

**Citizens Advice response to
'THE DRAFT 11TH EDITION OF
THE ICSTIS CODE OF PRACTICE'**

September 2005



European Consumer Centre

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Introduction

Citizens Advice is pleased to have this opportunity to comment on the 11th edition of the ICSTIS Code of Practice. We also include in this submission comments on the ICSTIS document 'A public consultation seeking comments on proposed specific conditions applicable to premium rate TV Quiz programme and channel services', published on 21 September 2005. Our comments can be found on p.17.

The Citizens Advice Bureaux (CAB) network is the largest independent network of free advice centres in Europe, providing advice from over 3,200 outlets throughout Wales, England and Northern Ireland. The service has two equal aims:

- to ensure that individuals do not suffer through lack of knowledge of their rights and responsibilities or of the services available to them, or through an inability to express their needs effectively; and equally,
- to exercise a responsible influence on the development of social policies and services, both locally and nationally.

In 2004-2005 the CAB service received 110,000 enquiries about problems with utilities, including telecommunications. Citizens Advice is also the European Consumer Centre in the UK.

Much of the evidence received from CABx confirms the analysis in Ofcom's review of the regulatory arrangements for premium-rate numbers that this is an area with a very large number of participants in the value chain. From a consumer perspective the large number of participants can prove bewildering, causing confusion over how to complain about premium rate services and, importantly, how to obtain redress.

The evidence we receive relates to clients' experiences with premium rate services which have to be called for a range of different services, not just those relating to services often associated with premium rate numbers (e.g. adult services), as shown in the examples given below:

A CAB in Hampshire reported the case of a deaf client who experienced difficulty in sorting out a disputed bill with her telecoms supplier. After explaining the nature of her query, she was told to ring the technical support line which was a premium rate line.

A CAB in West Wales had a client who bought a computer which did not work. The client attempted to contact the supplier but they failed to respond to letters and e-mails. He was forced to call the helpline on a premium rate number (charged at £1 per minute) where he was guided through an interminable number of menus.

A CAB in East Sussex reported that their client had been attempting to call a foreign Embassy based in London but had found it impossible to get through. While she was held in a queue she was charged 60p per minute. For advice, calls are charged at £1.50 per minute.

A Hampshire CAB helped a client who was unemployed and claiming benefits with her debts. The CAB attempted to contact the debt collection agency regarding Council Tax arrears, and found that the number given was an 0870 number and it was very difficult to get through to someone. After waiting for 15 minutes (and incurring charges) the CAB adviser had to hang up without having been able to speak to someone.

CAB clients are often disadvantaged and many are on limited incomes, so it is important that they receive adequate protection from the ICSTIS Code of Practice. We therefore support ICSTIS' vision as regulator for premium rate services (PRS) that anyone can use these services with absolute confidence. But for this to be the case, we suggest that:

- consumer information about ICSTIS should be made much more widely available;
- information about the costs involved in calling any premium rate services, or receiving any text messages or downloads, must be clearly displayed and easily understandable;
- ICSTIS should move swiftly to deal with constantly evolving underhand practices which can result in people having to pay large bills for services which they did not use;
- Greater consumer protection should be standard practice – one potential way forward for this would be for those who wish to access premium rate services having to opt to do so, rather than the case at present in which everyone can access premium rate services but must opt for call barring;
- The means for obtaining redress must be quick and straightforward, and where it proves impossible to gain redress from a service provider, the next organization in the value chain must assume responsibility. Many of our clients may not be able to withstand the financial pressures caused by having to first pay a (disputed) bill for premium rate services, and then waiting for compensation which may (or may not) be paid at a later date;
- Where ICSTIS does take prompt action and imposes fines on rogue operators, it must have in place adequate recovery mechanisms to recover such fines¹.

In this response we have responded only to those questions which are of relevance to our organisation.

¹ 'UK phone scammers yet to pay fines', 20 May 2005, http://www.theregister.co.uk/2005/05/20/icstis_scam_fine/print.html

Section 1 - Definitions

Section 1: Question 1

What are your views on our proposed definition of NOs? Do you believe that our proposal is workable and will help ensure that only those companies that can fulfil the obligations of a network can be considered a network for the purposes of our Code?

Section 1: Question 2

We have stopped short of including a requirement for NOs to become signatories to Artificial Inflation of Traffic (AIT) arrangements. What are your views on ICSTIS requiring AIT arrangements in the Code?

Section 1: Question 3

What comments do you have on whether there are any other ways for ICSTIS to define a NO for the purposes of the Code?

We are not in a position to comment on the technical nature of the questions posed, but would strongly support the assertion made by ICSTIS that all Network Operators should carry out due diligence, provide information about premium rate service providers, bar access to services where necessary and withhold payments to Service Providers when requested. In addition, ICSTIS should notify providers as soon as they receive complaints about a premium rate line.

Section 1: Question 4

What views do you hold on whether, through both the definition of a service provider and the new proposed definition of a network operator, we have managed to ensure that a company in the value chain can be easily identified?

Again, though we are unable to comment on the detail of the proposal, we strongly support the principle that a company in the value chain can be easily identified, as this will help to make sure that ICSTIS possess the tools to enable effective and swift regulation of PRS, and make sure consumers can access redress.

Section 1: Question 5

What comments do you have on the scope and application of the PRS regulatory regime?

We are strongly opposed to any exceptions being applied to areas where some stakeholders suggest that the risk of consumer harm appears to be (comparatively) low. We agree with ICSTIS that price-based floors are not appropriate. We are concerned that exceptions on the basis of price could prevent ICSTIS from acting in the event of harm or disturbance due to the nature of their content, or from setting frameworks to prevent harm from occurring in the first place. Such considerations are necessary irrespective of the costs of the services involved.

As well as objecting to the principle of price-based flooring, we have reservations about how a price-based flooring exception service might work in practice – for example, how would they be determined, which body would make such decisions, and how regularly would these decisions be reviewed?

CAB clients are often vulnerable, in many cases having to rely on small incomes made up solely of benefits payments. For such people, the imposition of even a small charge may represent a sizeable chunk of their income. To remove lower-priced services from the Code would potentially expose CAB clients to more unscrupulous practices which, while they might be thought to involve only small sums by some stakeholders, may have a considerable impact on the financial stability of others. **We therefore recommend that ICSTIS continue to regulate the entire PRS market.**

Section 1: Question 6

Do you consider that PRS regulations should formally cease to apply in areas where the risk of consumer harm appears to be relatively low? If so, how could we identify and differentiate those areas within the context of broad definition of PRS?

We are puzzled by suggestions that PRS regulations should cease to apply in areas where the risk of consumer detriment appears to be relatively low. As the consultation document notes, the principle of universality applies to regulation in almost every other area such as retail, foods and financial services. In these areas, well-respected brands are not exempt from regulation; rather, they are proud to publicize the fact that they are regulated and conform to minimum standards. We are extremely sceptical that PRS providers warrant special treatment in this regard, and suggest that providers who deliver good customer services should be unaffected by regulations intended to outlaw rogue services. We therefore recommend that regulation must apply to **all** PRS. On a purely practical note, we are unsure how ICSTIS might identify and differentiate the areas where the Code should formally cease to apply. Nor are we convinced that such inevitably complex decisions, followed by appropriate monitoring and evaluation represent the best use of ICSTIS' resources.

Within this regulatory framework (i.e. one in which all PRS providers and services are regulated), we support ICSTIS' proposal that risk-based regulation should occur, with rules designed to be more targeted on those companies and practices that pose the highest risk.

Section 1: Question 7

Can you comment on whether existing PRS regulations are applied proportionately, with more intrusive measures sufficiently focused on higher risk activities or providers?

We are not in a position to comment on whether the existing PRS regulations are applied proportionately. However, we support efforts to make this the case. As the consultation

document notes, this is an area where we are, and are likely to continue to be, subject to rapid technological developments. It is therefore imperative that ICSTIS is able to keep pace with this change, and to move swiftly where new or proposed practices threaten to bring about consumer detriment. We applaud recent examples when swift and decisive action has been taken – for example fining a rogue dialer operator (Baba Communications Inc) £100,000 and barring it for two years – and urge ICSTIS to implement procedures that will ensure they are able to collect fines imposed, and distribute compensation to consumers who have been adversely affected.

Section 2 - Administrative Provisions (Network Operators)

Section 2: Question 1

Can you see any issues or problems with Network Operators being able to provide ICSTIS with the requisite information on whether they meet the criteria to be recognised as an NO for the purposes of the Code? Please specify any other information you feel should be required?

We support new paragraph 2.1.2 which requires Network Operators to supply ICSTIS with information including evidence that they meet the criteria to be recognized as a Network Operator, so that ICSTIS can readily identify and communicate with a Network Operator when necessary in a timely fashion.

We caution against use of vague terms such as ‘reasonable steps’ as these can prove very difficult to enforce. If this term is used, we recommend that ICSTIS should provide an accompanying explanation.

Section 2: Question 2

Can you comment on whether or not we have successfully ensured that recommendation 2 of the Ofcom report (which states that Network Operators must provide ICSTIS with information on the identity of their Service Providers etc) has been transposed adequately in the draft provision?

We fully support transposition of Recommendation 2 of the Ofcom Report into the ICSTIS Code, so that Network Operators carry out proper due diligence on the service providers with whom they contract. We also welcome the new provision at 2.3.1(g) which states that Network Operators must satisfy themselves that services operating on its network comply with the ICSTIS Code. We recommend that where Network Operators fail to do so, and a Service Provider proves unaccountable, the Network Operator should assume responsibility for paying fines or providing compensation to consumers. Such a provision should help to avoid the present situation where a consumer can be passed from pillar to post in attempting to seek redress.

A CAB in Essex reported a case in which a client and his wife, both registered disabled and receiving Disability Living Allowance, were contacted by their phone

line provider to ask whether they had made a call to a premium rate number. They confirmed that they had not done so, and that they would like all future premium rate numbers barred. In December 2004 they received a bill for £157.95 plus £27.36 VAT, of which their own calls came to just £1.23 (the rest being due to the premium rate call). When they complained to ICSTIS they were given the name of the company to which the premium rate call was made, and advised to write to them to request a refund for the amount of the unauthorized call. The company was based in Hamburg and the client has not received a refund. To make matters worse, the client cannot use the ICSTIS compensation scheme as this only applies to companies in the UK.

A CAB in Dorset reported a case in which their client had found their phone bills were very high (rising from £40 to £130 per month). On contacting the line provider and the service provider, they were given contact details for ICSTIS, who provided them with details of the companies that had used their lines for connecting to premium rate lines involving adult content. Apparently, other users had also reported the companies that made rogue calls. The client has not been able to find a way of recouping the amount incurred by the unauthorized use of their phone lines, as the line provider and service provider blame each other. The client found ICSTIS to be unhelpful in attempting to find a way to resolve the matter.

We are not sufficiently well-placed to offer a view on whether the language used in the Code adequately transposes recommendation 2 of Ofcom's report. In principle, however, we recommend that PRS should be completely traceable and all businesses who make money from consumer detriment should be able to be identified, named and shamed, and held financially accountable for their actions, both to the Regulator and to individual consumers.

Draft paragraph 2.3.3 – 30 day rule

We support the emergency Code amendment to the ICSTIS Code of Practice which obliges Network Operators not to make payments to their service providers for at least 30 days after calls have been made.

We agree that this change should give ICSTIS more time to identify breaches of the Code and to issue directions, where appropriate.

However, the draft rule simply states that “network operators shall not make, and shall withhold, payments to service providers for a period of at least 30 days after the making of the calls to which the payments relate.” We are concerned that 30 days may not be sufficient to fully protect consumers from breaches of the Code, particularly in cases where they are billed on a quarterly basis. While 30 days may be deemed sufficient to allow ICSTIS to investigate breaches (since some consumers will receive their bills within this timeframe) it may be that consumers who are subject to such breaches are only made

aware of them – and the major impact which they can have – when they receive their quarterly bill, which may be up to three months later.

While customers may be able to reclaim their money at a later date once ICSTIS has completed an investigation and requested a company to pay a refund, they are initially forced to pay for the services (even if they have been subject to a scam involving a rogue dialler). This can pose significant difficulties, especially for CAB clients on low incomes who may struggle to cope with a vastly inflated bill, and the distant prospect of potentially receiving a refund at some future date. **We recommend that ICSTIS should seek to extend the 30 day rule to protect all consumers from breaches of the Code.**

Section 2: Question 4

Can you provide comments on whether, from an enforcement perspective, there is justification for going beyond Ofcom's recommendation 3 relating to number porting?

From a consumer perspective, Citizens Advice supports efforts to go beyond Ofcom's recommendation 3 relating to number porting. Indeed, unless ICSTIS proceeds as they propose, they will not possess vital information concerning premium numbers that have been 'exported'.

PRS scams require immediate enforcement action. To assist in this it is essential that ICSTIS has this information readily available, and this will not be the case if the information is provided only when ICSTIS issues a direction.

Section 2: Question 6

Do you believe that the proposed provision on network responsibility for shortfalls in fines etc is clear in its application, effectiveness and proportionality? If not, why not?

We applaud ICSTIS' proposal that Network Operators should be held responsible for any shortfall in payment by the relevant Service Provider of any fines, administration charges or refunds when the shortfall is a result of a Network Operator not complying with a Direction from ICSTIS or a failure to comply with a 30 day rule. We seek confirmation that this would apply to all Service Providers, regardless of their location (i.e. those operating in the UK and abroad).

Although we are not in a position to comment on the detailed transposition of the proposal into the Code, we confirm that we fully support the introduction and implementation of the principle, as this change to the Code should help to ensure that it is easier for ICSTIS to ensure fees are recovered.

Section 2: Question 7

Can you provide comments on ways in which we might amend or supplement the proposed text on network non-compliance to ensure that our approach meets the key principles of transparency, proportionality and consistency?

In terms of network non-compliance we would suggest that where Network Operators fail to meet their obligations under the ICSTIS Code, the sanctions available should be amended so that:

- where a breach of the Code is identified, the NO should not only face a reprimand or fine but should face a requirement to correct the transgression, and accept responsibility;
- as well as placing a bar on PRS for a defined period, a bar should also be placed on the culpable Network Operator from making money from selling the PRS for a defined period;
- where a Network Operator submits an appeal to the Independent Appeals Body they should have to set the applicable amount aside while the appeal is heard.

In addition, we recommend that the names of the transgressors (in this case the Network Operators) and the services they offer be publicized widely.

Section 3 - Administrative Provisions (Service Providers)

Section 3: Question 1

What are your views on how useful you feel the format of 'help notes' will be and, in particular, do you have any comments on how to make them more useful to you?

We welcome any efforts that may help to avoid consumer detriment. The provision of the 'Help Notes' may be valuable in providing guidance as to what ICSTIS determines to be unacceptable practice, so we support their inclusion. However, as this area is developing rapidly, we recommend that any such guidance should be regularly updated.

Furthermore, ICSTIS should also provide guidance for consumers to empower them to exercise their rights.

Section 3: Question 2

What alternatives should we consider in providing the premium rate industry with regular guidance on how to operate premium rate services? For example, would more regular statements on how to comply with the Code provisions be useful?

Regular guidance could be helpful to avoid Guidance Notes becoming obsolete, and assist in keeping them in line with current practices. One possible way forward would be to mirror the approach taken by various Ombudsmen who publish their decisions and make clear that similar treatment will be meted out to firms operating similar practices. Supplementary

'help notes' could provide further information and guidance to throw more light on the reasoning behind the decisions made.

Section 3: Question 3

How might ICSTIS help industry groups develop their own notes on Code compliance?

We are opposed to industry groups developing their own notes on Code compliance, and are unsure why they might wish to do so. Should the 'Help Notes' be developed as suggested (see above) the need for separate guidance notes may prove unnecessary.

Section 3: Question 4

What are your views on the extent to which you believe the draft provision relating to the requirement for SPs to have in place customer service arrangements reflects the requirements set out in Recommendation 9 of the Ofcom Report?

We fully support Ofcom's recommendation 9 that Service Providers be required to have adequate customer service and redress mechanisms, including a UK customer service telephone number. We applaud the Service Providers who already undertake this, and confirm that such provisions are essential if customers are to have confidence in PRS, and are able to gain redress when the Code is breached. At present, this is often not the case:

A CAB in Surrey reported the case of a client who had found an extra £80 on his phone bill for premium rate numbers which he had not dialled. His line supplier informed him of the name of the company that operated the premium rate number. However, although the client attempted to contact them over a year ago, sent them a copy of the disputed bill as requested, and made numerous calls, he has heard nothing.

To ensure that these new rules in the Code are adhered to, we recommend that ICSTIS conducts regular 'mystery shopping' exercises.

Section 3: Question 5

How useful do you believe it would be to have a specific help note setting out examples of application in addition to the Code provision relating to customer service arrangements?

We think that including a specific help note on this subject might be helpful to demonstrate to Service Providers what is good practice.

Section 5 - General Provisions Applicable to all Premium Rate Services (Service Providers)

Regulation of internet services generally

CABx continue to deal with large numbers of clients who have found that their internet service dial-up has been used by a rogue dialer to access premium rate services.

A CAB in Northumberland reported that a client had found that his internet dial up was taken over by hackers, and calls made to Chile over 36 hours. His subsequent bill was £400. The client had no idea the calls were being made, and was only saved from further financial cost because they do not usually make international calls so the company that provides their phone line restricted use.

A CAB in Surrey's client received a bill of £380 for premium rate calls he did not make. He contacted his phone line provider who claimed that it was not their problem and subsequently sent him a red demand for payment. The case was reported to ICSTIS who advised the client to pay the bill and then claim from the company which made the unauthorised calls from the client's phone line.

A CAB in Essex had a client who received a quarterly bill for £731, when their usual bill is in the region of £130. The client had been the unwitting victim of a rogue dialler making calls from their computer to premium rate numbers. The client is now faced with a huge bill which they will struggle to pay as they are in receipt of benefits.

A CAB in Wiltshire dealt with a case in which their client had received an unexpectedly large telephone bill, due to their internet connection being used by hackers to dial premium rate numbers. The clients had attempted to complain to their telecoms supplier and ICSTIS, but without success, with each organisation passing the query on to another.

A CAB in Cornwall's client received a bill of over £300 from her telecoms supplier for calls made to premium rate numbers, which she did not make herself. She contacted ICSTIS who passed on the name of the phone line that had been dialled but the client was unable to get through to them. The client's phone line supplier were unhelpful, maintaining that the client had to pay the whole amount owed or be cut off, despite the fact that the client had already paid for those calls which she herself had made. The client was extremely worried about paying for this bill as her husband was on incapacity benefit, and she would have to borrow the money.

A CAB in Essex reported that their client was billed £3,000 to cover calls made in August 2004. The calls were made to a premium rate number by way of the client's internet provider, the client being unaware of this. The client has now been threatened with being taken to the County Court to recover the money. The telephone company concerned made no effort to warn the client of the unusual and excessive charges being accumulated on his account.

These recent cases suggest that although ICSTIS issued a notification on 6 August 2004, it has failed to adequately tackle the issue and consumers continue to suffer as a result. We urge ICSTIS to use its powers, and to work with other relevant bodies, ISPs and phone companies, to formulate and implement simple and practical measures to stop such disreputable practices, and to take concrete steps to assist the victims of such scams in recouping the money owed to them in a speedy and simple manner.

The publication of the ICSTIS leaflet 'Premium Rate Services and the internet – Advice from ICSTIS' is welcome, as it contains helpful information for consumers about what to do to avoid falling prey to premium rate dialing scams. However, the leaflet places the onus squarely on the consumer in protecting themselves from premium rate dial-up scams. In practice, it is likely that the first time someone is made aware of such underhand practices is when they themselves have become a victim, and face having to pay huge bills for services that they have not used. If ICSTIS is serious about seeking to ensure that anyone can use premium rate services with absolute confidence, immediate action is required, as ongoing problems will only serve to undermine such efforts.

It seems clear that as an absolute minimum ICSTIS should be doing more to publicise the risks posed by such scams. One way forward might be include the ICSTIS leaflet with every new PC purchased, or to distribute the information via ISPs. Or, alternatively, all new computers could be fitted with modem protectors, or these could be offered by Internet Service Providers (which some providers now offer as a matter of course²). More radically, we suggest that ICSTIS should discuss this issue with phone companies to overhaul the way in which customers opt for call barring services – at present a customer must opt for call barring to be instituted and if they do not so do then they are potential prey for rogue dialing scams. This procedure should be reversed so that customers automatically receive call barring services on their phone lines and have to opt for such services to be removed in order to allow them to dial premium numbers.

Section 5: Question 2

Do you have any views as to whether you believe the additional protection of requiring the use of age verification for Internet services is necessary?

We support the introduction of age verification requirements in preventing unauthorized use, and agree that this should help in reducing the number of claims for unauthorized use by a minor. However, we do not have the expertise to give advice about the most appropriate way in which to construct a robust system of age verification.

Section 5: Question 5

Are other practical and proportionate measures ICSTIS could take specifically in relation to preventing inappropriate access by minors to adult internet services?

² <http://www.btmodemprotection.com/>

If ICSTIS is serious about preventing inappropriate access by minors to adult internet services, it could disallow charging by Service Providers for occasions where this occurs. Making the companies involved carry the cost for occasions when a minor is able to access adult sites would provide Service Providers with a real and immediate commercial incentive to ensure that their identification verification procedures are robust, and function as a helpful backstop in ensuring minors are not able to access such services.

Section 5: Question 7

Can you comment on whether you believe that listing all the requirements for pricing in one place in the Code is logical and will make finding relevant information easier for service providers?

It is logical to list all the requirements of the Code relating to pricing in one place, as this should make it easier to find the relevant information.

Section 5: Question 8

Do you have any comments on whether the inclusion of a pricing proximity requirement in the Code would be practical, enforceable and future proof? Would you consider that a pricing proximity provision would be more effective as a series of prescriptive Code provisions or a generic Code provision supported by help notes?

We are disappointed that ICSTIS has retreated from its initial proposal for there to be a closer proximity between pricing information and premium rate numbers or short codes. Knowing the price of something before making a decision to purchase it is a basic right, and in everyday purchases – regardless of type – we would expect a consumer to be given this information upfront and in an easily understandable format. We do not understand why PRS should be different, irrespective of the difficulties which might be encountered in attempting to define how this might apply in practice.

CABx receive many complaints about the unclear nature of the charging structure for text message and download services:

A CAB in Hertfordshire reported that their client, a 19 year old single mother with dependant children, had been charged for incoming premium rate text messages and downloads, which she thought were free. The client now has a very large bill which she cannot afford to pay. The client stated that she would have found it helpful if the charges for the text messages and downloads were made more apparent.

A CAB in Cumbria reported that a client had entered into a mobile phone contract for £42.55 per month. In the first month of his contract, the client incurred charges of £624.54, with the majority of the cost (£427.63) for premium rate text messaging services. The client had signed up for the service without realizing the full cost or the volume of the text messages which he would receive. The only way he could

stop receiving messages and downloads was to keep the phone switched off and then have the number barred by his provider.

We recommend that clear pricing information should be provided with all advertising – regardless of medium – and that this should appear in close proximity to the pricing information and premium rate numbers or short codes.

More generally, CAB clients find that they receive unwanted text messages which they are charged for, and which they can struggle to stop:

A CAB in Northumberland reported that a client had received unsolicited text messages which cost him £2.12 plus VAT per message. The messages contained pictures of an adult nature and caused the client a great deal of anxiety as considered that the nature of these text messages might jeopardize his employment as his job involves work with schools. The only way in which the client could stop these messages was to change the number of his mobile phone.

A CAB in Dorset was contacted by a client whose son had received a bill for £52.78 for premium rate text message services. The son had not requested these and had deleted them immediately upon receiving them. The client spoke to the mobile phone company concerned who informed her that a message saying STOP should have been returned to end the messages.

We recommend that ICSTIS makes efforts to better publicise the information which is featured on their website about stopping unwanted premium rate text messages.

Section 5: Question 9

Do you have views on whether you believe that pricing information should be spoken as well as displayed for television advertising? Do you believe there are alternative ways to provide pricing information to consumers in television promotions which we should explore?

We would support the inclusion of spoken pricing information, as well as it being visually displayed. Small printed information displayed at the bottom of a TV screen cannot hope to have the impact of spoken information in a setting where the spoken word is the norm. However, such pricing information should also be shown in text format for deaf consumers.

The recent adjudication by the Advertising Standards Authority against Jamba! GmbH relating to the television advertising for 'Jamster Crazy Frog', 'Sweetie the Chick' and 'Nessie the Dragon' ringtones, clearly demonstrates that this additional protection is necessary. In its adjudication, the ASA upheld 298 public complaints that it was unclear the ads were promoting a subscription service (rather than a one-off payment) and that the style of the ads were of particular appeal to children.³

³ <http://www.asa.org.uk/asa/news/news/2005/ASA+Welcomes+High+Court+Ruling+on+Jamster+ads.htm>

Section 5: Question 10

Do you have any views on whether setting out the general principle of providing address information is better than being prescriptive as we currently are in the Code?

We agree that it is imperative that customers must be able to contact the SP. We are not convinced that the proposal to be less prescriptive adds to the ability of the consumer to contact the SP when required, so question the need for change.

Section 5: Question 11

Do you views on the inclusion of a ‘buy one get one free’ type provision in the Code and do you consider there to be any inherent risks in adopting such a provision which could lead to a greater degree of consumer harm?

We do not have any particular views on the inclusion of ‘buy one get one free’, provided that the second premium rate product is of at least an equal value to the first. If a consumer is getting one free there is a common sense argument that it should be the very same thing that they buy initially – otherwise the offer might more accurately be described as ‘buy one, get something else free’.

Section 5: Question 13

Do you have any views on whether the maximum call costs for children’s services should remain at £3 or whether it should be varied?

The maximum call costs for children’s services is already high at £3, so we would strongly oppose any moves to raise it further.

Section 5: Question 14

What guiding principles do you believe might reasonably be applied if we were to consider an increase to the maximum tariff for children’s services and what additional safeguards should be considered in protecting children?

We are unsure whether the maximum charge for services targeted specifically at children (currently £3) relates to the maximum cost of each call, and if this is the case whether a child can hang up and then immediately re-dial the number and incur another charge of £3. If this is the case, then we would suggest that a maximum overall charge should apply at £3 so that children do not accumulate large bills.

Section 6 - Provisions Relating Specifically To Live Services

Section 6: Question 1

Do you have any comments or views on our proposed approach in relation to regulating live services?

The proposal strikes us as sensible.

Section 6: Question 3

Do you have any views on whether you consider the draft provisions more clearly set out the regulations governing claims for compensation?

We are unconvinced that proposals which aim to simplify the provisions relating to claims for compensation and make them less prescriptive will benefit consumers, so would urge ICSTIS to consider this matter carefully before making any changes.

Section 6: Question 4

Do you consider the use of a help note in relation to these provisions is better suited than detailed Code provisions in providing examples of how the claims for compensation work in practice? If not, what could you recommend that might better achieve this aim?

We suggest that a help note could supplement the detailed Code provisions.

Section 7 - Additional Provisions Relating To Specific Categories of Service (Service Providers)

Section 7: Question 2

What views do you hold on our proposals in relation to chat, contact and dating services?

Section 7: Question 3

What views do you hold on whether the proposed provisions are adequate to prevent use of adult chat services by younger children?

We support the inclusion in the Code of the rule which requires service providers to ensure that a participant in a chat service is authorized and that nobody under the age of 18 uses virtual chat or contact and dating services. We are also pleased to note that the STOP command will be made available to consumers. This should be publicized in all future ICSTIS guidelines for consumers.

Section 7: Question 4

Do you have any views on the appropriateness of having specific provisions relating to service providers' responsibility for paying reasonable and valid claims for refunds for chat, contact and dating services given that there is a general duty on service providers to consider claims for compensation for all services?

We are unsure of the difference between providers having to pay 'compensation' and their 'responsibility for paying reasonable and valid claims for refunds'. We do, however, agree that chat, contact and dating services pose greater potential consumer harm so would support measures to facilitate service providers paying refunds in these situations.

Section 7: Question 5 (a)

Do you have any views on whether you believe that the proposed provisions clearly set out the regulations applicable to DQ services and are proportionate and appropriate?

We urge ICSTIS not to remove the provisions which require Directory Enquiry service providers to provide information about the price of onward call connection. This is an essential service – particularly for low income consumers – and if it is removed this would result in consumers having to pay high charges which they were not previously informed of.

Section 7: Question 5 (b)

What are your views on our approach to pay for product services? Do you believe that the approach will increase clarity? If not, why not? Are there other alternative options you believe we should consider in clarifying the regulations in respect of pay for product services?

We consider that the proposal suggested should be helpful in helping to differentiate between one-off purchases and those subscription services which are ongoing.

Section 7: Question 7

What are your views on whether you believe the draft provisions for subscription services will adequately safeguard consumers while, at the same time, allow service providers to continue providing a variety of subscription services?

Section 7: Question 8

Are there other alternative options you believe we should consider in clarifying the regulations in respect of subscription services?

We agree with ICSTIS that premium rate SMS have the potential to cause serious consumer harm, particularly in relation to children. We therefore support measures to make the Code more prescriptive to clarify the rules.

Section 8 - Procedures and Sanctions**Section 8: Question 1**

Could you comment on whether you agree with the proposed model to deal with IPs? Do you consider that it is a workable alternative? We welcome comments on whether you can see any other ways in which we can deal with IPs directly.

We support measures intended to bring clarity to this fragmented area but we do not have sufficient expertise to determine whether the proposal outlined would help to achieve this.

Section 8: Question 2

What are your views on the Secretariat being able to invoke the Emergency Procedure in cases that exhibit similar characteristics?

We strongly support this proposal, and consider it essential that ICSTIS is able to act swiftly to stop poor practice which causes consumer harm. If this proposal is not agreed then we fear that we might see increased consumer detriment due to the cumbersome machinery required to invoke each and every Emergency Procedure.

Section 8: Question 4

What are your views on whether we have successfully incorporated the requirements of recommendation 8 relating to refunds in the Code?

We welcome ICSTIS' efforts on this front. However, we consider that terminating Network Operators should make funds withheld by them available to consumers for up to six months, as this would allow the consumer to receive a quarterly bill, check it and apply for a refund. Limiting the period for redress to three months might not provide every consumer with the ability to reclaim what is owed to them.

Comments on the ICSTIS document 'A public consultation seeking comments on proposed specific conditions applicable to premium rate TV Quiz programme and channel services'

We fully support the new rules propose by ICSTIS for regulation of TV Quiz Channels. This is a relatively new area where we are beginning to receive evidence from CABx, for example:

A Lincolnshire CAB reported the case of a client who received a bill in excess of £2000 for premium rate calls made by her son (ho is at college) to a quiz line. While the client accepts liability for the amount owed, she considers that the format of the quiz show is particularly underhand, since it is engineered to generate repeat phone calls with no upper limit on the amount spent on the calls.

We are pleased to note that the proposals stress the need for:

- Clear pricing
- An adequate explanation of how the service will operate and clear terms and conditions
- A cost warning after spending £20
- Substantiation of certain aspects of the operation of the service – especially the need for there to be a single correct answer which must be available to ICSTIS to inspect should complaints arise.

We agree wholeheartedly with the general approach taken by ICSTIS in this area, and limit our comments to a number of observations in response to specific questions posed.

Question 3

We would welcome your views on whether providing this information will be beneficial to the consumer and will allow for greater transparency of how the services operate.

Communicating information relating to the relatively slim chances of getting through live on air will certainly prove beneficial to the consumer, though we are unsure how such information should be presented to achieve the greatest impact.

Question 4.1

We would welcome your views on how effective the proposals in relation to the provision of pricing information would be in practice and whether they are proportionate and targeted.

As we state in our response to the draft ICSTIS Code, knowing the price of something before making a decision to purchase it is a basic right, and in everyday purchases – regardless of type – we would expect a consumer to be given this information upfront and in an easily understandable format. The proposals outlined strike us as proportionate and sensible, and we are pleased that they consist of both regular text and voice warnings.

Question 5

We would welcome your views on whether requiring a helpline number to be displayed is proportionate and reasonable.

Consumers **must** be able to contact the relevant service provider on a non-premium rate number, in case of complaints or queries.

Question 6

We would welcome your views on whether requiring any significant terms and conditions to be displayed on screen is a proportionate and workable proposition.

We agree that significant terms and conditions must be displayed on screen, and not through reference to some web site or teletext page.

Question 7

We would welcome your views on whether requiring age and bill payer warnings to be displayed and being stated orally is a proportionate and workable proposition.

Age and bill payer warnings should be displayed on screen at all times, as well as being stated orally by the presenter at frequent and regular intervals.

If you have any queries concerning this response please contact Tony Herbert, tel: 020 7833 7154, email tony.herbert@citizensadvice.org.uk