 2009/10 and as part of this how we intend to fully engage stakeholders.</p> <p>Costs related to this have been factored into the External Professional services budget for 2009/10</p>
<ul style="list-style-type: none"> Subject to decisions arising from the Ofcom review of the scope of our regulation, we believe that our regulations should remain principally focused on the service providers, as defined by our Code of Practice, and that we should keep under review their 	<p>As we move towards proposals to review the Code, the Board of PhonepayPlus have opened for question the best means by which regulatory compliance across the value chain can be secured in a way that minimizes the regulatory burden and places responsibility appropriately</p>

<p>relationships with the value chain for delivery of services and ensure that mechanisms remain, in a changing market, for applying regulation at the point deemed as appropriate and legally relevant.</p> <p>We want to support these parties to ensure compliance and so minimise the risk of consumer harm. There may be scope for PhonepayPlus to undertake a wider and deeper role in the registration process – we expect to explore this with Ofcom as part of its review exercise.</p> <p>Such ‘collaboration’ would assist service providers and networks but would not remove their obligations to carry out due diligence or their accountability to us in the event of consumer harm.</p>	<p>with respect to the different roles and responsibilities of the many varied parties in the value chain.</p> <p>On a separate and related note we have been in active dialogue with mobile aggregators in particular about the extent of their responsibilities in the value chain and recognize, as do they, that they play a significant role in performing due diligence checks on their information provider clients with whom they contract.</p> <p>With respect the registration process, we continue to explore opportunities for extending this on a voluntary basis, especially with Information provider clients of mobile aggregators.</p> <p>See also “Information Provider” cases in Section 3 below.</p>
--	--

OBJECTIVE:	
<p>2. SECURING HIGHER LEVELS OF COMPLIANCE WITHIN THE INDUSTRY THROUGH INCENTIVES, THE CONSISTENT AND HIGH-PERFORMANCE APPLICATION OF OUR CODE, AND RAISING COMPLIANCE STANDARDS</p>	
TASK:	ACTION:
<ul style="list-style-type: none"> We will deliver an effective, consistent and high-performance Code Compliance Panel that will focus specifically on our adjudicatory work, leaving the main Board to dedicate its resources to other organisational and policy activities. <p>Our Code of Practice provides us with the rules and guidelines to ensure that the premium rate market is fair for service providers and safe for consumers. Establishing a Code Compliance Panel allows us to put in place a professional body with the appropriate skills and principal focus of dealing with serious non-compliance with our Code.</p> <p>We will measure the success of the Panel by, among other things, analysing the number of reviews and oral hearings requested after adjudications have been made.</p>	<p>See details about the CCP Launch under "Specific Developments in 2008" in Section 2.</p> <p>The tribunal costs of the CCP will be assumed to be recovered by Administrative Charges. Other non-tribunal overheads for the CCP are factored into the Staff, CCP and Board budget for 2009/10.</p>
<ul style="list-style-type: none"> We will raise standards of compliance through monitoring and intervention. We will ensure compliance through strategic monitoring, focusing on specific markets and taking a holistic approach to correction of these markets. <p>We will inform stakeholders of trends discovered through our monitoring programme to raise awareness of issues in the market place.</p> <p>We will measure the success of our monitoring and intervention by revisiting segments previously monitored to ascertain whether improvements have been made.</p>	<p>In June 2008 the Research Team was created at PhonepayPlus by merging monitoring and research activities. This provided us with a centralised resource focused on understanding, from a variety of perspectives, the market, industry activities and operation of new and emerging platforms and services. The purpose of the Research Team is to gather information about the market, industry structure, services, platforms and other technologies, and use the information gathered to ensure that the Executive and Board are kept abreast of market trends, product developments and consumer issues. Monitoring activities are still undertaken to identify areas where breaches of the Code are occurring but, increasingly, those activities are being used to build up our knowledge of how the services, industry and market operate.</p> <p>There is also now a thorough market risk management process in place. This is designed to predict likely issues associated with new and emerging services and platforms. These are generally identified through desk research, monitoring, complaints and engagement with stakeholders. Where we identify services and platforms where there is potential for consumer harm, we undertake thorough testing of the consumer's experience. Prior to taking any preventative or remedial action, we try to fill knowledge gaps by engaging with the industry,</p>

	<p>undertaking further desk research, and where necessary, commissioning consumer-focused research.</p> <p>Although it is early days for the Research Team, we and industry are starting to see the benefits of working proactively. An ancillary benefit of this engagement is that it often introduces industry to the free compliance-checking function of our Industry Support & Policy Team.</p>
<ul style="list-style-type: none"> We will develop an industry support and compliance team. The Compliance Team will work with networks, trade bodies, sector groupings, publishers, broadcasters and other stakeholders to build understanding of the Code and compliance with it. <p>We will work with the industry in developing best practice guidance and other published and online material to build understanding and trust in the sector. We will be proactive – we will promote our services and use trade events, conferences and other means to build the relationships and understanding necessary to make a difference.</p>	<p>Recently, we have taken the decision to merge the Industry Support and Policy functions. We believe that this will bring added benefits to the effectiveness of our policy making function and better ensure that our guidance and support meets the needs of providers going forward.</p> <p>It will continue to work with all parts of the industry value chain to provide advice, support and guidance in order that providers can provide valuable services which are compliant with the Code. See also Specific Developments in 2008 in Section 2 for more information on the work of this team.</p> <p>As well as offering a compliance service, the Team also operates the prior permission application service and undertakes an increasingly wide range of industry engagement. This might include dialogue with providers wanting to discuss new service initiatives, or with aggregators with whom we are working with more closely in order to incentivize compliance.</p>

OBJECTIVE:	
3. ENSURING THE PUBLIC ARE BETTER INFORMED ABOUT THE SERVICES WE REGULATE, OUR ROLE AS THE REGULATOR AND THEIR RIGHTS UNDER THE REGULATIONS	
TASK:	ACTION:
<ul style="list-style-type: none"> We will work with networks and billing suppliers to understand and develop the scope for information about calls to phone-paid services appearing on customer bills. <p>We want customers with queries to obtain information about the service used and contact details for the service provider concerned.</p>	<p>We have begun work on a project to investigate the lifecycle of a customer's complaint. An essential part of this will be to understand what information is currently available to consumers when they contact network and service providers and, where necessary, to supplement this information.</p> <p>We will continue to work with network and service providers to ensure that consumers are aware of PhonepayPlus and its work; and to encourage their customers to contact us in so far as it would be helpful to them. We will be looking to these providers to help us as much as possible in providing correct information to customers about our role and what steps they can take to resolve matters that do not require the intervention of the regulator. In this way our costs will be minimized as each wrong referral or poorly advised customer we handle brings additional regulatory costs.</p>
<ul style="list-style-type: none"> One-stop shop for advice, assistance and complaints. We will develop literature, and engage with the public using various media, such as web chat, SMS and websites. By developing these services, we will increase public understanding of phone-paid services and how they work. 	<p>We have launched SMSus, an innovative text-based number checking facility to complement our online service. Along with our dedicated team of telephone advisors, we can now offer information and advice – and take complaints – whether consumers are at home, online or on the move.</p> <p>We have undertaken extensive work on our online number checker service to ensure we can return key service, cost and company contact details on 80 – 85% of all checks. This has been extremely successful with over 550,000 checks in the period April to November 2008.</p> <p>We have recently begun planning an ambitious project to rebuild our website. It will employ next-generation technologies to provide consumers and citizens with the tools and information they need to protect themselves from harm in the phone-paid market. On-going web development costs are factored into the Website budget for 2009/10</p>
<ul style="list-style-type: none"> We are responsible for educating and informing the public about phone-paid services. Through utilising existing channels with phone networks and consumer bodies, and developing new partnerships, we will increase awareness of phone-paid services and PhonepayPlus to ensure all customers who speak to us get the right information. 	<p>Consumer education is at the heart of our communications strategy.</p> <p>For example, we recently launched PhoneBrain, a campaign to educate teenagers about threats and opportunities in the phone-paid market – see Specific Developments in 2008 in Section 2 for more information on this initiative.</p>

	<p>We carry out intensive PR and marcomms campaigns to ensure that consumers and citizens are kept abreast of the latest challenges in the market, and what we are doing to address them. We will want to encourage consumer facing industry providers to support us in this work given the benefits it can bring to trust and confidence as well as the potential to reduce regulatory costs in the longer-term.</p> <p>We continue to work with peer regulators such as Ofcom, ASA and Gambling Commission – and government organisations like OFT and BERR – to ensure that consumers have access to the information and tools they need to make informed purchasing decisions.</p> <p>The Events & Consumer Education and Printing budgets for 2009/10 include increases relating to our consumer education activities</p>
--	--

OBJECTIVE:	
4. TO BE MORE TRANSPARENT AND ACCOUNTABLE	
TASK:	ACTION:
<ul style="list-style-type: none"> We will build on the existing arrangements for stakeholder engagement by implementing the proposals in our 2007 consultation. Through our website, we propose to report each quarter to the Industry Liaison Panel (ILP) and to stakeholders generally on key trends in market size and composition, complaint and enquiry traffic, and on trends identified through our monitoring, enforcement and industry support work. <p>We will commission an independent stakeholder audit at 18-month intervals (in 2008 and late 2009) to ascertain stakeholder views on our work against core objectives.</p>	<p>We continue to develop our arrangements for stakeholder engagement in ways that we suggested in our 2007 statement. In respect of ILP, we have continued to support and engage this body in the work that we do and we now do share with them at each meeting the details of the trends in key data and performance as we are measuring it. This data is now widely shared and made public.</p> <p>In respect of the stakeholder audit, this has not yet been undertaken in 2008 due to other priorities, but we do expect to carry out such an audit in 2009.</p> <p>Our Events & Consumer Education budget for 2009/10 includes costs related to stakeholder engagement activities</p>
<ul style="list-style-type: none"> We plan in 2008 to start to regularly publish a package of performance measures related to our complaint and enquiry handling, our compliance support activities, and our work to inform and educate the public in relation to the services we regulate. <p>We will introduce measures on 1 April 2008, review them on a quarterly basis with stakeholders and report on them annually.</p> <p>We will benchmark levels of consumer confidence in phone-paid services and barriers to improving trust.</p>	<p>This information is contained in reports that we now produce for the ILP in a revised and improved format (see above) and we now put this in the public domain on a quarterly basis alongside the ILP meetings.</p> <p>We have undertaken year-on-year research which contains benchmark data on consumer trust in Phone-paid services. As part of our Business Plan proposal for 2009/10 we plan to track this data on an on-going basis using a consistent methodology so that trends over time can be established and analysed.</p> <p>Our research activities are included within External Professional services budget for 2009/10.</p>
<ul style="list-style-type: none"> We will extend our work on cost-benefit analysis. We will further develop our ability to present impact assessments in our consultations. We also want to develop some agreed methodology for assessing the consumer and business benefits of regulation, and to set these alongside costs. We will report on this over the term of the Plan period. 	<p>All of our policy consultations now, as a matter of routine, include an impact assessment. We will continue to develop this approach and ensure that the process of cost/benefit analysis forms a bedrock of our regulatory policy making processes. A number of staff recently undertook further training in this area as part of our development of our approach.</p>
<ul style="list-style-type: none"> We will test forms of public meeting to better understand the views and concerns of the general public, as well as particular communities within the general public. We expect by 2009 to have improved arrangements for engaging with the public in all four nations. We propose, in particular, to develop a network of those who make regular 	<p>This activity has not yet been commenced. However, the means by which we engage the public either directly or through those bodies who speak for consumers remains central to our vision and purpose and is one reason why we have increased the budget for consumer research we now have. That aside, we have undertaken work with consumers as demonstrated at our Forum in</p>

<p>and substantial use of the services we regulate as a way of identifying possible problematic issues earlier.</p>	<p>April 2008 where we dedicated the event to the consumer experience and included a panel of consumer/users of phone-paid services who discussed their experiences in detail.</p> <p>We also produced a video of 9-12 year olds who spoke of their understanding and experience of phone-paid services.</p> <p>Our Events & Consumer Education Budget for 2009/10 factors in work related to stakeholder engagement.</p>
<ul style="list-style-type: none"> With convergence in the communications sector, we recognise the need for a clear understanding between regulators and other public agencies with interests and responsibilities that, on occasion, coincide. This can be the case, for example, with premium payment for gambling, charity and broadcast services, and in relation to data protection, advertising and financial services regulation. <p>We are committed to establishing effective relationships with fellow regulators and to communicating more clearly about how we will deal with parallel regimes in order to avoid conflicting requirements or double jeopardy and to aid compliance.</p> <p>We will publish an explanatory note on our relationships with key partners by Quarter 3 of 2008 and refresh it on a regular basis. We will also seek to clarify relationships in future versions of our Code of Practice.</p>	<p>During 2008 we have engaged in specific discussions about our remit and its potential for overlap with:</p> <ul style="list-style-type: none"> the Gambling Commission, (with whom we published a Memorandum of Understanding), the Information Commissioners Office in respect of our review of third party marketing activities as covered in the Mobile Review; and the Office of Fair Trading in respect of our responsibilities under the Unfair Commercial Practices Directive and our responsibilities as the Established Means in this area – the subject of a Help Note we produced in 2008. <p>During 2009 we expect to extend these discussions with other regulators, including the ASA and Financial Services Authority. Once conclusions with them are reached and understood we will then expect to publish explanatory notes as we committed to do. The finalization of this has however taken longer than expected as a consequence of other priorities, for example the resource commitment to the Mobile Review.</p>
<ul style="list-style-type: none"> Ofcom has important duties when recognising a code and regulator. We will ensure our accountability arrangements and dialogue with Ofcom are of the necessary quality. <p>We will continue to ensure that our relationship with Ofcom is a collaborative working partnership based on a shared understanding of the scope and purpose of regulation, and on the contents of this Plan and our medium- term financial strategy.</p> <p>We expect in 2008 to review the terms of our Memorandum of Understanding with Ofcom. At an operational level, we will explore the scope for joint research and assessments in areas of shared interest, including common methodologies in relation to broadcasting.</p> <p>We will publish any changes relating to our governance, our Code, our financial operations and any other matters.</p>	<p>We believe that our relationship with Ofcom has become significantly more effective. The Framework Agreement put in place and published in December 2007 (in effect supersedes the MOU) has clarity as to our respective responsibilities in the regulation of phone-paid services and has paid dividends.</p> <p>We will continue to develop this relationship in appropriate ways to ensure that we both provide the market with certainty as to regulatory boundaries between our respective bodies, and in order to ensure the efficient and effective regulation of phone-paid services.</p>

OBJECTIVE:	
5. ENSURE RESOURCES ARE FIT FOR PURPOSE	
TASK:	ACTION:
<ul style="list-style-type: none"> We will operate in a modern, high availability, technological environment, ensuring the integrity and security of our data, privacy to complainants and accuracy in our information. <p>We will measure our success by our ability to provide accurate data, effectively and efficiently, to our stakeholders within cost-effective parameters.</p>	<p>We now have an environment that is set up for high availability. This means that our vital services – data, email, databases – are mirrored across two servers so that should one server fail, the other will ensure continued service. A high availability setup has also been implemented on our firewall and a backup internet line is also being introduced.</p> <p>We are using 'Virtual Servers' which reduce the physical costs to the business, maximise the capabilities of the hardware, reduce our carbon emissions and facilitate administration of the setup.</p> <p>A security audit was recently undertaken. The purpose was to understand the security threats to PhonepayPlus' systems and data and to then act on them. The report was favourable although it highlighted a small number of potentially critical issues that were quickly addressed.</p> <p>Our business reporting tool, Business Objects, was upgraded. This provided us with a better platform for managing reports.</p> <p>The Overheads and Depreciation budgets for 2009/10 includes routine expenditure to ensure we maintain effective IT services and software.</p>
<ul style="list-style-type: none"> Changing risks to our operations will be monitored and action taken to minimise our exposure to damage and/or losses/business downtime in the event of an emergency/catastrophic disaster. <p>We will measure our success by the level of our availability to stakeholders and our efficiency in dealing with any potentially damaging incident.</p>	<p>During 2008 we have developed and tested our disaster recovery processes both from an operation and reputation perspective. The testing performed well and we will keep this under review as we move forward.</p> <p>Our success in this area continues to be demonstrated by our ability to meet our KPIs, especially our availability to stakeholders.</p> <p>The Overheads budget for 2009/10 makes provision for business continuity assessments and needs.</p>
<ul style="list-style-type: none"> We will further develop our financial sustainability model, identifying emerging/receding revenue streams to sustain our financial viability and ensuring the reasonableness of charges to the industry. <p>We will measure our success by our ability to maintain a stable levy rate to the industry, without</p>	<p>Before the commencement of the next financial year 2009/10 we plan to review and publish (in time for 1st April 2009) our revised Administrative Charges which are awarded to those who breach our Code so ensuring that our commitment to the principle of "polluter pays" remains fit for purpose. As part of this next review we will ensure that the costs of the</p>

<p>compromising our service quality.</p>	<p>Code Compliance Panel are fully reflected in the new scale of charges.</p> <p>In respect of the levy itself, the factors involved in its calculation, some of which are outside of the control of PhonepayPlus, are set out in Section 6 of this document. We do remain committed, however to a stable levy rate over the long-term where possible though it will be subject to the vagaries of changing market conditions especially so when the market declines.</p> <p>Our External Professional services budget for 2009/10 includes provision for professional advice in respect of considering revisions to the Funding model.</p>
<ul style="list-style-type: none"> • We will ensure our staff are skilled, rewarded commensurate with their skills and able to deal effectively with the changing environment in which they work, to deliver the necessary standard of services required. 	<p>We remain committed to this. The Board's Committee on Human Resources and Remuneration has been assisting the Executive in developing a HR Strategy designed to ensure that our staff have the appropriate balance of skills and experiences, and are appropriately developed, managed and rewarded. Our investment in staff development and training continues to be of paramount importance and ongoing provision for this has been made in our budget.</p> <p>Our Staffing, CCP & Board Budget for 2009/10 makes provision for recruitment, training and reward related to the HR Strategy.</p>

Appendix C

Summary Budget Table of Expenditure 2009/10

	Proposed Budget 2009/10		Budget 2008/9		Variance from 2008/09 to 2009/10 Inc/(Dec)	
	£	FTE	£	FTE	£	%
Staff, CCP and Board	2,698,087	50.8	2,693,019	52.8	5,068	0.2%
Events & Consumer Education	189,500		140,300		49,200	35.1%
External Professional Services	519,350		429,970		89,380	20.8%
Overheads	277,587		265,042		12,545	4.7%
Premises	364,259		337,900		26,359	7.8%
Printing	52,800		40,960		11,840	28.9%
Telecoms	82,372		87,375		(5,003)	(5.7%)
Website	81,000		77,520		3,480	4.5%
Depreciation	193,446		280,645		(87,199)	(31.1%)
	4,458,401		4,352,731		105,670	2.4%

In 2009/10 we have subsumed the additional regulation of 0871 within the budget. In the 2008/09 budget consultation document we had shown this separately to demonstrate our expected costs of 0871. Of these costs only £9,580 related to start up costs with the remainder relating to staff and research that had been “allocated” to 0871 some of which were internal charges for staff already employed by PhonepayPlus. The 2008/09 budget has now been restated without “allocating” specific costs to 0871 for comparison. (footnote 2 Appendix 1 2008/9 consultation document)

Appendix D: Trust & trust drivers with phone-paid services

What is consumer trust?

At the outset, the concept of consumer trust appears to be straightforward. Deriving measures of consumer trust are worthwhile exercises, but the results should be treated with caution. Not least because asking consumers whether or not they trust something, or to what extent they trust something is for many an opportunity to get on their soapboxes.

Consumer trust and its measurement *are* subjective, but in spite of this there is likely to be consensus in the world at large on what constitutes trust. Perhaps it is better to think in terms of “stated trust” or “relative trust”; what consumers said, and what they said in relation to other things. The matter of consumer confidence has been explored in great detail in a June 2008 report for the UK Department for Business, Enterprise and Regulatory Reform (BERR)³. The report details a Consumer Confidence Index (CCI), synthesised from consumer research into 45 separate markets for goods and services. Although the CCI refers to consumer *confidence* rather than trust, it is arguable that confidence and trust are inextricably linked. For the purposes of this annex, consumer confidence and consumer trust will be considered as synonymous.

The broader picture; trust, telecoms and phone-paid services

The 2008 phone-paid services market research undertaken for PhonepayPlus⁴ found that over 50% of consumers lack trust in phone-paid services. Fewer than 20% of consumers actually said that they consider phone-paid services to be trusted or very-trusted. It is hard to argue that this is an agreeable situation, but these figures deserve further examination to explain why consumer trust is apparently so low.

In the June 2008 BERR report, their six criteria for scoring consumer confidence were ease of comparing quality and prices, choice, whether a service/good lived up to expectations, whether consumer rights were protected and the trustworthiness of advertising & marketing. However it was acknowledged that the opinions of consumers can also be influenced by:

- “Recent economic factors, changes and events in the marketplace, or a recent atypical experience
- The nature and extent of recent publicity and media coverage
- The types of markets covered - whether a market is associated more with a ‘pleasurable’ or ‘painful’ purchase or activity; or whether a market is complex or relatively uncomplicated, or whether it is a familiar ‘everyday’, or more infrequent ‘critical event’ market “

The factors stated above, especially “recent atypical experience” and the “nature and extent of recent publicity and media coverage” are especially applicable in the case of consumers’ opinions of phone-paid services. Many consumers are reluctant to re-engage with something that has had negative associations for them or others, whether the causes have been intentional (for example scams, sharp practice) or indirect (for example issues connected with the participation TV scandals).

That said, the BERR report states that the types of goods and services that ranked high in the Consumer Confidence Index were those associated with “fun” or “pleasure”. The phone-paid services industry is dominated by such services, and it is concerning that they should be rated so badly in light of the function that they perform.

³ See <http://www.berr.gov.uk/files/file48855.pdf>

⁴ See http://www.phonepayplus.org.uk/pdfs_research/UK_Phone_paid_services_market_200812.pdf

In contrast, research undertaken for the Retail Financial Services Group in January 2008 suggests that just 40% of consumers trust the fixed-line telecoms business sector “a great deal” or “a fair amount”⁵. The same report put the figure for mobile operators at 34%; on a par with financial services. Interestingly, this, like the BERR research, revealed that the most trusted business sector was entertainment/leisure (67%). The research goes on to suggest that there exists consumer negativity about “utility” sectors generally, and that telecoms services are perceived as part of that. It also appears that despite what is generally understood about any given product or service or sector, a proportion of the population will for whatever reason, not trust them.

It is possible that with phone-paid services there is a depression of consumer trust by proxy; that consumers associate phone-paid services with the “utility-sector” perception of the telecoms industry and mobile operators and therefore have negative associations. The Retail Financial Services Group identified pricing transparency in fixed and mobile sectors as an issue associated with trust; something that resonates with the stated reasons for distrust in phone-paid services⁶.

Distrust does not necessarily preclude *use* of goods or services; one interesting case in point from the Retail Financial Services Group research relates to the least trusted sector; the tobacco industry. Only 15% of consumers stated that they trusted the tobacco industry “a great deal” or “a fair amount”. It is well known that smoking is harmful, yet 22% of Britons smoke⁷. Indeed, the PhonepayPlus 2008 market review⁸ revealed that less than a quarter of consumers cited distrust as a reason for not using a service; lack of interest and cost were far more important reasons.

Also worthy of consideration is the matter of consumer trust in phone-paid services being a function of consumer *understanding* of those services, or perhaps, the platforms upon which they operate. A number of the services, promotional techniques and billing platforms available are still beyond the comprehension of a good proportion of the population and while technologies move forward in leaps and bounds, consumers are still playing catch-up. Our 2008 market review found that there was an association between the level of trust in a service and the proportion of the general public that had used such a service. For example, directory enquiries services are used by a far greater proportion of the public than phone-paid gambling services. The latter have a small but loyal (and increasing) base of users, but are to the population at large; far less trusted than directory enquiries services. Directory Enquiries services have also been around for much longer; they are fixed better in our consciousness, ergo they are trusted more. The research for our market review found the same relationship when levels of trust were compared between a number of payment mechanisms considered to be similar to phone-payment. Again, those used by more people (for example e-payment) were more trusted than emerging methods of engaging with money (for example mobile banking).

In conclusion, trust in phone-paid services is relatively low, and this is likely attributable to a number of scandals, scams and surrounding publicity going back several years. In spite of this more people are using services; nearly 50% of the population in 2008⁹. Although there are always likely to be people who are sceptical, the more people who use services, the more transparent that *all* services become and if malpractice declines, then phone-paid services will be trusted more.

⁵ See <http://www.rfsgroup.co.uk/resource/minutes-papers/14-01-08/RFSG%20corporate%20culture%20slides%20140108.pdf>

⁶ See www.phonepayplus.org.uk

⁷ See <http://www.vitabeat.com/more-britons-giving-up-smoking-drinking/v/7771/>

⁸ See www.phonepayplus.org.uk

⁹ See www.phonepayplus.org.uk