

CABLE&WIRELESS RESPONSE TO ICSTIS' 0871 CONSULTATION

INTRODUCTION

Cable&Wireless is one of the world's leading international communications companies. It operates through two standalone business units - Europe, Asia & US and International.

The Europe, Asia & US business unit (formerly known as the "UK" business) provides enterprise and carrier solutions to the largest users of telecoms services across the UK, US, continental Europe and Asia, and wholesale broadband services in the UK.

Cable&Wireless is also one of the largest providers of non-geographic numbers in the United Kingdom. Non-geographic inbound calling services are provided to many of the United Kingdom's top businesses, with hundreds of thousands of numbers and many billions of minutes per annum.

EXECUTIVE SUMMARY

ICSTIS must explicitly recognise through the structure of 0871 regulation, the clear differences between consumer support services and more traditional 09 Premium Rate Services. Cable&Wireless are disappointed with the decision not to create a separate brand for 0871 which we and our customers view as a missed opportunity. As an alternative Cable&Wireless call upon ICSTIS to deliver the anticipated 'light touch' regulation for those services on 0871 where the potential for consumer harm is minimal.

- **PROPORTIONATE REGULATION:** Cable&Wireless welcomes ICSTIS' recent activity in providing increased consumer protection across Premium Rate Services (PRS). Similarly we agree that Ofcom's decision to bring 0871 under the ICSTIS umbrella understandably entails a degree of consumer protection measures. However we strongly believe that the level of regulation should be proportionate to the associated consumer risk reflected

by the nature of the services running on the 0871 range. Analysys, in their research, found “There is no evidence to suggest widespread consumer harm in this market currently”. This reflects the fact that the “primary uses of the 0871 number range are for support services provided by large corporations and for ticket booking services” where the greatest concern is to do with alleged deliberate and excessive call waiting times. A practice in itself which Ofcom found no evidence of in their research for the September 2005 NTS consultation. ICSTIS recognises that it needs to be mindful not only of existing 0871 services but also of the likely migration, in early 2008, from 0870 as a result of Ofcom’s current NTS policy.

It is Cable&Wireless’ view that ICSTIS, in the preparation of this consultation, has drawn heavily on its experience of the 09 range. As a result this has not always achieved a balance between the requirements of the corporate and business services wishing to operate on 0871 and the need for consumer protection. It was expected that the level of ICSTIS regulation would reflect 0871’s lower price points (of between 6ppm – 10ppm from a BT landline as opposed to a 09 price point of up to £1.50pm) particularly as Analysys found that there are “few genuine misuses in the 0871 market”. In contrast to this, the approach taken by ICSTIS has been to examine the current 11th Code of Practice and to evaluate whether it ‘could’ be applied to the 0871 range. In Cable&Wireless’ opinion this is a missed opportunity to advance a number range that has successfully offered revenue share, without the stigma associated with the 09 number range.

Cable&Wireless’ preference is for an approach that identifies and focuses on the strongest and most proportionate elements of the 11th code and instead asks the question ‘*should*’ this element of the 11th Code be applied? ICSTIS has in response to Ofcom’s document NTS: A Way Forward (pg5) stated that they would seek to disapply requirements where appropriate. Cable&Wireless does not dispute that the 11th Code represents a mature regulatory model that could be used as a potential framework. Cable&Wireless does however view that in this instance, for a section of the services operating on 0871, it is an entirely disproportionate measure. Had ICSTIS approached the Code from the angle of what *should* apply, we believe that a much leaner statement of expectations would have been proposed.

- **HEAVY REGULATION WILL DRIVE BUSINESS FROM 0871:** Section 2.4 of the research conducted by Analysys clearly shows that if a lighter form of regulation is adopted it will lead to further growth in the market; heavy regulation will lead to a market contraction. If a light touch approach is used we believe, and the Analysys research supports this, that it can enhance a successful revenue sharing range. ICSTIS' consumer protection objective can still be met in a much lighter format whilst protecting a highly successful market rather than driving business from 0871 and making it an extended ghetto of the current 09 market with all of the attendant consumer perception concerns.

If the result of ICSTIS regulation is migration away from 0871, ICSTIS will create not only a heavy regulatory burden, but also an expensive regime as ICSTIS will be obliged to adjust the levy to compensate accordingly.

- **BRANDING AND CONSUMER AWARENESS:** Ofcom acknowledges in its NTS: A Way Forward Statement (A1.41) that many consumers believe that there is nothing wrong with revenue sharing per se. The new ICSTIS brand of PhonePay+ reflects this. However a series of 'scams' and negative media publicity have tarnished the reputation of revenue sharing in the eyes of the consumer. We are disappointed that ICSTIS has not chosen to take an approach that would serve to reassure consumers in this regard. Our customers have made it clear that any association with 09 in the corporate arena will lead to companies dismissing 0871 as a viable number range. The creation of a separate brand would have prevented this. Whilst Cable&Wireless understands ICSTIS' reasoning for not creating this brand, both in terms of timescale and cost, we are disappointed that the final form of regulation does not more fully reflect the difference between traditional PRS style services and those 0871 services of the business and retail community. We accept that there is no particular distinction to be made between the 0871 and 09 ranges themselves, but the nature of the business models operating in this marketplace varies immensely and we contend that this is worthy of greater recognition.

Cable&Wireless' customers have made it clear to ICSTIS and us that they favour a completely separate brand for 0871. Those currently operating on 0870 at the start of 2008 will in some cases move from a situation where they currently receive millions of pounds in revenue share, to a situation where they will face a similarly significant charge. In this instance, the

increased cost of a separate branding for 0871, which would enhance its suitability as a migration destination, is by comparison an irrelevance. We are dismayed that ICSTIS has not taken this opportunity to carry out an in-depth cost benefit analysis on this option and would urge ICSTIS to reconsider this option.

In the absence of a separate brand, Cable&Wireless maintain that the most suitable approach would be to define a series of 'business services' operating on 0871 and to specifically exempt these services en masse. In particular, we would refer ICSTIS to the regulatory impact table set out by Analysys in Exhibit 4.3. The table sets out the impact of various regulatory measures on the 0871 marketplace. In light of the acknowledged low levels of consumer harm and equally low potential for consumer harm, Cable&Wireless believes that ICSTIS should focus only on those elements with a positive or neutral impact on the market i.e. price advertising, the 30-day rule and application of levy. We recognise that the ability to impose sanctions is also a necessity. A proportionate statement of application for consumer support services would only address these areas in respect of 0871 regulation.

Traditional '09-style' services on the lines of those set out in Section 7 of the 11th Code should continue to fall under the full code irrespective of number range.

- **DISPARITY WITH DISTANCE SELLING REGULATIONS:** Cable&Wireless urges ICSTIS to take this opportunity to address the disparity between the Distance Selling Regulations (2000) and the current exemption for providing pricing information under the 11th Code for services costing below 50p. It is unacceptable that a Service Provider may be fully compliant with the ICSTIS code, but at the same time actually be breaking the law. We strongly suggest that ICSTIS should work with Ofcom and the Department for Business, Enterprise & Regulatory Reform to produce some clear unequivocal guidance on this matter.
- **30 DAY PAYMENT TERMS:** The introduction of the 30 day payment terms has been one of ICSTIS' successes in 09 regulation. Cable&Wireless views its introduction as being largely responsible for curbing the worst excesses of the 09 market. However we do not believe that its strictest interpretation necessarily needs to be applied to 0871 and believe that a monthly payment

equivalent should suffice for protection from the potential for consumer harm. In the majority of cases we expect this to be the industry norm.

- **DUE DILIGENCE:** Similarly we believe that the application of full due diligence on the 0871 range is a disproportionate measure.
- **CALL WAITING TIMES:** Cable&Wireless welcome ICSTIS' proposals in regard to call waiting times. These appear to be a pragmatic and reasonable solution.
- **PRICING TRANSPARENCY:** Tariff transparency is essential to ensure the successful operation of the 0871 range. Consumer perception has made it clear that ICSTIS are required to enforce a minimum level of pricing information requirements. Cable&Wireless welcomes ICSTIS' recent comments acknowledging that they will consider standard marketing timescales for rebranding in any investigation. However Cable&Wireless strongly rejects that some of the proposals meet the proportionality test. We would like to see quantifiable evidence of the level of consumer harm that is caused by, for example, the lack of a specific pricing message on the side of a vehicle. We do not believe that the consumer harm levels can possibly warrant the incredibly high costs of, for example, repainting a fleet's livery. We do recognise the need for pricing transparency, but we would urge ICSTIS to reconsider the true cost of their current proposals and to provide clear evidence that they are justified.
- **PRICING EXTENSION PERIOD:** The three month extension proposed by ICTSIS is welcomed, but we do not believe it represents an adequate extension to address the issues ICSTIS have highlighted. As a minimum 6 months appears to be a more suitable period, although our customers have been clear that a minimum 12 month period is required. These decisions can not be based on a consultation proposal or pre-consultation indication from ICSTIS. These indications are welcome, but by their very nature may change and do not afford Service Providers with any element of certainty on which to base a decision.

1. DO YOU AGREE WITH OUR PROPOSAL TO CREATE A STATEMENT OF APPLICATION FOR THE 0871 NUMBER RANGE?

Cable&Wireless agrees that given the strict timeframe to which ICSTIS is constrained and to a lesser extent budgetary restrictions that a Statement of Application for the 0871 range is the most practical solution. That does not mean that we view it as being the optimal solution and indeed we contend that the services that have been included under the proposed statement do not offer the most efficient method of regulation. A preferred statement of application would identify consumer support services as a specific type of service and exclude these from all 09 regulation other than reduced pricing requirements, a calendar based equivalent of the 30 days rule, funding requirements and the ability to apply sanctions.

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.

We agree that the 11th Code as a mature regulatory framework could be applied to any number range. As outlined above Cable&Wireless does not believe it is proportionate to the level of consumer harm to apply the 11th Code in its entirety to all 0871 services.

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.

Cable&Wireless questions the need for full due diligence requirements in relation to 0871. It was the 30 day payment terms that provided the strongest deterrent for consumer harm. The subsequent introduction of due diligence has further strengthened regulation to allow ICSTIS to identify 'phoenix' companies and links between individuals.

Cable&Wireless rejects the suggestion that the existence of 09 due diligence requirements means that Network Operators already have all of the due diligence requirements in place for 0871 customers. The Cable&Wireless operating model focuses on 3,000 corporate customers and as a result there is little cross over

between those operating on 09 and those providing customer service lines on 0871. This also hinders the scalability of current 09 procedures. Consequently any increase in due diligence requirements does come with a real operational cost, particularly due to the manual nature of the required checking which disrupts automated processes across the front end of the business.

Cable&Wireless suggests that due diligence requirements should only be introduced when there is a proven need. We would recommend something akin to a reverse sunset clause that is triggered according to the level of consumer harm that ICSTIS has to address on 0871.

4. DO YOU HAVE ANY INFORMATION AND EVIDENCE REGARDING USUAL PAYMENTS 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.

In Cable&Wireless' experience 30 day payment terms or longer are common in the 0871 arena. This contrasts with the experience on the 09 range prior to the introduction of the 30 days payment rule and again delineates the difference between services being operated on 0871 and 09.

Cable&Wireless does not have any direct evidence regarding Service Providers' need for short payment terms. However a number of our reseller customers who do not operate in the 09 market have indicated that a move to delayed payment terms will have a large impact on their business and customers. At present these resellers may pay revenue at the start of each month; so a call made on 1st May would lead to the SP being paid revenue share on 1st June. The effect of Cable&Wireless implementing a 30 day withhold is likely to be for this same payment to now be made on 1st July; a lag of some 60 days. ICSTIS needs to be mindful of this impact on the reseller community considering the low potential for consumer harm.

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.

We have also been advised by a number of our smaller resellers not active in the 09 market that strict 30 day payment terms would be problematic as they currently bill on a monthly cycle for 0871 and any change would require costly development of their billing systems. We would question whether in the 0871 marketplace where short billing cycles are not common, there is any need for a strict 30 day period as opposed to a monthly cycle. We are not suggesting that payments should not be withheld, merely that a payment cycle based on the calendar month may be as appropriate as a rolling 30 days. The only consumer harm not fully covered in this scenario could only potentially occur during the month of February, which we believe provides a fair and proportionate application of the delayed payment mechanism.

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.

Please refer to previous comments on the suitability of applying the 11th Code in full.

7. DO YOU AGREE THAT THE CURRENT APPLICATION OF SECTION 4 OF THE CODE IS APPROPRIATE TO APPLY TO THE 0871 RANGE? IF NOT, PLEASE PROVIDE YOUR REASONS.

Please refer to previous comments on the suitability of applying the 11th Code in full.

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.

Cable&Wireless disagrees that the prior permission regime is proportionate. We fully recognise that the majority of customer service lines are exempt from this requirement; however the need to confirm this exemption with ICSTIS only serves to add uncertainty to the marketplace. We maintain that consumer support services should be explicitly exempted from this requirement.

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.

Cable&Wireless agrees with ICSTIS' approach and welcomes the recognition that a 15 second call waiting limit as employed on the 09 number range is in practice unworkable and totally disproportionate for 0871. We concur with ICSTIS' analysis of the various options and support the intention to refer obvious customer service issues to the service provider in question. However we would caution ICSTIS that this can be a particularly emotive subject and as ICSTIS recognises it is often not reflective of the industry as a whole. We welcome the intention to refer such instance to the service provider in the first instance.

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.

Discussion between ICSTIS and industry has focussed on the extremes of ICSTIS pricing requirements. Cable&Wireless agrees that there is a need for pricing transparency and we support moves to ensure that End-Users are fully aware of the level of charges they incur. However Cable&Wireless struggles to understand the attention given to displaying pricing information at every possible opportunity. We question for example the benefit of displaying small-print pricing on the sides of vehicles and would challenge ICSTIS to produce any evidence that shows this to be a proportionate requirement. The costs involved are highly significant and Cable&Wireless does not believe that this represents the most effective means of providing price transparency.

Cable&Wireless would urge ICSTIS, and indeed Ofcom, to redeploy resources from investigating such areas and to instead direct these resources into increasing consumer awareness of the relationship between the Numbering Plan and charges faced by the End-User. We believe this would represent a more efficient approach and remove the need for such detailed regulation.

Cable&Wireless would welcome the publication of a detailed help note by ICSTIS on the topic of pricing information. We believe Service Providers would find it of particular use were it to give detailed examples of various types of publication e.g. pricing details with Directory Enquiries or in phone book listings.

Following a number of enquiries from service providers Cable&Wireless would welcome ICSTIS confirmation that as the 11th Code currently stands the responsibility for providing pricing announcements at the beginning of calls remains with the Service Provider.

11. DO YOU AGREE THAT IT IS APPROPRIATE TO ALLOW A THREE-MONTH IMPLEMENTATION PERIOD, AS OUTLINED ABOVE?

The additional three month period is welcomed. However we question whether in practice the period is long enough. Cable&Wireless recognises that ICSTIS are working to an artificial deadline that has been dictated by Ofcom's 0870 timetable. From the outset Service Providers in the corporate arena have made it clear that as long a lead time as possible is required in order to meet publication timeframes for directories or publications with a significant shelf life. The period quoted was usually closer to twelve months than the three on offer.

The corporate marketplace is occupied by a large number of companies for whom, as ICSTIS recognises, publications are not driven solely by the need to gain revenue from the published numbers. Revenue from the number is secondary to the main service on offer, be it the purchase of products or a means of accessing customer service.

ICSTIS have recently made it clear that they will look at reasons for non-compliance and if appropriate make allowances in certain circumstances e.g. excessive cost or a pre-scheduled date for rebranding activity. This is warmly welcomed. However it again raises the question of certainty. A major household brand can not run the risk that ICSTIS will not accept perfectly valid reasons for not meeting the deadline on pricing information requirements – even if this were to require a significant investment. Damage to the public perception of a brand could be catastrophic if ICSTIS were to investigate and find against the company in question. Unfortunately ICSTIS are unable to offer the required certainty in a manner that does not rely on precedent.

A prime example is the disparity between ICSTIS' 50p threshold for pricing information and the 2000 Distance Selling Regulations. Cable&Wireless requests that ICSTIS in conjunction with Ofcom and the Department for Business, Enterprise & Regulatory Reform works to provide clear guidance for Service Providers in this matter. It is unacceptable that a Service Provider may be fully compliant with the ICSTIS Code of Practice, but at the same time acting in contravention to the law.

This is a prime example of why Cable&Wireless' customers are unwilling to make a decision to migrate from 0870 to 0871 at this stage. Informed decisions are currently expected to be based on incomplete information.

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.

We welcome ICSTIS' decision to regulate only the call aspect of 0871 calls. We also agree that ICSTIS should refer specific issues to those consumer protection organisations better able to deal with content issues e.g. the FSA or Trading Standards.

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.

Cable&Wireless agrees that live services akin to those operating on the 09 number range should be captured by the definitions in Section 6 of the 11th Code. Once again however ICSTIS needs to be aware that the definitions as they stand are likely to include unintended corporate and business services. A conference call system on a 0871 number, for example, under the letter of the Code, requires prior permission to run. However when used in a business environment there is no opportunity for consumer harm. Once again the need to provide a separate approach for business and corporate activity is reinforced.

14. DO YOU AGREE THAT THE APPLICATION OF SECTION 7 OF THE CODE IS APPROPRIATE TO APPLY TO THE 0871 NUMBER RANGE? IF NOT, PLEASE PROVIDE YOUR REASONS.

We agree that Section 7 is appropriate to apply to the 0871 number range. This is symptomatic of the problem with the approach ICSTIS has chosen. The services set out in Section 7 are traditional Premium Rate Services, they are not the customer-centric services that would have migrated to 0871 from 0870 or indeed are already present on 0871. The approach needed is for a statement of application that recognises the potential 0871 business market rather than a catch all concentrating on traditional 09 style services.

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.

Sections 8 to 11 cover the fundamental workings and powers of ICSTIS. We agree that these should remain constant irrespective of the number ranges under ICSTIS' remit. ICSTIS must be able to impose sanctions where necessary in order to regulate effectively.

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.

Cable&Wireless agrees that the funding model appears to be a reasonable solution. We would like to see more detail as to how the notional outpayment figure of 60% has been derived and to be able to comment on the cost-modelling that has allowed ICSTIS to arrive at this figure. The impression given by the Analysys research is that ICSTIS have confirmed the potential income from the current 09 level of levy and will then tailor the level of regulatory activity accordingly. We would like to see a similar level of transparency as ICSTIS displays in its annual report in order to better understand the cost of 0871 regulation.

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.

Cable&Wireless agrees that the application of the same funding model as that used in the 09 arena is an acceptable proposal. Network Operators already have the processes in place to act as a tax collector on behalf of ICSTIS and the application of this methodology for 0871 appears to be a logical extension.

Discussions with ICSTIS have indicated that the intention is for the levy to be applied to both 09 and 0871 number ranges at the same level. We are disappointed that ICSTIS have not included the analysis that has led to the decision to amalgamate costs in this way. Irrespective of whether ICSTIS decided to provide a separate brand for 0871, Cable&Wireless had expected the levies for 0871 and 09 regulation to have been separate.

18. DO YOU AGREE THAT A MINIMUM PAYMENT AMOUNT FROM EACH NETWORK OPERATOR SHOULD BE £500 PER ANNUM? IF NOT, PLEASE PROVIDE YOUR REASONS.

Cable&Wireless agrees that a minimum level of payment is a reasonable approach, but we believe that £500 may not be a proportionate figure for smaller operators if the levels of 0871 traffic are as low as ICSTIS suggests.

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.

Cable&Wireless do not agree that this is the case. Our customers have been calling for ICSTIS to create a separate brand and to recognise that there is a clear dichotomy in the services currently offered on 0871. We do not dispute that ICSTIS are fully aware of the nature of '09' style services that are operating on 0871. However our concern is that the more consumer support orientated services have not been adequately addressed.

When Ofcom published NTS – a way forward, the initial forecast in light of the changes to 0870 was that Cable&Wireless' customers would move to 0871 and accept a higher level of consumer protection and pricing transparency. This is no longer the case. Our corporate customers have made it clear to Ofcom, ICSTIS and ourselves that their businesses are unable to accept the risk of uncertain additional regulation without promotion of revenue share itself as being a legitimate

payment mechanism. Employing the 09 Code of Practice almost in its entirety does not achieve this. It provides added consumer protection measures some of which we agree are needed, but does so in a manner that will harm the 0871 market and does nothing to allay consumer distrust of 08. Application of the Code in full reinforces the concerns of Cable&Wireless' customers that the association with 09 will reinforce consumer prejudices of revenue share by highlighting that complicated regulation is required.

Cable&Wireless' customers continue to favour a completely separate brand for 0871. As mentioned previously the financial impact of the removal of revenue share on 0870 at the start of 2008 makes additional regulatory costs for a separate brand insignificant. ICSTIS have the opportunity to provide a migration path to 0871 that offers consumers the increased pricing transparency and consumer protection measures that Ofcom and ICSTIS seek. However by not creating a separate brand and by implementing heavy regulation the result will be to drive customers to alternative ranges that offer some revenue share and reduced regulation such as 0844.

Corporate companies have made it clear from the start of the consultation period that they require certainty at an early stage in order to make a migration decision from 0870. This was reiterated in the Cable&Wireless CCS Customer Council letter sent to Ofcom on 01 February 2007 (Confidential Annex A) and in several council meetings with both ICSTIS and Ofcom. Even now certainty is not provided by some of the proposals. On the 09 range the ICSTIS regulatory model has been one driven by precedent. This does not work for multi-million pound companies looking to make an initial migration decision. The pricing requirements set out in Section 4 of the consultation are couched in indefinite phrases such as "likely" and "could". Corporate customers demand a level of certainty which can not be achieved by ICSTIS' preferred approach of taking mitigating factors into consideration whilst investigating apparent breaches. Household brands need to be in a position where they have the certainty required to avoid an investigation in the first instance.

Cable&Wireless propose a simplified alternative statement of application which would meet the needs of corporate business without incurring the cost of a fully autonomous brand.

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?

As commented previously, it is the opinion of Cable&Wireless that an alternative approach would be to create a statement of application that recognises the low potential for consumer harm on customer service lines, whilst applying the ICSTIS code more generally to traditional 09 style PRS.