



Ofcom's consultation on Number Translation Services: Options for the future

A response by ICSTIS on a series of proposals by Ofcom on Number Translation Services

Submitted by ICSTIS on 13 January 2005

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Section One

Executive summary

ICSTIS has spoken to Ofcom regarding our possible involvement in the regulation of adult services (including sexual entertainment and chat and dating services) on the 08 prefixes and we welcome the opportunity to respond to Ofcom's consultation on Number Translation Services (NTS) – Options for the future.

The main points that ICSTIS would like Ofcom to consider are:

- That a ban on revenue sharing on some or all NTS would not be proportionate or meet with the principles and requirements of Good Regulation produced by the Better Regulation Task Force.
- That we would be willing to consider regulating some 08 NTS numbers in the context of controlling adult content and other high risk services on the basis that such services could be easily identified, that there was evidence or potential for consumer harm and that there was an industry mandate for us to regulate. This is because adult services contain content and are of a nature that may appeal to certain children and young persons and that such content, or the contact that could result in some cases, is not appropriate.
- That the consequences for ICSTIS in accepting any such additional role are understood. In particular, the effects on the ICSTIS Code, enforcement, funding and consumer education must be considered.
- That ICSTIS believes that the success of any consumer protection measures rest on close collaboration, discussion and understanding between regulators and other stakeholders. To this end we invite discussions with all interested parties.
- That ICSTIS fully supports any measures that allow greater transparency for consumers in relation to pricing transparency.
- That ICSTIS welcomes the proposal by Ofcom to encourage TCPs to produce a voluntary Code of Practice designed to ensure that NTS SPs are fully aware of the retail prices of NTS calls and any possible alternatives.
- That ICSTIS has always supported the principle of consumers being informed of exactly how much a service they are connecting to will cost per minute and that such a price warning should be free to the consumer. In our view such a system will allow consumers to make informed decisions as to whether or not they wish to agree to the costs of an NTS service – either on the 08 or the 09 prefix before they incur any charges for the service.

Section Two

The Ofcom approach

ICSTIS is aware of concerns that consumers are unsure what the retail prices are for calls to 08 numbers, and find the 'local rate' and 'national rate' descriptions of such numbers particularly confusing and sometimes potentially misleading. We believe that the Ofcom consultation goes a long way to dealing with this specific issue and a number of other highlighted issues.

We strongly agree with Ofcom that pursuing a ban on revenue sharing on some or all NTS numbers would not be advantageous to consumers. We agree with Ofcom that the benefits to consumers of being able to use NTS as a micro-payment mechanism are significant, and there is insufficient evidence for the view that unavoidable, detrimental effects outweigh these benefits. We believe that any new regulatory proposals must reflect the principles of good regulation produced by the Better Regulation Task Force and endorsed by the Government. Any proposals must be transparent and proportionate in their requirements, consistent in their approach, targeted at the issues of most harm and which put the appropriate accountability on all parties for their action. A ban on revenue sharing on some or all NTS in our view would not meet with the principles and requirements outlined above.

Bringing some/all revenue sharing services on 08 within the scope of ICSTIS regulation

The Ofcom consultation document (at Paragraph 6.10) states that we are willing to consider regulating some 08 NTS numbers in the context of controlling adult content and other higher risk services. As previously discussed with Ofcom, we can see a need for the regulation of 08 NTS numbers where there is evidence of such consumer harm occurring or if there is evidence to suggest that there is the potential for consumer harm to occur. We would be willing to consider such a proposal on the basis that the services could be easily identified, that there was evidence or potential for consumer harm and that there was an industry mandate for us to regulate. We believe that the types of services that could be included for ICSTIS to regulate are sexual entertainment services (live and recorded), chat and date services and virtual chat services. Our reasoning for this would be that such services contain content and are of nature which may be appealing to certain children and young person and that such content, or the contact that could arise in some cases, is not appropriate to them despite the potential appeal. We also appreciate there may be other high risk services that have not yet been identified.

In the absence of evidence, it is, however, difficult to determine whether ICSTIS should regulate all 08 NTS ranges. As a result, we welcome discussions with Ofcom and other stakeholders in relation to this matter.

The ICSTIS Code of Practice addresses fundamental issues such as the provision of pricing information and the need for there to be clarity in promotional material setting out the nature of the service offered to ensure consumers are not misled.

The ICSTIS Code also deals with technical failures or prolonged delays in service delivery that have a particular impact on users when they are paying through a premium rate mechanism. The Code also deals effectively with the appropriateness of advertising certain services that are sensitive by virtue of their nature and in respect of those who may use them.

Regardless of whether some or all 08 NTS ranges are brought within our remit, it is important that the consequences for ICSTIS in accepting any such additional role is understood. The total call volume of calls from landlines to 08 NTS numbers was 42,192 million minutes in 2003 (compared with 770 million minutes on 09) – that is 55 times the size of PRS by minutes of usage. Ofcom recognises that there is a lack of reliable, quantitative data on the types of services using the different 08 NTS number ranges and a further lack of evidence on quantity of consumer complaints and enquiries generated. Any extension of our current remit would have

implications on the infrastructure of ICSTIS, particularly as by volume, calls from landlines are so much greater than calls to 09 numbers.

For example, there could be significant implications for the following:

- *The ICSTIS Code of Practice*

The current ICSTIS Code contains both general provisions applicable to all premium rate services and specific provisions for particular services. As the Ofcom consultation recognises, the 08 NTS range is predominately used by organisations and individuals to provide access to a very wide range of services. It is likely that, if ICSTIS took on the regulation of additional NTS numbers, specific provisions of the ICSTIS Code would have to be amended to be able to reflect this change. There would also need to be additional Guidelines produced that would accompany any Code amendments. Whilst this is perfectly feasible it would take time to deliver.

- *Enforcement*

The low tariffs involved for services on the 08 NTS ranges and the uncontroversial nature of such services would suggest a limited demand on any regulator from the public in terms of providing information to them and being a place for them to complain to. However, against this has to be set the magnitude of 08 calls made and the possibility that the existence of any new regulation could lead to demands for actions that relate to the quality of service and the services being offered rather than the clarity of pricing and functionality of the telephony service. By way of example, a new regime could find itself dealing (or seeking not to deal) with those complaining about the unsatisfactory response times by companies that use 08 NTS numbers.

- *Funding*

ICSTIS is independent of the premium rate industry but is funded by a levy on it. Whether ICSTIS regulates some or all of sectors of NTS numbers may have a significant impact on the funding structure and on new companies that will have to fund us. For example, the breakdown of retail NTS revenues from fixed lines in 2003 is £849m. The total for premium rate over the same time period is only £404m. If ICSTIS has to take on extra regulation and responsibility resulting in greater work loads then there may need to be additional investment by 08 NTS service providers.

- *Consumer education and joined-up regulation*

The Ofcom consultation document acknowledges that a number of consumer issues (such as low price awareness) cannot be effectively addressed simply by changing the regulatory policies related to the pricing and interconnection of NTS calls. As a result, we endorse the Ofcom proposals of working with the Advertising Standards Authority, the Committee of Advertising Practice and the Central Office of Information. However, it is equally important that, if ICSTIS is to regulate any additional NTS ranges, we are included in any such discussions with these bodies so that there is a harmonised approach to the regulation of the advertising and content of all NTS. From our experience, it is also critical that consumer and industry expectations of any potential changes are managed effectively from the start.

- *Timescales for Implementation*

We are currently looking to consult on proposed changes to the 10th Edition of the ICSTIS Code of Practice in early 2005. This consultation does not, at this stage, envisage any new requirements in respect of 08 services and instead primarily will address itself to the recommendations made by Ofcom through their report to DTI on a review of PRS regulation made on 3 December 2004. If we are to consult on other changes relating to 08 numbers then this will have timescale consequences for delivering the 11th edition Code of Practice in 2005.

Assessment of pricing and interconnect policy options

We have not expressed a preference for the way forward in relation to the Options highlighted by Ofcom, as our primary locus relates to the regulation of the advertising and content of 09 services and we have no specific expertise in economic matters.

Next Steps

ICSTIS would welcome discussions with Ofcom and other interested parties as soon as possible to discuss the wider role that ICSTIS may come to play in regulating other aspects of NTS should it be agreed that further regulation is necessary, proportionate and has sufficient stakeholder mandate to support it. Please contact Suhail Bhat (020 7940 7412/
sbhat@icstis.org.uk) to arrange discussions.

Section Three

Specific comments on Section 6 of the consultation

We would like to make the following comments on each the optional measures for additional consumer protection that are outlined in this section of the consultation paper :

- *Ofcom working with the ASA and CAP to produce guidance on advertising 0845/087 numbers and Ofcom working with the Central Office of Information (COI) to produce guidance to government departments*
ICSTIS believes that the success of any consumer protection measures rest on close collaboration, discussion and understanding between regulators and other stakeholders. Insofar as ICSTIS has extensive experience with the regulation of the advertising of telephony charging and the related content of PRS we are willing to offer our services to the contribution of new advertising guidance if that was felt to be of assistance.
- *Controlling adult content and other higher risk services on 087*
We agree with Ofcom that where there are adult services operating on prefixes other than 09 there is a real risk of consumer harm and, in particular, serious issues arising around the protection of children from both inappropriate content and contact. We believe adult services to include sexual entertainment services, chat service and contact and dating services. These three categories contain content or the potential for contact which could lead to the harm we identify regardless of the actual cost of the services in question which we appreciate may be lower than if tariffed on 09 price points. We are unclear what is meant by other 'high risk' services and welcome clarification.
- *OCPs to provide better pricing information to consumers*
ICSTIS fully supports any measures that allow greater transparency for consumers in relation to pricing transparency. Equally, we understand that Ofcom does not wish to introduce further formal obligations or prescription without having explored appropriate alternatives. We would support a voluntary OCP Code of Practice covering the provision of such information. We would welcome involvement on the NTS Focus Group to help oversee the development and implementation of such a code.
- *TCPs to provide better pricing information to NTS service providers*
We welcome the proposal by Ofcom to encourage TCPs to produce a voluntary Code of Practice designed to ensure that NTS SPs are fully aware of the retail prices of NTS calls and any possible alternatives. There is a need to recognise the practical realities of hundreds of TCPs successfully obtaining numbers from Ofcom .
- *Pre-announcement of call costs*
In the past ICSTIS has discussed the feasibility of free to user call cost information provided to consumers calling premium rate numbers by OCPs or service providers. ICSTIS has always supported the principle of consumers being informed exactly how much a service is they are connecting to will cost per minute and that such a price warning should be free to the consumer. We have been told by OCPs previously that the costs of introducing such capability are far greater than any identifiable benefits. In our view such a system will allow consumers to make informed decisions as to whether or not they wish to agree to the costs

of an NTS service – either on the 08 or the 09 prefix before they incur any charges for the service.

In respect of TCPs or TCP SPs providing the pricing information, we agree with Ofcom in that these parties cannot presently know how much the actual charge to the consumer will be given that they do not know which network the consumer is calling from. Currently, in the case of premium rate services, the pricing information presented to the consumer can only be ‘likely costs’ – not actual costs. This is because for some networks, the cost of delivering a call is greater thus necessitating a higher price charge to the consumer for the call that is above and beyond the standard advertised cost. This surcharge varies from network to network and can become a significant extra cost to the consumer. Service providers advertise these extra costs by stating that the advertised rate are based on a call made from a consumer calling a premium rate service from a BT landline.

Consumers can interact with an NTS services without physically dialling a number. As Ofcom recognises, it may be important to develop and enforce equivalent measures for NTS services available on other platforms. For example, consumers do not have to dial a number to access NTS interactive television services or Internet services. Internet services using the 09 prefix already have to provide ‘splash boxes’ showing all relevant information including the contact details of the SP, any terms and conditions and the pricing information. Additionally, the consumer is provided with an on-screen clock which provides cumulative call costs. The adoption of such measures for low cost 08 NTS services would have to evidence based and targeting a specific harm otherwise such an adoption may not be seen to be proportionate. Equally, there may be an argument that states that different regulations can be justified for different platforms depending on the levels of consumer harm or the potential for consumer harm. Again, the evidence presented largely governs the approach taken. ICSTIS would welcome discussions on this matter.

- *Bringing all revenue sharing services on 08/09 within the scope of ICSTIS regulation*
It is important that any regulation is targeted and proportionate. We would like to engage in dialogue to determine whether there is a real need for additional consumer protection regulation of all 08 NTS ranges. Our immediate view is that there is insufficient evidence to support this and that a revenue-share ban on all 08/09 services would be a disproportionate step.

Section Four

Answers to specific questions

We do not intend to attempt to answer all 18 questions raised in the consultation paper. That is because as a consumer protection and content regulatory body we do not believe we have the evidence or the experience to formulate views on some of the questions presented. We will therefore limit our response to the following questions:

Question 1

Premium rate numbers are not used extensively for call centres and we have no evidence to show that those call centres that do use 09 NTS ranges artificially extend call durations in order to generate extra revenues. Indeed given the costs related to operating a live call centre, we would be surprised if the revenues generated from holding consumers on line would significantly outweigh the costs involved in undertaking such activity.

Question 2

Yes. We are not aware of other issues that should be taken into account by Ofcom.

Question 3

Yes.

Question 4

Ofcom must try to ensure a fair and balanced regulatory regime. We cannot comment on the individual policy objectives, as we do not have the experience to comment on competition matters.

Question 9

The 5 options produced by Ofcom for evaluation (including variants and options not for consultation) seem to encompass all the workable options.

Question 11

Pricing information on connection to certain premium rate services is compulsory. However, the provision of this pricing information is not free to the caller. As stated previously in Section 3 of this consultation response, ICSTIS has mooted the possibility of consumers calling premium rate numbers to be presented with a free-to-user message. However, we have been told that benefits of investing heavily in the necessary technological and infrastructure changes do not outweigh the costs. We have approached the provision of pricing information on connection by carefully considering each type of service and whether or not pricing should be provided on connection. For example, Directory Enquiries services, despite being Live premium rate services, do not have to provide pricing on connection. This is because the cost to the consumer incurred by providing the pricing information would, given the average duration of such services almost certainly be as great as the provision of the service itself hence possibly doubling the cost to the consumer. However, pricing does have to be provided if the consumer is connected directly to the person or company they wish to talk to. This is because any potential harm is more likely to occur following onward connection. If free to user pricing was available, then this could be successfully introduced even for Directory Enquiries services with no disadvantages to consumers.

We believe that there is potential for greater harm caused by the surcharge applied by some networks to consumers as a result of their higher network costs. We believe that the introduction of free pricing information to consumers before they take part in any 08/09 NTS service would provide consumers with the ability to make an informed decision as to whether they wish to pay for the service offered. We would welcome discussions on the possible introduction of this option.

Question 12

ICSTIS believe it is important to ensure that all services are regulated on a level playing field. Ofcom recognises that for data calls, voice announcements may be inappropriate since the caller might not be able to hear the announcement and also because the announcement would probably interfere with the operation of the modem.

ICSTIS agrees with Ofcom that call prices could be announced via a splash box that would appear on the caller's computer screen at the beginning of the call. ICSTIS already insist on this method of pricing notification for premium rate Internet services. We also insist on 'on-screen' clocks that provide cumulative call costs and enforce a maximum call cost (£20). When consumers reach the £20 cumulative call cost, they are automatically disconnected from the service. These rules were developed to try and prevent consumer harm on 09 NTS ranges. We would need to carefully examine whether similar measures are justified or proportionate for much lower rate 08 NTS ranges.

Question 13

We refer you to our comments provided in Section 3 of this response.

Question 15

It is important that if one of the main reasons the regulatory regime for NTS services is being changed is because of the lack of consumer awareness of pricing, that considerable thought and plans are developed to address this issue. We would encourage the joint development and provision of information between all relevant parties. Namely, Ofcom, OCPs, TCPs, ICSTIS, consumer bodies and other stakeholders dealing specifically with consumer education. A public communication plan needs to be developed to inform consumers that the link between geographic and non-geographic retail prices for 0845/0870 calls is being removed and that the prices for 08 calls are potentially changing.

For further information and discussion please contact Suhail Bhat (020 7940 7412/
sbhat@icstis.org.uk).