



Activity Plan and Budget 2005/6

A consultation issued by ICSTIS on 7 January 2005

Closing date: 10 February 2005

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Section One

Executive Summary

ICSTIS is seeking comments on its draft Activity Plan and budget for 2005/6.¹ 2005 is going to be a critical year for premium rate services (PRS) and the way in which they are regulated. Use of this payment mechanism has grown dramatically in recent years. Premium charging has become a fundamental part of the business model for broadcasters, publishers, some charities and other. But those who abuse this form of marketing and payment have threatened trust in mobile and landlines services. ICSTIS saw exceptional levels of complaints and enquiries in 2004. This has understandably resulted in political and media attention and in criticism of an industry (and regulatory regime), which appears unable at times to protect its consumers.

Major problems with Internet services prompted a review of the regulation of premium rate services by Ofcom. The review looked at the adequacy of ICSTIS' processes, powers and resources, and at the need for changes to ensure that regulation stays effective in the face of changes in the value chain, most obviously the dramatic increase in the number of terminating communications providers (TCPs).

In 2005 ICSTIS, Ofcom and others will implement the changes proposed in the Ofcom review. Those that require Code changes will be the subject of consultation and notification procedures. In practical terms a new Code cannot be introduced until late 2005. In the meantime it is essential that measures continue to be taken to provide the public with protection through preventative action and that ICSTIS handles complaints and other enquiries to a satisfactory standard. We must also address the need of the majority who trade fairly using premium rate payment mechanisms. These businesses understandably want to see a polluter pays principle applied, with regulatory costs met, where possible, by those whose actions and needs are the cause of these costs. Businesses need to be confident that ICSTIS can provide copy advice and other assistance towards compliance and act promptly when others trade unfairly.

This consultation document sets out the core elements of ICSTIS' proposed work plan for 2005/6. The context to our proposals is addressed in Section 2 and falls under three broad headings:

- Developments in 2004 in terms of complaint and enquiry handling
- Market and technological trends
- The Ofcom review of PRS regulation

Section 3 sets out our planned activities under broad headings covering:

1. Public services and operational issues
2. Policy, consumer information and external relations
3. Governance and administrative issues

¹ This is ICSTIS' first year working on a new financial year starting on 1 April. Transition arrangements for January – March will operate based on the budget and levy agreed for 2004.

Section 4 sets out how these activities and needs translate into costs. There is a commentary on headings where changes are significant or where additional context may be helpful.

Section 5 deals with broad financial assumptions and implications including forecast growth and cost recovery and where, how and why certain activities are on a charged basis. This section also deals with how we plan to make provision for any demands for additional investment during 2005/6 to deal with unexpected levels of demand on ICSTIS as a result of problem services or for other reasons. Finally it presents the basic assumptions and how they translate into a levy rate.

The Headline Figures and Proposed Levy

The proposals in this document are based on the outcome of the Ofcom review of PRS regulation. Where appropriate we set out our proposed service levels in Key Performance Indicators (KPI) terms. We give our assumptions on market growth and on the use of funds available to reduce the budget. We explain the need for contingency provisions.

On this basis we believe the ICSTIS budget should be set at £4.3m and that this budget and the contingency provisions translate into a lower levy for 2005/6 of 0.49%.

The budget is an increase in cash terms but we believe it is possible to set a lower levy as the additional costs can be met from sector growth and the use in 2005/6 of fine income collected in 2004.

We believe that the changes proposed, are something of a “settlement”; that the Ofcom review has addressed uncertainties over our responsibility for providing help and advice through the Contact Centre, our role in consumer education/information and worries that we might be drawn into providing a universal, free and uncapped directory enquiries style number-checking service. We have a clear way forward in terms of the responsibilities and lines of accountability for TCPs and the role of originating communications providers (OCPs) in identifying problems and working in partnership with ICSTIS to ensure these do not escalate.

The events of 2004, specifically the issues that have arisen with dialler services, make any 2005/6 market assessments problematic. This is all the more true when many of the changes in the regulatory regime will take time to implement and bed down. We believe the changes proposed in the Ofcom review and reflected in this document are positive and should add to customer trust and the potential for use of premium rate services, and, in time, to a reduction in the need for enforcement action by ICSTIS.

This will be our first year working on a new financial year starting on 1 April. Transition arrangements for January-March will operate based on the budget and levy agreed for 2004.

We welcome comments on this document. In particular we would welcome views on:

1. The assumptions made over the rate and nature of growth in PRS activity in 2005/6.
2. The possible nature and size of issues that could require preventative action or regulatory reaction in 2005/6.
3. The key “rules” we should apply in considering where and when to act as a provider of information and “education”. The priority issues which should be addressed through education and information initiatives.
4. Trends in relation to the value-chain – including the probability of further new network activity and trends in terms of the internationalization of trade in services.
5. The extent to which the activities described reflect the terms of the Ofcom report.
6. The appropriateness of the assumptions we have made on the need for action in the period of time during which we will be obliged generally to operate under our existing code and with existing powers.
7. The draft Key Performance Indicators – in terms of any issues which appear unnecessary or which are necessary but appear not to have been addressed.
8. The approach proposed in relation to the use of fine income and steps to maintain a steady downward trend in terms of the funding levy.

The Committee will reconsider the Plan in light of comments and intends to submit its final proposal, including draft KPIs to Ofcom by the end of February with a view to announcing the levy for 2005/6 as early as possible.

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The closing date for responses is 10 February 2005.

All responses may be made public. Please make it clear in your response if you do not wish it to be made public.

Section Two

Developments in 2004: The Regulatory Context

We have seen continued growth in the use of premium rate services. This trend accelerated in 2003 with the start of mass-market premium SMS (PSMS) products and services and the liberalisation of directory enquiry (DQ) services and their inclusion in Ofcom's official definition of PRS.

Precise data on PRS activity is hard to assemble. Mobile short code activity is not measured in a comparable way with data on DQ and 090 services. The availability of Ofcom data on 090 services varies depending on whether calls are made from a mobile handset or a landline.

ICSTIS receives information from all fixed and mobile PRS TCPs². This data is provided in "outpayments" terms; that is, it is exclusive of interconnect charges by OCPs, VAT and the revenue share taken by the TCP before outpayments are made. The position in recent years is shown in figure 1.

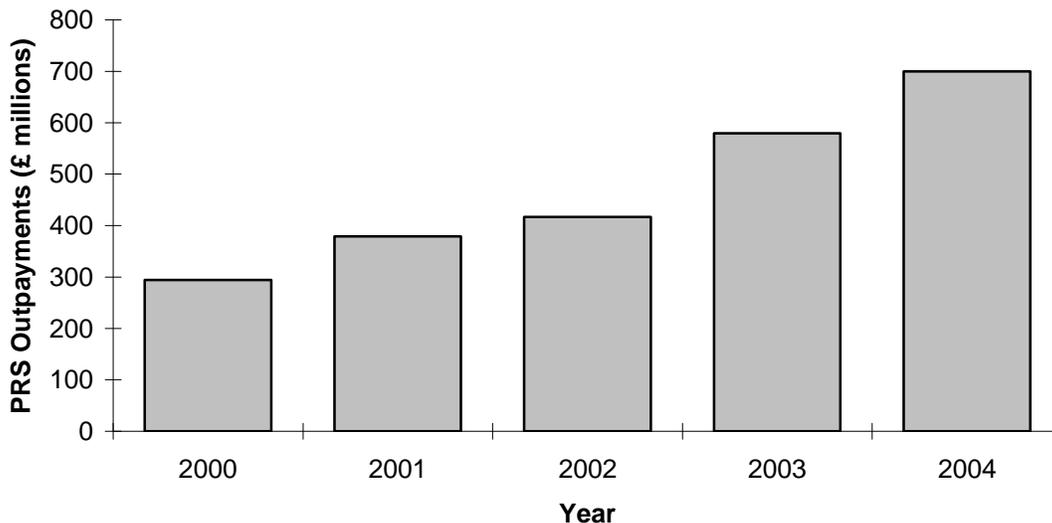


Figure 1. Revenue outpayments (£M) made to premium rate service providers, 2000-2004. NB: Figures for 2004 are estimated pro-rata, based on figures received by November 2004.

On the basis that the service provider outpayment is at most 55%³ of the gross call expenditure, the UK premium rate market in 2004 was worth in excess of £1 billion.

² This consultation uses the definitions used in the Ofcom review document. TCPs relate to Terminating Networks and OCPs relate to Originating Networks.

³ Outpayments are net of VAT, interconnect charges and the revenue share taken by the TCP.

ICSTIS saw very significant increases in complaint levels in 2004, largely as a result of problems with mass marketing of text promotions for competition-type services, Internet dialler services and voice-messaging to home-phone numbers. Total complaints rose from 12,000 in 2002 to 27,000 in 2003. In 2004 the complaint figure rose to approximately 77,000. Many services now attract thousands of complainants – a product of the direct mass marketing described and a reflection of the seriousness of many of the offences reported.

During 2003 and 2004 we have seen changes in the nature of complaints and enquiries in terms of their complexity and seriousness as well as in volume terms. Many of the investigations have involved large-scale services and have been complex to conduct. Difficulties in obtaining service provider contact information and other data from TCPs in a timely and accurate form contributed, on occasion, to delays in case handling.

Notwithstanding the increase recorded, there was a significant degree of under-recording in relation to complaints during the first half of 2004. As explained below, the volume of calls, mostly referrals by OCPs swamped our call-handling capacity. Each day around 500 of these callers were directed to our web-based information and complaints services. But for a few months, between 2,000 and 3,000 individual callers a day were failing to reach our staff or our web-service. At a time when the majority of contacts related to Internet dialler services and when a majority of these “services” were found to be in breach of our Code, it is evident that the total number of people affected by some form of PRS deception was considerably higher than the number recorded on our database.

These figures are an indication of the serious nature of the problems the public face. Serious but localised misconduct that attracted dozens or hundreds of complaints has been replaced by or knocked down the agenda by activity on a national scale resulting in thousands of complaints in individual cases. Many of those with dialler problems told us that the deception had resulted in the loss of hundreds of pounds per person. Fundamental changes needed to address this harm were identified during the Ofcom review.

The latest position with regard to registered complaints, cases under investigation and adjudications is at Table 1.

Complaints received	2004
Number of complaints logged	77,333
Cases opened	509
Cases currently open	201
Cases closed	678
Fines & Bars	
Fines issued	146
Service/number bars	115

Table 1. Complaints received, fines & bars imposed during 2004. NB there is overlap in the number of cases between the Fines & Bars categories, since a suite of sanctions may be issued, or example a fine may be imposed along with barring of a service.

ICSTIS has been increasingly successful in recovering fines and this now makes a material difference to end-year costs and the cost of regulation in subsequent years⁴. They are, however, to some extent a measure of failure, failure to prevent harmful services operating on the scales seen. The Ofcom review addresses the root causes of this problem.

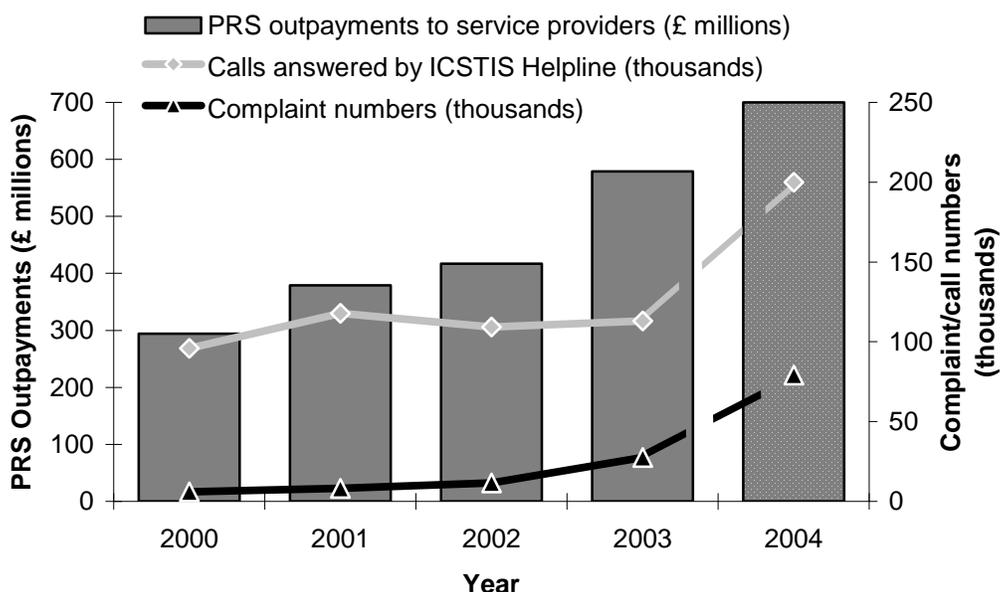


Figure 2. Revenue outpayments (£M) made to premium rate service providers, 2000-2004 (primary axis) compared with complaint numbers and calls taken by ICSTIS (1000s, secondary axis). NB: Figures for 2004 are estimated pro-rata based on figures received by November 2004.

Figure 2 shows the disproportionate growth in volume of complaints and in Contact Centre call-handling relative to growth in the use of premium rate services.

Consumers are entitled to key information in a clear and understandable form and should be confident that services deliver what the promotions promise. We expect regulation and responsible industry players to deal effectively with issues of non-compliance as well as cases of extreme and wilful deception. Legitimate businesses need to know that their competitors are operating to the same standard. Routine and necessary preventative action with TCP's bureau businesses, publishers and enforcement action with individual service providers have suffered while the focus has been on combating high-risk high profile harms. Consumers with concerns over lower-profile harms have had great difficulty accessing us by telephone and correspondence volumes have not been handled to a satisfactory standard.

⁴ Fine income is used to meet the necessary cost of regulation and, as such, reduce the regime's costs to legitimate players. ICSTIS fines £1.8 million in fines in 2004, £1.8 million representing 50% of budgeted operating costs.

Market and technological trends

Looking to 2005 and beyond we see continuing growth. In Section 5 we use a conservative 7.5% figure for overall growth in 2005/6. A number of factors, some conflicting, feed into this conclusion.

- Overall trend growth: a continuation of recent year on year growth would suggest an increase in 2005/6 of 11%.
- High forecast growth in the premium mobile content sector driven by further market penetration and upgrade to phones able to carry rich content.
- The possibility of some cannibalisation between land-line and mobile code business but the general view from broadcasters and others that the parallel platforms create 75% additional use versus 25% displacement. The position could change considerably with the advent of voice services on mobile short codes and SMS texts to land line numbers.
- A continuing trend in premium payment on broadcast platforms as digital interactivity expands, participation television continues, and alternatives and supplements to advertising revenue are sought.
- A hoped-for reduction in services that mislead and deceive – the “froth” business of non-compliant diallers, spam/scam award and competition services, unsolicited faxes etc.
- The emergence of alternative payment mechanisms.

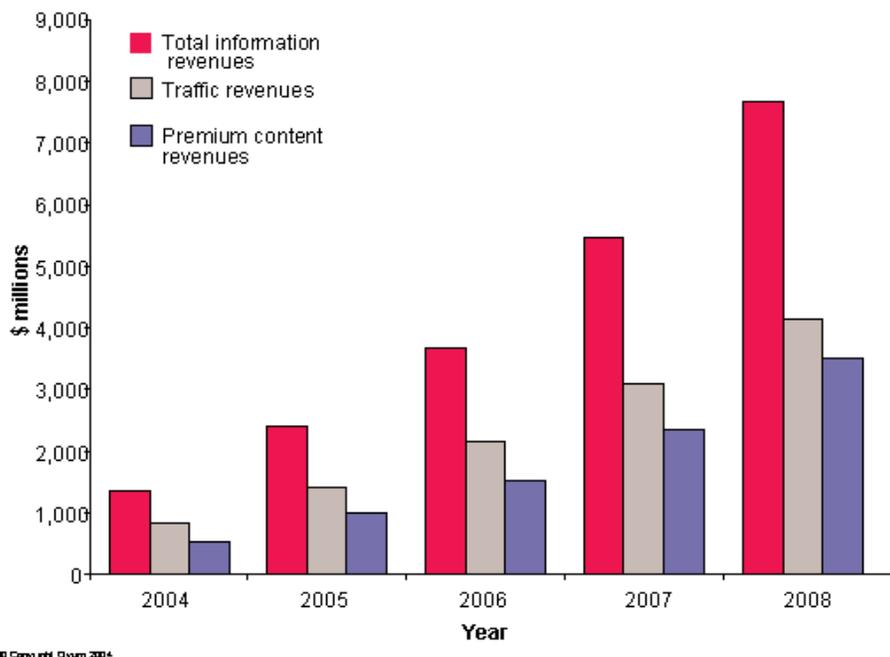


Figure 3. Current and forecast revenues (US\$) from operating information services (Western European service providers), 2004-2008. Source: Ovum Consulting

Figures 3 and 4⁵ sets out market analyst assumptions for growth in charged mobile content. The figures are for West Europe but advice is that the UK is the vanguard in terms of use and growth:

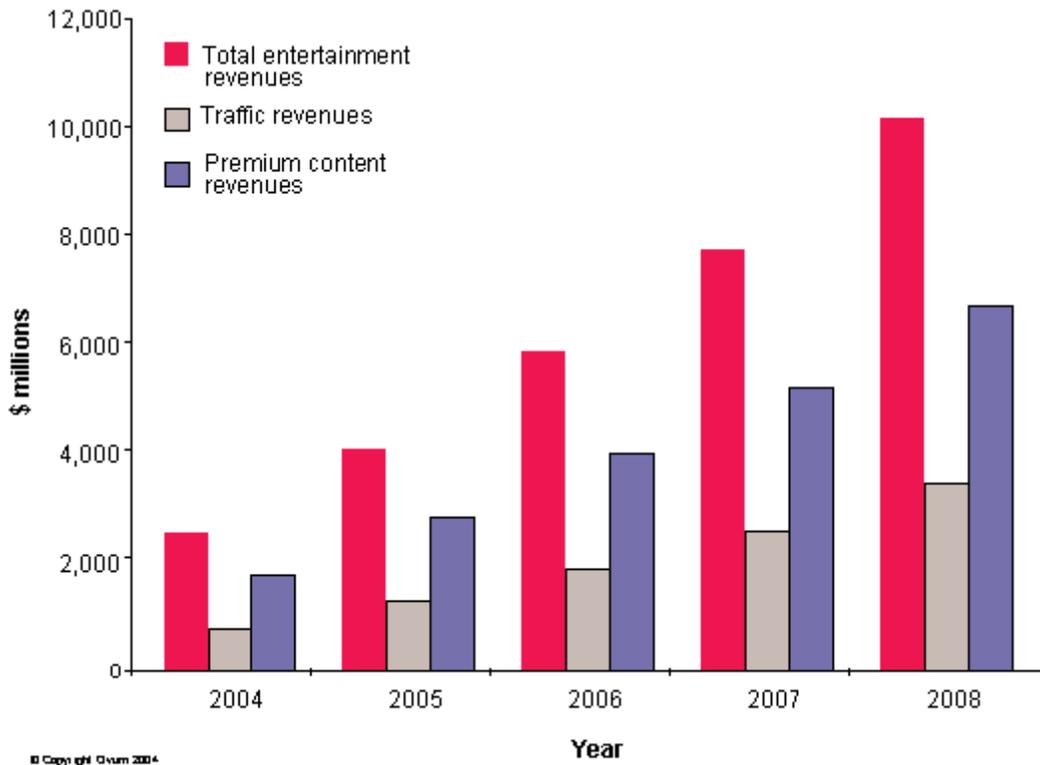


Figure 4. Current and forecast revenues (US\$) from operating entertainment services (Western European service providers), 2004-2008. Source: Ovum Consulting

We see continuing developments in the call originating and terminating markets. There used to be substantial technical, regulatory and economic barriers to becoming a public-facing phone company or a TCP. These barriers have fallen dramatically and there are now over 70 TCPs actively offering PRS call-termination. Some of these TCPs consist of little more than a handful of people with PRS numbers and controlled access to a partitioned part of switching equipment owned/hosted by a larger TCP.

It has become apparent that, at times, tough competition between landline TCPs has resulted in desperate and irresponsible action in providing connectivity to service providers. TCP staff must know that some service providers are likely to operate services that are at best deeply misleading. But TCPs have still been prepared to make weekly or twice weekly payments, and deal directly or through agents with service providers they have never met who may prove to be nothing more than front companies. There is some risk that similar commercial pressures in the mobile sector will put pressure on aggregators to agree payment terms and accept services against better judgement.

⁵ Figure 3 and 4 seek to separate the carriage and content of a call. Total Information Revenue = Traffic Revenue + Premium Content Revenue.

At the same time we recognise that the structure of markets constantly changes and that regulators need to be aware of and be able, where necessary, to react to new structures in ways which maintain safeguards but do not obstruct innovation and enterprise.

Elsewhere there have been continuing technological developments that have increased consumer use of premium rate payment for new and innovative services. Most present no difficulties but some have led to complaints or an increase in consumer need for basic information and help when they fail to make the connection between various forms of interactivity and the premium rate calls which result. We have seen further growth in take up of digital/satellite television and in the number of channels making wide and, at times, incessant use of PRS payment. The same is true of Internet take-up although our problems in this area are the product of wide-scale misconduct, not just user ignorance.

We have seen further expansion in the use of premium SMS as a payment mechanism and have engaged with the Financial Services Authority and others on the implications of interpreting some pre-pay activity as “E-Money”. Notwithstanding these concerns over the E-Money directive and its impact on legitimate uses of PSMS, we have seen the mechanism used for a wider range of services and goods: for paid-for Internet time, for pay for product services, for charitable donations, even for job advertisement responses, as well as for ringtones, logos, Java games, etc. On the downside we worry about cases where content bought has allegedly not been delivered, where costly or inappropriate services are targeted at children and over the problems consumers have in quitting subscription based services through “stop” commands.

This may reflect a wider issue around youth-driven services and the ability of TCPs, content providers and ICSTIS to measure customer satisfaction and actual harm and loss when dealing with children and pre-pay services where “evidence” is limited. Individual mobile TCPs have reported receiving thousands of complaints about subscription services within a period of a few months and have been active in working with ICSTIS on interim and longer-term Code solutions.

In all the cases described, and based around text messaging, spam promotions, Internet e-mailing and “pop-ups”, ICSTIS has worked with TCPs, other regulators and commercial stakeholders to address problems in ways which allow innovation and investment to continue and grow. ICSTIS recognises that only intervention at the OCP level provides high assurance that customer-loss can be avoided. We value the peer group pressure and best practice that can occur at the TCP, bureau and aggregator, broadcaster and publisher level. We also recognise that, while our own powers can bring a swift halt to consumer harm, the ability of public agencies to bring criminal prosecutions has a deterrent effect.

The Ofcom Review

From August to November, Ofcom staff carried out a review of the regulation of premium rate services. The review was thought needed in order to identify the root issues around the problems experienced with Internet diallers in the first half of the year. ICSTIS welcomed this review without reservation. ICSTIS, DTI and Ofcom agreed the review should be broad enough to address key issues around the preventative action that could be taken by empowering and educating consumers through information and help initiatives.

We agreed the need to look at the effectiveness of ICSTIS' procedures, and at whether our Code and our practices allowed us to deal fast and effectively with wrongdoing and at whether we have the necessary sanctions. We agreed the need to look at how the value chain operated for various premium rate services on fixed and mobile telephony. We agreed the need to look at the implications, in particular of further reductions in barriers to TCP status and at the adequacy of the current Code of Practice obligations on these TCPs.

The report of the review has been published (see www.ofcom.org) and has an effect on ICSTIS' Work Plan and budget for 2005/6. The implications vary by issue and the financial implications depend generally on the time it will take to make the Code and other changes proposed.

The recommendations in the Ofcom review are set out below.

- Recommendation 1: Ofcom and ICSTIS should take the lead in encouraging Originating and Terminating Communications Providers (OCPs and TCPs) to produce a voluntary code of practice covering traffic monitoring and information sharing. The new arrangements should be designed to enable ICSTIS to identify potential breaches of its Code of Practice (CoP)⁶ as rapidly as possible.
- Recommendation 2: The ICSTIS Code of Practice (CoP) should be amended to require TCPs to provide ICSTIS with detailed information on the identity of the Service Providers (SPs) with which they contract, including an address for service, emergency contact details and a UK customer service telephone number. They should also provide evidence of identity of relevant individuals. The CoP should be amended to include an obligation on TCPs to take all reasonable steps to ensure that the information supplied to ICSTIS is accurate. The purpose of this obligation is to encourage TCPs to carry out proper due diligence on the SPs hosted on their networks. These changes will make it more difficult for SPs to provide false information and should discourage fraudulent individuals from seeking to enter the market. In addition, the obligation on TCPs to provide detailed information about call traffic and revenues where a complaint has been received or an investigation opened under the CoP should be reviewed and if necessary strengthened.
- Recommendation 3: Additional obligations should be placed on TCPs under the CoP to provide ICSTIS with information about exported numbers and the TCPs to which they have been exported when directed to do so.
- Recommendation 4: The CoP should be amended to include an obligation on TCPs not to make payments to their SPs for at least 30 days after calls have been made. This will give ICSTIS more time to identify breaches of the CoP and where appropriate to issue Directions to TCPs requiring them to withhold funds pending the outcome of an investigation.

⁶ The current edition of the CoP, is the Tenth Edition, approved by the Director General of Telecommunications for the purposes of sections 120 and 121 of the Act with effect from 29 December 2003, and is available at http://www.icstis.org.uk/icstis2002/pdf/code_tenth_edition_january_2004.pdf

- Recommendation 5: In the event that the implementation of sanctions against TCPs in breach of the CoP is not sufficient deterrent, further consideration should be given to the introduction of TCP bonds. These bonds should be held by ICSTIS, with their size being linked to the number of PRS hosted by the TCP.
- Recommendation 6: DTI should give consideration to increasing the maximum fine that can be imposed in accordance with sections 121 and 123 of the Communications Act 2003 (the Act) for a breach of the CoP or the PRS Condition⁷. The current maximum is £100,000.
- Recommendation 7: Redress should continue as a possible ICSTIS sanction against SPs for breach of the CoP. ICSTIS should codify and publish the circumstances in which it will use this sanction, essentially where there has been a serious breach of the CoP leading to significant harm to consumers and/or where an intent to mislead or defraud has been demonstrated.
- Recommendation 8: Where redress is ordered as a sanction against the SP and when directed to do so by ICSTIS, TCPs should make funds withheld by them available for consumers to claim redress for three months after an adjudication under the CoP.
- Recommendation 9: SPs should be required in the CoP to have adequate customer service and redress mechanisms, including a UK customer service telephone number. ICSTIS should monitor compliance with these obligations, including a programme of ‘mystery shopping’, and work with the industry to develop best practice guidance on customer service.
- Recommendation 10: ICSTIS should continue to have a role in the provision of consumer information and should produce a set of guidelines to govern its activities in this area. In developing these guidelines, ICSTIS should have regard to Ofcom’s statement on its Strategy and Priorities for Promoting Media Literacy and the section on “Exercising effective consumer choice” in Ofcom’s Strategic Review of Telecommunications Phase 2 consultation document⁸. The guidelines should set out the principles ICSTIS will adhere to when planning and executing its consumer information function, in relation to both the reactive handling of consumer enquiries and its more proactive, educational activities. ICSTIS should consult with its industry stakeholders on the draft guidelines, with the aim of ensuring that industry views are properly reflected in their content, and should then submit them to Ofcom for approval.

⁷ This condition is set by Ofcom under section 120 of the Act and the condition in force at present (referred to in this document as the “PRS Condition”) was published on 23 December 2003 to take effect from 29 December 2003.

⁸ http://www.ofcom.org.uk/consultations/current/telecoms_p2/

- Recommendation 11: OCPs should take on more responsibility for handling general PRS enquiries and for dealing with number check queries. This should be achieved by amending the obligations on OCPs under Ofcom's General Condition 14 and related guidance to require Communications Providers to produce a code of practice which would include the provision of practical information relating to the nature of PRS, and their costs and availability to consumers, e.g. information regarding call barring facilities, number checking, etc.
- Recommendation 12: ICSTIS should take the lead, in consultation with industry stakeholders, in carrying out a feasibility study into the establishment of a central database of SP contact information, which can be accessed by OCPs when dealing with customer enquiries.
- Recommendation 13: The CoP should be amended to enable ICSTIS to use Directions to impose sanctions, including fines, directly on TCPs where they fail to meet their obligations under the CoP.
- Recommendation 14: ICSTIS should proceed with the implementation of the governance changes set out in its draft report on governance. These proposals are intended to ensure an appropriate level of accountability to ICSTIS' industry stakeholders and include the conversion of the Committee into a Board, the inclusion of members with industry expertise and the establishment of an advisory committee of industry stakeholders. These changes will bring ICSTIS more closely into line with Ofcom's co-regulatory principles.
- Recommendation 15: ICSTIS and Ofcom should agree a Memorandum of Understanding (MOU) which clarifies the roles of the two organisations in relation to PRS regulation, and which ensures an appropriate level of accountability to Ofcom, in accordance with Ofcom's co-regulatory principles. As part of the MOU discussions Key Performance Indicators (KPIs) should be agreed in relation to ICSTIS' Helpline and case management activities, which ICSTIS would report upon as part of the annual activity plan and budget approval process.
- Recommendation 16: In preparing its budget for 2005, ICSTIS should take account of the proposals set out in this report, the implementation of which will have some resource implications over the coming year.
- Recommendation 17: DTI, in conjunction with ICSTIS, should explore the scope for accelerating the process for changing the CoP by carrying out the necessary EU consultation⁹ in parallel with the industry stakeholder consultation. This could reduce the time required to implement the proposals by up to 3 months.
- Recommendation 18: A Steering Committee should be set up to oversee the implementation of the proposals. The committee should consist of representatives from DTI, ICSTIS and Ofcom.

⁹ Required by the Technical Standards Directive 93/34/EC of 22 June 1998 laying down a procedure for the provision of information in the field of technical standards and regulations.

ICSTIS welcomes these recommendations and will be working with Ofcom, the DTI and others on implementation.

The introduction of new TCP responsibilities requires Code changes. In the meantime ICSTIS is looking at the scope for temporary actions that will prevent or mitigate the possible consequences of further irresponsibility or misconduct at the TCP level. We will consider the wider use of prior permission arrangements. We will use Emergency Procedure powers wherever necessary. We will set up early warning arrangements with OCPs to identify any new worrying trends and we will look to partnership solutions with commercial stakeholders, statutory regulators and others to deter wrongdoing by the most effective means possible.

We must recognise that this approach can only achieve so much. The delay in introducing new disciplines at the TCP level and the continuing use of various forms of mass direct marketing have resulted in unprecedented complaint levels. We need to have the basic resources in place to deal with the threat of continuing widespread misbehaviour during 2005.

We agree there is scope for further improvements in ICSTIS' complaint handling work. We have already changed our organisation and management structure to deliver more consistent services to the public and to remove distractions to investigations officers. We agree investment is needed in training and staff development, in our data-management tools, and in new Management Information Systems. We believe there are savings to be made in and productivity improvements to be had with our new approach.

We believe new slower (30-day) payment cycles between TCPs and SPs and fast strategic use of our Emergency Procedure and greater use of directions to withhold revenues will deter wrongdoing and allow it to be stopped before revenues are lost. It will increase the probability of orders for refunds being met and should further improve recovery levels for those fines that still prove necessary.

We agree there is scope for more common "best" practice in terms of informing consumers of PRS and of the actions they can take to prevent problems arising. This will be a central part of our consumer-facing programme of work in 2005/6.

We agree there would be benefit in voluntary arrangements between OCPs and ICSTIS to more quickly identify and assess problem services and take effective action to stop the harm, and we particularly value this more active OCP role. OCPs had themselves identified the importance of active monitoring and collaborative action on abusive services. 2005/6 will see a continuation of arrangements already at an advanced stage of discussion between the OCPs and ICSTIS.

We agree that arrangements have to be in place to help those members of the public seeking general advice or who want to query but not necessarily complain about numbers on their phone bills. The proposed study should explore the nature of help being sought and the practicality of delivering this help. It should look at the benefits and costs of alternative approaches. We agree this service has to be operated based on shared information that can be used by any Communications Provider or by the public direct.

We believe it is essential that those who wish to register a complaint about a PRS should be directed to ICSTIS and should be able to deal with us by phone, mail or on-line. It is important that we then do all possible to sift out complaints which are out of remit or which lack real foundation. We need to ensure we get as much meaningful and informative evidence as possible.

We welcome Ofcom's confirmation of the importance of ICSTIS having a role in consumer information and education. This is a policy we have followed to a limited but important extent for some years. We agree the need to establish operational criteria for when it is appropriate for ICSTIS to act and when we should play a more limited role encouraging or facilitating action by others. We believe this can be achieved, particularly the catalyst role, without major increases in this part of our budget.

Section Three

ICSTIS Activities 2005/6

In this Section we set out our core activities, basic operational assumptions and, where appropriate, our Key Performance Indicators.

Public Services and Operational Issues

It is generally agreed that ICSTIS should continue to provide a complaint handling service and to provide more general help and information on PRS to the public, but on a capped basis and by making the fullest possible use of automation.

We have taken action internally to organise ourselves in a new way so that this is done with maximum efficiency and effectiveness. We have set up a Contact Centre that will deal with all members of the public in the first instance. Our goal is to identify effectively the needs of individuals and to provide the relevant advice, redirection or support on first contact. The public are able to contact the centre by telephone, mail and through our website. Our aim, regardless of the route of contact is to provide a consistent service based on agreed parameters and KPIs.

Complaint Handling and Prior Permission work

As a regulatory body our primary concern has to be the identification, investigation and prevention of harm. The Contact Centre will aim to identify and database all complaints within the remit of the ICSTIS Code. The Contact Centre will provide complainants with information on how their complaint will be investigated and will inform all complainants of the outcome of our investigations when complete. Where appropriate, this information will include information on any redress which is payable following an ICSTIS adjudication. The Contact Centre, informed by case officers (using our internal database), will seek to address all enquiries and, in so doing, allow investigations staff to focus on addressing the cases themselves and not the circumstances of individual consumers.

In considering KPIs for complaint handling we recognise that influencing factors pull in a number of directions:

- Cases are becoming increasingly more complex and require more work from the Secretariat before they can be taken to the Committee for a decision.
- We believe we have to plan on the assumption that the number of individual cases investigated will increase in 2005/6 by 50% – see Table 2 below. We hope changes in the regulatory framework will deliver improvements, but many of these take time to implement and cannot be delivered in the first half of the year. We have seen continued abuse through new forms of direct marketing in the last quarter of 2004. Complaint levels remain at around 1,000 per week.

- We assume PRS growth will continue and we expect more activity as we focus properly on issues of non-compliance which have not been reaching us of late due to logjams in our communications or which arise from targeted monitoring activity. We need one case officer post to support market testing and analysis, and to process consequent complaint case work. This person would also lead efforts to improve compliance through contacts with service providers, publishers, broadcasters and others.
- We expect to have to dedicate one and, if necessary, two or more investigations officers to issues concerning TCP conduct. There have been increasing issues under the existing Code and regime. Interim steps to introduce greater discipline and new responsibilities are likely to be followed by Code changes later in the year. At the time of consulting, however, there has been little by the way of precedent decisions on the “network status” of firms claiming to be acting as TCPs. The number and nature of TCPs over the coming year and the conduct and compliance issues that may arise is conditional on developments in the market and on the outcomes of cases now in hand. We are budgeting on the assumption that monitoring, investigation and enforcement action necessary in relation to TCP conduct will be carried out by ICSTIS subject to specific constraints agreed with Ofcom. Until Code changes are in place establishing new TCP responsibilities and the related enforcement regime, we are working on the basis, agreed with Ofcom, that TCP conduct will be managed by ICSTIS subject to specific arrangements agreed with Ofcom. In the last part of 2004 we estimate that operational non-compliance or “status” issues were active with at least 10 TCPs at any given time.
- We believe the permissions regime for Internet diallers will significantly reduce problems in this sector. We will continue to take emergency action to bar anyone found operating without permission.
- With continued investment in training, good use of expert help and the removal of distractions from investigative work we expect to see productivity gains in our complaint handling work.

	2004	2005
Number of cases opened	509	764
Total number of complaints logged	77,333	74,939

Table 2. Number of cases and complaints received by end of 2004 (as of 23/12/04) and forecast complaint numbers for 2005. The forecast for 2005 is based on an estimated 50% drop in the number of dialler investigations (which in 2004 attracted an average of 350 complaints per investigation) but a 50% increase in number of non-dialler investigations (which in 2004 attracted an average of 50 complaints per investigation).

A decision was taken in Q3 2004 to introduce a permission process for Internet diallers. We expect to have dealt with all existing and most new providers identified in Q3/4 of 2004 during that year. The demand for dialler or other forms of permission is uncertain for 2005/6. We hope with the 11th Edition of the Code to make further reductions in this requirement where it appears safe to do so, but should not rule out the possibility that this preventative approach will be applied to new or newly sensitive categories of service. Our assumption is that no additional staff are needed on permission work.

On this basis ICSTIS proposes the following KPIs for complaint work in 2005/6:

- ❖ By quarter 2 we aim to complete 75% of cases within 12 weeks and all cases within 26 weeks. By Q3 we aim to complete 90% of cases within 12 weeks and all in 26 weeks. (This target excludes any “e-Commerce” cases where we must follow procedures set down by Brussels. These cases, of necessity, generally involve a fixed period of referral to counterpart regulators in the EU).
- ❖ We aim to achieve a 50% fall in the number of in-remit complaints about dialler services.
- ❖ In all cases we will tell the public the outcome of adjudications within 10 working days of an adjudication reported to the service provider.
- ❖ Under the 10th Edition of the Code of Practice we aim to complete investigations into issues over TCP conduct within 12 weeks of notification of the issues to the TCP.
- ❖ We aim to achieve a 90% completion rate of prior permissions within 12 weeks on receipt of complete permissions applications.
- ❖ We will complete all cases covered by fast track and registration arrangements within 4 weeks.

Investment needs: We have identified four case officer posts dealing with the increase in case work, the continuing need for targeted monitoring and the issues relating to TCPs under the existing and next Code.

We will, however, only recruit to fill posts when it is evident that there is a trend in SP or TCP activity that cannot be met from existing resources. There have to be upgrades in our database’s capabilities but we do not believe it necessary to commission a new system at this time. There is a considerable need for training for staff in investigative work, in new forms of presentation of papers for adjudication and in using the amended database.

Contact Centre Activity

The Contact Centre will be the first point of contact for all public enquiries, complaints, etc and for businesses seeking advice on PRS activity, on how and when to apply for prior permission, and for copy advice on promotional material. The Contact Centre will deal with all incoming calls, web-contacts and correspondence. It will be responsible for identification, databasing, and confirmation of in-remit complaints. It will deal with any enquiries relating to these complaints during the case-handling period and for reporting to complainants on the outcome of cases.

The Contact Centre will deal with any complaints that are out of remit and with enquiries that are relevant to PRS regulation but do not relate to a breach of the Code.

Pending any policy change coming out of further feasibility work arising from the Ofcom review (see below), the Contact Centre will provide help to those seeking information on premium rate numbers on their bills on the following basis:

- We will continue to build and refresh a web-based database of numbers relating to cases under investigation, of numbers relating to live services where there is an entitlement to assistance with bill disputes, and the 500 or so premium rate numbers most frequently enquired about.
- This information will be available online and through an IVR system.
- Our aim is to provide OCPs, consumer bodies and the public themselves with answers to the commonest questions about billing.
- Where specific information is not available, but where there is nothing to suggest the member of the public is contacting us with a complaint, we will provide contact details for the TCP who had the number assigned to them by Ofcom.
- We will no longer seek to check any and every number queried with us. If a number is not on our web-listing the consumer will be expected to take the enquiry forward with the TCP identified.

This process is set out in the flow-chart at Figure 5

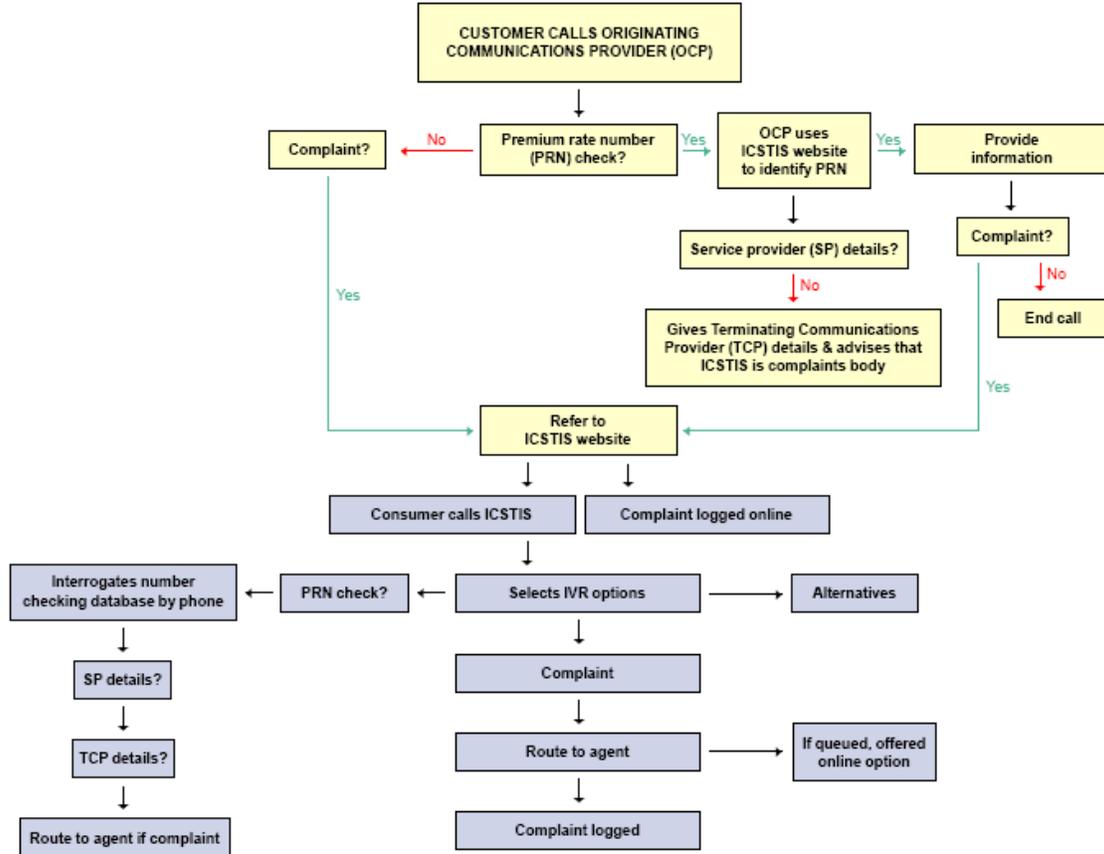


Figure 5. The role and responsibilities of OCPs in handling enquiries and complaints about premium rate services.

The web and IVR process will be constantly updated. New cases under investigation will be added, as will new commonly asked about numbers. Our goal, at least until final decisions are taken on the potential for alternative automated solutions (see below), is to work in partnership with OCPs and TCPs to given the public the help they seek at least burden to all involved.

The Contact Centre structure was set up in the last quarter of 2004. The operation will not, however, be fully operational until 2005 if/when funding is in place to take staffing to the levels necessary to meet anticipated demand. Call traffic levels for recent months are presented in Figure 6. By the end of November Contact Centre staff were handling nearly 40% of all “offered calls”. The balance was handled by an IVR system. Nearly 60% of calls handled were complaints or related to numbers that were the subject of complaint by other members of the public and were under investigation.

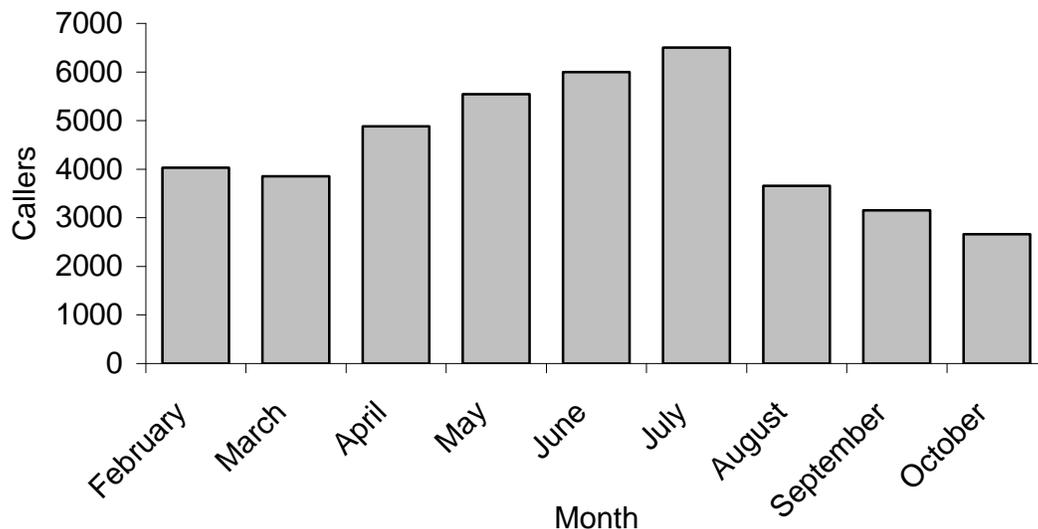


Figure 6. Average number of individual callers per day to ICSTIS' Helpline: January to October 2004. NB figures shown for June and July should be higher than represented, but due to the imposition of call-gapping by our network operator, actual figures are not available.

As with complaints work there are a number of factors that will influence the actual levels of demand for call centre activity within the Contact Centre in 2005/6:

- Misconduct – a further wave or widespread wrongdoing and media attention.
- The use that OCPs make of web-information. This material should give networks all they need to deal with the vast majority of their customers' PRS queries without referral to ICSTIS.
- Public and regulatory agency awareness of ICSTIS.
- Our success in directing the public wherever possible to online contact – web-complaint forms and web-based information.
- The effectiveness and public acceptance of IVR solutions and our website.
- Consumer trends in the mobile sector where growth has been rapid and where networks have the information on short-code allocation to deal direct with all general queries.

Our approach is designed to minimise our involvement with routine enquiries which do not require an enforcement action but to provide the public, communications providers and others with sufficient information in simple form to allow them to deal with concerns or uncertainties and to take action themselves to prevent billing difficulties. We believe the need for such support is graphically demonstrated by our experiences over recent years and presented above, and that there would be a real loss of public trust if basic informational needs cannot be met.

Based on recent trends, on continued investment in automated solutions and on assistance from OCPs, we are working on the assumption that the figure for individual callers per day will fall during 2005 to 1,500-2,000. By addressing simple enquiries by automated means, we expect to see the percentage of calls relating to complex queries and complaints to remain in excess of 50% and to rise over time. This has implications for call-handling times.

Feasibility Study into Long-term Approaches to Handling Number-Check and General Enquiries

All the arrangements described above are incremental improvements on call handling, IVR and web capabilities. The steps taken are without prejudice to the outcome of a feasibility study to be carried out in early 2005 into alternative technical or operational solutions to meet the changing demands for help with queries, complaints and number checks. This study appears as Recommendation 12 of the Ofcom report. The study will look at the practicality and cost of establishing and maintaining a data-base or data-network containing all the PRS numbers in use, the TCP they were issued to, the service provider for each individual allocated number and the service (or services) running on each number. The goal is to provide all OCPs with online access to the answer to any conceivable consumer enquiry over the nature of service on any number on their phone bill.

It is often difficult to distinguish between contacts that should be treated as number checks or complaints. Not all those contacting ICSTIS with “complaints” actually have issues involving breaches of our Code. But others coming with a number-checking enquiry may prove to have been the victims of a service known to be problematic. As a consumer protection body, complaint handling is a core ICSTIS function and competence.

Our approach and our work on the feasibility study mentioned above are based on the proposition that we must be readily available to those with complaints and have the ability to deal directly with their problems.

On this basis ICSTIS proposes the following KPIs for Contact Centre work in 2005/6:

- ❖ We aim to confirm receipt of all in-remit complaints within 5 working days.
- ❖ All out of remit complaints and general enquiries will be addressed within 10 working days.
- ❖ We aim to achieve a reduction of 50% or more in Complaint Helpline traffic by September 2005 (against Q3/4 2004) and maintain this level.
- ❖ We will answer 80% of calls to the Complaint line within 20 seconds by the end of Q2 2005 and to maintain this standard during the year.
- ❖ By the end of June we will bring forward proposals for streamlining claims for redress under the Live Services regime.
- ❖ We will provide copy advice to businesses seeking assistance with promotional material within 48 hours in at least 85% of cases.

Based on plans to introduce shift working until 8.00pm to meet our KPI and to minimise staff requirements, we plan to meet forecast demand from an in-house service. We plan to use temporary staff wherever possible and appropriate to maximise flexibility and minimise unnecessary expenditure. A maximum of 17 operator positions manned to work in shifts from 8.00am to 8.00pm would be needed to meet the 2,000 callers forecast to the standard proposed. We looked at the case for contracting out some Contact Centre functions and at the possibility that additional accommodation would be needed as well as IT, personnel and related investment if the service is to continue to be provided "in-house".

We recognise there are risks if demand exceeds our ability to handle calls relating to complaints. The proposed feasibility study will look to identify the most effective long-term solution. The proposals in this document, specifically the plans for regularly refreshing information on the website and on the Contact Centre IVR should ensure that any massive increase in volumes are met by automated solutions which should allow ICSTIS to constantly access reliable information on the number and nature of complaints and number-checking enquiries.

If there are truly dramatic increases then a two-stage system using out-sourcing might be necessary on an overspill basis using a partner we are confident is able to handle complaints as well as enquiry work. But the degree of automation introduced and our ability to adapt this to changed circumstances should allow us to deal internally even with a 100% increase in total traffic to 4,000 persons/day.

Investment needs:

- 1) A maximum net increase of 6 contact centre administrative staff based on temporary contracts and recruitment based on demand. A service open until 8.00pm (if still needed) adds to overall staff costs.
- 2) The costs of configuring the office to meet these and other operational needs were met in 2004, and depreciated over the 6 years remaining on the lease.
- 3) Equipment investments in IVR services, line capacity, database upgrades and server capacity.
- 4) We must build a website that meets the public/consumer needs described. This is addressed in the Policy/Consumer Information section below.
- 5) There are training costs for new staff and for staff transferring to new functions in the Contact Centre – database use and databasing, correspondence and other public contact, training for new supervisors, training in copy advice and in assisting businesses seeking other help.

Policy, Consumer Information and External Relations

We expect during 2005 to complete consultations on and to introduce our 11th Edition of the Code of Practice. The timing and policy issues for the Code depend in part on decisions coming out of the Ofcom review. The Code of Practice sets out the “dos and don'ts” for service providers responsible for the operation of services. There will be some changes in this in terms of categories of service and in relation to pricing and promotions. The need for more fundamental change stems from the Ofcom review proposals that TCPs should be subject to a number of additional requirements, that these requirements should be in the ICSTIS Code of Practice and that TCPs should be accountable to ICSTIS for their compliance. The Code also needs to take account of technological changes, including, most obviously, the growth in premium rate via forms of mobile short-code payment.

Other policy work is expected to revolve around UK legislation which will overlap with PRS regulation, including the Gambling Bill, EU law at the pre-legislative stage (possible Framework Directive advancing the single market for trade in services) and UK implementation of Directives that are agreed or near agreement (E-Money, Sales Promotions directives). We will continue to work with the DTI on consumer law and initiatives and on telecommunications initiatives such as ENUM and pan-European numbering, with the Home Office on issues around the Internet and child protection, and with Ofcom as they address numbering, number translation services and the implications of developments in the retail sector.

We will continue to work with our EU and other counterparts, developing best practice, sharing experiences and market information, and looking at how the trend towards internationalisation and cross-border services can develop safely.

Our consumer information initiatives separate between those that are essential for ICSTIS to do, or which are clearly desirable and only ICSTIS can take the action envisaged, and those which are important but best carried out by others – by Communications Providers, trade bodies, broadcasters, charity or child protection groups or the media. We intend to publish a template setting out the basis on which ICSTIS will act directly or seek to play a role as catalyst/facilitator for the action of others.

Media interest in premium rate services continues to grow. We have a responsibility to account for our work. We also want to use the media to help with our consumer information and protection messages, and to address uninformed or inaccurate criticism of the payment mechanism and those who use it responsibly and creatively. We added to our resources in 2004 to manage these relationships better and to update our arrangements for briefing the industry and for online reporting of adjudications.

On this basis ICSTIS proposes the following KPIs and Key Deliverables for Policy, Consumer Information and External Relations work in 2005/6:

- ❖ Delivery of an 11th Edition of the Code recognised by Ofcom by November 2005.
- ❖ A full, published and online set of Help Notes to assist with Code compliance by November 2005.
- ❖ A new interactive and public-facing website implemented by May 2005. Stage 2 improvements completed by December 2005.
- ❖ Online reporting of all adjudications within 3 weeks of decisions. Industry briefings (IQ) published quarterly to ensure stakeholders are kept up-to-date with developments.
- ❖ We will produce a series of new literature on PRS and its safe use. We expect to focus on mobile telephony, direct marketing activities, competition and award services, and PRS services and their use by children.
- ❖ By Summer 2005 a web-based “informational” document to be made available to all consumer protection agencies with an interest in PRS regulation.
- ❖ A benchmarking research exercise of consumer understanding of trust in premium rate charging as a payment mechanism across communications platforms.
- ❖ Following consultation, we will publish and apply a process template for information and education initiatives.
- ❖ We will carry out a minimum of 10 industry workshops on code compliance and an extensive programme of stakeholder visits focused on Code changes, network obligations as these change during 2005, and good practice in key sectors and service categories.

Our main investment in this area in 2005/6 will be in building a website which is consumer-facing, information rich, educational and interactive but which also meets the needs of those we regulate and the broad community of stakeholders. We are looking, for example, at producing electronic/video-based information that can be made available to new TCPs and service providers, to trading standards departments across the UK and to others who need to be briefed on ICSTIS, premium rate services and their regulation. We plan to re-introduce the policy of seeking to meet and brief all new TCPs on ICSTIS, the Code and our expectations, and on how they can most effectively engage with the regulatory process and avoid contracts which put them at risk of enforcement action and financial loss.

We aim to cover design and incremental improvements dedicated to addressing the problems faced last year from the 2004 fines income. The website has to be interactive and has to be updated constantly. We believe that a provision of £40,000 within the Telecoms & Website budget should cover the cost of work on our new site. The cost of web-based consumer information and education services described above is estimated at £25,000 and has been included in the External Affairs budget. We are assuming the need for a dedicated Webmaster to ensure that service, service provider, TCP, enforcement and other information is fully up to date and accurate. The provision also covers hosting, maintenance and other charges.

There was exceptional demand in 2004 for targeted consumer literature. OCPs, in particular, needed thousands of copies of information sheets on Internet dialler services.

We have made a provision for hard copies of consumer literature. Contact with the trading standards community shows a need for this material. The budget also allows scope for two more targeted initiatives possibly directly to consumers in partnership with ISPs/phone companies or through youth publications or through sectoral initiatives. A meeting is planned with the Institute of Trading Standards and LACORS in January 2005 to discuss partnership solutions to training and information needs.

Governance and Administrative issues

ICSTIS has announced that it intends to make a number of governance changes. Some of these have a direct effect on the 2005/6 budget.

We plan to move to an 11 or 12 member board structure, adding further members from a commercial background, including members with an active interest in PRS. The review also highlighted the importance of building on existing industry contacts, through Forum, Communication Provider review sessions, Code and other consultations, and the idea of an Advisory Committee. This expansion in numeric and activity terms sits alongside growth in the number of cases that go to the Committee for an Oral Hearing. The cases themselves are becoming more complex and are often argued at a senior legal level.

Some costs are recoverable and we plan to do more on this front. In the area of administrative charges we have already reviewed the charges during 2004 and introduced a charge for secondary cases. We have set a target for recovery of 75% for 2005/2006.

We do, however, budget on expenditure terms and, recoverables aside, we assume an above average increase in Committee expenditure.

The increase in the number of TCPs has implications for our management of the funding arrangement and, consequentially, on our accounting and audit costs.

Legal costs have been increasing each year. We had a significant overspend on the original 2004 budget. This related to the Internet dialler issues, the level and nature of misconduct we have had to address, the need to understand and test new business models and contract arrangements, the Ofcom review, and the work with our Code and the Governance review which the industry encouraged. We are not yet able to assume any fall in enforcement work or in the number of cases that go to some form of appeal, or the complexity of these cases. We know we will be involved in 2005 in further Code work.

On this basis we do not think it would be responsible to propose a budget for 2005/6 below the actual forecast end-year level for 2004 except insofar as we believe use of in-house salaried legal staff will reduce “like for like” costs. We propose new requirements that will allow us to recover costs in cases involving TCP conduct and through deposit arrangements for those seeking Oral Hearings. We are clear, however, that we must continue to be confident that we have the necessary legal advice before policy decisions are taken, when we develop and interpret the Code, and that complaints are investigated and appeal cases heard properly.

Efficiency improvements

In the detailed sections of this paper we explain changes in our IT/consultancy and training and development budgets. Increases in staff have knock-on costs and consequences.

Our IT is at full stretch in places. We need to invest in a server and in system upgrades. In some areas we need external expertise on a short-term basis, either to fill gaps or because we do not have the internal resources to deliver all that is needed.

When we moved to our new structure we lost one managerial post. Subsequently, we appointed an HR Director on a part-time basis. This post will continue in 2005 and personnel and management issues will be a priority. We will have new roles, new internal processes, a new Code, and a new, capped and differently structured service offering. We face new technological challenges and need to increase our skill levels – as was recognised in the Ofcom review. The increase in our training budget reflects this and our planned priorities are explained.

We invested in 2004 to improve operational management information. There will be some costs (approximately £30,000) rolling into 2005/6. These tools are essential in high-volume case handling, developing staff and increasing productivity. The investment made in 2004 in appointing a credit controller is evident in the efficiency with which the funding arrangements have operated and our success in recovering a higher percentage of fines – notwithstanding the short outpayment cycles used by some networks who were associated with SPs who ended up fined or barred.

We started a review in 2004 of organisational and operational risks, an assessment of our continuity arrangements and of other potential strategic risks to the organisation.

On this basis ICSTIS proposes the following KPIs for Governance and Administrative work in 2005/6:

- ❖ Full implementation of the Governance reforms by July 2005.
- ❖ Appointment of in-house legal team by start of Q1 2005/6.
- ❖ Complete organisational risk assessment. Start implementation by July 2005.
- ❖ Improve overall collection rate of fines and administrative charges. Recover 65% of fines and 75% of administrative charges imposed, including recovery of costs for Oral Hearings.

Section 4

2005/6 Expenditure

The planned expenditure is set out in **Annex A**.

We comment on the major items of expenditure but we do not break down and comment on expenditure under individual headings where the figures are small in absolute terms or are individual headings unchanged or changed only insofar as they are affected by matters outside our direct control.

Supporting the main table of data are six tables with supporting commentaries explaining where changes of substance are involved. These notes cover Committee and staff costs, telecommunications and website costs, depreciation on capital investments and legal and External Affairs costs.

Committee Payments

2004 Budget	2004/2005 Forecast	2005/2006 Budget
£218,400	£279,000	£326,500

Following the Governance review, three new members with commercial interest in PRS will be recruited. These members will attend all Committee meetings but will not be involved in the adjudication process. There is an increased allowance in this area also to take account of the recruitment process for a new Chairman, as Sir Peter North's term of office will end in early 2006. The budget also takes account of planned committee involvement in all parts of the new governance structure: in industry Forum meetings, in work with the Advisory Body and OCP and OTP groups, as well as existing and temporary sub and working groups covering the Code, forward planning and consumer issues. An allowance has also been made for an inflationary increase in pay for members as in previous years.

Staff Salaries & Related Costs

2004 Budget	2004/2005 Forecast	2005/2006 Budget
£1,455,343	£2,104,000	£2,394,950

During 2004 we have seen various changes in the management structure at ICSTIS, including the appointment of a Deputy Director of Operations and a part-time Human Resources Director.

The Contact Centre will be fully staffed by early 2005 with 17 operators working (subject to demand) on a shift basis between 8.00am and 8.00pm. The majority of staff working in the Contact Centre are employed on a temporary basis which gives ICSTIS flexibility in an area which is likely to change further during the coming year following web and IVR developments, and depending on what may evolve from the feasibility study.

Four new Case Officer positions have also been budgeted for. These posts will only be filled if it is clear that the level of work cannot be met by existing resources. At least one, if not two, Case Officers will be required to work with matters relating to TCP conduct and with enhanced responsibilities likely for all TCPs following the Ofcom review, it is key that ICSTIS has the resources dedicated to deal with this. ICSTIS will also be rolling out a new programme for monitoring services and this will require further resources in dealing with cases that arise from this.

As in previous years, an allowance has been made for an inflationary increase in staff pay.

Telecoms & Website (new item replacing “Technical Communications and a section of “IT & Industry Consultancy”)

2004 Budget	2004/2005 Forecast	2005/2006 Budget
£170,800 (combined total of Technical Communications and IT & Industry Consultancy)	£195,000 (combined total of Technical Communications and IT & Industry Consultancy)	£239,400

We will be making further investment in the ICSTIS website to ensure that public and consumer demands are met. The success of the work already carried out is evident with over 9,000 number checks carried out each day. As with any upgrades and developments increased maintenance costs must be expected and these have been factored in also. The budget includes provision for telecommunications and IT consultancy advice and/or the possibility of appointing an IT manager on a part-time basis to manage implementation of web upgrades, database enhancements, server and telecommunications management and the operation of new management information systems.

ICSTIS has successfully negotiated a reduced rate for freephone calls to the Contact Centre but, with increased opening hours and agents answering calls, an increase in call costs is anticipated.

Depreciation

2004 Budget	2004/2005 Forecast	2005/2006 Budget
£146,243	£190,000	£200,100

Leasehold Improvements – further changes to the office layout at the end of 2004 to increase the space available has added to the cost in this area. The costs of all office fixtures and fittings are spread equally over the remaining term of the lease (the lease runs until 2008).

Computer Equipment – we plan to make significant investment in enhancing our in-house database and reporting systems. This will take account of new technology and developments in PRS, improve reporting, automate repetitive tasks and increase the reliability of data. There are also costs associated with additional equipment for new staff and replacement of system servers.

Office Equipment/Furniture – the costs of IVR equipment for the Contact Centre has been included. Allowances have also been made for new furniture for additional staff. This expenditure is, in part, conditional on levels of demand and on the outcome of further feasibility studies.

Legal Fees

2004 Budget	2004/2005 Forecast	2005/2006 Budget
£150,000	£337,000	£265,000

As previously mentioned, we have seen almost a 100% increase in our legal costs versus budget during 2004. We have reviewed again our legal requirements and plan to move to employing a legal advisor “in-house” in an attempt to keep costs to a minimum but maintain reliable and effective legal advice.

Despite these changes it would not be sensible to budget for a major reduction in 2005 and we have based our calculations around the existing level of advice currently received including Counsel. If the level and profile of expenditure in 2005 is the same as in 2004, we expect to see savings through in-house arrangements.

Our record at recovering legal costs, which arise from the adjudication process is not at a satisfactory level and we plan to make changes to the Code to ensure that those who pursue hearings are in a financial position to cover costs should they be unsuccessful. This is a process already adopted by the Independent Appeals Body.

External Affairs & Printing & Design

	2004 Budget	2004/2005 Forecast	2005 Budget
External Affairs	£57,800	£75,000	£86,700
Printing & Design	£69,000	£58,500	£105,750

The funds allocated to external affairs and media literacy work are still limited. We plan to consult on the principles that will be applied when considering consumer information and education initiatives. To that extent the draft KPIs are conditional on decisions still to be taken. But based on the limited funds available we are clear that we will need to be selective in what we do, targeted in our activities and working in partnership wherever possible to ensure initiatives are taken by those best placed, best resourced, best skilled and best trusted to do so.

We will want to ensure ICSTIS and PRS regulation is clearly understood by our core stakeholder groups particularly consumer and consumer protection bodies, commercial organisations developing or using premium rate, Government departments and other regulators and the media.

We need to have the industry relationships necessary to understand market, technology and other developments and then prioritise actions to help ensure that ICSTIS continues its role as an effective co-regulatory body.

We must maintain a Press Office, which is accessible, trusted and respected by the media and develop topical print and electronic literature, while also maximising the potential of ICSTIS' website for all stakeholders

In previous years we have considered the case for a re-branding exercise with the possibility of a new title/brand that might better reflect the role we play today. This was put on hold pending the outcome of the governance exercise as it was thought to be a decision that should properly fall to the new Board or Committee as re-constituted. We will be implementing governance changes in the first part of 2005 and may then return to the issue of branding. Our absolute priority, however, is the implementation of the Ofcom report and effective consumer protection. Accordingly we have removed the possibility of a branding exercise from the Plan and budget for 2005/6 on the basis that this can be addressed if required through contingency arrangements flagged in Section Five.

Section 5

Cost Recovery, Financial Assumptions and the Levy

We believe it is possible to take steps to charge for activities and to improve existing recovery of fines and administrative charges.

In September 2004 we introduced new arrangements under which administrative charges were levied based on the number of complainants – and the consequential cost to ICSTIS of handling these complaints. This will continue.

We have succeeded through initiatives with TCPs and the pursuit of service providers to increase fine recovery from 40% in 2003 to over 50% in 2004. This drive will continue, but we must recognise that, until there are meaningful barriers to entry and/or more action by TCPs to avoid rogue partners there will be those who are prepared to do damage, fold the business and renege on their fines and other obligations. ICSTIS would rather see more compliance and fewer fines than more fines. But where we do impose fines we will do everything possible to recover the money.

	2003	2004
Total Billed	£1,199,300	£2,893,250
Of which unpaid	£ 688,456	£1,173,779
Of which paid	£ 510,844	£1,719,470
Percentage paid	43%	59%

Table 3. Fines issues and collected (to 31/12/04) by ICSTIS: 2003-2004

We have an unsatisfactory record of recovering costs, principally legal and Committee time costs, relating to cases that go to Oral Hearings. On occasions where the SP has failed in appealing a decision the firms, or individuals involved have failed to meet the consequential charges. They then end up barred from all PRS activity but this is small consolation for those who have to cover the costs of the processes. We propose that, as in the case of Appeals, service providers should generally be required to submit a bond before hearings will be agreed and held. The bond should cover the expected costs to ICSTIS of the process. Depending on caseloads and complexity, this could recover around £50,000 per annum.

We propose service provider registration be on a full cost recovery basis. In addition to staff costs, we have legal inputs, training and general overheads, database cost recovery and communications costs. We need to calculate the charges necessary to meet these and any other associated charges.

We propose to put prior permission work on a fixed cost recovery basis and will consult on plans in 2005.

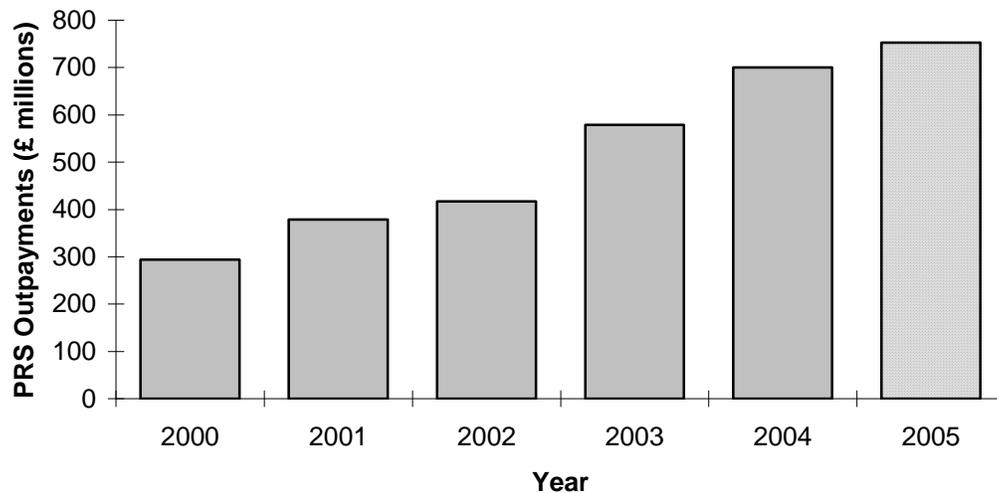
We plan to look again at different models for charging for calls to our Contact Centre. We cannot move from a free service until we have a service of adequate standard. We do not believe national rate charging is appropriate. We will investigate alternatives but will only move if the costs are equitable and the change results in a material reduction in our expenditure.

Market Growth and Financial Assumptions

We are assuming market growth of 7.5% in 2005/6 for budget setting purposes. This is below all trends in all recent years and is a conservative approach designed to ensure adequate funding. We are assuming that the market growth in the first half of 2004 which was in excess of the 25% growth originally forecast will continue. This “excess growth” has resulted in levy collection of approximately £110,000 more than needed to meet the budget agreed for 2004. This money can be used to reduce the funding requirement for 2005/6.

Figure 7 shows the 7.5% of growth assumed in contrast with a straight-line projection of growth in 2003/04.

Figure 7. Revenue outpayments (£M) made to premium rate service providers, 2000-2004. NB: Figures for 2004 are estimated pro-rata based on figures received by November 2004. Estimate for 2005 is assumed a 7.5% growth rate in outpayments.



ICSTIS is moving its financial year to April-March. This means having a 15-month “year” ending 31 March 2004. Expenditure in the period from January-March is planned on a pro rata basis using 2004’s projections. On this basis we are forecasting that the 2004 budget will be exceeded by £350,000. This additional money was spent to meet the exceptional demands in 2004 and early 2005 resulting from dialler, text spam/scam and auto-dial activity.

We are forecasting that £1,800,000 will be recovered in fine and other income by 31 December 2004. We will meet the 2004 overspend from this money. We would expect to continue to recover fines in the period from 1 January to 31 March 2005. We propose that this income be set aside and should be used to reduce costs in 2006/2007 in addition to any other fine income recovered in the period April 2005 to March 2006.

Fine income is generally used to reduce the cost of regulation in subsequent years. In 2004 we told Ofcom of our intention of using some 2004 income to meet increased demands in 2004 due the dialler problems. This was an effective solution to a problem that had not been and could not have been identified and budgeted for nine months earlier.

We propose, therefore, to learn from the experience and to set aside a figure of £500,000 from the fine income still held for 2004 as a contingency reserve to be used if necessary to deal with any future spikes in problems or demands which must be met but which have not been covered in the 2005/6 budget. In addition to meeting any such spike needs, the fund would be available to meet exceptional costs not provided for in the 2005/6 budget relating to work in the possible re-branding of ICSTIS and to the implementation of any changes required as a result of the feasibility study into ways of delivering number-checking and enquiry handling.

Use of this reserve would have to be explicitly approved by the ICSTIS Board, notified to Ofcom and the industry, and reported on in the annual Activity report. On this basis we are forecasting that there will still be fines and other income available to reduce costs in 2005/6.

In addition to meeting the agreed budget needs, the 2005 levy has to cover the second tranche of payments into the main ICSTIS contingency fund needed to meet our financial and company obligations should decisions be taken to end PRS regulation. It may be necessary for auditors to review the contingency fund during 2005 to decide whether the "final" total of £1,400,000 is the right level of provision.

Our 2005/6 funding requirement is based, therefore, on the planned budget of £4.3m plus the contingency payment (£700,000) minus the excess funding and fines recovered for 2004 (£1.06m).

The total requirement is, therefore, £3,952,750. Based on forecast outpayments of £800 million, we are proposing a levy of 0.49%. This is a reduction on the 0.53% rate set for 2004.

We obviously hope the changes proposed by Ofcom will, when implemented, reduce the need for enforcement and other work by ICSTIS that should be delivered at the OCP level. The fine income for 2004 has been critical to meeting the increased, but in some cases potentially temporary, needs in 2005. If conduct improves, fine income will fall. If the full needs of future years are to be met without the "subsidy" of fines and charges from the proceeding year, there is the risk that the levy would have to rise – even if costs did not. The approach planned maximises the probability that we will be able to continue to keep the funding levy on a downward path in 2006/7 and hopefully in coming years.

ICSTIS

JANUARY 2005

ICSTIS BUDGET 2005/2006

	2004 Budget £	2004 Forecast £	2004/2005 Forecast £	Proposed 2005/2006 Budget £	2005/2006 Change £ (Budget v Budget)	% Change 2005/2006 v 2004 (Budget v Forecast)	% Change 2005/2006 v 2004/2005 (Budget v Budget)
Committee Payments	218,400	222,150	279,000	326,500	108,100	46.97	49.50
Committee Expenses	11,000	10,770	13,000	16,500	5,500	53.20	50.00
Staff Salaries and Related costs	1,455,343	1,647,500	2,104,000	2,394,950	939,607	45.37	64.56
Staff Training and Development	25,000	20,000	15,000	50,000	25,000	150.00	100.00
Project Consultancy	0	0	15,000	60,000	60,000		
Rent, Rates & Service Charge	246,437	248,000	309,000	280,000	33,563	12.90	13.62
Insurance	48,150	35,500	45,100	45,700	(2,450)	28.73	(5.09)
Equipment Costs & Maintenance	47,960	36,000	43,650	60,150	12,190	67.08	25.42
Depreciation	146,243	149,250	190,000	200,100	53,857	34.07	36.83
Office Overheads	65,850	72,100	93,100	78,000	12,150	8.18	18.45
Technical Communications	141,300	132,100	170,000	0	(141,300)	(100.00)	(100.00)
Telecoms & Website	0	0	0	239,400	239,400		
Printing & Design	69,000	48,800	55,000	105,750	36,750	116.70	53.26
Legal Fees	150,000	271,000	337,000	265,000	115,000	(2.21)	76.67
Accountancy & Audit	16,000	17,300	21,000	30,000	14,000	73.41	87.50
IT & Industry Consultancy	29,500	25,000	25,000	0	(29,500)	(100.00)	(100.00)
Industry Consultancy	0	0	0	20,000	20,000		
Research	30,000	0	30,000	45,000	15,000		50.00
External Affairs	57,800	60,000	77,000	86,700	28,900	44.50	50.00
Independent Appeals Body ***	8,400	8,930	0	9,000	600	0.78	7.14
Total Expenditure	2,766,383	3,004,400	3,821,850	4,312,750	1,546,367	43.55	54.34

100.00%

100.00%

Estimated Income from other sources**(500,000)****(500,000)**

(includes fines, administrative charges & bank interest)

16.64%

11.59%

Net Expenditure**2,504,400****3,812,750**

83.36%

88.41%

*** Members of the Independent Appeals Body (IAB) are employed by ICSTIS for administrative purposes only. The IAB acts entirely independently of the company.