

## **The E-Money Directive and MNOs: Why it All Went Wrong**

**Yazan Mansour**

University of Aberystwyth

Email: [yym04@aber.ac.uk](mailto:yym04@aber.ac.uk)

### **Abstract**

In September 2006 the European Commission published the 'Commission Staff Working Document on the Review of the E-Money Directive', where the Commission stated that e-money had evolved in unforeseen ways from the time of the Directive's adoption. It further stated that applying the Directive to mobile network operators caused considerable uncertainty and is considered to be the most controversial issue in regards to the application of the Directive.

This uncertainty has affected the m-commerce market significantly as it threatens it from reaching its full potential and also threatens its current existence. It has also left the European m-commerce sector behind other countries in the Far East and the United States.

This paper will look into why the application of the Directive has caused this uncertainty and why it is controversial. Examining the causes of the difficulties may aid in the search for a suitable remedy. The paper will argue that mobile phone prepaid credit, when used to purchase third party goods or services, differs from customary e-money forms which were existent at the time of the Directive's adoption. It will also argue that mobile network operators are not electronic money issuers in the sense provided by the Directive; and that the Directive was not intended to cover such a method of payment or to be applied to MNOs.

This will be done by firstly discussing why using prepaid credit is a more suitable method of payment in the mobile phone context than other forms, such as credit and debit cards, and why this method plays an important role for current progress and future development of m-commerce. Then it will examine whether prepaid phone credit, when used to purchase third party goods or services, constitutes a form of e-money within the definition provided by the Directive and in accordance with the primary purpose of e-money, to be a surrogate for coins and banknotes. It will further look into the problems faced by m-commerce if the Directive is applied to mobile operators and what the effects of these problems could be with reference to the general view adopted by the European Union regarding the necessity of developing the e-commerce sector. Finally, the paper will recommend suitable solutions for the perceived problems.