

Code of Practice for the Self-Regulation of New Forms of Content and Experiences on Mobiles

Introduction

ICSTIS is grateful for the opportunity to comment on this consultation document. Before making detailed and specific comments we do firstly very much want to endorse the work that has been undertaken so far by all the mobile operators party to these discussions and welcome your commitment to developing a self-regulatory framework for regulating new services as they develop across the mobile space over the coming years. We recognise that these initiatives complement the work that we undertake to regulate that which is defined as a Premium Rate Service (PRS), which may be recognised and identified in this Code as a “commercial service”, where PRS is used as a payment mechanism for that content. Such an initiative, working effectively with the ICSTIS regime, may have the effect of reducing the overall level of consumer harm, and by extension the number of complaints from the public about such services, and so lower the burden and cost of regulation.

Comments on the Specific areas of the Code

PART ONE – THE CODE

Introduction – We note that this Code has been developed as a common basic framework for mobile operators and *commercial content providers* (our italics added for emphasis). We remain unclear, however, as to how far this Code has been developed with the support of such Content Providers and how committed they are therefore to it. We also note in the Foreword to Part Two that any reference to *commercial content providers* is omitted. Clarification on the input and role that commercial content providers play in this area would be welcomed.

Objectives – We have no specific comments on the two objectives outlined.

The Code

Appointment of an independent classification framework – We welcome this initiative and believe that any body selected will need to have credibility with all stakeholders for the classification framework to have effect. In drawing up the classification framework, having regard to acceptable community standards, they will need to have regard to other equivalent forms of content rating systems in the market and provided by bodies such as the BBFC and VSC.

Classification framework – We note the “binary” approach being suggested here. Whilst at one level this provides a basic level of protection and a straightforward way to classify content, we are of the firm view that such an arrangement will be hard to synchronise with other existing self or statutory arrangements which contain greater “granularity” in the sub-18 category. For example the BBFC offer 5 classifications for films in the sub-18 category, namely “U”, “PG”, “12”, “12A” and 15. With some recent research suggesting that 400,000 children under 10 years of age now own a mobile in the UK, we remain unclear as to how a rating system for acceptable community standards will be developed for “unrestricted content” that will take account of the different needs and desires of an audience (and their carers and parents) that will cover the below 10 age group as well as the 10 to 18 age group. If this is to be done by appealing to the “lowest common denominator” – i.e., unrestricted content that is acceptable to a very young audience as defined as acceptable by their parents and carers, then this may encourage commercial content

owners to either mis-classify content or to there being little such content actually produced and thus driving the market to classify at “18” when in fact the content would otherwise be classified differently if more granularity in the process was present. If it is to be done by not appealing to the lowest common denominator then we think there are real risks that public expectations will exceed what can in reality be delivered and that this will undermine the classification system, the classification body and the Code of Practice objectives being developed.

Information and advice – We welcome the commitment to provide information and advice to consumers. Our comment here is that on this commitment will rest, in our view, the success or otherwise of your plans. Our own experience through the ICSTIS Helpline suggests that many consumers are lacking in knowledge and understanding about forms of controls available in the market in order to protect themselves and/or their children. This commitment will need considerable underpinning with resources and we would very much welcome a further dialogue with individual operators about quite how they plan to deliver on this area.

We also note that this Code makes no reference to the important role that retailers selling mobile telephones may be expected or asked to play to empower consumers in understanding how they can best enact controls for themselves or their children. The retail sales channels for mobile products are varied and can be complex. We are therefore somewhat perplexed that there is no mention in this document of their role and the role that the operators may play in engaging with these channels to help ensure that point of sales staff are able to explain clearly to consumers how the product can be enabled to restrict content and the like. A further dialogue with the mobile operators on this issue would be welcomed.

PART TWO - Explanation and consultation

Introduction – We agree with the view that parents and carers have access to tools to help them manage content but we believe it will not be enough to be passive in this provision – many consumers will not know how to use these tools and will need assistance in installing them, unless they are very simple and straightforward to use and operate.

Classification of individual items of commercial content – We note that where there is ambiguity over the classification of content then the content provider will be expected to approach the independent classification organisation for guidance. Whilst welcoming this, we should caution that, notwithstanding any guidance provided by any third party body, where the content is defined as PRS then ICSTIS will any event be applying its Code of Practice to that service, its promotion and the content. Where there are public complaints about the content’s acceptability or otherwise then ICSTIS will judge whether its Code has been breached having regard to acceptable community standards. ICSTIS would of course expect to have close links and an on-going dialogue with any third party content classification body and to have regard to its comments when reviewing the ICSTIS Code.

Combating unwanted bulk illegal or offensive content – Again we welcome the commitment to deploy procedures designed to suppress Spam. Knowing as we do, however, that this area (SMS Spam) is one that has already generated thousands of complaints to ICSTIS and mobile operators, and one that is the subject of a dialogue between the operators, ICSTIS, the ASA and Information Commissioner, we would welcome a further dialogue about these plans with operators. We recognise that this is an area, particularly as we move to a more content-rich environment, which is fraught with potential difficulties and concerns.

Conclusion

In summary therefore:

- ❑ We welcome and endorse this initiative and believe that it will complement the work ICSTIS undertakes now and in the future to regulate mobile content that deploys a PRS charging mechanism;
- ❑ We welcome plans to appoint an independent classification body but believe any body selected will need to have credibility with all stakeholders involved;
- ❑ We are of the view that the classification system proposed may create false consumer expectations and may undermine the objectives of the Code. We are also of the view that it may materially and detrimentally affect the way content providers approach rating their content;
- ❑ We welcome the commitment to offering information and advice to consumers. We are of the firm view that the success or otherwise of this Code will turn on this commitment;
- ❑ On a number of points we would very much welcome a further dialogue with the operators.