



**BT plc Response to  
Ofcom's Consultation on Approval of the  
PhonepayPlus Code of Practice (12<sup>th</sup> Edition)**

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## **Summary**

We support approval of the Code in the light of assurances given by PhonepayPlus (PPP) that the regulation will be applied in a reasonable and proportionate manner; especially with regard to Network Operator due diligence and risk assessment. We do think there are some drafting improvements to be made which we have covered in our response to the PPP consultation. The suggestions we've made do not alter the meaning but we think they support a streamlined Code that is focussed, easy to understand and future-proof.

As the new Code is not likely to be implemented until 2011, there needs to be some thought on how Ofcom's own NTS review will impact the proposed regulation. The points to be addressed include price transparency, usage warnings, call-spend cut-off limits and categorising PRS services by number range.

The answers to the consultation questions follow on the next page.

**Question 1: Do you consider Ofcom should approve the draft PhonepayPlus 12<sup>th</sup> Code of Practice in its current form?**

As the Code itself is currently under consultation it is difficult to give a firm answer at this point, but in general we approve the Code subject to the points we and others industry players have raised to PhonepayPlus. The key point for us being that the Guidance supporting the Code is revised so as not to present a burden of responsibility on Network Operators beyond that intended by the rules within the Code, particularly for due diligence and risk assessment. It is not reasonable for Network Operators (NOs) to be liable for the compliance of downstream parties when those parties will have direct responsibilities under the Code.

In addition it is also important that the outcomes of the consultations related to PRS are consistent with the aims of the new Code i.e. it regulates appropriately and proportionately and is easy for Industry and consumers to understand. The consultations on the Code guidelines and the Registration scheme along with Ofcom's current consultation on Number Translation Services will have a direct impact on the interpretation of the Code and the overall regulatory burden it places on industry.

**Question 2: If not, what changes do you consider need to be made to the draft Code?**

We support the proposed Code, but have suggested some drafting improvements to PPP. Briefly, they are as follows:

- The Governance document should also cover the terms of reference for PPP. There's no need to retain the Ofcom/PPP memorandum of understanding as a separate document.
- Sections 2.2, 2.3 and 2.5 of the draft Code should be consolidated to reduce overlap.
- We do not consider that two sections (2.4 and 3.6) are needed to cover data Protection and Privacy.
- Within section 3 there is no need to list what a direction might include; it only requires a statement that the recipient must comply with a formal direction.

**Question 3: If the draft Code were to be approved by Ofcom what period of time do you consider would be appropriate before the 12<sup>th</sup> Code of Practice became enforceable by PhonepayPlus?**

Implementing the Code will require coordinated changes to the affected companies' systems and processes. To allow this to happen, we believe that a minimum of three months should pass before the Code becomes enforceable. That said we would not be surprised if Industry requested six months.