



# **Business Plan & Budget 2011/12**

## **A PhonepayPlus Consultation**

### **A PUBLIC CONSULTATION**

**Issued by PhonepayPlus on 3 December 2010**  
**The deadline for comment is 17 January 2011**

## **Contents**

<b>Section</b>	<b>Page</b>
Foreword	3
Executive Summary	4
Section 1: Statement on the Strategic Plan 2011/14 consultation	10
Section 2: Our purpose and role	12
Section 3: Achievements in 2010	13
Section 4: The market and other external conditions	15
Section 5: Looking forward to 2011 and the financial picture	17
Section 6: The levy-setting process	24
Section 7: Responding to the consultation	27
Appendix A: PhonepayPlus Budget 2011/12	28
Appendix B: Key data 2010/11 to date	30
Appendix C: Strategic Plan 2011/14: Stakeholder responses	36
Appendix D: Strategic Plan 2011/12: Industry Forum note	45

## About PhonepayPlus

Under the Communications Act 2003, Ofcom has responsibility for the regulation of premium rate services (PRS). These are the premium rate goods and services that you can buy by charging the cost to your phone bill and pre-pay account. PhonepayPlus carries out the day-to-day regulation of the PRS market in the UK on Ofcom's behalf through its Code of Practice.

Premium rate services operate on the 09, 118 and 0871/2/3 non-geographic number ranges. PhonepayPlus also regulates chargeable mobile text shortcode numbers – the five- and six-digit numbers used to enter competitions, download mobile content or give to charity via text – and we have also taken action against rogue services operating on the 070 number range when that number range is misused as a PRS.

We focus on pre-empting and preventing problems – the key, we believe, to effective long-term consumer protection and a vibrant market for PRS. We regulate services using our Code of Practice. This sets out the rules with which all providers of premium rate services must comply. Among other things, we require:

- Clear and accurate pricing information;
- Honest advertising and service content;
- Appropriate and targeted promotions.

We investigate consumer complaints about premium rate services. Where we decide that our rules have been broken, we can fine the company responsible, bar access to its services and even bar the individual behind the company from running other services under a different company name. Our investigations and adjudications service is free to consumers and fully independent from industry.

PhonepayPlus also undertakes consumer research to inform the development of its Code of Practice and to further understand consumers' engagement with premium rate services.

## **Foreword**

When formulating next year's Business Plan & Budget, PhonepayPlus was presented with two significant and conflicting challenges: to successfully launch and implement a new regulatory regime for premium rate services, while planning to drive down the long-term cost of regulation (as all regulators should) and meanwhile ensuring its continued effectiveness. We believe the proposals we set out in this paper have managed to balance these two imperatives, by ensuring we have the necessary level of resource to remain effective, while delivering significant reductions in our budget.

We are approaching the end of our first three-year Strategic Plan, which set us overarching objectives to shift our regulatory focus to pre-empting and preventing consumer harm in the premium rate services market through more proactive regulation in partnership with the industry. By taking this approach, PhonepayPlus has achieved a tremendous amount over the period of the current Strategic Plan, with measurable improvements in the number of consumer complaints, the levels of serious consumer harm and the amount of co-operation and discussion with the industry on building in compliance to new and developing services.

PhonepayPlus has also made important changes to our enforcement processes, including the introduction of an independent Tribunal to consider cases against providers who have breached the Code of Practice and, more recently, the introduction of a Complaint Resolution Team which looks to resolve issues more informally where this is appropriate to do so.

We are about to achieve another milestone with the imminent introduction of a new Code of Practice and a new mandatory industry Registration Scheme. These two initiatives combined will significantly change the way in which we regulate the PRS industry, providing the ability for compliant companies to more flexibly deliver services to consumers, while creating an ability to protect consumers more effectively by targeting regulation at the point of harm.

By evolving our regulatory approach in this way, we believe this will lead to two important benefits: it will support innovation and investment in services that benefit consumers, as well as improve our ability to come down hard on the small number of providers whose wilful breaches of regulation harm consumers and damage the reputation of the PRS market. It is also our belief that the way we are adapting our internal structures to support the new Code and Registration Scheme will allow us to improve our efficiency, without jeopardising our regulatory effectiveness on behalf of consumers.

So, 2011 looks like being a landmark year for the PRS market, with long-requested and much-anticipated changes in the way services are regulated. We will shortly launch our new Strategic Plan for 2011/14 and it is our hope that, by continuing to evolve and develop our approach to regulating the dynamic PRS market, we can continue to bring substantial benefits to consumers and grow confidence in the PRS sector, creating the right conditions for investment and growth. We also expect the new regulatory framework that we are introducing to strengthen compliance in the market, and PhonepayPlus will continue to drive efficiencies in the costs of regulation over the period of the new Strategic Plan.

**Sir Alistair Graham**

**Chairman**

## 1. Executive Summary

1.1 2011/12 will see the launch of a new regulatory framework for premium rate services (PRS) based on a new Code of Practice and industry Registration Scheme, which significantly adjusts and aligns the responsibilities on Network operators and PRS providers operating in the UK market. Primarily the new regulatory framework will:

- Require the PRS provider responsible for the operation, content and promotion of the service to ensure consumers' expectations are met through delivering six positive outcomes outlined in the Code;
- Expect Network operators and other PRS providers in the value-chain to carry out due diligence and ongoing risk assessment on their business partners, relative and proportionate to their role in the chain; and
- Register with PhonepayPlus on the new industry Registration Scheme, which is designed to assist due diligence, support effective regulation and deliver better information for consumers through an improved Number Checker facility.

1.2 The successful launch and implementation of this new regulatory framework will be a major priority for PhonepayPlus throughout the next year. Alongside this, 2011/12 will be the first delivery year for our new three-year Strategic Plan, which will be published shortly. A short statement on the new Strategic Plan forms Section 1 of this document, and the responses to the recent consultation on the strategy and PhonepayPlus' response and comments can be found in Appendices C and D of this document. The five strategic objectives in the plan will provide the framework for all other activity carried out by PhonepayPlus in the next year.

1.3 As the UK economy continues to recover slowly from the worst global recession yet seen, it is unsurprising that our market intelligence suggest that the PRS sector appears to have remained static in terms of turnover in 2010. Our latest figures for the second quarter of 2010/11 show a small decline over the previous year and, while the third quarter is traditionally the strongest, our expectation is that the market will not see significant growth this year. We are currently carrying out our full market review for 2010, which we will publish alongside the approved Business Plan & Budget for 2011/12 in March next year.

1.4 The proposed PhonepayPlus budget for 2011/12 is £3,799,743. This is a **real terms decrease of 13.2%** on 2010/11<sup>1</sup>. In cash terms, the budget is 10% lower than the current year. Following real-terms budget reductions in the previous two years, by the end of the next Financial Year PhonepayPlus will have **reduced its costs by 20% in real terms since 2008/9**. This significant decrease in costs projected for the coming year reflects, in part, a reduced regulatory burden from a fall in consumer complaints over the last eighteen months, but also a number of system and process improvements that have helped drive efficiencies.

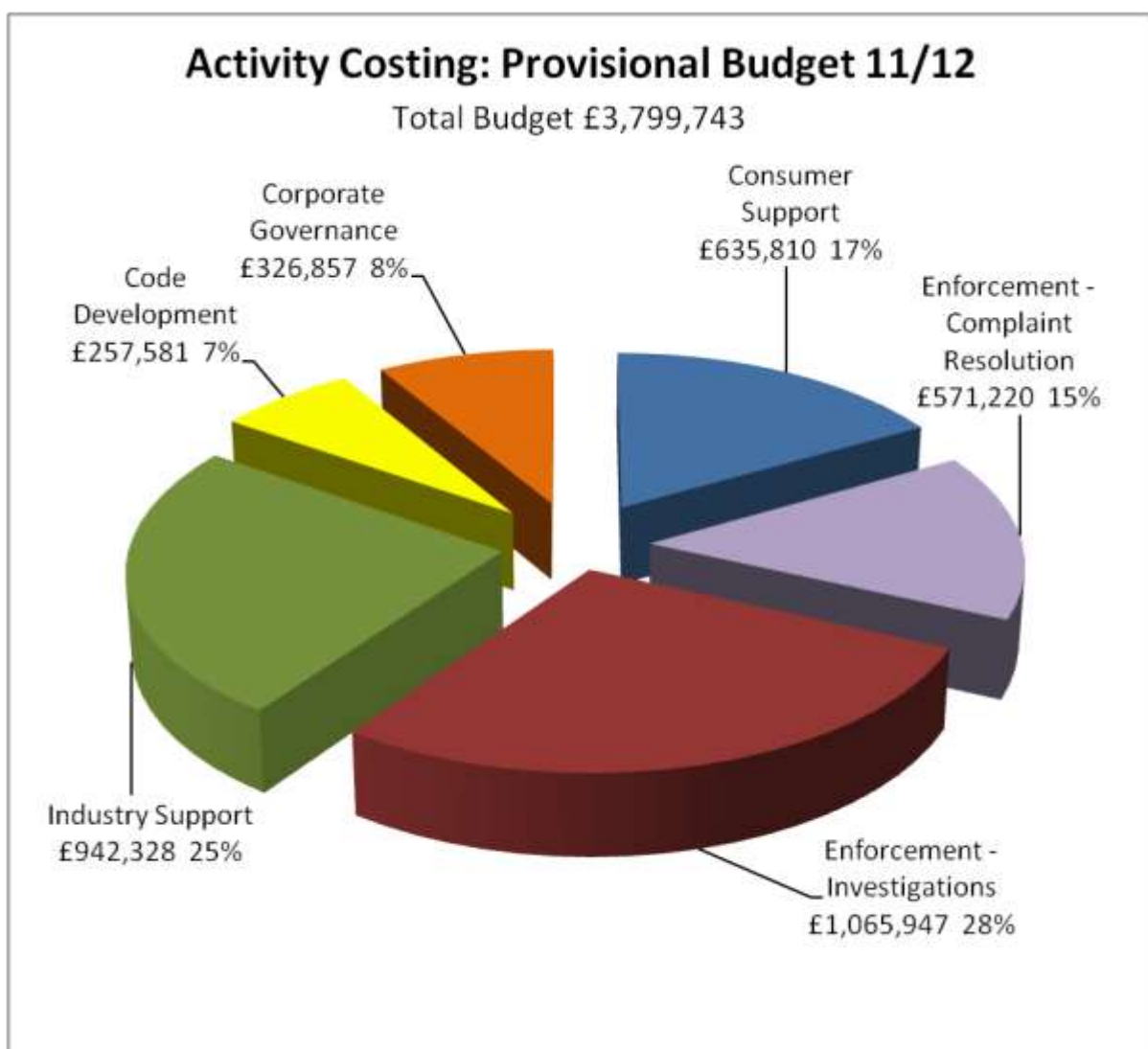
1.5 PhonepayPlus is mindful of the ongoing challenges faced by business from the slow economic recovery. We have sought to balance the need to deliver financial efficiencies in this climate, with the need to ensure consistent and effective regulation of premium rate services. It is expected that the new regulatory framework will deliver improved rates of regulatory compliance and the industry will continue to deliver positive outcomes for consumers in the market. Accordingly, we expect the costs of regulating the market to be

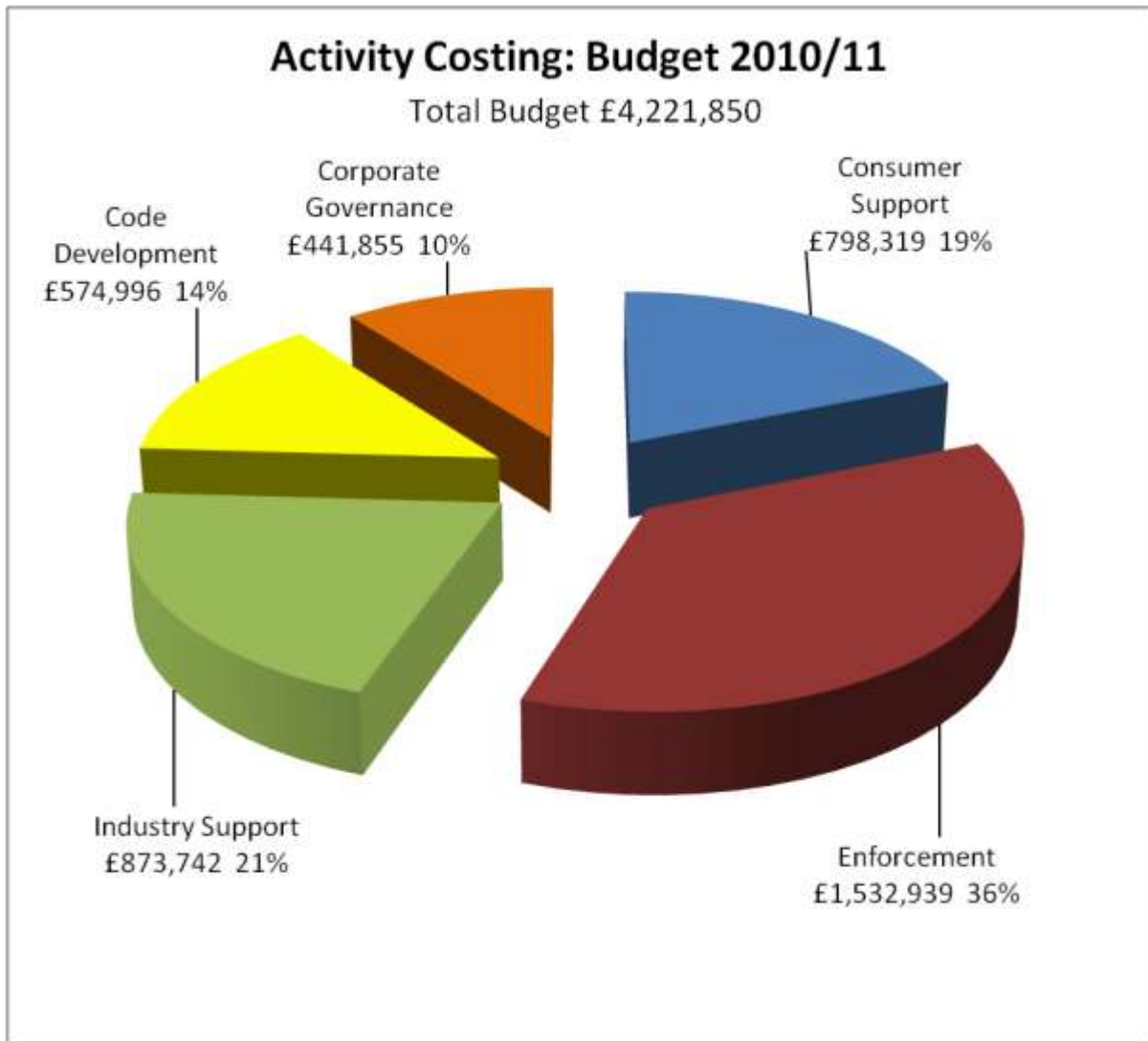
---

<sup>1</sup> PhonepayPlus is presenting its budget this year using the same methodology as the Government used in its recent Comprehensive Spending Review. The Government includes CPI inflation within its budget proposals, so that the real impact of rising costs can be seen on any proposed budget increases or decreases. CPI was 3.2% in October 2010 and we are using this figure to represent our budget proposals for 2011/12.

reduced further still over the lifetime of the current Strategic Plan. We recognise that, while regulation drives benefits for consumers, it is nevertheless a cost which ultimately consumers pay through the costs of the services they receive. We therefore continually challenge our costs to ensure that we deliver our service in the most effective and cost-efficient way.

1.6 The traditional presentation of next year's budget can be found at Appendix A. Last year, we also presented the budget by regulatory function, so that stakeholders could more readily see how funds were apportioned to different activities. We received positive feedback from stakeholders on this presentation, so we have continued to develop it this year. The charts below show our budget split by activity both for the current year (10/11) and the proposed budget for next year (11/12).





## 1. Consumer Support

1.7 After a significant fall of around 50% on the levels seen two years ago, our consumer contacts have now stabilised at around 2,400 per month, with around 20% of these forming complaints. Many of the other contacts are consumers checking information on their communications bills for premium rate services or other related queries. Last year, we budgeted to spend around £798k, or 19%, of our resource in this area, including staffing our contact centre and carrying out consumer literacy work. To reflect our proposals to re-engineer this activity, along with reduced consumer demand, we plan to reduce spending in 2011/12 in this area to £636k, or 17%.

1.8 As we move forward in this area, we need to balance effectiveness with efficiency to ensure that, should consumer support demands increase, we are able to meet demand in a timely manner that maintains consumer confidence in the sector. Key priorities for this area in the next year are:

- Integrating the contact centre with the complaint resolution function to improve efficiency and customer experience;
- Launching and promoting the improved Number Checker facility, when available, to assist consumers with self-servicing enquiries; and

- Continuing to develop the award-winning PhoneBrain consumer literacy campaign which assists children and young people to safely use phone-paid services, thus further pre-empting the need for regulatory intervention and related costs.

## 2. Industry Support & Intelligence

1.9 We have seen a continuing increase in the demand for our industry support services, and the feedback from users about these services remains positive. To assist providers in complying with the Code of Practice, we offer free compliance advice and we have seen a steady demand for this service over the last year, following significant increases in previous years. With the new Code offering fewer prescriptive rules and more flexibility in achieving outcomes, we expect demand for this service to stay strong over the next year as providers seek advice on alternative approaches to achieving compliance with the Code.

1.10 Informed policy-making and effective enforcement require strong evidence, and our Intelligence & Market Research team strives to ensure we have a sound basis for taking forward our work. We have reduced the budget available for external research next year, but aim to balance this through further improvements in managing our internal data and intelligence sources to create stronger outputs. Where possible, we will work with others to share the costs of such research.

1.11 This year, PhonepayPlus trialled external monitoring with a third-party supplier to see if we could achieve richer data on compliance levels in the market than is possible with the internal resources we have. We plan to share this work with industry and our response to it in the early part of 2011. However, it is already clear that strategic external monitoring could significantly assist proactive regulatory activity to pre-empt consumer harm and we will be developing this work further in the coming year.

1.12 In 2010/11, we budgeted to spend £874k on Industry Support & Intelligence, or 21% of our budget. In the coming year, we plan to spend £942k, which represents 25% of total spending. The increase in spending in this area is in line with our strategy to shift resources from consumer support to industry support, as part of our continuing shift to proactive regulation.

## 3. Regulatory Enforcement

1.13 This year saw an important new development in the way PhonepayPlus seeks to enforce the Code of Practice, with the creation of our Complaint Resolution Team. This new function has the aim of assisting consumers with complaints or enquiries where there is minimal consumer harm, through seeking a speedy resolution directly with the PRS provider. The new Code of Practice introduces two new processes for resolution of low-level harm with PRS providers, the new informal Fast-track process and the new Track 1 procedure. Over the next year, we will be looking to expand and develop this approach to tackling compliance failure to further secure positive outcomes for consumers and increase trust in the premium rate services sector.

1.14 The introduction of the complaint resolution function has ensured that our Investigations Team is now fully focused on tackling the worst consumer harm in the market. Following an unprecedented year for fines in 2009/10, we are pleased that this year has seen a much-reduced level of fines and breaches, suggesting that this strong regulatory action has had an impact on significant consumer harm in the market<sup>2</sup>. We hope, over time, that the percentage of our costs spent on investigations will decrease as more is invested in resolving complaints and compliance failures proactively and the market becomes more

---

<sup>2</sup> Fines in 2009/10 were £5,441,250. So far, since April 2010, the independent Code Compliance Panel has issued fines totalling £1,529,211.

compliant. We are therefore showing our spending in this area divided between complaint resolution and investigations, so that this trend can be monitored over time.

1.15 This year, we had budgeted £1.533m, or 36% of our budget, on enforcement work. In 2011/12, we expect to spend £1.637m on enforcement work, representing 43% of budget. However, this will from now on be separated to show how much we are spending on formal investigations work (£1.066m, or 28% of our budget), and how much we are spending on the informal resolution processes (budgeted at £571k for 2011/12, or 15% of our budget). Some of these enforcement costs are recovered through administrative charges, where a case is taken to a Tribunal, as well as costs imposed as part of a sanction on the provider.

#### **4. Code Compliance and Development**

1.16 We expect to publish the new Code of Practice and updated Guidance for industry before the end of the current business year. Accordingly, we expect a significant drop in activity in this category in 2011/12, as the focus shifts to implementation of the new Code. There will continue to be some need to develop policy on compliance over the next year, including following up some current reviews on the implementation of 0871 regulation and the measures enacted following the review of mobile services in 2008. We also expect that industry will request further Guidance or advice on compliance once the new Code is in operation. Additionally, there may be the need to potentially revisit Guidance on new areas, such as due diligence and risk assessment, to reflect the experience of industry in implementing the new rules.

1.17 In 2010/11, we budgeted to spend £575k, or 14% of our budget, in this area. Next year, we plan to spend £258k, or 7% of our budget, on Code compliance and development work.

#### **5. Governance and Corporate**

1.18 Like all small businesses, we face the challenge of ensuring we operate efficiently and keep operating costs to a minimum, while also ensuring we remain effective and able to deliver on our remit. As a regulator with public functions, we have added responsibility of accountability for our activities and spending, which bring with them further necessary costs for governance and controls.

1.19 Over the last year, we have challenged every one of our costs and been successful in reducing them in many areas, not least by renegotiating the lease on our premises at a more favourable rent. We will continue to test every spending commitment, or operational overhead, we have to ensure we are delivering best value for money. In 2011/12, we expect to identify further efficiencies in the areas of Governance and our business systems processes.

1.20 In the current year, our Governance and Corporate costs are £442k, or 10% of our budget. In the coming year, we will reduce these to £327k, or 8% of our spending. Savings in this area will come from a variety of sources, including the Board itself.

#### **Registration Scheme**

1.21 The introduction of the new industry Registration Scheme is being funded initially from cash reserves held by PhonepayPlus, with the aim that the Registration Scheme is self-funding over time through the registration fees. This principle of funding was part of the agreement with Ofcom over the introduction of the Scheme and has wide industry support. Once the initial set up costs of the Scheme are recovered through fees, any surpluses will be returned to industry. This is likely to be through the form of a reduced levy but we will consult

at that point with stakeholders and funders about any other alternatives. The budget and accounts for the Registration Scheme do not form part of this consultation as they do not affect the proposed costs that we have outlined in this document for 2011/12; they will be separately accounted and budgeted for. We will issue an update on the Registration Scheme project shortly, including a full report on costs. The Registration Scheme funding will form part of our Annual Report and it will be incorporated into our business planning process for 2012/13 and beyond.

## **The Industry Levy**

1.22 PhonepayPlus is primarily funded by a levy on service providers deducted at source by Network operators. Funds are withheld at Network operator 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 Network operators on account refunded.

1.23 Following final approval of the budget by Ofcom, we will inform industry of the outcome of this process and our levy requirements for 2011/12. On current projections, we would expect the headline levy to be reduced in 2011/12, based on this Business Plan & Budget. However, owing to lower fine income in the current year, we expect that the adjusted levy charged to industry will rise slightly on last year.

1.24 2009/10 saw a large increase in fines and the Industry Liaison Panel (ILP) was consulted about whether all of those monies should be returned in the form of a significantly lower levy in 2010/11, or used to “smooth” the levy over a longer period. On balance, most ILP members said that their members wanted the surplus returned in 2010/11 and, accordingly, the levy was reduced by 56%, to 0.21%, on the understanding that the levy would probably need to increase in 2011/12. Our initial assessment, based on two quarters of network returns only, suggests that this proposed budget, if approved following consultation, would lead to the levy needing to be set within a range of **0.28-0.35%**, which is still considerably lower than the levy of recent times.

## **Feedback and comment**

1.25 We wish to gather our stakeholders’ 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 7. **The closing date for responses is 17 January 2011.** This 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 2011/12.

## **2. Section 1: Statement on the Strategic Plan 2011/14 consultation**

2.1 In September 2010, PhonepayPlus began a consultation on a new three-year Strategic Plan to cover the period April 2011 to March 2014<sup>3</sup>. The consultation included a review of the success of the current Strategic Plan, which had the objective of developing a more proactive approach to consumer protection through building effective relationships with the industry. This strategic approach has led to significant improvements in the levels of consumer complaints about premium rate services and has reduced the level of serious consumer harm in the market. Engagement with the industry has also led to the development of a new, more targeted regulatory framework comprising of a flexible, outcomes-based Code of Practice and an industry Registration Scheme, both launching in 2011.

2.2 The consultation document also set out proposed changes to PhonepayPlus' Vision statement and organisational Values, as well as five new strategic objectives for 2011/14. We plan to publish the final Strategic Plan before the end of the year; however, so that stakeholders can consider next year's Business Plan & Budget in the context of the new strategy, we set out in Appendix C the key stakeholder responses to the consultation and our comments, noting where these have framed changes to the draft Strategic Plan. In Section 2, we also set out our revised Vision statement and Values, following the consultation.

### **Consultation Responses**

2.3 We received six formal responses to the consultation on the new Strategic Plan. These can be viewed on the PhonepayPlus website<sup>4</sup>. The respondents were:

- AIME
- BT
- Mobile Broadband Group (MBG)
- The Number (118118)
- Premium Rate Association (PRA)
- The Telecommunications United Kingdom Fraud Forum Limited (TUFF)

2.4 The Strategic Plan was also discussed at an Industry Forum held on 27 October 2010, and a note of comments from stakeholders present was taken and considered as a response to the consultation. The note of the discussion can be found at Appendix D.

2.5 Overall, the responses from stakeholders to the proposals and objectives in the Strategic Plan consultation were well-received. Accordingly, we do not at this stage propose changing the five objectives set out in the draft Strategic Plan and set out below:

### **Objective 1**

Launch and successfully implement the new Code of Practice and industry Registration Scheme, creating a flexible, fair and proportionate regulatory regime for the Premium Rate Services sector.

---

<sup>3</sup> The consultation on the Strategic Plan 2011/14 can be found on the PhonepayPlus website at: <http://www.phonepayplus.org.uk/upload/PhonepayPlus-A-Three-Year-Strategic-Plan-2011-14-Consultation.pdf>

<sup>4</sup> <http://www.phonepayplus.org.uk/output/Consultation-response-PhonepayPlus-Strategic-Plan-2011-2014.aspx>

**Objective 2**

Work with the industry to build in compliance to all emerging and developing premium rate phone-paid services. Drive-up overall levels of compliance in the market through strategic use of monitoring and increased use of informal resolution of minor Code breaches.

**Objective 3**

Increase the quality of intelligence about the phone-paid services market and its consumers through more effective use of internal and market data, supported by targeted research, to better inform the development of the Code of Practice and to better target enforcement action.

**Objective 4**

Work with industry to assist consumers of phone-paid services to increase their ability to safely and confidently use premium rate services.

**Objective 5**

Deliver effective and efficient regulation for the phone-paid services sector through smarter use of resources and further investment in building knowledge and skills of PhonepayPlus of staff.

### **3. Section 2: Our purpose and role**

3.1 Following the consultation on the Strategic Plan 2011/14 as set out in the following section, the updated Vision and Values for PhonepayPlus are set out below:

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

#### **OUR VISION**

Our vision is that anyone can use premium rate services with absolute confidence.

#### **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, 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.

##### **Efficient**

We will continually strive to deliver our activities efficiently, challenging ourselves to find new ways of working and improved systems and processes that reduce the costs of regulation without undermining the quality of the protection we offer consumers.

##### **Transparent**

We will aim to share all relevant information on activities and will respond to all reasonable requests for such information. We will always be open and transparent in our dealings, unless in doing so we would undermine our regulatory effectiveness or breach the rights of others to confidentiality.

## **4. Section 3: Achievements in 2010**

4.1 In our 2010/11 Business Plan, and following extensive consultation with industry and other stakeholders, we committed to undertaking a range of activities in the year. We continue to proactively engage with stakeholders, in particular industry participants and their trade bodies, to ensure that our ongoing work reflects current issues and concerns. We have been encouraged in recent years that our Industry Liaison Panel (ILP) has created a number of working groups to support developments in areas, such as complaints handling and improving the Number Checker, which have materially improved outcomes for consumers in the market. Ahead of our full Annual Report next year, we set out below the progress we have made so far this year in delivering the current Business Plan.

### ***A new PhonepayPlus Code of Practice based on clear outcome-based rules***

4.2 The new Code of Practice is currently lodged with the European Commission for approval, following a full public consultation held earlier this year. We expect the Code to clear this stage in early 2011 and then gain formal approval by Ofcom.

### ***Revised guidance for the industry and for specific services***

4.3 We are currently consulting on a wide range of general and service-specific industry Guidance to support the Code. We expect the Code, Guidance and an updated Sanctions Guide to be published in the first quarter of 2011.

### ***A new industry Registration Scheme***

4.4 The new mandatory industry Registration Scheme that will support the new Code of Practice is currently being developed. The Scheme will bring benefits to the industry through providing key information to support due diligence checks required under the new Code and will benefit consumers through delivering an improved Number Checker service. As part of the implementation of the new system, we will realise a number of efficiency benefits and process improvements that will help to keep down the costs of regulation for industry. We will continue to involve key industry stakeholders in the final stages of development of the system and hope to launch the Scheme early in the second quarter of 2011.

### ***Improvements to the PhonepayPlus Number Checker to enable coverage of nearly all PRS numbers***

4.5 The Number Checker now regularly returns a positive response on over 90% of all mobile shortcode checks, ensuring consumers are offered the contact number of the most appropriate organisation to resolve their query. Contact numbers and a description of the service accessed, allowing consumers to truly 'self-serve', are returned on 80% to 85% of all fixed-line number checks. This is achieved by sourcing the information of the most frequently-checked unknown numbers, while removing numbers no longer in use on a weekly basis. As part of the new Registration Scheme, we will require PRS providers to register their services with us. We expect this will lead to an almost 100% positive response to number checks, providing benefits to consumers through speedier enquiries and redress, and to PRS providers, by supporting more effective customer service.

### ***A new approach to consumer complaints handling and redress, working in partnership with industry***

4.6 This year, we launched the new Complaint Resolution Team in anticipation of changes to enforcing compliance with the new Code of Practice. Under the new Code, we will be adopting a new informal "Fast-track" resolution process and also a "Track 1"

resolution procedure, supported by an agree action plan with providers. Both of these new processes are designed to allow more flexibility in resolving low-level breaches of the Code, where these have resulted in low levels of consumer harm. They are also aimed to provide speedier redress for consumers, particularly in cases where they are unable to successfully resolve issues with the relevant PRS provider. The new Complaint Resolution Team is already beginning to have a positive impact on the way these issues are dealt with, and we expect this work to develop significantly in 2011 as the new Code comes into force.

***A strategic focus on monitoring and testing phone-paid services in order to intervene more proactively and quickly where non-compliance is suspected***

4.7 So far in 2010, PhonepayPlus has undertaken strategic monitoring of specific sectors of the market to gauge overall levels of compliance with the Code of Practice. This intelligence has helped to inform the development of the Guidance to support the new Code of Practice and also led to discussions with certain providers about the need to improve compliance with the Code. We are preparing a report on this work to publish in 2011 and we have incorporated the further development of monitoring, tied to effective driving up of compliance standards, as an objective for the new Strategic Plan.

***An extension to our compliance advice service, following significant growth in usage by industry***

4.8 We have invested more resource into supporting compliance advice requests from industry this year and have managed to maintain performance against our targets in this area. With the development of the new Code, we are expecting demand for this service to increase, so it is important that we clearly set out where it is appropriate and proper for PhonepayPlus to provide advice on complying with regulation, and where businesses might need professional advice and support on developing services or products. We are planning to fully review this service during 2011, so that we are able to offer appropriate and timely support to industry on compliance advice queries related to the new Code of Practice.

***The development of a new Three-Year Strategic Plan for PhonepayPlus***

4.9 PhonepayPlus will shortly publish a new Three-Year Strategic Plan covering 2011/14. The statement on our recent consultation on the strategy, along with stakeholder responses and our comments, can be found in this document in Section 1 and Appendices C and D.

## **5. Section 4: The market and other external conditions**

5.1 PhonepayPlus is currently carrying out its annual market review, which is designed to inform regulatory activity, as well as provide a health check on the industry. Over recent years, we have seen declines in the size of the market, driven by a number of factors, not least the recent deep recession. However, signs so far this year are that the market decline is significantly slowing and our expectation is that the overall market for 2010/11 may be static against the previous year. Although this is not cause for the industry to celebrate, it does suggest that the right investment in services and products could see the industry return to growth in coming years. We will update our forecast of the market in our Business Plan statement in March 2011.

### **Understanding the market**

5.2 As part of our market review this year, we have been particularly interested in the developments in the monetisation of social media using PRS and the inclusion of PRS billing in mobile applications. This forms part of our ongoing work to assess market risks to consumers, by ensuring we are alert to developing technologies and service models, such as in-application billing and virtual currencies, and monitoring how they are being deployed. We have recently been asked by our Industry Liaison Panel to consider developing a Guidance note for the use of PRS in these fast-developing platforms and we will be taking that work forward over the coming months.

### **0871/2/3 services: regulation one year on**

5.3 PhonepayPlus has recently completed a review of its regulation of 0871/2/3 services, which has also considered market conditions. This research has helped us to reflect how the application of PRS regulation to this market has impacted on the industry and whether we have achieved a proportionate and effective regime for this sector. We are seeking responses to our current consultation on Guidance for the new Code of Practice on the impact of the proposals on this sector. In particular, the General Guidance Note on 'Lower-cost services (including 0871/2/3)' seeks to apply the Code proportionately to this market.

5.4 When expressed in terms of outpayments to content providers, the market for 0871/2/3 appears to have remained stable during 2010, with an apparent increase during the most recent quarter. While this is encouraging, we would like to understand more about the overall health of different service types operating in the 0871/2/3 market.

### **Squeeze on the margins: 20% VAT, bad debt surcharges?**

5.5 From 4 January 2011, VAT will rise from 17.5% to 20%. PhonepayPlus understands that this presents particular challenges for an industry in which fixed-price points feature prominently. We also know that there are other potential squeezes on operating margins, such as increases in the amounts Network operators surcharge to cover bad debt from consumers of PRS. We are keen to understand what impact PRS providers think this will have on their businesses in the coming year.

### **The rise of Android**

5.6 While Apple has grabbed all of the headlines with the iPhone, a number of market analysts suggest that it is Google's Android platform that will leap into first place in the smartphone operating system market dominance battle during 2011. With fewer restrictions for developers, and potential for a greater market with a plethora of handsets using Android, there are plenty of opportunities to market and monetise services and applications using PRS. We are keen to understand what the industry thinks the potential is for PRS on the

Android platform and what support and guidance PhonepayPlus might offer to ensure that consumers enjoy positive outcomes when using PRS on smartphones.

***Q1. What information or evidence do you have about market trends and about the overall size of the phone-paid services market in 2010/11?***

***Q2. What information or evidence do you have about any specific segments or content areas and their potential for real growth or decline over 2010/11?***

***Q3. How do you see the phone-paid services market developing in 2011/12? In particular, do you have any insight into how PRS might develop on social media or smartphones?***

## **6. Section 5: Looking forward to 2011 and the financial picture**

### **Priorities for 2011/12**

#### *A new Code of Practice*

6.1 Over the last two years, PhonepayPlus has been working with the industry, Ofcom and other stakeholders to develop a new Code of Practice for premium rate services. The new Code is designed to create a regulatory framework for PRS that ensures positive outcomes for consumers when they use services, while allowing flexibility for the industry in how they achieve compliance with these outcomes. The shift from the current Code, which has developed a number of prescriptive rules over time, to a more progressive framework, reflects the fact that the market moves at a faster pace than is possible for regulation in a rules-based framework. Our approach is to move to an outcomes-based approach which has the flexibility to accommodate this change in markets and business models. We expect to publish the new Code in the first quarter of 2011, with it coming into force in the summer.

6.2 A clear priority for 2011/12 will be ensuring that the launch and implementation of the new Code of Practice is a success. Alongside the Code, we have developed a range of Guidance for industry, both general and service-specific, to assist with compliance and in interpreting the new Outcomes. The Guidance is not mandatory, but it will be fully consulted on, so it should reflect recognised best practice in the areas covered. The Guidance consultation is currently live and details can be found on our website<sup>5</sup>.

6.3 Alongside the new Code and Guidance, we are expecting to set out a refreshed process for enforcement in a new Sanctions Guide. This document will reflect the development of our new complaint resolution process and the introduction of new informal “Fast-track” and “Track 1” resolution processes in the new Code. Having had industry feedback that the enforcement processes at PhonepayPlus can sometimes seem unclear, we are also looking to more simply and clearly communicate our resolution, enforcement and sanctions processes over the coming months.

6.4 A thorough and iterative communications campaign is planned to ensure the industry is aware of the new Code and the responsibilities that Network operators and providers at different points in the value-chain have under the new framework. For the first time, all parties in the PRS value-chain will be directly regulated by PhonepayPlus. Providers who are responsible for the operation, content and promotion of the service will be responsible for ensuring our six consumer outcomes in the Code are met (referred to as Level 2 providers in the Code). All other parties in the value-chain between the Level 2 provider and the terminating communications provider (or Network operator) will have due diligence and ongoing risk assessment responsibilities (and are referred to as Level 1 providers in the Code). Network operators will also have due diligence and risk control responsibilities, but proportionate to their role in the value-chain and depending on their proximity to Level 2 providers.

6.5 One of the major new components of the new Code of Practice is the requirement for all parties in the value-chain to register with PhonepayPlus, and the introduction of a new mandatory industry Registration Scheme is the second major priority for 2011/12.

#### *A new industry Registration Scheme*

---

<sup>5</sup> <http://www.phonepayplus.org.uk/output/news/consultation-on-the-Guidance-for-the-new-Code-of-Practice.aspx>

6.6 For a number of years, key industry stakeholders have been making the case for a mandatory industry Registration Scheme to improve transparency for those doing business in the PRS market and to assist in driving up levels of compliance with regulation. Ofcom considered the matter as part of its review of the scope of PRS regulation and, in its statement in October 2009, agreed that a Registration Scheme could provide benefits to consumers and industry, as part of a regulatory framework that extended responsibilities throughout the PRS value-chain. Respondents to the Ofcom review suggested that it was most practical for PhonepayPlus to implement and manage such a Scheme, and so work commenced on scoping the project in late 2009.

6.7 Following a period of consultation and involvement with the industry, we began to develop the new Registration Scheme in earnest in 2010. We are currently developing the system with our chosen IT vendor, Cantata Limited. We will be continuing to engage industry through the final development and user testing stages over the coming months. We plan to launch the Scheme in the second quarter of 2011 to give the industry time to register and to prepare for the Code to make this mandatory in the second half of 2011. We will confirm the timetable for the introduction of the new Code of Practice and the Registration Scheme early in 2011, so that the industry can properly prepare. A more detailed update on the progress of the Registration Scheme and costs will be published in the coming weeks.

#### *Developments in PRS markets*

6.8 While we work to ensure the successful implementation of the new regulatory framework, it is critical that we continue to monitor developments in the market to ensure we are continuing to pre-empt and prevent consumer harm from occurring. This is becoming increasingly challenging with the growth of social media, smartphone applications and websites where PRS is increasingly being used as one of a number of micropayment mechanisms to monetise content.

6.9 During 2011/12, we plan to increase our knowledge of this developing market and work with the industry, including many providers new to PRS regulation, to ensure that they are aware of their responsibilities under the Code and how rules may apply to the services they are developing, particularly in relation to pricing transparency, privacy and complaints handling.

#### ***Q4. What comments do you have on the priorities for 2011/12? Are there other projects or issues that you think PhonepayPlus should consider for the coming year?***

#### **The financial picture**

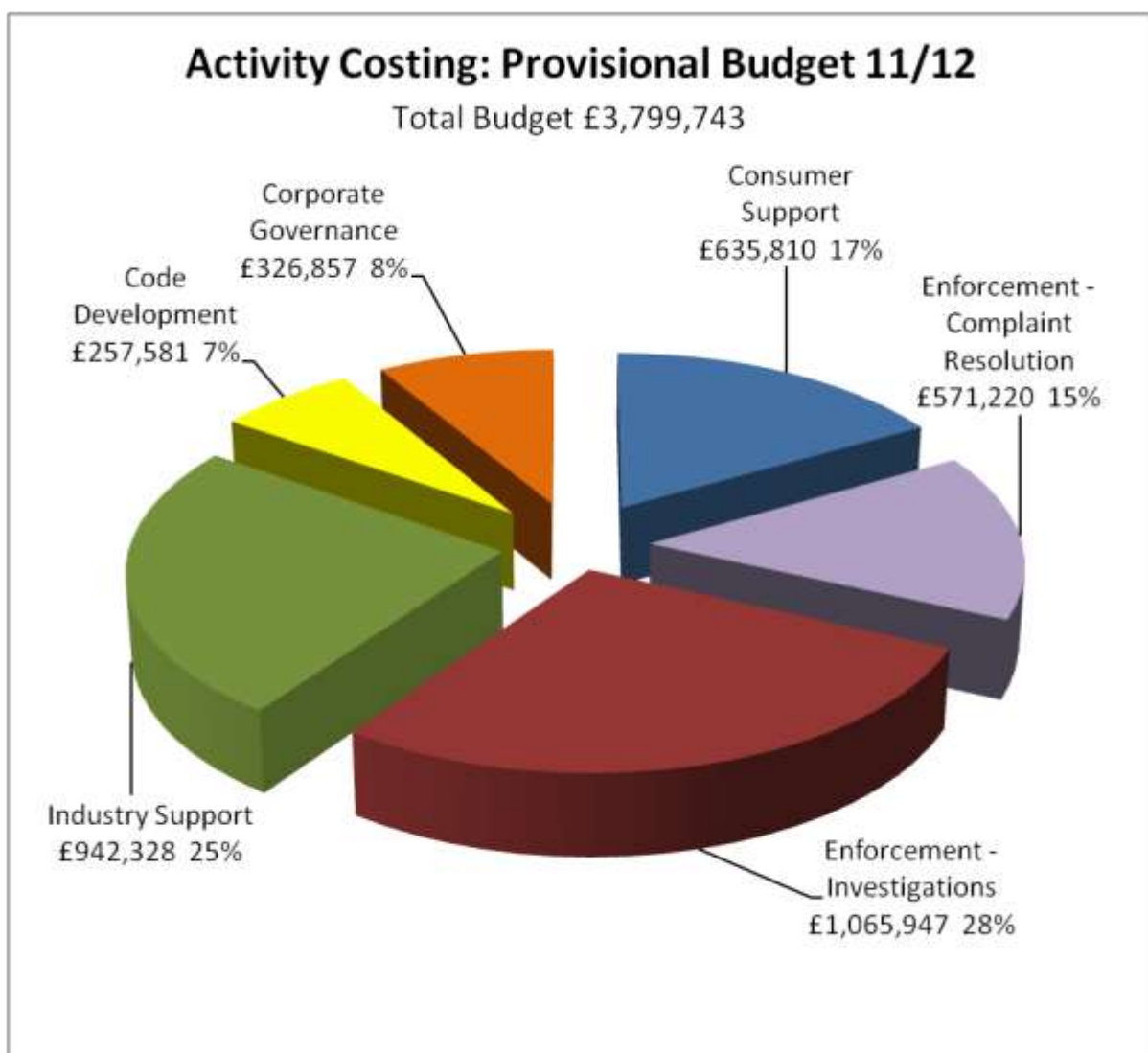
6.10 The proposed PhonepayPlus budget for 2011/12 is £3,799,743. This is a **real terms decrease of 13.2%** on 2010/11<sup>6</sup>. In cash terms, the budget is 10% lower than the current year. Following real-terms budget reductions in the previous two years, by the end of the next Financial Year PhonepayPlus will have **reduced its costs by 20% in real terms since 2008/9**. This significant decrease in costs projected for the coming year reflects, in part, a reduced regulatory burden from a fall in consumer complaints over the last eighteen months, but also a number of system and process improvements that have helped drive efficiencies.

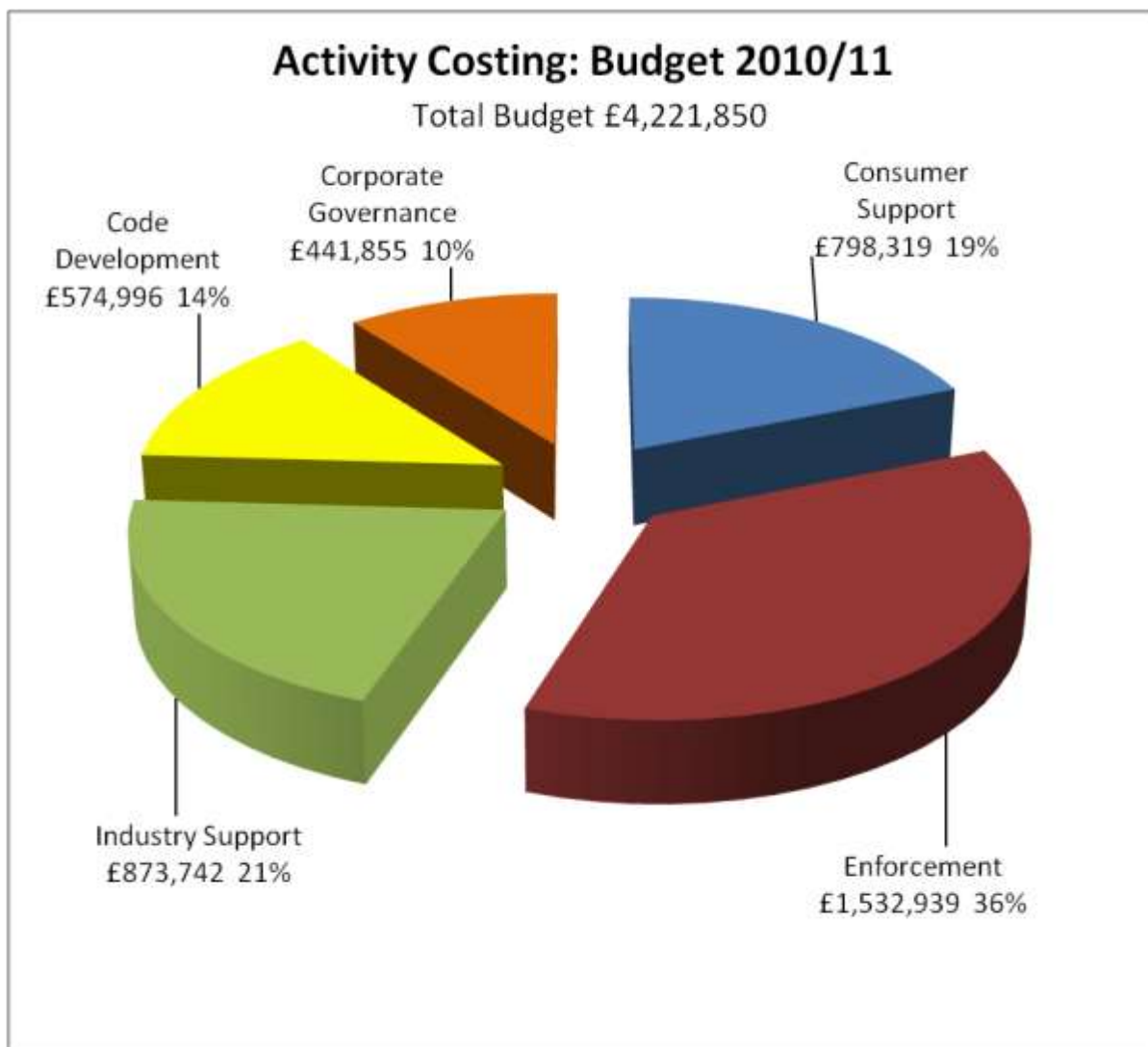
---

<sup>6</sup> PhonepayPlus is presenting its budget this year using the same methodology as the Government used in its recent Comprehensive Spending Review. The Government includes CPI inflation within its budget proposals, so that the real impact of rising costs can be seen on any proposed budget increases or decreases. CPI was 3.2% in October 2010 and we are using this figure to represent our budget proposals for 2011/12.

6.11 PhonepayPlus is mindful of the ongoing challenges faced by business from the slow economic recovery. We have sought to balance the need to deliver financial efficiencies in this climate, with the need to ensure consistent and effective regulation of premium rate services. It is expected that the new regulatory framework will deliver improved rates of regulatory compliance and the industry will continue to deliver positive outcomes for consumers in the market. Accordingly, we expect the costs of regulating the market to be reduced further still over the lifetime of the current Strategic Plan. We recognise that, while regulation drives benefits for consumers, it is nevertheless a cost which ultimately consumers pay through the costs of the services they receive. We therefore continually challenge our costs to ensure that we deliver our service in the most effective and cost-efficient way.

6.12 The traditional presentation of next year's budget can be found at Appendix A. Last year, we also presented the budget by regulatory function, so that stakeholders could more readily see how funds were apportioned to different activities. We received positive feedback from stakeholders on this presentation, so we have continued to develop it this year. The charts below show our budget split by activity both for the current year (10/11) and the proposed budget for next year (11/12), with descriptions of the activity proposed in each area following.





## 1. Consumer Support

6.13 The success of our current three-year strategy in shifting regulatory activity to pre-empting and preventing consumer harm, rather than dealing just with harm once it has occurred, has had a very positive impact on the numbers of consumers requiring our support. After a significant fall of around 50% on the levels seen two years ago, our consumer contacts have now stabilised at around 2,400 per month, with around 20% of these forming complaints. Many of the other contacts are consumers checking information on their communications bills for premium rate services or other related queries. Last year, we budgeted to spend around £798k, or 19%, of our resource in this area, including staffing our contact centre and carrying out consumer literacy work. To reflect our proposals to re-engineer this activity, along with reduced consumer demand, we plan to reduce spending in 2011/12 in this area to £636k, or 17%.

6.14 As we move forward in this area, we need to balance effectiveness with efficiency to ensure that, should consumer support demands increase, we are able to meet demand in a timely manner that maintains consumer confidence in the sector. Key priorities for this area in the next year are:

- Integrating the contact centre with the complaint resolution function to improve efficiency and customer experience;
- Launching and promoting the improved Number Checker facility, when available, to assist consumers with self-servicing enquiries; and
- Continuing to develop the award-winning PhoneBrain consumer literacy campaign which assists children and young people to safely use phone-paid services, thus further pre-empting the need for regulatory intervention and related costs.

6.15 Last year, we consulted on proposals to change the way in which we funded consumer literacy work. Although the consensus was to keep this work as part of our main budget, one suggestion that arose was to form a joint Consumer Literacy Working Group with industry, government and consumer stakeholders, so that our campaigns and work in this area could be developed with input and knowledge from a range of external experts. This new group was set up in September and has since met twice, informing the proposals set out above. We plan to continue to develop this group and involve it in our consumer-focused campaigns, so that they are as effective as possible. Having cut the budget available for this work by a third in 2010/11 to £65k, we are proposing to increase this to £75k in 2011/12, so that we have the ability to bring in partners to fund this work by offering a reasonable amount of core funding. This represents just under 2% of our overall budget proposal.

## **2. Industry Support & Intelligence**

6.16 Since PhonepayPlus made the strategic decision to significantly shift the balance of regulatory activity from reactive work with consumers, to proactive work with the industry, we have seen a continuing increase in the demand for our industry support services, and the feedback from users about these services remains positive. To assist providers in complying with the Code of Practice, we offer free compliance advice and we have seen a steady demand for this service over the last year, following significant increases in previous years. With the new Code offering fewer prescriptive rules and more flexibility in achieving outcomes, we expect demand for this service to stay strong over the next year as providers seek advice on alternative approaches to achieving compliance with the Code.

6.17 Informed policy-making and effective enforcement require strong evidence, and our Intelligence & Market Research Team strives to ensure we have a sound basis for taking forward our work. We have reduced the budget available for external research next year, but aim to balance this through further improvements in managing our internal data and intelligence sources to create stronger outputs. Where possible, we will work with others to share the costs of such research.

6.18 This year, PhonepayPlus trialled external monitoring with a third-party supplier to see if we could achieve richer data on compliance levels in the market than is possible with the internal resources we have. The trial raised a number of issues, both in terms of low-level compliance failures in the market, and PhonepayPlus' ability to effectively manage these. We plan to share this work with industry and our response to it in the early part of 2011. However, it is already clear that strategic external monitoring could significantly assist proactive regulatory activity to pre-empt consumer harm and we will be developing this work further in the coming year.

6.19 In 2010/11, we budgeted to spend £874k on Industry Support & Intelligence, or 21% of our budget. In the coming year, we plan to spend £942k, which represents 25% of total spending. The increase in spending in this area is in line with our strategy to shift resources

from consumer support to industry support, as part of our continuing shift to proactive regulation.

### **3. Regulatory Enforcement**

6.20 This year saw an important new development in the way PhonepayPlus seeks to enforce the Code of Practice, with the creation of our Complaint Resolution Team. This new function has the aim of assisting consumers with complaints or enquiries where there is minimal consumer harm, through seeking a speedy resolution directly with the PRS provider. The new team has been operational for six months and has, to date, helped to resolve around 200 cases, without the need for a referral to the Tribunal. Fast and effective complaint resolution of this kind not only assists consumers, but also benefits the industry, as consumers feel more confident in using premium rate services, when they know effective redress is available should they face a problem. The new Code of Practice introduces two new processes for resolution of low-level harm with PRS providers, the new informal Fast-track process and the new Track 1 procedure. Over the next year, we will be looking to expand and develop this approach to tackling compliance failure to further secure positive outcomes for consumers and increase trust in the premium rate services sector.

6.21 The introduction of the complaint resolution function has ensured that our Investigations Team is now fully focused on tackling the worst consumer harm in the market. Following an unprecedented year for fines in 2009/10, we are pleased that this year has seen a much-reduced level of fines and breaches, suggesting that this strong regulatory action has had an impact on significant consumer harm in the market<sup>7</sup>. We hope, over time, that the percentage of our costs spent on investigations will decrease as more is invested in resolving complaints and compliance failures proactively and industry compliance improves. We are therefore showing our spending in this area divided between complaint resolution and investigations, so that this trend can be monitored over time.

6.22 This year, we had budgeted £1.533m, or 36% of our budget, on enforcement work. In 2011/12, we expect to spend £1.637m on enforcement work, representing 43% of budget. However, this will from now on be separated to show how much we are spending on formal investigations work (£1.066m, or 28% of our budget), and how much we are spending on the informal resolution processes (budgeted at £571k for 2011/12, or 15% of our budget). Under the new Code of Practice, we would expect the proportion spent on enforcement to trend towards resolution, rather than investigations, work over time. Some of these enforcement costs are recovered through administrative charges, where a case is taken to a Tribunal, as well as costs imposed as part of a sanction on the provider.

### **4. Code Compliance and Development**

6.23 We expect to publish the new Code of Practice and updated Guidance for industry before the end of the current business year. Accordingly, we expect a significant drop in activity in this category in 2011/12, as the focus shifts to implementation of the new Code. There will continue to be some need to develop policy on compliance over the next year, including following up some current reviews on the implementation of 0871 regulation and the measures enacted following the review of mobile services in 2009. We also expect that industry will request further Guidance or advice on compliance once the new Code is in operation. Additionally, there may be the need to potentially revisit Guidance on new areas,

---

<sup>7</sup> Fines in 2009/10 were £5,441,250. So far since April 2010, the independent Code Compliance Panel has issued fines totalling £1,529,211.

such as due diligence and risk assessment, to reflect the experience of industry in implementing the new rules.

6.24 In 2010/11, we budgeted to spend £575k, or 14% of our budget, in this area. Next year, we plan to spend £258k or 7% of our budget, on Code compliance and development work.

## **5. Governance and Corporate**

6.25 Like all small businesses, we face the challenge of ensuring we operate efficiently and keep operating costs to a minimum, while also ensuring we remain effective and able to deliver on our remit. As a regulator with public functions, we have added responsibility of accountability for our activities and spending, which bring with them further necessary costs for governance and controls.

6.26 Over the last year, we have challenged every one of our costs and been successful in reducing them in many areas, not least by renegotiating the lease on our premises at a more favourable rent. We will continue to test every spending commitment, or operational overhead, we have to ensure we are delivering best value for money. In 2011/12, we expect to identify further efficiencies in the areas of Governance and our business systems processes.

6.27 In the current year, our Governance and Corporate costs are £442k, or 10% of our budget. In the coming year we will reduce these to £327k, or 8% of our spending. Savings in this area will come from a variety of sources, including the Board itself.

***Q5. Do you support our proposed budget changes for 2011/12, having regard to the activities and strategy that drives the changes? If not, please explain why.***

## 7. Section 6: The levy-setting process

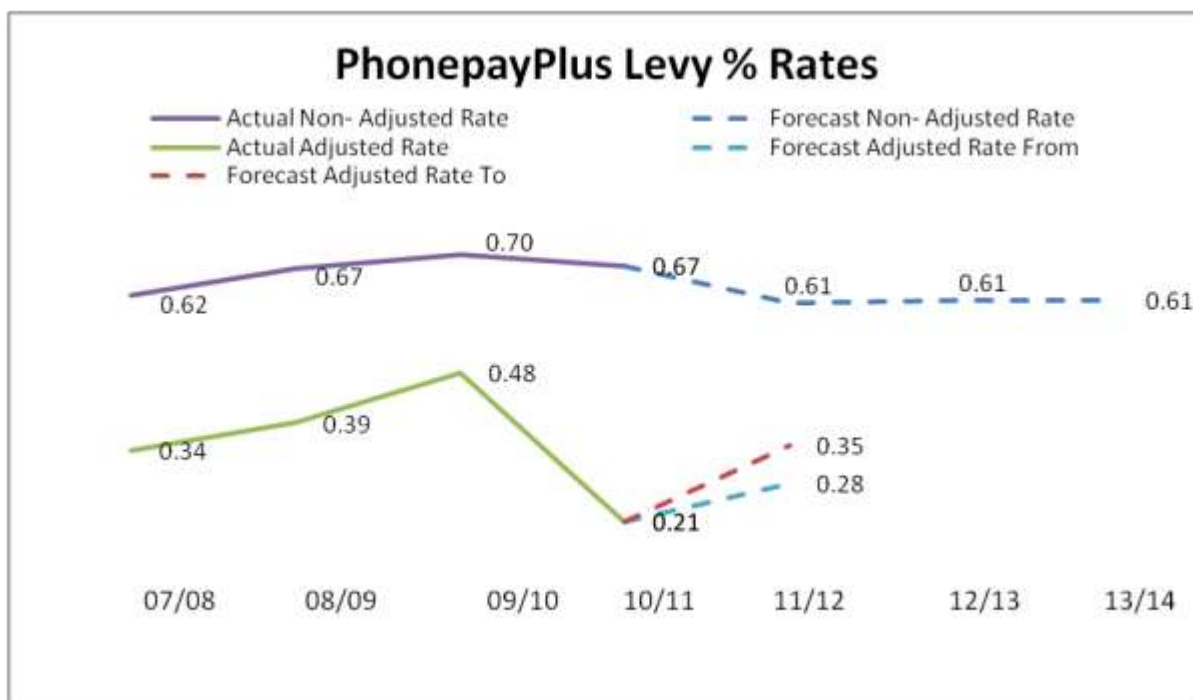
7.1 PhonepayPlus is primarily funded by a levy on service providers deducted at source by Network operators. Funds are withheld at Network operator level and paid to PhonepayPlus. At the end of each year, these are reviewed against actual market activity levels and there is reconciliation, with any additional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

7.2 The levy rate is affected by a number of issues:

- The cost of regulation – the PhonepayPlus budget amount, the levy and other sources of funds has to cover.
- The expected size of the market – the amount of expected outpayments on which the levy would be payable.
- Fines and Administrative Charges collected in 2010/11 – these monies are always returned to funders insofar as they go toward the cost of the future year's regulation and, therefore, reduce the amount we need to collect through the levy. The reduction in the current year's levy was largely a consequence of the significant fines collected in 2009/10.
- Market developments in the preceding year – if the phone-paid services market exceeds expectations in 2010/11, the additional levy collected would go towards covering the costs of 2011/12. On the other hand, a fall in the market in 2010/11 would involve the repayment of excess levy collected from Network operators 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. We plan to make no adjustments to these funds at the present time.

### Headline levy and the adjusted levy

7.3 The graph below shows the non-adjusted levy requirement for the last few years and projecting for the next period. This non-adjusted rate would be the levy PhonepayPlus would need to raise, if it did not receive any other income (such as fines, administration charges or bank interest), and is relatively stable, as it relates the total PhonepayPlus budget to the size of the regulated market. The adjusted rate is the amount PhonepayPlus is required to levy once the costs of regulation are offset by other income. As this amount is subject to great variation, the actual rate levied can appear to change dramatically from year to year.



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

- The 2010/11 market: Based on half-year figures, we believe that the market size for the current year will remain static, with the total market worth in the region of £800m. The 2010 market review is currently underway and, by the time the levy is set in March, we will have the benefit of third quarter network return figures, which means we should be able to more accurately predict the market trend.
- Administrative Charges: The Administrative 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: Fines are significantly lower in this current financial year than in 2009/10 (see p7). 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 2010/11. Our reserve level of £2.2 million as advised by our auditors as “appropriate and reasonable” will remain to cover winding-up costs or spikes in demand. This means that there will be no need in 2011/12 to replenish these funds.
- Registration Scheme: The upfront costs of the Registration Scheme were set aside from the financial year ending 2009/10. We expect the Registration Scheme to go live in 2011 and plan for the fees levied for registering to be used to cover both the start-up and ongoing costs associated with developing a Scheme, both in terms of capital expenditure (which will be depreciated over five years), as well as ongoing support costs (from revenue).

7.5 Following final approval of the budget by Ofcom, we will inform industry of the outcome of this process and our levy requirements for 2011/12. On current projections, and in the absence of the latest information from financial returns from Network operators that pay over the levy, we would expect the headline levy to be reduced in 2011/12, based on

this Business Plan & Budget. However, owing to lower fine income in the current year, we expect that the levy charged to industry will rise slightly on last year.

7.6 2009/10 saw a large increase in fines and the Industry Liaison Panel (ILP) was consulted about whether all of those monies should be returned in the form of a significantly lower levy in 2010/11, or used to “smooth” the levy over a longer period. On balance, most ILP members said that their members wanted the surplus returned in 2010/11 and, accordingly, the levy was reduced by 56%, to 0.21%, on the understanding that the levy would probably need to increase in 2011/12. Our initial assessment, based on two quarters of network returns only, suggests that this proposed budget, if approved following consultation, would lead to the levy needing to be set within a range of **0.28-0.35%**, which is still considerably lower than the levy of recent times. The graph above does not include adjusted levy projections beyond 2011/12 as we have no means of forecasting the many variables that will affect it, such as fines levied and collected in years to come.

## 8. Section 7: Responding to the consultation

We are seeking the views of all stakeholders on the proposals and questions contained in this paper by no later than **17 January 2011 (six weeks from the date of issue of this document)**.

Where possible, comments should be submitted in writing and sent by e-mail to [bbrady@phonepayplus.org.uk](mailto:bbrady@phonepayplus.org.uk). Copies may also be sent by mail or fax to:

Mr Bradley Brady  
Director of Strategy & Communications  
PhonepayPlus  
1st Floor, Clove Building  
4 Maguire Street  
London SE1 2NQ

Tel: 020 7940 7403  
Fax: 020 7940 7456

If you have any queries about this consultation, please telephone or email Bradley Brady 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.

### **List of questions in the document**

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

*Q1. What information or evidence do you have about market trends and about the overall size of the phone-paid services market in 2010/11?*

*Q2. What information or evidence do you have about any specific segments or content areas and their potential for real growth or decline over 2010/11?*

*Q3. How do you see the phone-paid services market developing in 2011/12? In particular, do you have any insight into how PRS might develop on social media or smartphones?*

*Q4. What comments do you have on the priorities for 2011/12? Are there other projects or issues that you think PhonepayPlus should consider for the coming year?*

*Q5. Do you support our proposed budget changes for 2011/12, having regard to the activities and strategy that drives the changes? If not, please explain why.*

## Appendix A: PhonepayPlus Budget 2011/12

	Budget 2011/12 £	Budget 2010/11 £	Variance (Inc) / Dec	% Change
Staff (note 1)	2,366,891	2,512,578	145,687	-5.8%
Communications (note 2)	138,150	115,000	(23,150)	20.1%
External expertise (note 3)	155,000	159,938	4,938	-3.1%
Legal (note 4)	97,000	155,000	58,000	-37.4%
Intelligence (note 5)	150,000	170,000	20,000	-11.8%
External audit (note 6)	17,750	36,140	18,390	-50.9%
Overheads (note 7)	290,375	316,149	25,774	-8.2%
Premises (note 8)	325,433	412,191	86,759	-21.0%
Publications (note 9)	11,315	43,000	31,685	-73.7%
Telecoms (note 10)	43,463	69,072	25,609	-37.1%
Website (note 11)	51,000	82,000	31,000	-37.8%
Depreciation (note 12)	153,367	150,781	(2,586)	1.7%
<b>TOTAL</b>	<b>3,799,743</b>	<b>4,221,850</b>	<b>422,107</b>	<b>-10.0%</b>

This expenditure budget is presented in traditional accounting style to allow stakeholders to compare proposed spending in 2011/12 with previous years. The presentation by function in Section 5 of the document splits these costs proportionately to the different activities PhonepayPlus carries out.

1. Final decisions on application of the staff budget will be made following approval of the Business Plan and following appropriate consultation with staff.
2. Increase reflects restructuring of Communications budget and funds set aside to ensure successful communications campaign for the new Code of Practice and Registration Scheme. This heading was previously called Events, but has been changed to better reflect the actual activity.
3. This budget allows PhonepayPlus to bring in external expertise when needed, which keeps overall costs down by not requiring full-time specialists on staff. This also includes a provision to undertake expert external monitoring of the market. This heading was previously called Consultants, but has been changed to better reflect the actual activity.

4. The reduction reflects the expectation that we will use less external legal resource now the new Code of Practice is nearing completion.
5. This is primarily a cash reduction in the amount available for external market intelligence and research work. This heading was previously called Research, but has been changed to better reflect the actual activity.
6. We have allowed for less activity in external auditing for 2011/12. This heading was previously called Other, but has been changed to better reflect the actual activity.
7. Every non-staff budget has been scrutinised in an attempt to identify savings in necessary overheads, such as energy costs and stationery.
8. Reduction reflects successful renegotiation of lease on current premises.
9. Reduction reflects shift from printed publications to online documents, with the exceptions of the Annual Report and the Code of Practice where there will be limited print runs. This heading was previously called Printing, but has been changed to better reflect the actual activity.
10. This reduction reflects successful procurement of a more cost-effective supplier combined with a reconfiguration of our needs.
11. This reduction reflects planned changes to the hosting and management of the website.
12. This budget line reflects the need to properly account for and depreciate capital assets.

## Appendix B: Key data 2010/11 to date

This year, we published a revised set of Key Performance Indicators (KPIs) that were designed to better describe our major outputs and how we are performing against them. We publish our quarterly reports on KPI performance on our website<sup>8</sup> and below we highlight some of the key statistics from the year to date.

As we implement the new Code of Practice and Registration Scheme in 2011/12, we will continue to review our KPIs to ensure we are providing stakeholders with the most useful and informative statistics on which to measure our performance in key areas of activity.

### Outpayments per sector

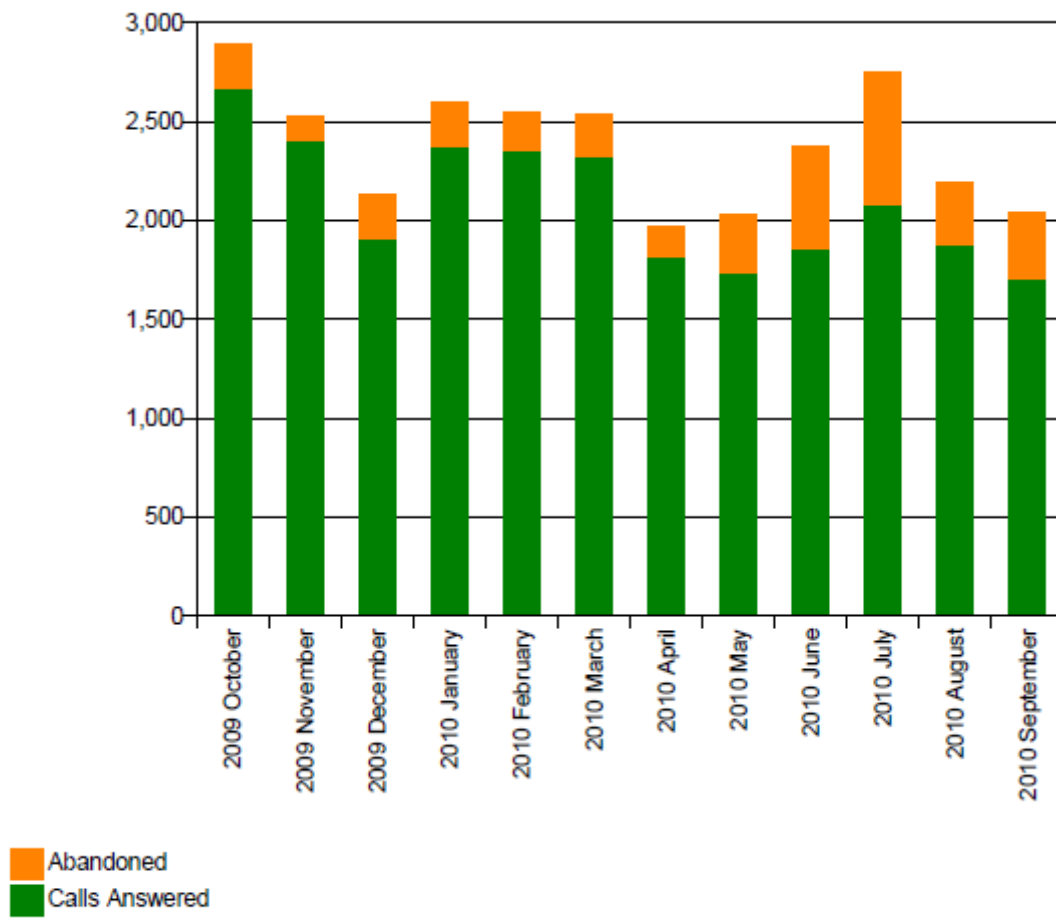
Year 2008/09	Landline	Mobile	DQ	PayForIt	Total
Q1	51,719,644.87	69,032,247.70	37,080,629.20	1,906,133.00	£159,738,654.77
Q2	47,470,150.03	66,475,442.30	37,730,947.70	2,158,133.00	£153,834,673.03
Q3	53,020,511.25	70,539,995.50	35,743,699.70	2,073,680.00	£161,377,886.45
Q4	43,830,951.76	65,557,016.90	40,102,698.80	2,512,835.00	£152,003,502.46
Annual	196,041,257.91	271,604,702.40	150,657,975.40	8,650,781.00	£626,954,716.71

Year 2009/10	Landline	Mobile	DQ	087	PayForIt	Total
Q1	44,715,635	58,162,923	35,314,507	0	2,213,188	140,406,253
Q2	45,755,188	58,031,069	38,428,137	10,224,816	2,221,779	154,660,989
Q3	51,520,062	59,696,090	36,869,647	14,611,738	2,273,176	164,970,713
Q4	43,869,920	57,352,895	34,644,303	14,498,885	3,446,338	153,812,340
Annual	185,860,805	233,242,977	145,256,593	39,335,438	10,154,481	613,850,294

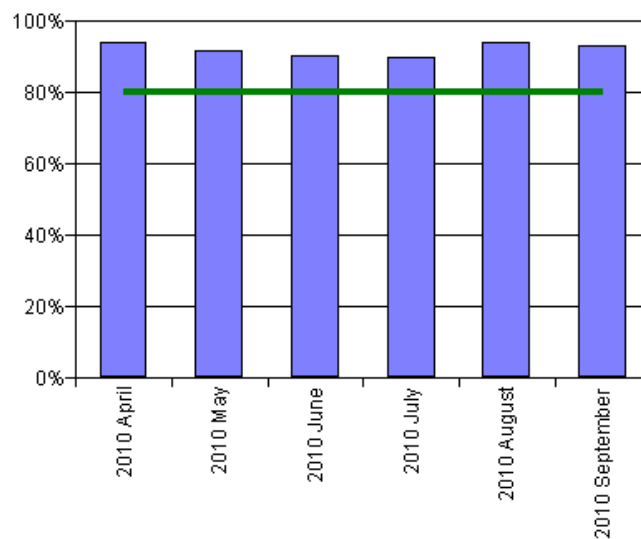
Year 2010/11	Landline	Mobile	PayForIt	DQ	087	Total
Q1	45,412,914	54,288,641	2,281,719	37,770,540	17,013,010	156,766,823
Q2	42,386,368	54,682,719	2,310,159	35,264,948	16,624,433	151,268,627
Q3	0	0	0	0	0	0
Q4	0	0	0	0	0	0
YTD	87,799,282	108,971,360	4,591,878	73,035,487	33,637,442	308,035,449

<sup>8</sup> The most recent report for the second quarter of 2010/11 can be found here: [http://www.phonepayplus.org.uk/output/news/PhonepayPlus\\_Quarterly\\_Operations\\_Report\\_201011\\_Q2.aspx](http://www.phonepayplus.org.uk/output/news/PhonepayPlus_Quarterly_Operations_Report_201011_Q2.aspx)

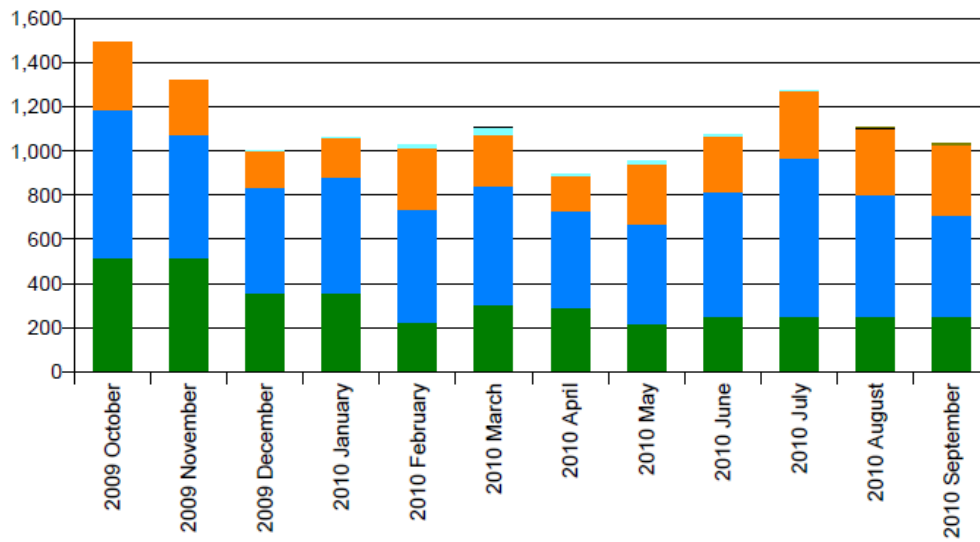
### Consumer Support call volume



### KPI: Calls Answered < 30 Sec

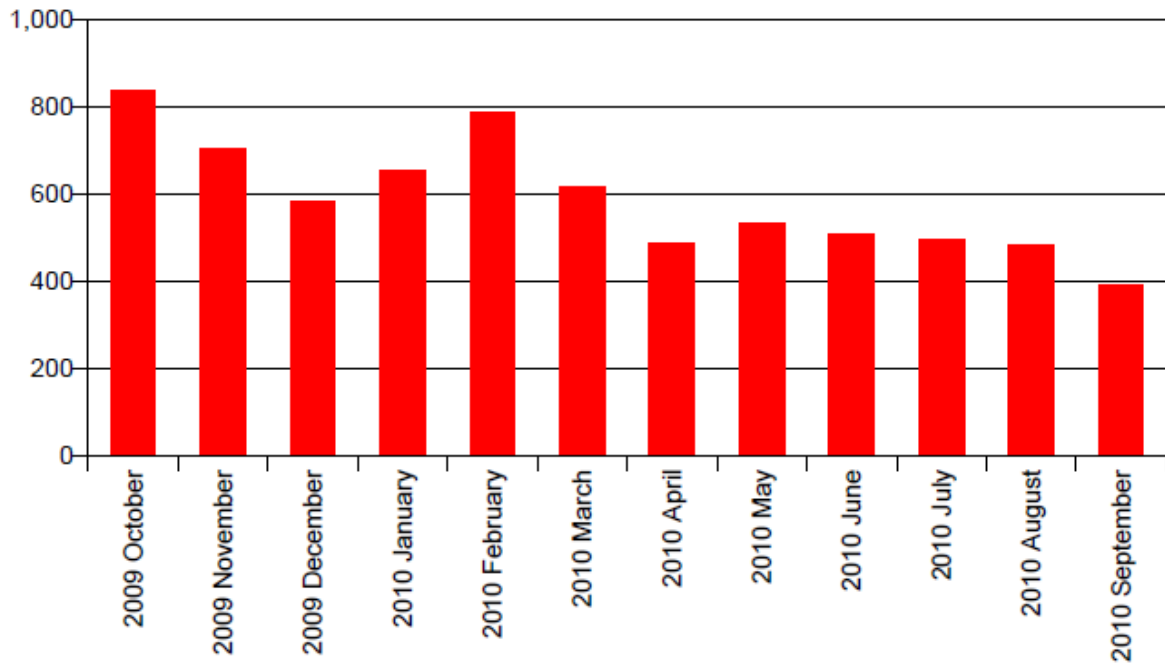


## Consumer enquiries



Type of Enquiry	General Enquiry	Number Check	Out of Remit	Request for Information	Other	Month Totals
2009 October	516	668	306			1,490
2009 November	514	563	241			1,318
2009 December	356	481	161	1		999
2010 January	359	525	178	1		1,063
2010 February	227	512	275	10		1,024
2010 March	306	538	228	35	1	1,108
2010 April	288	440	158	6		892
2010 May	217	450	277	10		954
2010 June	252	560	257	2		1,071
2010 July	251	719	303	2		1,275
2010 August	252	552	298	2	5	1,109
2010 September	253	454	318	2	5	1,032
<b>Totals for Period:</b>	<b>3,791</b>	<b>6,462</b>	<b>3,000</b>	<b>71</b>	<b>11</b>	<b>13,335</b>

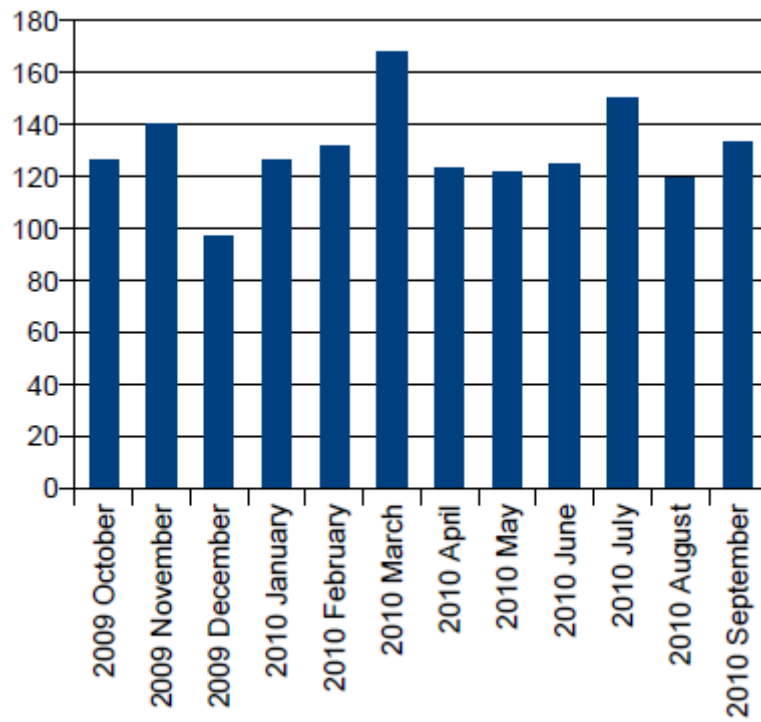
### Consumer complaints



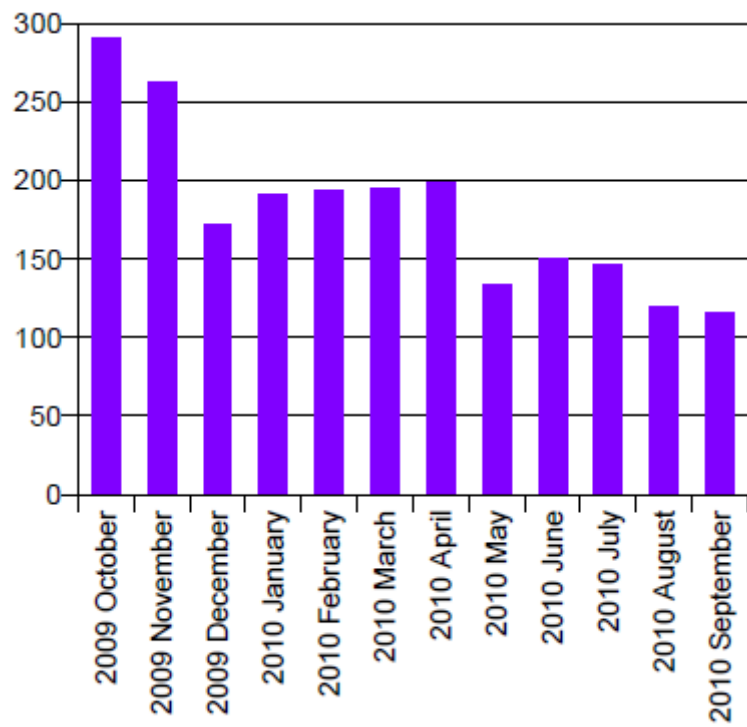
Month	Landline	Mobile	Month Totals
2009 October	74	740	814
2009 November	66	614	680
2009 December	82	478	560
2010 January	133	506	639
2010 February	111	646	757
2010 March	76	511	587
2010 April	63	408	471
2010 May	78	446	524
2010 June	64	435	499
2010 July	62	421	483
2010 August	73	408	481
2010 September	59	327	386
<b>Totals for Period:</b>	<b>941</b>	<b>5,940</b>	<b>6,881</b>

## Industry Support

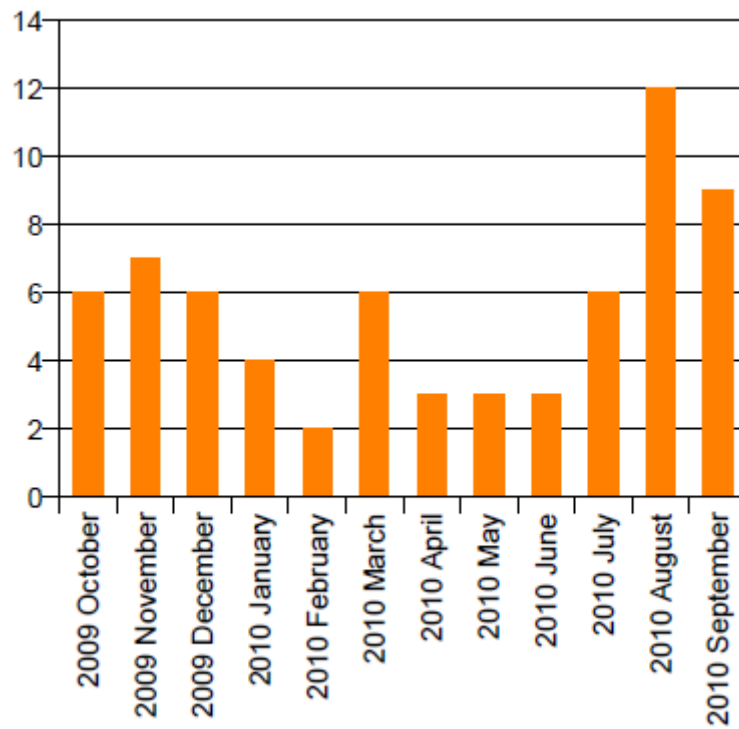
### Written advice



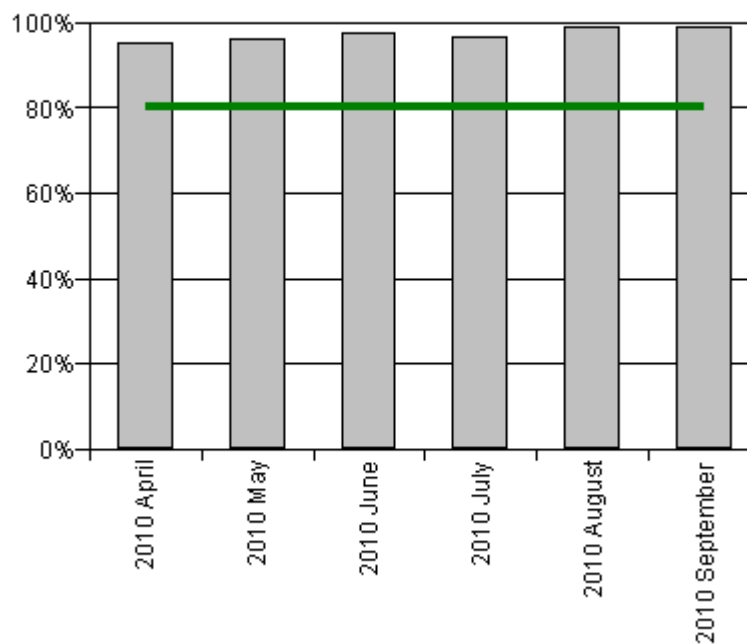
### General advice



### Prior permission applications



### KPI: Industry Advice Given < 5 Days



## Appendix C: Strategic Plan 2011/14: Stakeholder responses

Specific support for proposals is not noted below; instead, we have highlighted issues and comments raised that require consideration and response. Some general and specific comments raised in the responses relate to day-to-day operational issues, rather than overarching strategic objectives. Where this is the case, the comments will be considered as part of this consultation on the Business Plan for 2011/12. The consultation questions and the five strategic objectives are set out below, with the related comments and PhonepayPlus response.

**Q1. Do you support the retention of the PhonepayPlus vision statement for the new Strategic Plan? Are there other elements of our role that you feel should form part of our vision statement? Are we right to replace our mission statement with a simple description of our activities?**

**BT:** We support the retention of a vision statement provided it is more balanced to reflect the fuller PhonepayPlus role of regulating industry so all those in the value chain provide and can use phone-paid services with integrity and absolute confidence.

A possible extended vision statement might be: "Our vision is that anyone can use phone-paid services with absolute confidence and the industry operates with integrity".

**TUFF:** An extended vision statement might be: "Our vision is that anyone can use phone-paid services with absolute confidence and that the industry operates with integrity and honesty and rejects any misuse of phone paid services and number ranges".

**Response:** *We feel the Vision statement, as drafted, is simple and effective. For consumers to have confidence in premium rate services, the industry needs to be engaged in delivering positive outcomes as outlined in the new Code of Practice. We feel this is better explained through the Values of how we intend to work with industry to achieve the Vision.*

**PRA:** By whom and why has it been decided that your mission statement is no longer necessary? Equally we are concerned that you feel you can remove the need for independence as part of your values.

**Response:** *PhonepayPlus has put forward these proposals for consultation with stakeholders. The mission statement was felt to no longer be required, as a simple description of PhonepayPlus' role was more effective. We have reviewed the suggestion of no longer explicitly referring to "Independent" as a value and, following stakeholders' comments, have decided to retain it.*

**PRA:** We have recently had to study your own complaints procedure and see that, in fact, the individual who looks at these is not independent of your own organisation due to the fact you have appointed them, therefore it could be argued that you are not truly independent, however the essence of such a notion is not one in our opinion to just be cast aside. Perhaps appointments for roles of this importance should be elected via consultation with trade bodies.

**Response:** *The appointment of an independent Lay Assessor for complaints about PhonepayPlus followed accepted practice for such appointments and an Ofcom representative was on the appointment panel.*

**PRA:** How has PPP demonstrated that it has the confidence of key stakeholders and can it evidence this? ... Would a useful industry tool be a customer satisfaction survey via a simple

form provided on Ofcom's website, open for all in the industry to comment of their experience of your effectiveness? Ofcom could then publish the results.

**Response:** *PhonepayPlus continually seeks feedback from stakeholders on its performance and proposals, both formally through public consultations, but also informally through meetings and fora, the Industry Liaison Panel and through regular stakeholder surveys carried out internally and supported periodically by independent surveys. We publish the outcomes of all of our consultations and surveys, which show that there is a high level of confidence with PhonepayPlus amongst key stakeholders. We are not complacent about this and always seek to act on feedback from stakeholders to improve our performance.*

**PRA:** You mention new tools to monitor and stop complaints - is it your job to find complaints? We are aware of some of the activities on websites where it has been observed that PPP details are being placed onto websites which consumers use to complain and then breaches occur through usage by consumers on your number checker. Surely it is the networks job to promote your existence to their customers?

**Response:** *PhonepayPlus does not seek to generate complaints, but we do have a duty to alert consumers to our existence, where appropriate, to help them resolve any issues. Where appropriate, our first response is always to suggest the consumer seeks redress through the PRS provider. Through the adoption of the strategy to pre-empt and prevent consumer harm, we do undertake monitoring of the industry and seek to remedy any compliance breaches when they are discovered.*

**BT:** BT agrees that a consumer focus is a strong part of the role of PhonepayPlus, but regulating industry so that Providers can operate with confidence and upholding the regulation of the industry is also an important role... PPP should, for example, regulate to control Artificial Inflation of Traffic (AIT) which is harming PRS industry by making this a serious breach of the Code.

**TUFF:** TUFF recognises that PhonepayPlus needs a strong consumer focus but believes it is about time PPP recognise and reinforce their other role as the regulator for Industry, PPP must uphold the reputation of the industry and this should be reflected in the Vision and Mission statements.

One of the areas that "fall between the cracks" is that of Artificial Inflation of Traffic (AIT) this activity gives a clear indication to Industry and PPP that there are individuals and Networks who are continuously and seriously harming the PRS industry. There appears to be a view, albeit taken by a minority, that AIT is a business practice which they exploit with apparent ease and thus bring the standing and reputation of this aspect of service in to disrepute.

**Response:** *PhonepayPlus' remit as a regulator of premium rate services is limited to ensuring effective consumer protection measures are in place so that consumers may use PRS with confidence. AIT activity is not generated by consumers and is most frequently fraudulent activity undertaken by criminals or rogue providers. PhonepayPlus' Code of Practice is not designed to address fraudulent activity of this kind, nor are we funded by industry to carry out this role. We have had discussions with industry stakeholders recently who think PhonepayPlus may have a role as an independent co-ordinator of work to address AIT. We are happy to explore this with the industry, but this activity would be separate to our core regulatory activity.*

**Q2. Effective, Accessible, Collaborative, Principled, Efficient and Transparent. Do you agree that these values create the right framework for PhonepayPlus as a modern regulator? Are there other values you think PhonepayPlus should consider adopting**

**that would further strengthen its aims to be an open, responsive and flexible organisation?**

**BT:** BT agrees with the set of values proposed but would like to also include “Responsive”. It is critical that PhonepayPlus respond promptly to new threats and we support the 12<sup>th</sup> Code initiatives which will enable PhonepayPlus to be more responsive.

**Response:** *We agree with the intention behind this suggestion, but think it is inherent in the Value of “Effective” that we need to be prompt in responding to new threats in the PRS market.*

**The Number:** These values are appropriate, but ‘proportionate’ should be added. It is critical for regulators that operate in dynamic markets to remain proportionate so that outdated and un-necessary rules get rolled back, and urgently needed ones can also be added where there is clear consumer harm or risk.

**Response:** *We agree with the intention behind this suggestion, but do not think we need to adopt this as a Value. We believe that the new Code of Practice has addressed concerns about proportionality of regulation under the current Code, for example through the introduction of new enforcement tools, such as informal complaint resolution. Furthermore, the independent Code Compliance Panel and oversight by Ofcom are checks and measures on the proportionality of the regulation we undertake.*

**PRA:** Again we welcome your recognition of the need for transparency but, as the better regulation task force and others have clearly underlined, all organisations in the public arena must be able to demonstrate their ability to prove transparency, in particular since legislation such as the information disclosure was in force. Whilst we recognise that you assert yourself to be outside of this we note that Ofcom is not and that you see the need to be working within the spirit of cooperation.

**Response:** *PhonepayPlus increasingly seeks to publish and share non-confidential information with stakeholders. All reasonable requests for information are considered, but it should be recognised that providing bespoke information can be a costly endeavour. For that reason, we seek to share key information through the publication of our regular operational reports, KPIs, research documents and our annual report.*

**Q3. Do you agree with PhonepayPlus’ assessment of future market developments? Do you have any other insights, data or intelligence that would help to inform PhonepayPlus’ Strategic Plan for a specific market sector or for premium rate services as a whole?**

**AIME:** Market developments in our industry can be notoriously volatile and we believe the only effective way to stay aware and informed is through regular contacts between industry and regulator.

**Response:** *PhonepayPlus is committed to retaining close contact with the industry to ensure it is abreast of market trends and developments.*

**BT:** BT believes PhonepayPlus should also look at the application of PRS in the development of other IT enabled micro payment technologies and innovations – such as iTunes/ facebook / Youtube etc., where lessons can be learned about consumer behaviour.

**The Number:** The PRS market is going through a period of change. The emergence of application-based payments and other innovations present opportunities and risks for the

industry and consumers. It will be very important for PhonepayPlus to not only monitor developments, but to support innovation by regulating in a manner that will maximise innovation whilst minimising harm. Broadly that should take the form of ex-ante (ie proactive) regulation where there is proof of high levels of risk to consumers, and ex-post (ie reactive) regulation where that threshold is not clearly passed. Regulation should be proactive where risk is structurally high or the evidence of harm is high, and regulation should be rolled back where that is no longer the case.

**Response:** *PhonepayPlus is mindful of the need to keep up-to-speed with industry developments, particularly where developing and new services may pose a market risk. Increasingly, we are seeking to do this through building stronger relationships with industry and better gathering of industry intelligence. We are also committed to developing Guidance with industry for new services as they emerge in an effort to pre-empt potential consumer harm.*

**The Number:** PhonepayPlus needs to be mindful of taking a proportionate and joined-up approach to regulation, benchmarking its efforts and successes against other adjacent regulators, laws and sectors. Failure to take this balanced approach would likely lead to displacement of consumer harm, rather than prevention of consumer harm. For example, if PRS rules are much more onerous than rules applied to credit-card payments and other payments mechanisms, then innovation will be stifled, and consumer harm will be displaced, but overall consumer welfare would not be increased.

**Response:** *When developing policy and processes, PhonepayPlus always seek to compare and benchmark its proposals against other regulators. PhonepayPlus' Code of Practice is subject to public consultation and approval by Ofcom, which ensures it receives effective scrutiny in terms of proportionality of approach.*

**The Number:** There is one major development to the regulatory environment that is due to take place in 2011 and has the potential to massively impact consumer confidence and industry work on compliance for PRS for years to come – Ofcom's Non-Geographic Service Review. This review has the potential to make changes that could significantly alter the dynamics in the industry, simplicity of tariffs, and address concerns that consumers have raised to PhonepayPlus. PhonepayPlus should add an objective related to its role in ensuring that the Non-Geographic Review succeeds in reducing consumer harm, and that any recommendations and rules from Ofcom are smoothly implemented in terms of how they impact the industry and consumers in 2011 and beyond.

**Response:** *PhonepayPlus is fully supportive of Ofcom's review of Non-Geographic Services and has offered intelligence and information to the review. We will continue to support this important review through to its conclusion and our work programme for 2011 will include provision to support this activity.*

**PRA:** We welcome the idea that your registration scheme will provide more information but fail to see how in reality it will be mandatory in practice?

**Response:** *The Registration Scheme is made mandatory through rules in the new Code of Practice. It will be a breach of the Code to operate a PRS in the UK without being registered or to do business with a party in the value-chain who is not registered.*

**TUFF:** TUFF is not convinced that PPP use all resources available to ensure that the view they get of the industry both from a day to day perspective and future threats is as efficient and detailed as it can be. There is a wealth of relevant information held by telco's that would enable PPP to be more effective in detecting and preventing abuse. However there needs to

be a clear attraction for telco's to engage either directly or via standing Forums in this area. This must involve clearly identifiable benefits to both them and the industry as a whole.

**Response:** *PhonepayPlus endeavours to gain intelligence and information from industry through collaborative working. We have no powers to generally gather information from industry, except where it is subject to an investigation. We would hope the industry would see the benefits of PhonepayPlus being well-informed of industry developments when carrying out our work.*

### **Objective 1**

**Launch and successfully implement the new Code of Practice and industry Registration Scheme, creating a flexible, fair and proportionate regulatory regime for the Premium Rate Services sector.**

**Q4. Do you agree with this objective? Will our key deliverables ensure the new regulatory regime is successfully implemented and gain industry buy-in?**

**AIME:** The development of a programme to support new entrants is probably more suited to an industry responsibility where the costs are placed where they belong – with the new entrants rather than distributed across all industry.

**Response:** *PhonepayPlus believes the regulator should provide appropriate information and advice to new industry entrants to ensure they can set up and run services that comply with regulation and deliver positive outcomes for consumers. This should not extend into general business advice or business development, which is properly delivered commercially and the scope of PhonepayPlus' service will be regularly reviewed to ensure this is the case.*

**BT:** BT would like to see a post implementation review of the new [Code of Practice] at the end of 2011 to make sure any immediate concerns can be discussed and addressed.

**TUFF:** TUFF would recommend a review of the new CoP at the end of 2011 based on the operation of the code for 12 months which would give the Industry and PPP the opportunity to make sure any concerns are identified, discussed and addressed.

**Response:** *We agree it will be important to undertake an early initial review of the effectiveness of the new Code of Practice and Registration Scheme after an appropriate period of operation.*

**The Number:** The launch of the new Code of Practice is an opportunity to improve regulation, but it is notable that the deliverables that have been identified are focused solely on the workings of the Code rather than the outcome it achieves for consumers and industry.

**PRA:** We agree with having a flexible, fair and proportionate regulator for premium rate services and welcome PPP's continued efforts to achieve this aim. How will the effectiveness of this desired outcome be demonstrated.

**Response:** *The deliverables set out reflect the focus on successfully launching and implementing the new Code of Practice. We will set out broader success measures, including positive impacts for consumers and industry, as part of our review of KPIs to accompany the new Business Plan.*

## **Objective 2**

**Work with the industry to build in compliance to all emerging and developing premium rate phone-paid services. Drive-up overall levels of compliance in the market through strategic use of monitoring and increased use of informal resolution of minor Code breaches.**

***Q5. Do you agree with this objective? Will our key deliverables assist in meeting the aim of assisting the industry in building in compliance to services and also assist in driving up overall levels of compliance in the market?***

**AIME:** The PPP Compliance Advice facility is proving popular but there is unease that industry players, who are themselves responsible for compliance, may find it too easy to rely too heavily on this “free” service which is funded by all industry players. Those who need third party advice should, at the end of the day, fund it according to their needs and should not be subsidised by others.

In a similar manner we should be careful as to the proper role of a PPP “Complaint Resolution” function since, while it is clearly necessary for PPP to be aware of complaints and their relationship to perceived or actual breaches of the PRS Code, it is also clear that the responsibility to receive and process consumer services complaints lies with industry itself. Where complaints are not handled to a consumer’s satisfaction there exists the Ofcom approved ADR facility and AIME believes we must be careful to ensure complaints handling costs remain within the industry and apportioned according to use with PPP focussed on processing breaches of the PRS Code.

Online advice for successful compliance, via Q&A, is supported by AIME and particularly if designed and updated in consultation with industry. The use of live operators is potentially costly and AIME would prefer this level of support and advice to be contained within industry where costs can be accurately apportioned.

***Response:*** As set out above, PhonepayPlus is keen to ensure the services it provides to industry are for the purposes of assisting compliance with regulation only. The Compliance Advice service is a central part of pre-empting and preventing consumer harm, which has been key to improving compliance in the market and allowing the regulator to reduce costs. The Complaint Resolution Team is designed to assist the industry and consumers to resolve low-level consumer harm and Code breaches without the need for formal investigation. Early signs are that this service is welcomed by the industry and is proving successful for them and their consumers. ADR is not relevant to PRS complaints and, in any case, is not suited to quick resolution of small-value disputes. Over time, it is hoped that the complaint resolution function will contribute to reduced regulatory costs through lessening the need for formal investigations.

**BT:** ...we would like PPP to clarify what they mean for “minor Code breaches” for which they propose an increased use of informal resolution. Any informal resolution needs to be transparent and consistent in line with the PPP values.

Moreover PhonepayPlus could play an important role in providing positive messages about those who showed exemplary compliance through for example an annual awards ceremony.

***Response:*** PhonepayPlus assesses all Code breaches and gives them a priority rating that relates to the seriousness of the breach and the consumer harm caused. Where these ratings are low, then we will look to resolve the complaints informally. Further detail will be available through the new Sanctions Guide we plan to publish alongside the new Code of Practice. PhonepayPlus is happy to explore with industry how to promote examples of best practice in compliance and will raise this with the ILP.

**The Number:** PhonepayPlus should add an Objective to regularly review what rules can cease to be required for compliance and which can be modified to become recommended best practise instead (or removed entirely).

**Response:** *The intention with the new Code is that the rules contained are mostly high-level and should remain relevant. The Guidance will be more specific to current practice in the industry and the aim is that this is regularly updated to reflect changes in services and technology.*

**PRA:** In essence we agree that any robust and transparent dialogue and support provided by PPP to help the industry be code compliant is welcome, what is not is the creation of roles or extra external expenditure for the creation of complaints.

**Response:** *See response to Q1 above.*

**TUFF:** The history of PPP in pre-empting bad behaviour has been to say the least patchy and at worse deplorable. Industry have often warned PPP of their weak regulation and PPP have ignored those warnings and then as predicted the misuse becomes a tidal wave that PPP have no choice but to deal with – 070 / Quiz TV / Voting lines etc etc.

Constant review on the effectiveness of compliance and proper use of intelligence an essential prerequisite if compliance is to be in anyway effective.

**Response:** *Without seeking to rebut the premise of the response, which we do not recognise, we do accept that we need to build stronger relationships with industry to better pre-empt harms in the market. We have made progress in this area under the current Strategic Plan and look to further develop this work going forward.*

### **Objective 3**

**Increase the quality of intelligence about the phone-paid services market and its consumers through more effective use of internal and market data, supported by targeted research, to better inform the development of the Code of Practice and to better target enforcement action.**

**Q6. Do you agree with this objective? Will our key deliverables ensure that we have a firm evidence base to inform our decision making and regulatory actions, or should we be considering other sources of data and information?**

**The Number:** As part of PhonepayPlus' efforts to increase the quality of intelligence about the phone-paid services market, they should seek to work closely with industry, Ofcom and other regulators to ensure there is no un-necessary duplication of resources spent on information gathering.

**Response:** *For some time, we have shared our research proposals with Ofcom with the view of sharing resources where possible; however, to date our priorities have not been aligned. We will continue to explore this, so that there is not duplication of effort. We are open to discussions with industry and other partners on our research programme to ensure that resources are put to best use.*

### **Objective 4**

**Work with industry to assist consumers of phone-paid services to increase their ability to safely and confidently use premium rate services.**

**Q7. Do you agree with this objective? Will our key deliverables assist in meeting the needs of vulnerable consumers and build trust in the PRS industry?**

**AIME:** As a not for profit regulatory agency PPP should be very guarded in seeking opportunities for sponsorship or partnership beyond general industry assistance and co-operation in individual projects.

**Response:** *PhonepayPlus agrees that use of sponsorship and partnerships need to be carefully considered and appropriate to the project in question.*

**BT:** The focus is too much on the wrong target (for example school children are [not] PRS users, while more effective communications might be planned to target adults who do access adult services) and perhaps the PhonepayPlus efforts would be better targeted at existing consumer groups and providing a bridge into them and being responsive to them rather than trying to create a new consumer group.

**The Number:** The Number agrees with this Objective but notes that in its current wording it may be hard to measure to what extent it has been achieved. As part of PhonepayPlus' methodology, there should be a focus on working with Trade Groups and the wider industry to achieve as much as possible in terms of Consumer Literacy, with PhonepayPlus only initiating solo efforts where it needs to close gaps that cannot be achieved in conjunction with Trade Groups or other industry representatives. To extend the reach of messages and to minimise cost, there should be a focus on trying to leverage PR and media coverage where possible, rather than just buying media.

**PRA:** Education is invariably a good thing but is the intent of the education, its cost and value for money (measured outcomes) which must be considered and demonstrated.

**Response:** *Our work in this area is informed by research and we look to respond to consumer needs, such as our recent campaign to raise awareness amongst older people of the cost of dialling certain number ranges. The PhoneBrain project has been fully supported by industry and has been successful in raising awareness of the safe use of PRS amongst children and young people. Through the new Consumer Literacy Working Group, we will seek to consult industry and other stakeholders on who the most appropriate audiences are for our consumer literacy work.*

**Objective 5**

**Deliver effective and efficient regulation for the phone-paid services sector through smarter use of resources and further investment in building knowledge and skills of PhonepayPlus of staff.**

**Q8. Do you agree with this objective? Will our key deliverables assist in ensuring PhonepayPlus achieves maximum efficiency while ensuring it remains effective as a regulator?**

**BT:** While the review for the Strategic Plan is set for 2012, the effectiveness of PPP's operations and prevention – particularly in keeping pace with technology practice and development and the inclusion of Level 2 providers in the regulatory regime – should happen more frequently. This could be formal or informal, involving the Industry Liaison Panel (ILP) and should be six monthly.

**Response:** *PhonepayPlus does carry out regular reviews of market risks and developments. We shall explore with the ILP how we might better share work in this area with industry and secure greater industry involvement in identifying risks.*

**BT:** The first deliverable should be extended so the indicators “continue to be aligned with the strategic plan priorities... and driving best practice across the phone paid services sector”

The deliverables should include agreeing with the sector and relevant consumer groups as well as Ofcom the key measures of success to be reviewed year on year.

**Response:** *We are reviewing our suite of KPIs to ensure they reflect the new Strategic Plan and Business Plan from April 2011. We do share the KPIs with stakeholders and discuss quarterly with the ILP to seek their feedback.*

## Appendix D: Strategic Plan 2011/12: Industry Forum note

PhonepayPlus Industry Forum 27 October 2011  
Responses to Strategic Objectives for 2011-14

### List of Attendees:

Name	Organisation
Rory Maguire	3
Stephen Williams	63336
Richard Fumarola	2ergo
Sarah Godfrey	4D Interactive
David Ashman	AIME
Wendy Ward	BT agilemedia
Anne McLaren	BT Retail
James King	Call15 Telecommunications Ltd
Holly Fairweather	Channel 4
Stephen Hyde	Colt
Sue Radley	Content Guru Ltd
Alex Haffner	Denton Wilde Sapte LLP
Steve Lovell	Dialogue Communications
Alex Crisp	Dialogue Communications
Paul Craig	Enarpee Services Limited
Noel Vernon	Expanding Vision Ltd
Roland Maguire	Expanding Vision Ltd
Brendan O'Keeffe	First Media Ltd
Chris Loweth	Five
Ann Cook	ITV
Chris Pressley	ITV
Julian Lowrie	Kcom
Tony Coyne	Mobile Commerce & Other Media Ltd
Miranda Roberts	Mobile Entertainment Forum
Suhail Bhat	Mobile Entertainment Forum
Colin White	Netsize Group
Suzannah Doyle	O-bit Telecom
Siobhan Pointer	Ofcom
Anne Hoitink	Ofcom
Noreen Begum	Opal Telecom
Chris Hudson	Opal Telecom
Mike McCartney	Open Vantage Ltd
Phil Davies	OpenMarket
Binish Razi	OpenMarket
Andrew Lewis	OpenMarket
Amanda Boardman	Oxygen8
Sheldon Burchinshaw	Oxygen8
James Day	Pinesoft

James Cooke	Premtext Ltd
Andrea Barry	Sigma Voice Solutions Ltd
Andrew Hammerton	Sybase 365
Tom Hines	Telecom Express
Sarah Meech	Telecom Express
Kate Henderson	Telecom Express
Kevin Swayne	Transact Group
Adrian Dorey	Vanquis Bank
Tony Kelly	2comm
John Crozier	VisionSMS
Alex Modi	ContactSMS
Rupen Patel	Mobile Entertainment Forum
Matt Barbieri	24GMedia
Paul Gill	Five
Amelia Wilson	Channel 4
Simon Newton	4D Interactive

### **Objective 1**

**Launch and successfully implement the new Code of Practice and industry Registration Scheme, creating a flexible, fair and proportionate regulatory regime for the Premium Rate Services sector.**

#### All participants

The objective was greeted with optimism by the majority of participants with a general consensus that there will be teething problems initially, but overall the objective has been accepted as moving the industry forward, as the Registration Scheme should be user-friendly for all.

The majority agreed that the development of an ongoing rapport with stakeholders was viewed as invaluable. It was also acknowledged that PhonepayPlus needs to work closer with trade bodies to ensure everyone understands the requirements for all premium rate service providers.

#### Consumer/regulatory

Consumer groups highlighted that it is great to see that Guidance for the Code can be amended, which is easier than amending the actual Code itself. This was seen as a positive by all.

#### Service providers

The majority of providers felt that potential breaches under the new Code need to be contextualised for reasonable and fair responses. In addition, it was welcomed to see more informal procedures being introduced. Providers still believe that they cannot clearly understand PhonepayPlus' adjudications process and its 'proportionality'.

### Network operators

Network operators felt that, as opposed to creating a flexible regulatory regime, perhaps a pragmatic approach would be a more effective one. In addition, many operators welcome a simplified and smaller Code.

### **Objective 2**

**Work with the industry to build in compliance to all emerging and developing premium rate phone-paid services. Drive-up overall levels of compliance in the market through strategic use of monitoring and increased use of informal resolution of minor Code breaches.**

### All participants

The majority of participants agreed that the formation of the Complaint Resolution Team was extremely positive and important to deal with low-level issues. It was also agreed by the majority that proactive monitoring of services should continue.

### Service providers

Service providers felt that there was a greater need for consistency in monitoring and compliance advice received. They also thought that trade bodies were possibly better placed to advise on compliance issues, as they have a greater ability to mix commercial and regulatory views together. A collaborative approach between industry and PhonepayPlus was also necessary for consumer satisfaction.

Some service providers suggested that the focus of monitoring should be toward the service types with shorter promotion cycles. In addition, it was also mentioned that artificial inflated traffic (AIT) was a matter of concern, and that this was more of a fraud issue as opposed to PRS issue. In addition, they raised the question if PhonepayPlus would be willing to make statements to industry about self-reporting so, in the circumstances that something did go wrong, and industry came forward to explain issues, that they wouldn't be penalised with PhonepayPlus sanctions – and PhonepayPlus would work with them to rectify any issues. It was also a concern how compliance advice could be used as a mitigating factor in Tribunals.

Service providers believe that PhonepayPlus should share monitoring and intelligence with trade bodies, as this would help appraise the market better.

### **Objective 3**

**Increase the quality of intelligence about the phone-paid services market and its consumers through more effective use of internal and market data, supported by targeted research, to better inform the development of the Code of Practice and to better target enforcement action.**

### All participants

The objective was generally agreed upon by all, with the opinion that PhonepayPlus should be in the unique position to obtain data/research and communicate these back to industry.

### Network operators

Network operators are pleased to hear there are shared training sessions between PhonepayPlus and industry. PhonepayPlus staff that 'get' the industry and have an in-depth understanding of services would be beneficial to the industry as a whole, as consumers would go away with a much better understanding of services and how to use them better.

A suggestion to educate consumers on emerging technologies would be helpful. Networks believe it would also be hugely beneficial for industry and PhonepayPlus to share consumer research, which is targeted and also has input from consumers, and would also look at potential growth areas in the market. Innovation in the market would also attract more consumers to use services.

#### Service providers

Certain service providers felt that consumer research by PhonepayPlus was and is a waste of money, as they should just ask the industry for data that they require. In addition, service providers felt that it was important that PhonepayPlus urgently communicates back to the industry the real value of the Registration Scheme.

#### **Objective 4**

**Work with industry to assist consumers of phone-paid services to increase their ability to safely and confidently use premium rate services.**

#### All participants

In general, all participants were in favour of this objective, as it is generally viewed that in order to increase consumer confidence, consumers would need to be made aware of the fact that services are regulated by PhonepayPlus. Knowing that a service is regulated improves consumer confidence.

In general, there was positive reaction provided for PhonepayPlus' 'Know your Numbers' campaign, the PhoneBrain youth initiative and the upcoming PayPoint campaign – to support vulnerable groups.

#### Service providers

The use of PhonepayPlus as 'kitemark' for all providers of premium rate services, or the use of 'regulated by PhonepayPlus' as a banner, would further boost consumer confidence. It was felt that PhonepayPlus should not head in the direction of becoming a consumer body, but to focus and provide education, where possible.

Some service providers believe that the best regulators are not known to consumers, as they have no need to communicate with them. Consumer literacy work is viewed as helpful; the move from reactive to proactive regulation is welcomed by the majority of providers.

Certain service providers were critical of this objective, as they believe it is a waste of money, that vulnerable groups will always remain vulnerable and that it would be more effective for consumers to be educated by organisations like Consumer Direct/Citizens Advice, as this was their job – and they could do it far better. They felt that collaboration with consumer groups and charities would be better, and that partnerships, not sponsorships, would be more beneficial. PhonepayPlus must remain impartial and independent.

#### **Objective 5**

**Deliver effective and efficient regulation for the phone-paid services sector through smarter use of resources and further investment in building knowledge and skills of PhonepayPlus of staff.**

## Service providers

Resources should be shared between PhonepayPlus and industry. This would lend to a smarter use of resources. KPIs should be discussed with industry before being set in stone by Ofcom.

Providers of PRS should be sent positive messages for running successful compliant services. At present, they believe PhonepayPlus only makes contact when a service is found to be non-compliant, but do not provide feedback if a service is compliant. This would be viewed positively by the industry.

Service providers also wish to see a lid on costs. The point arose: it is possible to measure the unit costing per complaint; however, it is not possible to measure the unit cost of prevention or pre-emption of a complaint – so most providers believe that PhonepayPlus shouldn't bother wasting time or resource on this exercise. PhonepayPlus should aim for a decrease in third-party suppliers, and expect efficiencies and a review of all supplier arrangements. The private sector is currently doing this – why isn't PhonepayPlus?

Service providers agree with this objective in general, as efficiency is definitely on the agenda and bringing down costs is imperative. This can be achieved through 'self service', many providers believe. In addition, it was felt that it would be helpful for all to understand PhonepayPlus' key processes.

Service providers also believe that PhonepayPlus' website can be used to save resource, for example, the same 'old' queries for compliance advice could be posted on the website. In addition, with the introduction of the Registration Scheme and new Code, the creation of a 'compliance toolkit' would be welcomed.