Mobile Payments and Economic Inclusion: Issues for Consumers

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The worldwide market for mobile payments totaled over $68 billion in 2009.

Expected to reach over $630 billion by 2014.

Mobile payments in the U.S. are expected to reach $214 billion by 2015, up from $16 billion in 2010 - a projected increase of over 1200% in only five years.
Ways to Make Mobile Payments

- SMS text message (e.g. Red Cross donations)
- NFC chips
  - NFC sticker affixed to phone (Bling Nation)
  - Chip embedded in phone hardware (ISIS, Google Wallet)
- Smartphone application downloaded to phone (PayPal app)
- Smartphone web browser
Ways to Fund Mobile Payments

- Pay later – link to credit card or phone bill
- Pay now – link to debit card or bank account number
- Pay in advance – link to prepaid card, gift card or prepaid deposit held by wireless carrier
Is my money safe?

- Data privacy – is my financial information stored on the phone?
- Consumer protection laws – can I get my money back?
- Trust account issues for deposits given to wireless carriers
Is my money safe?

- Are prepaid deposits to wireless carriers set up to be insured?
- In the U.S., funds in a pooled account must meet FDIC “pass-through” requirements to be individually insured
- If consumers without bank accounts give deposits to wireless carriers, they could be at risk of losing precious funds if the company goes under
Consumer Protection: Credit Cards

- If you link a mobile payment to a credit card, you get mandatory protections under TILA and Reg Z
  - $50 limit on liability for unauthorized use
  - Right to reverse “billing errors,” including disputes with a merchant about delivery or acceptability of goods
    - This is called a “chargeback” right
Consumer Protection: Debit Cards

- If you link a mobile payment to a debit card or bank account, you get mandatory protections under EFTA and Reg E
  - $50 limit on liability for unauthorized transactions caused by lost/stolen phone if you report within 2 business days (up to $500 or more thereafter)
  - No liability if you report an error in your periodic statement within 60 days
  - Right to be credited missing funds within 10 business days
  - BUT: no chargeback rights
Consumer Protection: Prepaid/Gift Cards

- If you link to a prepaid or gift card, you do not have any guaranteed protections
  - Gift card laws don’t give you protections against loss of funds
  - Prepaid card contracts may have protections, but they are voluntary and subject to change
Consumer Protection: Direct-to-Mobile Billing

- Federal level: if you link directly to your prepaid or billing cycle phone account, your protections are unclear
  - TILA and EFTA don’t explicitly address direct-to-mobile payments
  - However, these types of payments could be covered by clarifying Reg Z and Reg E

- State level: varies by state
  - One state, CA, has public utilities regulations that provide strong protections to residents who make direct-to-mobile payments, including a chargeback right
What about telephone consumer laws?

- FCC does not appear to have jurisdiction over mobile payments
  - Its “truth-in-billing” regulations apply only to “telephone services”
- Too many players – wireless carriers, payment processors, financial institutions, etc.
- Too much room for finger pointing
- Compare the simplicity of the EFTA approach
  - Entity who paid out the funds has to investigate, resolve, and return funds within 10 business days unless investigation concludes against the consumer.
Wireless Contracts

Consumers Union recently surveyed 18 major wireless plans

- None of the contracts provided protections as strong as those for credit or debit cards
- Most required consumer to pay for disputed charges resulting from lost/stolen phone or error
Social Policy Issues

- Why should you need a credit card to get the best consumer protections?
- Are consumers without bank accounts more vulnerable to losing money?
Practical and Regulatory Issues

- CFPB has important role to play
- As of July 21, 2011, CFPB has rulemaking authority under EFTA and TILA
  - CFPB can clarify Reg E and Reg Z
- CFPB has jurisdiction over “payment providers”
Policy Recommendations

- Clarify Reg E to cover prepaid deposits
  - Is a prepaid deposit to the wireless carrier any different than a “consumer asset account”?
  - Should prepaid deposit holder be required to get banking license and meet deposit insurance requirements?
- Clarify Reg Z to provide “chargeback” rights/Fair Credit Billing Act rights for charges to phone bill
  - Is a billing cycle plan any different than an “open-end credit” plan, where the phone acts like a “charge card”?
- States can follow California’s approach
- Limit size and complexity of contracts
Policy Recommendations

- Provide uniform protections in wireless contract, regardless of how consumer links the mobile payment.
- Allow customer-set individual transaction size caps and daily limits.
- Allow customers to choose who can receive funds or initiate transaction to/from phone acct.
Resources

