

28<sup>th</sup> June 2007

Mr Nathan Marshall  
Project Manager  
ICSTIS  
Clove Building  
4 Maguire Street  
London SE1 2NQ

Dear Mr Marshall,

### **0871 SERVICES: AN ICSTIS CONSULTATION**

I responded to your previous Pre-Consultation on your proposals for the 0871 number range at some length but unfortunately all the points I made were clearly entirely ignored in formulating your current consultation document.

This seems to be because like Ofcom although your organisation pretends to be regulatory in nature it is in fact entirely funded by and controlled in political terms by the bodies that it purports to regulate and so the only purpose of these various so called NTS consultations (first from OFTEL and Ofcom and now from ICSTIS) is to create an elaborate smoke screen for an all too gullible UK press which has been hoodwinked in to believing that something is being done about the huge clamour of public opinion against the increasing use of covert Premium Rate tariff (and especially 0870) Non Geographic Numbers by UK businesses. Whereas the reality is that the entirely cynical and extremely well paid directors of both Ofcom and ICSTIS in fact then simply proceed with a slightly amended (and in this case significantly more profitable) version of their original business plan for the continued growth and further expansion of the NTS call queuing money spinning industry.

### **Previous attempts By OFTEL and Ofcom to Mislead the Public That It Is Taking Action Over NTS Numbers While In Fact Continuing to Work to Perpetuate and Expand Their Use**

In the last 3 years I along with other consumers who oppose the use of covert premium rate NTS revenue sharing numbers for reaching contact centres of companies that previously used ordinary priced geographic phone numbers and who support the [www.saynoto0870.com](http://www.saynoto0870.com) website (and also participate in its discussion forum) have responded to around 4 previous Ofcom and one OFTEL consultation on NTS numbers as well as the ICSTIS Pre-Consultation a few months ago.

In each case we have responded on the premise that the regulator was intending to fulfil the remit given to it by Parliament to consider first the best interests of UK citizen consumers in telecommunications markets as required by Section 3 (i) of the Communications Act 2003 as well as fulfilling duties delegated to it to ensure the implementation of the EU Misleading Advertising Directive.

However along the way we have unfortunately changed from being reasonably a positive group of individuals, who assumed that the original exploitation of the NTS numbering system against consumer interest was simply a regulatory mistake, in to being a group of relatively hard bitten cynics who have had to recognise that the regulators OFTEL, Ofcom and ICSTIS were and in fact still currently are staffed by almost entirely unprincipled

individuals who like to tell consumers they are listening to their concerns and will act on them only to then secretly meet with precisely the commercial forces who wish to see the retention of as much of the NTS industry as possible. They do this in meetings held behind closed doors with the industry such as Ofcom's NTS Focus Group (a group which seems to have as its primary remit working behind the scenes to block nearly all the high minded sentiments expressed in Ofcom's NTS consultation documents and to think of 101 ways to avoid and evade proposals to close down an industry which relies on stealth and on blatantly lying to consumers about the costs of making these calls and also on entirely duplicitous and untrue claims that lengthy call queues occur by accident rather than by purposeful design).

### **0871 - A Way to Work Round Alleged Ofcom Proposals to Close Down 0870 and Instead to Make Them In To Higher Priced 0871 Calls**

Having read through this document from ICSTIS it is clear that since ICSTIS frequently refer to having consulted with Ofcom about the document there can be no doubt at all that senior executives at Ofcom have previously purposefully misled the public and journalists about their intentions over NTS calls and have specifically broken promises made in the NTS Way Forward consultation that moving 0871 numbers to ICSTIS control would ensure that these numbers were regulated in the same way as other 09 Premium Rate numbers.

The clue that this was always little more than a bare faced lie by Ofcom lay in the fact that either Ofcom or its predecessor OFTEL (the two are indistinguishable for consumers in terms of their regulatory approach to the telecoms industry) deliberately chose to allow to let the public be further confused in the early 2000s by allowing a number range previously long mismarketed to them with Ofcom's blessing as being only National Rate - i.e. 087 - to be further corrupted by the addition of higher priced call classes starting 0871. And after reading this document and the attempt to now almost totally sweep away normal ICSTIS premium rate controls for 0871 numbers it is clear to me that this was sadly not an accident but all part of an elaborate long term strategy hatched between Ofcom and ICSTIS to save the highly profitable NTS call centre industry in order to protect the commercial companies which both Ofcom and ICSTIS directors have unfortunately come to see as being their real hidden principal duty to protect, since they provide most of the annual fee income of those bodies.

### **Ofcom's Deliberate Attempts to Confuse in NTS Way Forward Vs A Fair and Rational Solution to Reforming NTS**

Anyone who knows anything about the history of telephone numbering and the development of NTS cannot come to any other conclusion that in its proposals in NTS Way Forward that Ofcom Executives were acting in completely cynical and deliberate disregard of the requirements of the EU Misleading Advertising Directive and Section 3(i) of the Communications Act 2003 (requiring that Ofcom make the best interests of UK citizen consumers its principal duty to protect).

It is not Rocket Science to see that an easy solution to all the confusion about 084/7 numbers was actually to hand and that what Ofcom should have done in NTS Way Forward was to in the long term return the whole 08 prefixed number range to its original intended use for FreePhone numbers only and then given all 084 and 087 number operators a choice between moving to the new 03 NTS number range, where the public paid the same price for calls as normal 01 and 02 calls and instead the call centres paid for the added value that they derived from the so called advance routing features of NTS numbers, or alternatively if companies wanted to continue to earn revenue share from customers they could move to the 09 number range clearly associated in the public's mind with revenue sharing and for paying for goods and services via the cost of a phone call.

But what did Ofcom do instead of this? Instead it came up with a solution that has no logical basis in terms of the technical characteristics of the NTS call routing system or of its own National Telephone Number Plan but was purely designed to ensure that the companies Ofcom regulates (which Ofcom has an unfortunate tendency to see as being its members because they provide all of its income) actually hung on to as much revenue share for as long as humanly possible.

This was achieved as follows:-

A. By giving the press a headline telling them that the most unpopular class of NTS calls at that time (0870) were being returned to normal priced calls (although with a cunning exception that if a higher call price announcement was made then that was OK that will probably soon be exploited by the UK mobile phone industry after 1<sup>st</sup> Feb 2008) while at the same time then strangely moving the almost identically numbered 0871 to 0879 ranges to ICSTIS with the similarity in numbering obviously being designed to ensure that the majority of the public then became totally confused about which 087 numbers were charged at normal UK rate after 1<sup>st</sup> Feb 2008 and which at Premium Rate. It is hard to conceive of any other reason why Ofcom allowed 0871 to 0879 to be migrated to ICSTIS other than a clear cut attempt to allow the money making 0871 industry to continue its activities unimpeded.

B. At the same time Ofcom spun the yarn that the formerly cheaper than 0870, 0845 number class could not be turned back in to normal priced calls as this might lose a bit of money for a fast collapsing 0845 dialup ISP marketplace and was allegedly (but not actually) technically tricky to implement. Thus Ofcom claimed that 0845 numbers needed to stay at a higher rate than 01 and 02 numbers for at least two more years and probably longer. The result of this is that after 1<sup>st</sup> Feb 2008 thousands of charities and police forces and local government contact centres who originally picked 0845 because they were at that time originally supposed to be Lo-Call find that they will now still have premium rate numbers and must go through all the cost and expense of moving to the 03 number range if they want to avoid this (yet at the same time the remaining 0845 dial up call centre industry that will not be inconvenienced in any way is now miniscule). In addition Ofcom decided there was no need to do anything at all about 0844 revenue share numbers at up to 5p per minute now widely used by the company Patientline to increase the cost of calling doctors surgeries and despite the obvious potential to confuse 0844 numbers with 0845 numbers once misleadingly known as Lo-Call.

### **ICSTIS Launch of 0871 Without Any of the Protections Associated with Premium Rate Numbers**

The final saga of this quite breath-taking chain of regulatory hijack by the forces of commercial telecommunications duplicity is for ICSTIS to ignore all the consumer feedback it received to its Pre-Consultation on 0871 numbers and to some how pretend that consumers are not stakeholders and so do not count. It has then simply continued on with the original master plan to protect and enhance the profitability of the NTS call centre industry.

Despite Ofcom's promise that 0871 numbers would be subject to the same regime as 09 PRS numbers and have the same obligations as 09 PRS numbers we now find that, like so much connected with the so called Premium Rate Regulator (itself in fact a money making business) to have been a despicable deception.

Despite Ofcom having moved 0871 numbers to Premium Rate Regulation precisely because many members of the public and several well known members of parliament were absolutely furious about having to routinely be detained at the weekend and in the evenings (when call queues are far worse but when the 9am to 5pm regulators never do any of their call centre waiting time research) for 20 to 60 minutes to speak to their bank or energy company ICSTIS now suggests that these organisations are in fact providing valuable enhanced consumer

services that consumers enjoy and that there is little evidence of any consumer harm and no need to impede the smooth running of the oiled wheels of call centre queuing and money making.

But of course what other behaviour can we expect from an inherently flawed premium rate regulator that derives its income from an 0.34% levy on the outpayments to NTS call centre operators and so which therefore has every possible incentive to see that industry grow as much as possible in order to see the salaries of its own staff and its total staff numbers increase as much as possible

Ofcom and ICSTIS represent the worst possible example of the inevitable consequences of appointing poachers as gamekeepers, except that in this case the bulging bags of the dead animals and heavy bore field guns concealed under their regulatory tunics are all too pitifully and painfully visible to the public that they have convinced themselves they can so easily take in.

### **No Limits on Call Queuing on 0871 and No Requirements For Call Price PreAnnouncements - ICSTIS and Ofcom's Final Cynical Breach of Their Duty of Care to The Public**

In view of all of the above and all the complete web of fabrication in the ICSTIS consultation document about the popularity of the services provided on these numbers it should perhaps be no surprise but is still shocking that ICSTIS thinks it can simply sweep away promises previously made by Ofcom for the equivalent regulation of 0871 to other PRS numbers by instead imposing no limit at all on the length of call queuing and not making compulsory pence per minute call price pre announcements so that the web of deliberate duplicitous confusion about the cost of calling 087 numbers clearly secretly always intended when ICSTIS was given control of the 0871 to 0879 codes by Ofcom is now complete.

As of 1<sup>st</sup> February 2008 we will find the apparently tortuous difficulty of changing a company's phone number always cited as being the reason for using 0845 and 0870 numbers is suddenly no problem at all and consumers calling the customer helplines of many of the UK's largest but more faceless and hardnosed companies will be greeted by recorded announcement telling them to redial on an 0871 number.

ICSTIS says the present size of the 0871 market is just over £300 million and that 0870 is much larger so it doesn't take the worlds finest statistician to calculate that as of 1<sup>st</sup> Feb 2008 the 0871 market will suddenly become a billion pound industry while the number of now normal national priced 0870 numbers that are switched off overnight by the hidden charge grabbing NTS industry will number in the tens of thousands.

### **No Limit On Call Queuing and No Self Enforcing Mechanism To Prevent Queuing**

As 0871 numbers are limited to 10p per minute it is perhaps not surprising that ICSTIS did not choose to impose precisely the same strict 15 second call queuing limit it uses for calls costing more than 25p per minute but what is shocking is that ICSTIS did not set a reasonable queuing limit instead such as 60 or 90 seconds and has not created a self enforcing mechanism to disincentive call queuing in the shape of calls being auto disconnected if not answered after 60 or 90 seconds with the original call and call connection charges then being refunded to consumers plus a flat rate compensatory payment of say 25p for all the inconvenience caused by having to call and not being answered within this timescale. In addition any company breaching the queuing limit ought to have been compelled by ICSTIS

to offer a free of charge service to leave a message after the 60 or 90 seconds is up and then if companies do not get back to the customer at their phone call cost within say 2 hours any customer successfully reporting the breach to Ofcom would be given an automatic £100 compensatory payment.

In this way measures would have been put in place to prevent deliberate abuse of the call queuing which ICSTIS and its call centre industry business partners always claim only occurs due to incompetence rather than due to malfeasance but which in reality is a vital part of their business model. The reality is to the typical cynical hard bitten call centre company with customers on one year or longer notice contracts the high cost of calling 0871 numbers provide several ways of offering bad service while also making a profit in the process. The company is firstly able to limit total call centre staffing costs by reducing the number of advisers required below the level needed to answer calls in under 60 seconds at all times of day and as a result call queues then accumulate which firstly deter most customers apart from those with the most pressing issues from bothering to try to get through at all in the first place, or if they do try to get through they often end up hanging up in disgust and frustration after queuing for say 15 minutes and then having to pay £1.50 for precisely no service at all.

The standard economy with the truth (and most of the UK call centre industry that uses chargeable to the consumer NTS number is built on a multiplicity of economies with the truth) that the call centres come up with is that they would have no reason to want to keep customers on hold but the reality of the matter is that when they are earning revenue share on the calls of up to around £4.00 per hour on an incoming 0871 call and when the call can be taken in India where the hourly wage is under £1.00 an hour and the marginal cost of carrying the call to India may be nil they have every incentive not to be concerned about extended call queuing times as the customer is frequently locked into a long contractual relationship and so has to make the call and in reality they the company are actually defraying more and more of their call centre operating costs the longer is the hold period before the call is connected.

A rather good trick of the regulator Ofcom is to only survey call queuing times at a random scatter of all NTS call centres from Monday to Friday 9am to 5pm when most consumers are busy in their jobs at work and call centres relatively well manned. But if Ofcom did its research by measuring call centre queuing times in weekday evenings, overnight and especially at the weekend and concentrating on the call centres where the largest call volumes are made (eg broadband technical support, utility companies, airline customer support numbers and pay digital television companies) it would find a very different pattern emerging with most call queues routinely over 5 minutes and queuing of 10 to 30 minutes being nothing unusual and with queues of 60 minutes and over for broadband ISP technical support on 0870 and now 0871 being far from unheard of.

Thus ICSTIS's suggestion that no finite call queuing limit should be set is quite outrageous and has clearly swept in to the dustbin all consumer feedback to its own Pre-Consultation and to Ofcom and puts first only the wishes of the NTS call centre industry (on which ICSTIS's own income depends) to continue its previous practice of making customers queue for up to half an hour or more at their expense and for vast swathes of the 0870 call centre industry to transfer to 0871 at higher call rates as a result.

This will not do and if the transfer of regulation of these numbers to ICSTIS is to mean anything and become true Premium Rate regulation the length of call queues must be physically limited by equipment that cuts off and automatic refunds the call charge after 60 seconds if not answered, also there must be a pre announcement of the call price and there must be a facility for the consumer to be rung back with the call price at the end of the call.

**Why Not Only Charge Consumers For Queuing And Only Charge Them For The Time They Are Speaking To An Adviser?**

In amongst the half truths and economies with the truth that the regulators (OFTEL, Ofcom and now ICSTIS) find essential to justify the continuation of the financial gravy train that is the chargeable 084/7 call centre industry for captive customers there is a lot of talk of not much financial detriment and various other drivel that is written purely from a call centre industry perspective.

But what is the real world. The real world is that unlimited call plans to all 01 and 02 numbers now cost as little as £5 per month but that someone based at home and not making their personal calls at their employer's expense (there is a massive hidden cost for business these days with home related 084/7 call use at work) finds they typically need to make 20 minutes or more of calls to 084/7 numbers per weekday and those calls may therefore add up to £1.00 per day at present and around £1.30 per day once ICSTIS has raised the price by 3p per minute to 10p per minute with no beneficial restrictions on use for consumers. So this could mean someone who is retired or working from home paying at least £6.50 per week or £84.50 per quarter in calls that should have been covered by a calling plan at only £5 per month or £15 per quarter for all 01/02 calls. Over a year this adds up to a staggering £338 a year extra on phone costs in calling these numbers. This is not a fanciful example and any checking of the phone bills of many UK households with fixed price call plans to 01/02 numbers will show that out of still individually chargeable calls on the bill 90% of them by value are now made to 084/7 NTS numbers.

So even if ICSTIS believe that speaking to your bank or your energy company is in some way a special value added service (and where is the value added) that justifies a higher phone charge how can ICSTIS justify people arbitrarily and randomly and with no control being subjected to paying £2 or £3 charges for being kept on hold for 20 or 30 minutes when they have no control over those queues and ICSTIS have not even imposed a requirement for equipment that shows how far down in the queue you are or how fast you are moving up it?

So surely if we are to accept the principal of 0871 numbers at all as a way of companies being able to blackmail their customers in to dealing with them by email or on a website instead (one of the main reasons these numbers are now used) how can it be acceptable for customers to pay for holding time that is actually the fault of the inefficiency of the call centre? Well blatantly it clearly isn't fair or acceptable and an easy technological solution could be provided where the call pulse charges that bill customers only start once a call is connected to a call centre adviser and with all queuing time prior to that being paid for by the call centre at a lower call centre holding rate that reflects the fact that they do not need to pay money back to themselves for holding time but do need to pay their NTS service provider for the utility they are gaining from the enhanced call routing features. Even if we moved to this situation there would still be some potential for abuse when customers are put on hold for several minutes after first being answered by an adviser while advisers have discussions with their supervisors so again customers should not pay when a Hold button is pushed in a call and they are only listening to music on hold.

### **No Restriction on The Type Of Calls That Can Be Routed to 0871 Numbers**

A further very worrying aspect of this consultation document is the failure of ICSTIS not to limit the type of calls that can be made to an 0871 number.

So for instance while it may be acceptable to use 0871 for a service where some value is being added like a marine weather information line how can it be acceptable for a consumer of a gas or electricity company to have to pay above a normal call price to contact their supplier about errors in meter reading or billing? This gives those companies absolutely no incentive to be efficient in dealing with customers and nor does the failure to limit call queuing time.

The whole intention of course by ICSTIS is to completely subvert what Ofcom claimed were its original intentions about returning 0870 calls to normal 01/02 geographic rate, with most private sector businesses on 0870 numbers who were not misold the numbers originally moving to 0871 and probably only the odd embarrassed charity and public sector organisation instead either keeping their 0870 number or getting a new 03 geographically priced number instead.

In other words the commitments given by former Ofcom Communications Director Matt Peacock in an 8<sup>th</sup> November 2004 interview (see <http://www.saynoto0870.com/cgi-bin/forum/YaBB.cgi?num=1100455710/11#11>) on the BBC Radio 4 You & Yours program are proven to be completely worthless and Ofcom has neither forced companies running NTS numbers to reach their call centres to publish a geographic alternative number nor made the use of NTS numbers charged at above geographic call rates by public sector organisations like councils or the Police or government departments or agencies illegal.

It is notable that when Ofcom actually has the political will to do something that is apparently quite difficult to achieve like making all broadband ISPs issue MAC migration codes to customers it can do it very quickly in 2 months but when the regulator does not want to do something like eliminating over charging for NTS calls (because it is damaging to the profitability of the companies in the industry who provide its own fee income) it delays and delays again for several years through consultations then finally it hands the problem to another regulator so it can wash its hands of commitments previously given by its own Communications Director over how it would deal with the problem (a Communications Director who conveniently enough has now been replaced by the former Communications Director of Sky Digital - one of the largest users of chargeable NTS call centre numbers in the country and a likely future major user of 0871 numbers in place of 0870).

Ofcom's own record in failing to properly exercise its principal duty to protect the interests of UK Citizen consumers over the misuse of high priced NTS numbers with no proper price indication and frequent lengthy queues is nothing short of a disgrace and now not content with allowing the continuation of £3.00 an hour NTS lines to call doctors surgeries and government agencies on 0844 under its own jurisdiction it is to allow most higher priced 0870 numbers to gain a near 50% price increase in the weekday daytime and an up to 560% price increase at the weekend by converting them in to 10p per minute at all times 0871 numbers regulated by ICSTIS.

This is an utter disgrace and shows that Ofcom is a totally failed regulator that is not fulfilling its principal duty and is ignoring the frequent Parliamentary questions asked about these chargeable NTS numbers by MPs in Parliament. Unfortunately both Ofcom and ICSTIS seem to feel they are above public accountability and that their only mission is to plough on with growing their own empires by making business conditions more favourable for the industries which they regulate and on which the level of their own fee income depends.

### **Cost of Calling 0871 From Mobiles and Calling Cost and Accessibility From Overseas**

Another matter not covered in the consultation are the issues of calling 0871 numbers from mobile phones and payphones in the UK and calling them from overseas from fixed landlines, payphones and mobile phones.

Unfortunately traditionally the mobile phone industry seems to have regarded the routing of calls to 084/7 and even 0800 and 0808 numbers (which the inept Ofcom unfortunately allows to be chargeable calls with no free mobile calls other than to 999/112) as a charter for utter consumer exploitation.

Thus if one ignores the 0800 and 0808 issue although I accept that there is a higher cost in carrying calls to 084/7 numbers including 0871 than 01/02 numbers due to the mobile company having to pay a revenue share to the terminating number, why is it that mobile operators then seem to use that as an excuse to then multiply that additional fee by 7 or 8 fold as apparently a covert premium rate call that they hope their customers will dial without even realising that they cost any extra. This is especially the case with Pay As You Go mobiles where most network operators refuse to offer any call itemisation (again due to weak and pathetic regulation of the industry by Ofcom) and so often customers may never realise how much extra those calls cost them compared to calling 01 and 02 numbers.

So as ICSTIS only directly controls the call centre's actions under these proposals how does it propose to work with Ofcom to ensure that 0871 numbers can be accessed from a mobile phone at a price that only reflects the surcharge necessary to pay the additional cost of the revenue share to the call centres and to the NTS call routing company routing the call and is not a 6 or 7 or even ten fold multiple of that additional cost?

Surely a mobile phone company should not need to earn any more profit per minute from a call to an 0871 number than to an 01/02 number so all it should need to do is to recover its extra costs in carrying the call, thus resulting in a charge of say up to 8p or 9p per minute extra rather than a Premium rate of say 50p or even 75p per minute as I am all too fearful we will soon see being charged from mobiles to 0871 numbers. And where does that extra charge go above extra cost go. Well of course straight in to the profits of the mobile phone company

Also since ICSTIS does not propose to significantly control the type of services using these numbers what thought has been given to the interconnect arrangements from overseas?

If people's banks, airlines etc use these numbers then it is perfectly likely UK customers will need to contact them when abroad so what is ICSTIS doing to ensure that all 0871 numbers will be connectable from overseas telecoms providers and also that they are connectable at a call rate that only reflects the 8p or 9p per minute extra cost associated with an 0871 number call and not a six, eight or ten fold multiple of that 9p meaning say a £15 charge for needing to call your bank or your airline for 15 minutes from overseas.

It seems that ICSTIS has conveniently overlooked this aspect with the entire focus of its document being on the needs of its call centre industry partners and not the needs of the public. So if ICSTIS has ignored it how does Ofcom propose to use its backstop powers under the Communications Act 2003 to ensure the public is not grotesquely ripped off and/or simply cannot make essential calls to 0871 numbers from overseas at all?

Alternatively can ICSTIS at least make it compulsory for 0871 numbers to publish a geographic UK phone number prefixed +44 for use by customers when overseas? Even if that geographic number is blocked for use when calls are originated within the UK.

## **Summary**

In summary ICSTIS's proposals for controlling 0871 numbers are completely and utterly unacceptable for the following reasons:-

1. They do not limit maximum call queuing time and do not prevent call queuing time being chargeable to the customer.
2. They do not utilise obviously available technological solutions that will ensure that call queues do not exceed 60 seconds and that if they do so a small compensatory payment of 25p

is made to the customer who must then be allowed to leave a message and phone number and be called back within 2 hours at the call centre's expense (failure to do which would result in a payment of £100 automatic compensation to the customer).

3. They do not make it compulsory for customers to be told how far down in a call queue they are or for how many minutes they may hold if call queue length remains unrestricted.

4. They do not prevent the use of the numbers by public sector organisations.

5. They give no thought to the likelihood that vast premium rate prices will be charged for accessing 0871 numbers from overseas and from UK payphones and mobile phones and hotel phones.

6. They do not provide for pre announcement of the cost of calling the numbers before the caller is connected or for immediate calling back of the call after the call to be told the total call cost.

### **ICSTIS Questionnaire**

I do not propose to respond to ICSTIS's questionnaire as it appears to be solely focused on the needs of the telecommunications industry to be able to extract as much money from consumers as possible as covertly as possible and clearly has not been constructed with the consumer in mind or to allow them to express their discontent with ICSTIS's proposals to allow vast swathes of the billion pound 0870 call centre industry to simply change numbers to 0871 on 1<sup>st</sup> February 2008 and vastly increase their profitability as a result.

Yours sincerely,

Julian Shersby