



Ofcom's Strategic Review of Telecommunications

A response by ICSTIS to the Strategic Review of Telecommunications in the UK by Ofcom

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Section One

Background

As the body with 18 years experience of regulating UK telecommunications content paid for via telephone bills, we believe that we have a unique contribution to offer to this review in a certain number of limited areas where we have a wide range of experience and an evidence base to support the issues we will raise as part of this review.

Premium Rate Services are now ubiquitous in the UK market and used by every media channel for niche value added content services as well as value add services with mass market appeal – such as television programme interactivity. The UK market for PRS now stands at £1Bn annually making it one of the largest markets in the world. Consumers are using PRS in numerous ways as well as across a wide range of communications platforms beyond voice telephony – Internet, SMS, and Interactive TV. We also expect the range of platforms to increase with the mass-market take up of 2.5G and 3G telephony. For the most part consumers' experience of these services meets their needs albeit the volume of complaints about certain aspects of PRS has grown considerably – to some extent in line with market growth. There appear to be a number of reasons for this:

- **New technology:** The ease with which new technology can easily and cheaply be used to mass-market and direct-market to consumers in a variety of ways – e-mail or SMS promotions for PRS services claiming that you have won a valued prize would be a typically example that causes many consumers to complain for a variety of reasons about such services.
- **Consumer knowledge gaps:** The emerging and growing gap, especially in a fast-changing technological world, between consumer understanding about how a service or platform operates, and the means by which an unscrupulous content provider can exploit that knowledge deficiency for gain. Also, a poor understanding of what actions consumers can take to protect themselves and their children from these problems occurring or re-occurring.
- **Fraud:** The potential for consumer fraud to arise using telephony services in ways that were not imaginable even 5 years ago. Networks have historically considered and managed fraud as a network-to-network issue. The means by which they do this are therefore established around this paradigm. However, fraud is now becoming a consumer issue and we will see this more so as we move forward and viruses are sent to mobile handsets for example.
- **Fragmented value chain with no brand investment:** The growth and proliferation of those in the value chain for the delivery of content who are not organisations with brand investment and as such have little regard for building long-term value added services and propositions for consumers that offer value and deliver what they say they will. This has arisen as a result of the opening up of the telecoms market to competition which has had the result of lowering the barriers of entry to players in the value chain for delivering value-add telecom services to consumers. The telecoms market is increasingly becoming commoditised and this will raise issues going forward about mis-selling as new “virtual” networks offer services to consumers.

The Office of Fair Trading recognise that there can be certain market conditions where misleading, false or asymmetric information can be supplied to consumers and that this leads to consumer detriment¹. The conditions identified are:

¹ Consumer Detriment under Conditions of Imperfect Information. Research Paper 11. OFT, August 1997

- Individual suppliers are relatively small so that branding will not be a commercially viable strategy;
- Suppliers suffer from some form of commission bias;
- Consumers cannot evaluate the quality of the product or service prior to purchase and require the product or service relatively infrequently; and
- Barriers to entry that exist are relatively low.

These conditions exist in the PRS market in the UK, which is a function of the broader telecommunications market and these conditions also have the potential to exist in some ways in the wider telecommunications market too. One of our roles as a regulator is to put in place regulations which act as a corrective to the above market conditions, so providing consumers with confidence when using PRS.

Section Two

Answers to specific questions

We do not intend to attempt to answer all 21 questions raised in the phase 1 consultation paper. That is because as a consumer protection and content regulatory body we do not believe it falls within our remit to formulate views on many of the questions which relate, for the most part, to matters of economic regulation. We will therefore limit our response to Questions 1, 19 and 20.

Q1. A well functioning market is likely to have different attributes depending on whether the consideration is made from a citizen or consumer perspective. Ofcom's role will be to balance and manage the trade offs as they arise here. As a regulator that deals with content matters delivered as a consequence of telephony, we have interests which touch upon both citizen issues (e.g., matters related to child protection and privacy infringements by commercial providers) and consumers (e.g., matters relating to ensuring the service is correctly priced and the consumer pays what they expected for the service).

In relation to consumers, some of the attributes they may expect of a well functioning telecoms market would be that there is choice of supply of telecommunication providers, that the choice has regard to functions of price, quality and service and that the costs of switching and so exercising choice should be low enough to not create artificial barriers to exercising choice. In exercising these choices, consumers need access to clear and impartial information which can guide them in making the choice that best fits their needs and that information needs to be relevant and straightforward to follow.

In relations to citizens, their concerns may well focus on ensuring that at the level of the society as a whole the universal service obligation delivers appropriate services to all communities, whether rural or urban at a price that would be generally regarded as affordable. Service delivery should also take account of those who may be disadvantaged and so may need some assistance with the use of conventional telephony services. The principle being, however, that no member of any community should be disadvantaged by an absence of an essential service, which telephony is.

Q19. The right role for consumer policy is to seek conditions in an increasingly commoditised market for telecommunications such that consumers are best placed to exercise the choices referred to in our answer to Question 1 above so that consumers are empowered to exercise appropriate and valid choices that best suit their needs. This may include facilitating the provision of independent information for consumers to ensure that asymmetric information flows do not occur between consumers and industry such that switching costs do not act as a barrier to effective competition. This independent information may be supplied under self or co-regulatory initiatives where appropriate.

Consumer policy can also include "protection" and insofar as it does this is actually touching upon citizenship type issues and concerns such as Ofcom's recent policy on persistent misuse of telecommunications services, where, in part, some of the concerns touch upon some of the more vulnerable communities within society. We believe it is right that consumer policy include such a "protective" element as this is in the public interest generally.

Q20. We take the view that there is a clear role for Ofcom to play in signposting, providing or ensuring that the market provides clear information to consumers, enabling them to make effective choices. This will be all the more important in a world where your telecoms provider may be "virtual" and also providing other services whether utility or retail based. Our points on this are in part made to the answer to Q19 above. We also believe that this role falls under part of Ofcom's remit towards media literacy which we take to be an obligation across communications, and one that is not just related to broadcast. This is especially the case as we

move into a converging technological age where technology can in some instances be developing and reaching mass market at a rate which is faster than the ability of many consumers to fully appreciate both its benefits and potential downside risk and harms.