

0871 premium rate services - Consultation Response

I am pleased to offer personal comments in response to the consultation on the regulation of "0871 premium rate services". I am happy for these to be published under my name.

David Hickson

Friday, 22 June 2007

Introduction

I regret that as a potential and actual consumer of these services I have not been able to study and understand the implications of me providing agreement or disagreement with the specific questions asked. This is surely a matter only for those whom ICSTIS exists to serve, i.e. Ofcom and providers of premium rate services - its stakeholders.

I have however been encouraged to respond, and note that responses from other consumers have been accepted and published.

As ICSTIS is an independent body with no duty to consumers or citizens, I cannot see what status any response from a consumer and citizen may have. My comments must therefore be regarded as being addressed to Ofcom, which does carry those duties, although subcontracting this particular aspect of its work to ICSTIS as provided for under the terms of the Communications Act.

Premium rate numbers

With effect from the introduction of these regulations, 0871 numbers will be finally recognised as being "premium rate numbers". A "premium rate number" being defined as a means by which the holder of that number provides a **chargeable communications service to paying customers**. By calling such a number the caller effectively engages in a commercial transaction with that person. The telephone service provider is acting simply an agent having no control over the value delivered by the transaction, although it collects the fee adding its own part of the call charge.

Terms and conditions

Anyone providing such a service must, as with any commercial transaction, make the nature of the service being provided and the terms of its provision clear to the potential customer in advance. The "person" providing the service must also be clearly identified.

These requirements must be met whenever calls to a premium rate number are solicited in any way.

In all cases the rate of charge must be specified. Appropriate reference must be made to the differential surcharges applied by all those telephone service providers who may provide access to the service. As they are only agents of the service provider, it is that provider's responsibility to ensure that its customers are aware of the full cost.

(If premium rate service providers are unhappy with the degree of price transparency demanded of the telephone service providers by Ofcom, it is for them to make appropriate representations so that they may be relieved of the burden of advising many different tariffs. They could also be more selective in choosing their agents.)

0871 premium rate services - Consultation Response

Definition of the service

One vital aspect of the definition of the nature of the service is to distinguish between calls consisting of a two-way conversation and those where the call will be handled by an automated answering service. In the latter case, it may be necessary to specify the minimum / maximum duration of an effective call (or the associated aggregated cost).

Combined service calls, where part of the service is provided by an automated answering device and part by a two-way conversation, cannot be said to fall within either of the two primary categories. They must be described separately with the two components described and specified as appropriate.

Presenting such a service as simply being for a two-way conversation is a false description and should be regarded as a breach of the Code.

Whilst poorly reproduced music interrupted by a repeated message advising that all agents are busy could be seen as an entertaining and informative service, it cannot be described as being a two-way conversation service.

If required to identify that such a service is not simply a two-way conversation, where no charge would be incurred until the call is answered or if no agent was available to answer the call, providers of combined services will rightly need to make considerable efforts to win customers to use such services.

Implications of a proper definition of a premium rate service

Those who provide premium rate numbers as their only means of contact must be required to make it clear that they charge a fee for engaging in conversation and / or for joining a queue to conduct a conversation. Whatever branding techniques may be used in an attempt to dilute the fact, it must be recognised that they are in the same business as those providing sexual entertainment services.

It is vital that the responsibility for advising the charge lies with the holder of the premium rate number, as they have chosen to provide the service. The charging for premium rate calls must not be confused with the general call tariffs offered by telephone service providers.

CLI

It follows from the above that premium rate numbers could never be presented as CLI, as this implicit invitation to make a return call cannot include the necessary information. Any use of a registered number as CLI should be treated as a breach of the ICSTIS Code.

It would be most desirable if Ofcom were to impose requirements on telephone service providers to suppress such numbers when given as CLI, as this would prevent possible breaches. (Mechanisms are already in place to suppress CLI under certain circumstances).

It should be noted that Ofcom already regards provision of a premium rate number as CLI as an example of persistent misuse of a telecommunications network or service. I am told that, despite its previous determination, it will not be treating 0871 numbers as falling within this definition until they are covered by the ICSTIS Code.

0871 premium rate services - Consultation Response

0871 numbers

I see no good reason why the ICSTIS code should not treat all use of premium numbers as being subject to the requirements stated above, as well as whatever other requirements are specified in the Code. These comments have been prepared with particular reference to 0871 premium rate services.

Final Comments

It is to be regretted that Ofcom has had no part in this consultation, so that its primary stakeholders, consumers and citizens, could be formally involved. If comments from the consumer perspective are being sought then relevant points from the responses to the recent Ofcom public consultations on NTS could be considered.

It is also to be regretted that present government proposals for an independent "Consumer Voice" to be an advocate for the consumer interest in regulated industries will not cover telecommunications.

Given the extended scope of those who will become ICSTIS stakeholders under the new regime, self-regulation seems an odd concept. To be effective "self-regulation" requires a common interest, which will be hard to find between public bodies looking to recover some of their call centre costs and those running highly profitable, if morally questionable, entertainment services.

Please feel free to contact me if I can help with any further information.

David Hickson

Friday, 22 June 2007