

29th September 2006

Mr Paul Whiteing
Deputy Director (Policy and External Affairs)
ICSTIS Ltd
1st Floor, Clove Building
4 Maguire Street
London SE1 2NQ

Dear Mr Whiteing

ICSTIS Pre Consultation on Regulation of 0871 Numbers

I write in response to ICSTIS's Pre-Consultation paper on the regulation of 0871 numbers.

I am extremely concerned that Ofcom, who is supposed to have as its primary remit under the Communications Act 2003, the best interests of UK citizens and UK consumers has in fact proposed a regulatory solution on 0871 numbers that is designed as a back door way for most current 0870 call centres to continue to earn revenue share by moving to an 0871 number whilst Ofcom pretends that it has done something about the problem.

Ofcom is a body which I have wasted a great deal of time with previously in responding to consultations on the 084/7 NGN issue only for me to realise belatedly that all responses to such consultations were largely futile as Ofcom clearly has not listened to the strong message from the general public that scam NGN numbers that make hidden payments for what were previously normal phone calls must be either hugely reformed or even abolished and instead it has clearly acceded to large powerful business interests in the telecoms sector with whom certain executive and non-executive directors at Ofcom previously appear to have had far too close a level of business involvement.

Turning to your consultation I must at least commend ICSTIS on producing a consultation document that is not as short as one might ideally like but that is still within sane bounds and only runs to 20 pages. This compares with the unspeakable Ofcom who appear to attempt to justify having as big a budget as the American FCC to regulate a population only a quarter of the size of the USA by turning out consultation documents of quite absurd length (200 pages is nothing unusual) and spectacular turgidity the only purpose of which in fact seems to be to make the consultation as inaccessible as possible to the general public and thus far more likely to be responded to by only the telecoms industry with whom Ofcom much prefers to conduct most of its day to day relationships. Even so ICSTIS could also have done better as for a lay person the proposals seem not to have any graphical or table based representation, particularly in respect of what price disclosure formats etc might be required in documentation.

My Reaction to The Basic Proposal in Outline

My overall reaction to these proposals is in essence one of horror because it is perfectly clear that Ofcom proposed that 0871 numbers remain as a revenue share class right next to 0870 charged at national rate (but only from February 2008) in order to give the pretence of doing something to protect the general public while also sending out the most appallingly spin based press releases that gave lazy journalists the impression that the great 087 call centre ripoff was about to come to an end. The reality is that instead Ofcom's hidden agenda is that it expects nearly all the UK's biggest call centre revenue sharers to move to 0871 numbers from February 2008 and knows that most members of the public will not realise that 0871 is in fact a revenue share number whilst 0870 is not because allowing 0871 to be used subjugates the whole principle of clarity in the National Telephone number plan where just the first two digits used should have indicated the type of number being called. Ofcom's only excuse seems to be that the ripoff scammers who run many of the largest UK call centres might lose

some of the entirely unjustified revenue stream that they have become used to stealing off the general public for normal customer service and sales calls which until not long ago were made using normal non NTS numbers.

The so called added value in having massive centralised call centres (possibly even based overseas) on one NTS 0871 number all in fact accrues to the company receiving the calls in reducing their operating costs compared to using 01 and 02 multiple call centres and so it is quite absurd that the customer pays extra for what is in fact an enhanced telecoms service to the call centre. Not content with this coach and horses to public protection of not forcing all 08 revenue share services to move to the 09 number range or at the very least to an unused number range kept specifically for lower cost premium rate services (eg 06) Ofcom then apparently says ICSTIS must also water down its current premium rate brand so the public will hopefully not associate it with being premium rate at all! What a dishonest, cynical and thoroughly double dealing organisation Ofcom must be having originally in its NTS Way Forward consultation suggested that 0871 numbers would be subject to full premium rate control under ICSTIS with the only watering down being the obvious one of allowing a number prefix virtually identical to 0870 to be used.

In my view it is totally unacceptable for ICSTIS to have controls over price information and price disclosure for 0871 numbers that are in any way less stringent in scope than those applicable to other 09 services and indeed I would go further and say that it is in fact essential that ICSTIS does rather more to draw the public's attention in all marketing material to the fact that these are Premium Rate numbers because the approval of the 0871 code for the continued charging of revenue share by the cynical and double dealing Ofcom is specifically designed to disguise from the average caller that 0871 is a normal premium rate number. It is perfectly obvious that Ofcom did not have the best interests of the general public at heart when it made this decision and that Ofcom is a compromised regulator which does not listen to public feedback and instead frequently acts as though it is a trade association for the very telecoms companies that it is supposed to regulate and control.

Unrealistic and Unacceptable Comments in the Pre-Consultation Suggesting that 0871 Is Already Widely Used and Providing Many Valuable Services That Must Not Have Their Business Damaged by Proper Price Disclosure to the UK Consumer

I find a particularly unacceptable aspect of your Pre-Consultation to be the fact that it is strewn with many phrases suggesting that 0871 numbers already provide a wide range of valuable services and also suggests that you must not regulate them using a standard version of the ICSTIS logos designed to draw the public's attention to the number being premium rate.

This is an utter disgrace that shows that ICSTIS is firstly being dishonest about the current level of 0871 use and secondly that ICSTIS policy is being driven by a wish not to upset the business interests of the commercial companies it supposedly regulates rather than trying to stop members of the general public from believing that a revenue share premium rate number is not a premium rate at all. The whole points of moving 0871 to ICSTIS was precisely so that only the more bold and brazen revenue sharers who don't mind the public knowing they are surcharging them above normal call prices for the mere privilege of calling will continue to use 0871 numbers.

Also far from 0871 numbers being a treasured national institution and already well used the realities of their current use are very different indeed.,

At present only a tiny number of call centres with the most commercially opportunistic management (inevitably therefore including companies such as Ryanair, Easyjet and TopUpTv) use the numbers to reach normal call centres about customer service or technical support matters and the main use of 0871 numbers at present is for dial through call services operated by companies such as Finarea and Callax under a large number of sub brands (eg www.abroadtel.co.uk, www.phonebird.co.uk, www.dialaround.co.uk, www.cleVERRATES.co.uk) where the customer can bypass their usual phone provider's call rates (always if it is a BT line and sometimes if they have a WLR service on a BT line with other phone providers) and

make voice calls to foreign countries and to uk mobile phones and landlines) However these companies are up front to their customers about the rates any call cost them and also announce the rate per minute at the start of the call before it is connected to the final destination number. Now these particular companies already in fact use a range of NTS numbers starting at 0844 and working through 0871 to 09 to offer a full range of prices for different call destinations. Dialthrough services are very well used but unlike other voice based NTS services they are about the only area of 084/7 NTS services that I regard as being a legitimate use and as adding value for customers.

My point in any case is that 0871 is at present only used by a tiny percentage of all call centre operators using 084/7 NTS and that the handful who do so apart from the dial through calling companies who make a legitimate use are companies who don't mind at all about their customers knowing 0871 is a premium rate because up to now they have been companies that actively wished to discourage and punish customers for calling them.

So coming back to the flowery statements in your pre-consultation to the effect that 0871 is already well developed and that ICSTIS just needs to add some light touch regulation that will not receive the full ICSTIS branding I completely and utterly disagree.

The whole point of 0871s continuation by Ofcom for revenue sharing while also being transferred to what we now learn will possibly be a downgraded and almost invisible form of ICSTIS control is because Ofcom fully expects that 80%+ of all 0870 call centres will move to 0871 having been suitably reassured by documents such as your pre-consultation that although it will be ICSTIS controlled it will be a weak, watered down and utterly ineffectual form of control that means call centres can go on using it and still manage to persuade at least 70% or so of the general public who have minimal numeric literacy that this is just a normal priced call that they should not avoid.

In fact if ever there was an example of a conflict of interest this is it as all consumer groups want ICSTIS control of 0871 to be as strong and as statutory and penalty based as possible but what the call centre industry (and which your documents suggests you are far more concerned about pleasing) wants to do is simply quietly slide most of its current 0870 call traffic to 0871 without most of their customers even realising it has happened.

ICSTIS must not bow to these utterly ruthless and cynical business interests which for 10 years or more have tried to subjugate EU directives requiring competitive markets and adequate consumer price disclosure before making a purchase by transferring their call centres on to a phone number which was a covert premium rate while also structuring the NTS payment mechanism process to the call centre companies in such a way that there is absolutely no way at all that the consumer can bring pressure to drive NTS prices down. However there is every possible way that call centre operators can negotiate with their telephone service providers in order to drive their NTS revenue share for each call up.

The Public is Already Very Angry About Ofcom Allowing the 0844 and 0845 Revenue Share Scams to Continue - If ICSTIS tries to Water down Premium Rate Control for 0871 and Nearly all Current 0870s Move There Then There Will Be Public & Parliamentary Outrage

It is obvious from the tone and content of this consultation that Ofcom and ICSTIS still think the public and for that matter MPs are possibly a bunch of dummies who it can manipulate into believing that 084/7 hidden call charge abuse is now finally being stopped only for it to carry on just as profitably as ever for all of Ofcom's and ICSTIS's valuable telecoms industry business partners.

I have a message for you ICSTIS which is that it won't work and it won't wash and that if you and Ofcom continue to play the game of pretending that the public has been protected only for us to find that almost every 7.51p per minute at peak times call centre number out there has become a 10p per minute at all times 0871 number then we campaigners against this most despicable face of Rip Off Britain will not give up and we will go all the way to the European Commission and the Parliamentary Commissioner for Standards if necessary to ensure that all Premium Rate numbers including 0844 and 0845 are properly identified and disclosed as such, including the obvious step of adding call price pre-announcements before the call so that consumers know the calls are not standard priced.

For the moment we have to tolerate the outrage of utterly cynical Ofcom allowing premium rate numbers to remain on the 08 prefix code alongside another number range that will soon become charged at the same rate as national 01/02 fixed line call rates (0870) while 0800/0808 calls are charged at Freephone rates. But in having to currently put up with this possible number code confusion outrage for consumers we are not prepared to also tolerate anything less than full disclosure that these 0871 numbers are premium rate with all the usual wording and the same ICSTIS logos as are used for other Premium Rate numbers. Anything other than this will be a travesty that will result in energetic pursuit of the regulatory failure involved via my MEP and elsewhere.

It is perfectly obvious that both OFTEL and then Ofcom have not been run in a way that protects the citizen consumer and instead have operated on a basis that involves trying to appear to be improving price competition while then allowing a huge cancerous lump of price non competition and price increase in the cost of making standard calls to businesses to expand and flourish with almost no intervention from the regulator. Incredibly so weak and utterly ineffectual is Ofcom in ensuring proper disclosure of call prices to consumers that even to this day BT, the largest operator, is allowed to still call 0844 and 0870 Lo-Call and National Rate on every single BT phone bill in the land. The regulator has enormous reserve powers to stop this kind of abusive and irresponsible behaviour by the most dominant player in the NTS marketplace but for reasons that are mysterious and alarming it has repeatedly chosen not to use those powers

You Can Fool Some of the People All of the Time and All of the People Some of The Time But You Can't Fool All of the People All of the Time

The whole history of the development of 084/7 NTS by the telecoms industry is one of a quite breathtaking Emperors New Clothes like scandal where a method was quite deliberately permitted by OFTEL and then Ofcom that it surely knew would lead to the ability of call centre operators and service providers to drive up prices of calls to these numbers in their favour and to subjugate the previously massively long term downward trend in fixed line prices being driven by an open and more competitive telecoms marketplace.

The only possible explanation for all of this is that the regulator felt the 084/7 services would not be as widely taken up as they have been and so completely misjudged this. Then having let the problem get violently out of control on 084/7 NTS the regulator has been got at by unethical but powerful commercial interests who a bit like a heroin taking junky say they now cannot possibly live without their call centre revenue stream daily fix and that they must go on having that fix, even though charging people a penalty extra fee to call companies that have not say delivered products they have already ordered or where the product has broken down is surely nothing more than legalised extortion.

Up Front Voice Pre-Announcement of Call Prices - Vital for 0871 Calls

Finally before embarking on answering the questions in your pre-consultation (something I never enjoy doing with regulator consultations as the questions are always spun to get the answers that the regulator wants to hear) I must reiterate that because 0871 is so easily confused with now genuinely low cost fixed line national rate 0870 and that because so many call centre operators who move to 0871 will do everything they possibly can within the letter of the law to obscure from customers that 0871 involves a revenue share there is only any hope

at all of ICSTIS regulation being effective if full voice based pre-announcements are made compulsory before every call to an 0871 number. This should be in addition to any requirement to show the cost of 0871 calls in printed literature and advertisements of all kinds.

I can see in advance the likelihood of completely untruthful, disingenuous and fallacious claims being put forward by ICSTIS and the call centre industry that this will mean huge expense for telecoms companies they cannot afford but I simply do not accept that when the lowest cost indirect access operator for making PSTN calls to uk landlines (the dial through products of the Finarea group of companies) have managed to have a voice pre-announcement on all their calls for every call for several years.

Although it is true that telecoms companies may find their wholesale cost of carrying and delivering calls vary every day this is no different from the position a taxi driver or a train operating company finds themselves in where operating costs of fuels and spares vary quite unpredictably but they have to set a tariff that lasts for several months at a time and then manage their business efficiently within that tariff so as to make a profit. In other words as in every other industry like the gas and electricity supply industry customers are offered a known telecoms tariff for a set period and if the underlying wholesale costs of delivering calls change they must manage that risk from day to day and if there is a permanent shift eventually set a new tariff. So long as phone companies must set a tariff which they only change as necessary from time to time then it is easy to supply price per minute pre-announcements as the tariff is their permanent call price for that call type which they the company supplying the service to the consumer know. The provision of call price announcements only becomes at all difficult in the crazy telco interest industry biased world of Ofcom where if a phone call supplier finds their underlying costs of delivering and connecting calls changes day to day then the consumer rather than the telecoms company must take the risk and in Ofcom's view this allows phone companies to deliver unpredictable prices that may change all the time if the telco wants. But as with Ofcom's absurdly costly and totally unsuccessful changes to the Directory Enquiries marketplace this is yet another example of Ofcom making rules to make life more exciting and profitable for telecoms companies but not better, simpler or most importantly cheaper for consumers.

So ICSTIS which despite some faults I believe to be a considerably better and more successful regulator than Ofcom must stick for up its principles and insist on pence per minute price preannouncements before all 0871 calls commence and begin charging the consumer on their bill.

Call Queuing Time

Due to the scale of current call queuing abuses and the outrageous manipulation of supposed call queuing times in research by Ofcom to a much lower level than in practice occurs for most callers most of the time it is imperative that under ICSTIS stewardship there should not be any call queuing time at all allowed by the operators of these call centres. Extended call queuing times of up to 2 hours by the very worst abusers (which are mainly either internet service provider technical helplines or customer service centres of certain budget airlines) show that there is almost no limit to either the greed and/or toleration of low standards of customer care permitted by some organisations. Worse still is that not only can such organisations charge people a hidden fee of as much as £12.00 for 2 hours on 0871 for an enquiry about say a ticket refund or lost piece of baggage but that in queues of this length there are huge numbers of people who give up at 30 minutes or 1 hour and pay a substantial fee for no service at all.

Ironically ICSTIS already has strong call queuing limits over services many of which (in particular adult chat services and legal advice lines) have no incentive to queue calls because they operate in a highly competitive marketplace where any artificial queuing will make the customer go elsewhere. But most of the call centre numbers that will soon start using 0871 but presently start 0870 run captive customer service operations for existing customers who

cannot call anywhere else and cannot take their business elsewhere and so stringent control is all the more vital.

I recommend that no call queuing whatsoever is permitted and that any time while connected to an IVR system before speaking to a call centre agent is reverse billed to the call centre operator on the same basis as an 0800 call. Only when a call is connected to a customer service agent should charging be allowed and if the call is put on hold or transferred after the caller first talks to a customer service agent (as they so often are for minutes on end) then billing should stop and the call centre company again start being billed for that element of the call. Technically difficult you may say but the only way to stop the deliberate neglect or abuse of customers that companies seem so readily prone to when revenue sharing in their favour is involved. The only language most companies will understand is that offering bad service costs them and not the customer money. If the NTS industry had been established this way at the outset then many of the difficulties associated with it could have been avoided.

Summary

In summary I am appalled by ICSTIS's current proposals to bring in a massively watered down version of 09 price controls for 0871 that means that most consumers will then continue to be unaware that they are premium rate calls.

The only satisfactory and acceptable outcome is for ICSTIS to impose on 0871 numbers the full range of price disclosure requirements already applicable to other 09 premium numbers.

Ofcom's original argument in NTS Way Forward in letting companies keep these services on 0871 was that it might be costly for the companies to have to change number (a usual Ofcom ruse to justify all manner of customer exploitation and which it does not seem to think will be applicable to all the government agencies etc forced to get new 03 numbers to stop charging 0845 Premium Rate) but now incredibly they are using keeping the number code uses as 0871 as an excuse to try and impose a weak as water version of ICSTIS regulation that will totally undermine and defeat the whole purpose of moving the regulation of these numbers to ICSTIS in the first place.

Answers to Questions Raised in the Consultation

Q1. Present Market

This presently consists of a large number of dial through calling companies most of whom can be found at www.niftylist.co.uk plus a very small number of technical support lines and customer service numbers of entirely revenue focused and customer service non focused companies such as the budget airlines. The total marketplace is tiny compared to 0870. But why ask us. Surely Ofcom can give you the figures.

Q2 Avoiding Excess Regulatory Burden

I do not welcome the fact that like Ofcom you seem to put the wish of business to make as much profit as possible ahead of the wish of consumers to receive the best possible service at the best price.

In my opinion if the most stringent and tough regulatory control are not imposed and not as strong as the rest of the 09 regime run by ICSTIS then there will be wholesale transfer of nearly all 0870 numbers to 0871 who will see an opportunity to bypass the intended impact of changing 0870 call prices to national rate. Ultimately ICSTIS has to decide who is its number one priority but I believe if it reviews its statutory remit it will find that is the consumer who comes first.

Q3 Possible Transfer of 0870 Numbers to 0871

Unless ICSTIS imposes conditions as stringent as those imposed on other 09 Premium numbers there will be a wholesale migration to 0871. Even if those conditions are imposed there will still be many companies who will change to 0871 anyway because many of the public are not numerically literate and so will still confuse 0871 as being the same as the 0870 which a weak and ineffectual Ofcom has never even properly prevented being continually and misleadingly described by most of the companies who run these call centres as National Rate

Q4 Adequate Consumer Protection in 0871 Regulation

Unless the controls for 0871 numbers are as tough and stringent as all 09 numbers ICSTIS will risk become a discredited public laughing stock seen as compromised by the commercial interest of the industry it is supposed to control

Q5 Code of Practice

This should be the same Code of Practice as for 09 numbers although possibly with one or two additional features requiring further disclosure such as network generated free of charge call price announcements before connection given the danger that 0871 will not be as readily recognised as premium rate

Q6 Call Centre Waiting Times

I find it shocking that you only actively try to solicit views on this topic from call centre trade bodies who have an inherent interest in as little restriction and control of 0871 numbers as possible. I as a consumer will state that the consumer must not pay for any call queuing time and that this is the only system which is fair, rational and will maximise the incentive for the call centre to keep customers waiting as little time as possible and ideally not at all.

Q7 Regulatory Sanctions

The toughest possible sanctions and large fines for repeated abuses of your regulations are the only way to bring this well proven cowboy industry under control. The comments in your consultation question suggest you are attempting to pre-judge the issue.

Q8 Ridiculous Suggestions That Nearly Two Years Is Still Not Long Enough To Change Over After Over 10 Years of Existing Customer NTS Abuse

This question suggests that ICSTIS only really cares about the call centre industry's needs and doesn't give much of a damn about customers after they have already waited a disgraceful 4+ years of obfuscation and delay while the NTS industry has been allowed to continue to misrepresent national rate calls as premium rate and to rake in large amounts of revenue from the numbers. The content of this question is in fact a disgrace. You need to tell the call centre industry that they will comply by this date or face large fines. Surely your experience with determined and aggressive overseas 09 scammers and reverse text message abusers shows this is the only way to force compliance. This entire industry does not attract people with decent morals who want to offer good service it only attracts people who see customers as a dumb cash cow to be milked in a situation where they are captive and cannot take their business elsewhere

Q9 Weasling Suggestions There Won't Be Enough Space to Display the Price of the Call in White Directories etc

Firstly implement whatever solution you already have in directories for existing 09 numbers.

Secondly the universal introduction of compulsory call price announcements to 0871 numbers from all fixed and landlines before the call is connected and not at the customer's expense should take care of any other issues.

Q10. Governance Arrangements For 0871 Numbers

The current ICSTIS proposals are a disgrace and suggest that Ofcom has tipped you the wink to let the money extorting practices of the 087 call centre industry carry on virtually unfettered with little better awareness amongst the general public that these calls are premium rate than at present. This will not do. Go back to the drawing board and start all over again making the consumer your number one priority.

Q11 How Do We Fund This Extra Regulation

Adopt whatever funding model is necessary to ensure that this mushrooming out of control scam industry is brought fully under control. If this means higher ICSTSI fees so be it. The more running an 0871 call centre costs a company the more likely it will be to instead decide to stay on 0870

Q12 Branding Issues

The branding used should be identical in every way to ICSTIS branding used for 09 Numbers. Anything else will be a travesty when the use of 0871 means that customers are already likely to be left confused as to whether these are premium rate numbers or not.

Q13 Proposed Timetable

The proposed timetable must be adhered to in every respect and there must be no further slippage in the timetable when the public has already had to wait many years for any kind of visible steps to be taken to bring this scam industry under control.

Please do not hesitate to contact me with any further queries:-

Yours sincerely,

Julian Shersby