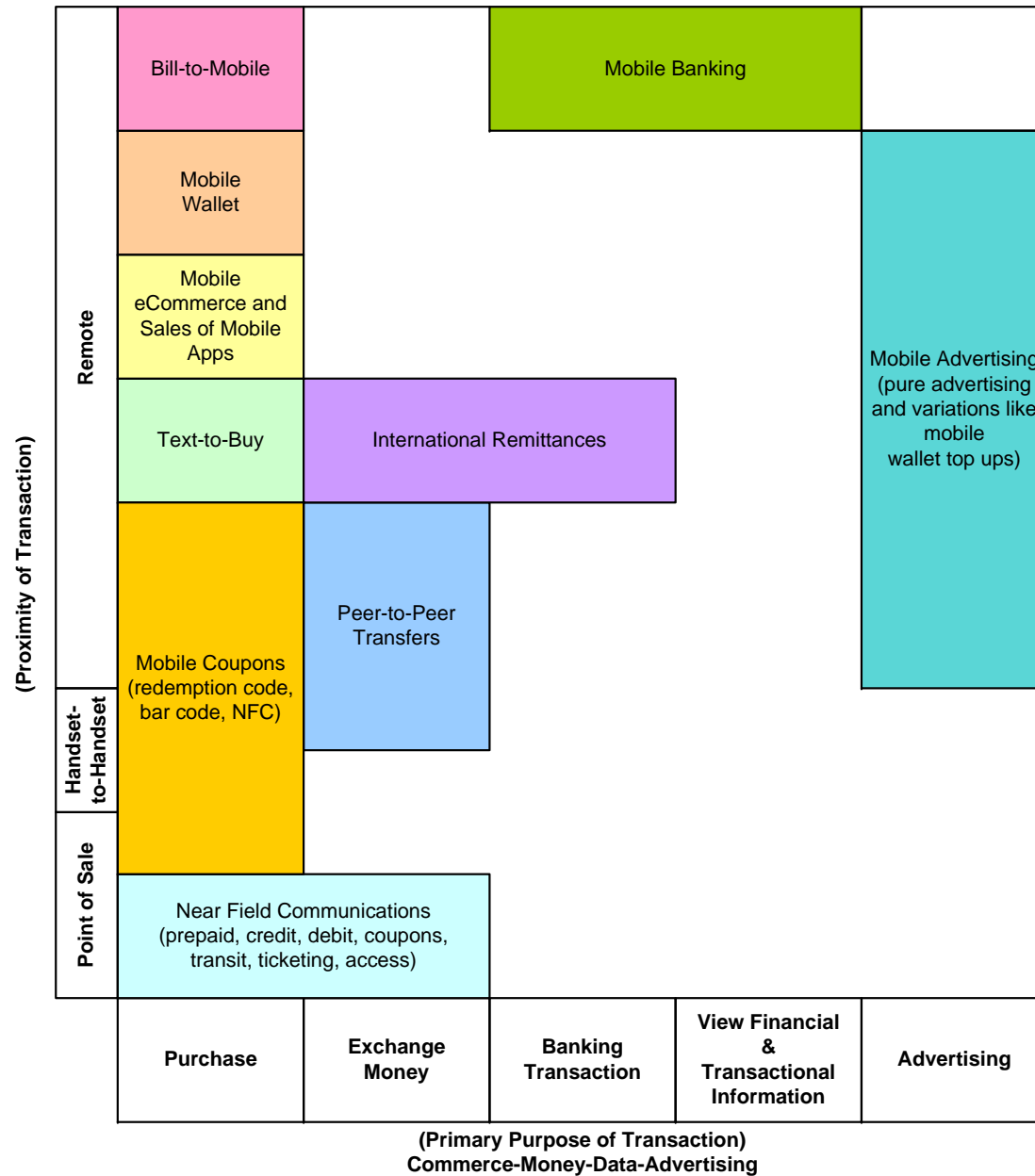


# Mobile Commerce and Mobile Payments

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# Mobile Commerce Business Models



# "Top 3" Legal Considerations by Mobile Commerce Type

Type	"Top 3" Legal Considerations
Bill-to-Mobile	Consumer credit, Truth in Billing, money transmission, CTIA & MMA Best Practices
Mobile Wallet	Gift certificate, unclaimed property, money transmitter, Money Services Business, [converting minute accounts to stored value accounts]
Mobile eCommerce	Consumer protection, CTIA & MMA Best Practices
Text-to-Buy	EFTA/Reg E, consumer protection, CTIA & MMA Best Practices
Mobile Banking	Banking and card issuance, privacy & security, CTIA & MMA Best Practices

# "Top 3" Legal Considerations by Mobile Commerce Type (cont. . . .)

Type	"Top 3" Legal Considerations
International Remittances	Money transmission, Money Services Business, OFAC
Mobile Advertising	Privacy & Security, CTIA LBS Best Practices
Mobile Coupons	Gift certificate, coupon, privacy & security
Peer-to-Peer Transfers	Gift certificate, money transmitter, Money Services Business
NFC Payments	Depends on payment card type (credit, debit, prepaid, coupon, etc.)

# CTIA Mobile Financial Services Best Practices

- **Published 1/28/09**

- **Guidelines**

## **A. Guidelines Specific to Mobile Banking and Mobile Payments**

1. Authentication and Authorization
2. Banking and Payment Alerts; Transaction Records
3. Limiting Liability for Unauthorized Transactions

# CTIA Mobile Financial Services Best Practices (continued . . .)

## **B. Guidelines Specific to Mobile Commerce**

1. Disclosure of Material Terms of Purchase
2. Obtaining User Authorization
3. Receipts, Order Status and Account Information
4. Mobile Coupons, Rebates, Loyalty Programs, etc.
5. Minors

# CTIA Mobile Financial Services Best Practices (continued . . .)

## **C. General Guidelines**

1. Disclosure of Terms; Disclaimers
2. Consent to Enrollment in MFS
3. Compliance with Laws and Regulations
4. Security of Data Transmissions
5. Security on the Mobile Device or in Storage
6. Access Controls and Security of Sensitive Information
7. Fraud and Identity Theft Protection
8. Collection, Use, and Disclosure of Information
9. Dispute Resolution Processes and Customer Service

# Mobile & FinCEN's June 21, 2010 NPRM Regarding "Prepaid Access"

- "[P]repaid access can be provided through a . . . *mobile phone*. . . . In some contexts, there may even be no physical object, as access to prepaid value can be enabled through the provision of information over the *telephone* or the Internet." (p. 9)
- "The miniaturized size [of chips] allows for installation in any number of various devices such as cell phone screens and key chain tokens." (p. 14)



# Mobile & FinCEN's June 21, 2010 NPRM Regarding "Prepaid Access" (continued . . .)

- "We consider this proposed rule to encompass cards and all other emerging payment devices, such as *mobile phones*, currently in the marketplace and on the horizon." (p. 15)
- "[W]e propose defining "prepaid access" as an "electronic device or vehicle, such as a card, plate, code, number, electronic serial number, *mobile identification number*, personal identification number, or other instrument that provides a portal to funds or the value of funds that have been paid in advance and can be retrievable and transferable at some point in the future." (p. 47)

# New NACHA Mobile ACH Rules

- Approved 5/27/10; Effective 1/1/11
- Extends "WEB" rules to mobile transactions
- Doesn't Mobile require a unique approach?
  - Wireless networks really "Unsecured Electronic Networks" on par with public internet?
  - Should SMS be prohibited outright (delivery of authorization, etc.)?
  - Is "writing" requirement necessary for one-time mobile transactions?
  - Satisfying E-SIGN from the handset?
  - What is a "commercially reasonable" method of authentication from the handset?
  - Are we trying to make mobile payments easier or harder?

# In House Carrier Perspective

- Current Challenges
- Tips for Working with Carriers
- Questions?