



## **BT response to “0871 Services: an ICSTIS consultation”**

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## **Introduction**

BT welcomes the chance to comment on this consultation and is pleased to see that ICSTIS is actively seeking input from stakeholders as to the scope of 0871 regulation.

### **1 Summary**

In general the emerging 0871 market is very different to the established premium rate services (PRS) market. Generally, any revenue share is a bi-product of the business rather than the core function of the business as it is with PRS. Therefore BT does not believe that the proposed level of regulation is fair or proportionate at this time due to the lower call costs involved and the lack of evidence of consumer harm.

BT understood from the pre-consultation that the intention was for lighter touch regulation with swift intervention and tough sanctions where unscrupulous organisations are operating. BT believes that such an approach would be more proportionate.

BT believes that these proposals could hinder the growth of the 0871 market, especially at the small business end of the market, and potentially would nudge providers towards alternative number ranges.

## **2 Response to specific questions**

### **Change of Code or Statement of Application**

**Question 1** Do you agree with our proposal to create a Statement of Application for the 0871 number range? If not, please provide your reasons and alternative suggestions.

BT supports the principle underlying the creation of a Statement of Application as it should allow the regulation of 0871 to be more flexible and more quickly implemented. However, BT does have grave concerns as to whether the level of regulation outlined is fair or proportionate.

Regardless of the level of regulation it is vital that service providers (SP) are aware of how to comply and ICSTIS should develop a simple help note. The help note should contain only the absolute essentials that a SP needs to know and act upon. It is unreasonable to expect a single-person business to read and fully digest an 82-page Code of Practice; the requirements of network operators, for example, are of no interest to such a business.

### **The Code of Practice and its application**

#### **Section 1 - Introduction**

**Question 2** Do you agree that the current application of Section 1 of the Code is appropriate to apply to the 0871 number range? If not, please give your reasons.

BT agrees that this section of the Code is appropriate to 0871.

#### **Section 2 – Network Operators**

**Questions 3** Do you agree that this is a fair and proportionate application of the network operators' due diligence requirements to the 0871 number range? If not, please give your reasons. ICSTIS would welcome further information regarding quantification of costs.

In general the 0871 market is very different to the PRS market especially as any revenue made is a bi-product of the business not the core function of the business as it is with PRS. Therefore BT does not believe this is fair or proportionate due to the lower call costs involved and the lack of evidence of consumer harm. Regulation cannot be evidence based unless it is transparent and whilst ICSTIS refer to "a sufficient number of complaints" (page 10 of the consultation) there is no detail to support this comment.

BT believes that these new regulations may hinder the growth of the 0871 market, especially at the small business end of the market, for example, the plumber scenario.

BT is also very concerned about the need for retrospective due diligence checks on customers with whom we have a contract with for at least eight weeks prior to the changes coming into force. Whilst ICSTIS have planned a 10 month window for these checks to be completed BT suggests that this proposal is onerous and excessive. BT's experience of this retrospective requirement for PRS has not been positive as it has caused significant additional work and in some cases embarrassment as many of our customers are well established corporate businesses. BT suggests that checks should only be carried out on new customers or if it is deemed necessary to check existing customers this should be done at contract renewal time.

BT believes that a more appropriate solution would be for the initial regulation to be lighter touch with swift intervention and tough sanctions should problems arise.

**Question 4** Do you have any further information and evidence regarding usual payment times? Additionally, it would be helpful to have responses that indicate to what extent service providers rely on immediate payments from network operators to cover their operational costs.

BT's standard payment terms are 30 days after the calls have been made. BT doesn't believe this will be an issue for service providers as revenue generation is not the core reason for the use of the number.

**Question 5** Do you agree that this is a fair and proportionate application of a delayed payment mechanism to the 0871 number range? If not, please provide your reasons.

As there is no change for BT's customers BT supports this proposal.

### **Section 3 – Service Providers**

**Question 6** Do you agree that the current application of Section 3 of the Code is appropriate to apply to the 0871 number range? If not, please provide your reasons.

BT again reiterates that the PRS market and the emerging new 0871 market are very different.

In 3.2 of the Code ICSTIS requires service providers to complete the on-line registration and submit various details about themselves. Smaller businesses such as the plumber scenario may encounter difficulties with this form, for example they may not have email or web access, they may not be a limited company, they may not have purpose made customer service arrangements, etc.

In addition the form doesn't capture the most useful information i.e. the detail of the service and the number used. This information could have consumer value if added to the number checker.

BT recommends that a simple to follow help note is developed to help service providers comply with the new regulations.

### **Section 4 – Information Providers**

**Question 7** Do you agree that the current application of Section 4 of the Code is appropriate to apply to the 0871 number range? If not, please provide your reasons.

As ICSTIS have proposed that the Code obligations for network operators and service providers should apply it should follow that the information provider obligations should also apply.

## **Section 5 – General Provisions applicable to all Premium Rate Services**

**Question 8** *Do you agree that it is fair and proportionate to apply ICSTIS' current application of the prior permission regime under Section 5.1 of the Code to the 0871 number range? If not, please provide your reasons.*

Many 0871 customers will be new to regulation and BT suggests that it is essential that simple and easy to use guidance is available in the form of a simple help note containing only the absolute essentials that a customer needs to know and act upon. ICSTIS may even like to consider developing the on-line registration process so that it captures the type of service involved and can as a result present the relevant guidance via an appropriate media. For example, it is important to understand the difference between when professional advice is being offered vs customer support e.g. a customer calls a plumber about a leak and the plumber arranges an appointment and also offers immediate, essential advice about turning off the water.

**Question 9** *Do you agree that Option D is a fair and proportionate application of the undue delay requirements in paragraph 5.4.2 of the Code to the 0871 number range? If not, please provide your reasons and alternative preferred option. Additionally, please provide details of any other options you feel may be appropriate for ICSTIS to consider.*

BT agrees that option D is fair, proportionate and seems a practical and sensible solution to what seems to be a perceived issue. BT therefore supports this proposal.

BT is interested to know how the regulations would apply to 0871 services where the ring tone is provided by a piece of kit and not the exchange - this sort of service results in consumers being charged for ringtone.

**Question 10** *Do you agree that this is a fair and proportionate application of the pricing information requirements under Section 5.7 of the Code to the 0871 number range? If not, please provide your reasons.*

BT is in general agreement that this proposal is fair and proportionate. However there are a number of elements that BT believes need further clarification so that they can be developed into practical solutions. For example, BT is unclear whether service providers will be able to fulfil the in the call price warning message as per 5.7.3 of the Code. It is unrealistic to expect small businesses to comply with 5.7.3.

In addition, fixed and mobile prices vary significantly and whilst most messages make customers aware that there is a difference they do not stipulate the actual cost.

**Question 11** *Do you agree that it is appropriate to allow a three-month implementation period, as outlined above?*

BT is in general agreement with the theory of a three month implementation period. However ICSTIS need to consider the fact that many 0871 users are new to regulation and may either be unaware of what they need to do or may need help to be comply. BT will make its customers aware of the new regulations when possible; however it is important to note that response rates to previous communications on this subject are extremely low. ICSTIS also have a role to play in making service providers aware of these changes.

**Question 12** Do you agree that this is a fair and proportionate application of ICSTIS' scope of regulation in respect to content of services provided on the 0871 number range? If not, please provide your reasons.

BT agrees that it is right and proper to make a distinction so that ICSTIS deal with just the telephony issue arising from a complaint. This will ensure that if the complaint relates to a non-premium rate service transaction the customer can deal direct with the company responsible.

## **Section 6 – Provisions relating specifically to Live Services**

**Question 13** Do you agree that the current application of Section 6 of the Code is appropriate to apply to the 0871 number range? If not, please provide your reasons.

Section 6 of the Code concerns live services and it is BT's belief that it was originally intended to deal with 'adult' services. In addition, BT is aware that all sexual entertainment services on the 08 number range will shortly have to move to new 09 codes.

BT suggests that this section may be inappropriate for the 0871 market as we don't foresee these types of service being used on 0871. BT also reiterates the points made previously under question 10 about in call announcements. BT suggests that this section needs to be reviewed to ensure it doesn't limit the 0871 market in anyway as it implies some 0871 services may fall into this category unless specified otherwise.

## **Section 7 – Additional provisions relating to specific categories of service**

**Question 14** Do you agree that the current application of Section 7 of the Code is appropriate to apply to the 0871 number range? If not, please provide your reasons.

BT supports this proposal as it will ensure consistency for each different service type regardless of the number dialled.

## **Sections 8 to 11**

**Question 15** Do you agree that the current application of Sections 8 to 11 of the Code is appropriate to apply to the 0871 number range? If not, please provide your reasons.

## **Section 8 – procedures and sanctions**

BT is supportive of the use of emergency procedures and sanctions and in fact would prefer the starting point to be lighter touch regulation with swift action and penalties for transgressors.

BT suggests that ICSTIS will need review the first few cases very carefully to ensure no unfair precedent is set and to ensure that any resultant sanction is proportionate to the amount of consumer harm.

## **Section 9 – additional procedures concerning network operators**

BT supports the principle of all parties in the value chain being held accountable and responsible for their actions. However please note BT's concerns flagged under question 2 in relation to network operator due diligence.

## **Section 10 – Appeals**

BT agrees that the appeals process is vital and should therefore apply.

## **Section 11 – Framework**

BT believes that much of this section is irrelevant for the 0871 market and therefore has no concerns with it. There is however one area that needs further clarification - “live services” are defined under 11.3.23 as this implies some 0871 services may fall into this category unless specified otherwise.

## **Funding**

**Question 16** *Do you agree that this is a fair and proportionate application of the funding model in Annex 1 of the Code to apply to the 0871 number range? If not, please provide your reasons.*

BT supports this proposal as it is based on current arrangements and it therefore seems sensible to adopt as it is the least cost solution as it is already established.

## **Collection of the levy**

**Question 17** *Do you agree that this is a fair and proportionate method of collection of the funding levy to apply to the 0871 number range? If not, please provide your reasons.*

BT suggests having a minimum payment is logical, but is unsure whether this means that the larger players will fund regulation. BT would welcome sight of further analysis on this matter.

**Question 18** *Do you agree that a minimum payment amount from each network operator should be £500 per annum? If not, please provide your reasons.*

See BT's response to question 17.

## **Branding**

**Question 19** *Do you agree that it is not appropriate for ICSTIS to create and promote a separate brand for regulation of the 0871 number range? If not, please provide your reasons.*

BT agrees that it is not appropriate to create a separate brand for 0871. However BT does believe the ICSTIS rebranding will help to address some of the issues surrounding the terminology “premium rate services” but not all. For example the Code still talks extensively about “premium rate services” and the Statement of Application does not address this. It is important that ICSTIS work with Ofcom to ensure that the rebrand is taken into account under the scope review to try and ensure consistency where possible.

## **Areas not discussed**

**Question 20** *Is there any other way in which ICSTIS' regulatory framework should be amended or otherwise so as to regulate the 0871 number range in a way that is fair and proportionate?*

BT believes lighter touch regulation is more proportionate and only when there is evidence of consumer harm should the full Code be applied to 0871. In the interim ICSTIS have their emergency procedures and sanctions to fall back on.

ICSTIS should look at alternative ways of regulating the market. For example, if a SP has PRS numbers and also has 0871 services, then 0871 services could be treated as if it were PRS as the SP would have the ability to comply with the Code. Where a SP has only 0871 numbers a lighter touch set of regulations could apply and ICSTIS could place transgressors onto the full PRS regulations if problems occur.

## **Appendix A**

**Question 21** *Do you agree that this is an appropriate wording for a Statement of Application based on ICSTIS' proposals? If not, please provide your reasons and alternative wording.*

BT has concerns with the level of regulation proposed. Please see earlier comments.

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