

**Coulomb Ltd.
203 Marsh Wall
London E14 9YT**

**Suhail Bhat
ICSTIS
Clove Building
4 Maguire Street
London SE1 2NQ**

22nd September 2005

Dear Suhail,

Re: ICSTIS draft 11th Code of Practice

We at Coulomb welcome the opportunity to respond to the request for comments in respect of ICSTIS' Draft 11th Code of Practice.

I have organised our response with headers which refer to the clauses within the Draft Code being commented upon. In many cases, our comments relate to areas outside the questions in the consultation document. Some of the comments are brief – for example, 1.1.3Q1 below – if it is not clear why the comment has been made, please contact me for more information.

Definitions

CA2003: The Communications Act 2003

Section 1

1.1.3 – Question 1

We do not feel that this section meets the stated requirements. In particular, a service provider falls under s.120(10) of CA2003. If that service provider has a telephone line – not for premium rate traffic, but for their normal business traffic – from, for example, BT, they meet the requirements of 1.1.3(ii).

1.1.3 - Question 2

We do not see how or why it would be relevant or appropriate for ICSTIS to include a requirement for network operators to include AIT provisions in their inter-operator agreements.

1.1.3 – Question 3

s.120(12) of CA2003 provides a possible starting point.

Question 4

We believe that the definitions fail for the reasons stated above.

Question 6

No.

Question 7

We do not believe that the Code is being applied proportionately. The automatic use of Emergency Procedures, in violation of the Code of Practice, in respect of internet dialler services irrespective of the seriousness of breaches being raised is one example.

Section 2

2.1.2 – Question 1

We fully support ICSTIS' requirement to be informed of information concerning network operators providing PRS services. In particular, we support the requirement for network operators to have a UK address and to provide information as to its directors and shareholders: we would point out that this is public information, available from Companies' House, in the case of a UK company.

2.1.4 and 2.1.5

ICSTIS must restrict itself to specifying reasonable time periods for responses. By way of example, we have an instance of a direction from ICSTIS which was e-mailed to us at 3 p.m., giving us a deadline of 10 a.m. on the same day. The giving of any direction requiring a response within two working days must include telephone contact with the network operator to confirm its receipt.

2.3.1 – general

We broadly support these requirements, with the following reservations:

* We do not see the need for ICSTIS to have the authority to waive the requirement for network operators to supply this information.

* Can ICSTIS assure us that this information will be handled in such a way that:

a) it is not divulged to third parties except under defined circumstances, such as a police investigation?

b) it will be stored on a database in such a way as to make it accessible within ICSTIS so that network operators are not asked to supply the same information more than once?

* They overlap with SP's requirements in 3.2.1.

2.3.1(b)

Given that an SP's potential liabilities under the Code are unbounded, this is not possible.

2.4 – Question 4

The network operator from which the number is ported may not know the identity of the Service Provider who will be using that number. Information as to the service provider who will be using that number post-port should be collected by the network operator to whom the number has been ported and should be supplied by them to ICSTIS under the provisions of 2.3.1. We therefore do not see that it is a) necessary or b) feasible for ICSTIS to extend Ofcom's recommendation in the way that they are seeking to.

2.5.4 – Question 6

We fully support this measure, but an additional clause stating that the network operator will not be liable for payments under this section ICSTIS should consider extending its provisions up the chain, by requiring ONOs and transit operators not to pay TNOs for 30 days after calls have been made, and extending liability for unpaid fines to transit operators and ONOs.

2.6

We do not support ICSTIS' powers being extended to allow it to fine, bar or otherwise sanction network operators. Firstly, for Ofcom to approve a code containing this clause would be in contravention of CA2003 s.121(3). Secondly, we believe that ICSTIS should regulate service providers, as has historically been its role, and Ofcom network operators; Ofcom clearly has the necessary powers to fulfil this role.

Section 3

3.2.1

This information duplicates that required to be supplied by the Network Operator.

3.2.7

We fully support this requirement.

Section 5

Question 2

We provide some customer service for two dialler providers, namely Netcollex and Saristar. We do not receive large numbers of complaints in respect of unauthorised use by minors. Whilst I do not have recent statistics to hand, historically we have refunded 0.3-0.5% of calls made in respect of their dialler services, and any notification from a subscriber of unauthorised use by a minor will trigger an automatic refund.

Question 3

Credit card age verification systems do not work. Minors can obtain valid credit card numbers, either from credit cards belonging to other people or from the debit cards with which they are issued at the point where they open a bank account. We are not aware of any citizen card type system which is suitable for online use. Given the small proportion of calls which result in complaints about unauthorised use by minors, the technological requirements of building an age verification system and the burden imposed on legitimate users by such a system, we do not believe that their benefit would outweigh their cost.

Question 4

After some thorough research, including that required to speak on this subject at a conference, I concluded that one does not exist.

Section 8

8.1.4

We fully agree with this provision.

8.4

The current 500% increase of use of the Emergency Procedure is not a result of there being a 500% increase in cases where its use is required or appropriate. We have seen several instances of Emergency Procedures being issued in cases where their use is neither justified nor necessary: a recent example involved an old dialler number where the SP had simply omitted to either turn it off or notify ICSTIS of its use, and another where the sole traffic on the number had been generated by ICSTIS.

We believe that the Code should include a requirement for ICSTIS to attempt to contact the service provider involved to address immediate issues informally – this might require termination of the service in some cases, modification of wording in others – and then, if the breaches requiring urgent remedy have been remedied, to deal with the case under the Standard Procedure.

8.4 – Question 2

We do not agree with this provision. An emergency procedure should always require the approval of three Board members before being issued. This is an important safeguard, and one which ICSTIS currently appear to ignore.

8.4 – Question 3

A quick response by the Service Provider should result in a quick response by ICSTIS. We would suggest a 7 day period for the Service Provider to respond, with a subsequent maximum of 7 days from the date of their response for the adjudication panel to adjudicate.

8.6.6(c-e)

The Network Operator's reasonable costs incurred in processing refunds should be deducted from the retention as refunds are made.

Section 9

Network Operator non-compliance should, as stated above, be dealt with by Ofcom. This section should therefore be deleted.

Yours sincerely,

David Knell
Director