



Mobile Payments and Economic Inclusion: Issues for Consumers

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http://www.defendyourdollars.org/money_topics.html

The Rise of Mobile Payments

- 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

- Report, *Mobile Pay or Mobile Mess: Closing the Gap Between Mobile Payment Systems and Consumer Protections*: <http://www.consumersunion.org/pdf/Mobile-Pay-or-Mobile-Mess.pdf>
- Article, *Pay at Your Own Risk? How to Make Every Way to Pay Safe for Mobile Payments*: http://papers.ssrn.com/sol3/papers.cfm?abstract_id=1787587
- Cal. Pub. Util. Comm'n, *Order Instituting Rulemaking on the Commission's Own Motion to Establish Consumer Rights and Consumer Protection Rules Applicable to All Telecommunications Utilities (Oct. 28, 2010)*: http://docs.cpuc.ca.gov/PUBLISHED/FINAL_DECISION/125959.htm