

## BASIC DETAILS

Consultation title: 0871 Services: An ICSTIS Consultation

To : Nathan Marshall

Name of respondent: Intelligent Number Working Group

Representing (self or organisation/s): Intelligent Working Number Group

## CONFIDENTIALITY

What do you want ICSTIS to keep confidential?

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|----------------------|-------------------------------------|---|--------------------------|
| Nothing              | <input checked="" type="checkbox"/> | Name/contact details/job title              | <input type="checkbox"/> |
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| Part of the response | <input type="checkbox"/>            | If there is no separate annex, which parts? |                          |

## DECLARATION

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Name **Richard A Samuel FRSA**, for and on behalf of **INWG**



## **INWG Initial Response to ICSTIS' consultation on 0871 services**

### **Introduction**

INWG is the Intelligent Number Working Group representing citizens, consumers, users and providers of Intelligent Numbering services focused on promoting the environment for making ever better service and information delivery available to all.

*INWG fully supports the twin objectives of consumer protection and confidence in pricing.*

INWG made numerous submissions to Ofcom regarding NTS: A Way Forward both in consultation and regarding the Statement. It is clear that INWG agrees that one of the most critical factors for citizen consumers when using any telephone number is clarity and consistency in pricing understanding.

In this response, INWG intends to follow those themes with regards the regulation of 0871 numbers and the importance and social impact on telephony consumers. It is seen as hugely important that citizen consumers can differentiate between numbers designated under the 08xx number range as “business service rates” and those under the 09xx number range, historically and we understand in future to be referred to as “premium rate numbers”.

Importantly, there is a true significance to the difference between these two number ranges, and this difference is of the essence. 08xx business rate numbers may indeed cost the citizen consumer more than a call to a geographic number but those costs are associated only with the provision of improved service, be that telephonic or customer service. These numbers therefore, other than in exceptional cases, are used for access to services that are then in themselves charged for separately. 09xx premium rate service numbers entail the total cost for the service provided and therefore the prices for such services are indivisible, and cannot be allocated, between cost of access and cost of service provision. This is a matter of extreme importance as up until February 2008 the ICSTIS (now PhonePayPlus) remit has been only for these indivisible services.

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ICSTIS itself recognises that 0871 numbers fall into a very different environment to that which they normally control and INWG welcomes ICSTIS' recognition of the fact<sup>1</sup>.

“However we recognise that generally the current interpretation of the Code in the context of higher charged premium rate services may not be proportionate to the issues and consumer protection requirements for the 0871 number range”.

INWG welcomes ICSTIS highlighting in its press release of 25 April 2007 the fact that citizen consumer lack of clarity and confusion on any non geographic number, but especially in this case 0871, is promoted by the fact that certain networks (mobile) may charge up to 35ppm for access to 0871 numbers where the majority of service providers expect, and advertise in good faith, that their customers will pay the published rates for BT and landline provision.

INWG has a very significant concern that all the good work done by Ofcom and to be done by ICSTIS will be unraveled by this unacceptable and potentially untransparent set of prices that will inevitable lead to consumer confusion and potentially detriment.

To quote ICSTIS' consultation paper<sup>2</sup>,

“Ofcom stated that it had two particular objectives in extending premium rate service regulation to the 0871 number range:

- to increase the level of consumer protection provided for calls to these numbers
- to improve pricing transparency for 0871 calls”

It seems to INWG that in order for ICSTIS to fulfill in any way the second of the prime objectives it must address stringently the issues of networks charging more than the standard rates and impose separate and inalienable conditions on such operators to ensure that the exact cost of call is clearly identified to the citizen consumer in advance of any such call being connected.

Referring to the difference in essence between 08 and 09, INWG sees that the higher charge rates applied by certain network providers will create confusion between the two number ranges and their purposes, to the disbenefit of the citizen consumer.

In its response to Ofcom, INWG showed its deep concern regarding the confusion between the usage and purposes of these two different number ranges, particularly where it could lead the citizen consumer to believe that government and public body services

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<sup>1</sup> 0871 Services: An ICSTIS Consultation, P.3

<sup>2</sup> 0871 Services: An ICSTIS Consultation, P3

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were now being provided under “premium rate” charging. Ofcom, in its statement of 19 April 2006, recognized that concern and stated<sup>3</sup>.

4.176 A small number of respondents, notably the INWG, argued that extending PRS regulation to 0871 would have a negative effect on consumer perceptions of the 0871 range, and would make consumers more wary of using 0871 services. They believed that rather than improving consumer confidence in the range, as intended, it could lead to a further erosion of confidence, and a reduction in the service levels provided to consumers. This effect could be particularly significant if a large number of SPs migrate from 0870 to 0871 numbers, in response to the end of revenue sharing on the 0870 range.

*Ofcom’s recognition of the potential problem is stated below:*

A2.478 As discussed in paragraph 4.176, Ofcom acknowledges the INWG’s concerns that the extension of PRS regulation to 0871 numbers might cause consumers to associate them with 09 numbers and be reluctant to call them as a consequence. However, as discussed in paragraph 4.180, Ofcom believes that there are ways to reduce the risk of this happening.

*Linking to Ofcom’s solution<sup>4</sup>:*

4.180 In our view this issue can be addressed by ensuring that the regulation of 0871 is given a distinct branding, unrelated to PRS regulation. Although the regulations would be administered by the PRS regulator, ICSTIS, they could for example:

- use a different name;
- be based on a separate Code of Practice, with fewer regulations, reflecting the consumer protection concerns and the lower prices of the services involved;
- be funded by a separate levy; and
- be accessed via a separate website.

INWG has concerns on behalf of both its citizen consumers and the network operating community that some of the provisions of the projected Code of Practice, as will be detailed below, may not be proportionate to the unique essence of 0871 as an important access to publicly available services.

In straw poll response, it is clear that there is the beginning of a level of fear and confusion regarding the future of 0871 amongst all sectors, and INWG fears that this could lead to unnecessary market disruption and economic detriment.

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<sup>3</sup> NTS: A Way Forward, final policy statement, 19 April 2006

<sup>4</sup> NTS: A Way Forward, final policy statement, 19 April 2006

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It is important that ICSTIS itself notes that 0871 is not a Premium Rate service number as it states<sup>5</sup>:

It should be noted that, under paragraph 3.3.5 of the Code, service providers are required to have in place adequate customer service arrangements, which include a non-premium rate UK customer service number. ICSTIS currently allows this number to be operated on the 087X number range, and it is proposed that this should continue.

INWG was very concerned to note that in a conversation with a member of ICSTIS' staff yesterday, 0871 numbers were being referred to as "Premium Rate Numbers", even in advance of future regulation, and in apparent contradiction to Ofcom's position that outside 0870, 087x numbers are not designated Premium Rate Numbers.

It is easy to see how that if the proposed Regulator itself misdefines, then how easily will be caused confusion in normal society, and the aim of increased clarity and certainty may be damaged even before the new regime is in place.

This issue in particular is addressed further in response to Consultation Question 19.

**Note:** Where INWG refers to 0871, it is intended that this will also refer to all 087x numbers to be regulated by ICSTIS

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<sup>5</sup> 0871 Services: An ICSTIS Consultation, section 3, P 13  
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## CONSULTATION RESPONSE

**Q.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.**

INWG understands that where ICSTIS or its successor requires to regulate a number or number range a Statement of Application may be required.

**Q.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.**

No response.

**Q.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.**

Given our comments in the Executive Summary regarding the difference in essence between 0871 and Premium Rate numbers, INWG is unsure of some of the provisions of Section 2 of the Code as they appear not fully matched with the operation of 0871 numbers, specifically in the demands for the same level of due diligence as INWG believes is rightly applied in the case of the provision of Premium Rate numbers and Services.

**Q.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.**

No response.

**Q.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.**

No response.

**Q.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.**

INWG does have concerns with the application of Section 3 of the Code in as much as the term “Service Provider” seems inadequately defined in the relevant Code of Practice, or indeed by ICSTIS generally. As the introduction of 0871 numbers to regulation by ICSTIS will bring considerably more users and suppliers of services under this number, INWG believes it behoves ICSTIS to specifically and precisely define what is meant by a “Service Provider”, and what is not.

This must be a requirement as many individuals and organizations who, in fact, may be considered by the Regulator to be “Service Providers” are unlikely to recognise that they will be designated as Service Providers and therefore inadvertently fall foul of this regulation.

As noted above, in the Executive Summary, Service Providers are required under paragraph 3.3.5 to have in place adequate service arrangements which include a non premium rate UK customer service number. ICSTIS has confirmed that the 087x ranges are appropriate for this and therefore ICSTIS itself underlines that 087x numbers cannot be considered Premium Rate.

This has a huge importance as even now, in advance of responses to this consultation, some ICSTIS staff responses suggest that ICSTIS are or will be branding 0871 as a Premium Rate number, in apparent contradiction to Ofcom’s NTS statement of 19 April 2006.

**Q.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 in our answer to Q.6 above, a clear and specific definition of Information Provider requires to be provided.

**Q.8 Do you agree that 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.**

Whilst INWG recognises that there are fairly wide exemptions to the prior permissions regime with regard to 0871 number allocation, INWG would like to see a clear statement from ICSTIS that where 0871 numbers are being utilised as access to other chargeable services, no prior permission requirement regime will be applied.

**Q. 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 provider your reasons and alternative preferred option.**

**Additionally please provide details of any other options you feel may be appropriate for ICSTIS to consider.**

INWG has significant concerns about the interpretation of the term “undue delay”. Where a service and access to that service are provided under an indivisible cost regime such as 09xx fronted services, INWG sees that there is a clear connection between delay and significant revenue generation – and the risk of consumer detriment that this may occasion. In this situation, one cannot differentiate between deliberate revenue generation strategies and poor customer service.

However, the opposite is clearly and objectively true in the case of 0871 fronted access provision, where the micro payments falling under that scheme, if any. are not of any financial consequence on any individual transaction.

INWG however is entirely convinced that consumer detriment may, or indeed will, be caused to their customers by such networks that charge in excess of the standard charges for 0871 – as evidenced by ICSTIS in the consultation document where it states that some networks charge up to 35ppm. INWG therefore believes that it is ever more important to deal strongly with this matter, appropriately and with the networks this concerns.

INWG expects ICSTIS to clarify how it would apply its powers in response to an accusation of “undue delay” that would be relevant to the provision of the telephony access system (which is ICSTIS’ stated area of responsibility) and where it will specifically exclude issues of customer service – which ICSTIS concludes in this Consultation would be “ultra vires”.

**Q.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.**

INWG welcomes pricing clarity; however the provisions relating to written publication of pricing information are excessively complicated by certain networks' charging regimes to this 087x range. INWG notes that ICSTIS recognises that a total charge of less than 50p per call to a 0871 number is likely. This is of course based on the fact that a) 0871 numbers are not Premium Rate services with indivisible charging and b) that the standard charge for a call to a 0871 number will range from between 6 and 10p per minute.

The difficulty is caused by certain networks charging, by ICSTIS published figures, 35ppm. In that situation any call from such a network would have less than 1.5 minute duration without losing the exemption, whilst general average phone calls tend to be in the range of 2.5 minutes.

INWG's concern is that Service Providers using 0871 numbers, and who use the exemption not to publish written pricing information granted on the basis of calls costing less than 50p in total, may be inadvertently led by the "certain networks" to contravene this regulation. INWG finds that this situation is untenable and requires urgent clarification to enable Service Providers' accurate compliance with this exemption.

Presumably ICSTIS will apply the more stringent provisions of Section 5.7 only to the "certain networks" that would tend to lead to a breach of a 50p maximum call cost. This will help the citizen consumers as well as the Service Providers.

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

Until the issue defined in INWG's response to Q.10 is resolved, INWG finds that it cannot gauge the implications to Service Providers using 0871 numbers and therefore reserves answer until this matter is clarified.

Importantly INWG does however feel that a 3 month period will be insufficient to change livery, published media, advertising and directory entries etc.

**Q.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.**

INWG totally agrees with ICSTIS' analysis of the differences between 0871 accessed services and those provided under the Premium Rate environment. INWG believes this difference is of the essence as referred to throughout this response. INWG is pleased

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that ICSTIS has confirmed with Ofcom that its remit is restricted to only the telephony element of any call transaction and not the service content<sup>6</sup>.

**Q.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.**

No response.

**Q.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.**

No response.

**Q.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.**

As a generality, INWG agrees with ICSTIS but reiterates its concerns over objective understanding of the “undue delay” provisions.

**Q.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.**

No response.

**Q.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.**

No response.

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

No response.

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<sup>6</sup> 0871 Services: An ICSTIS Consultation, p. 22  
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**Q.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.**

INWG states that it is totally inappropriate for ICSTIS not to create and promote a separate brand for regulation of 0871 number range. INWG refers ICSTIS to Ofcom's NTS: A Way Forward Statement, especially paragraphs 4.176 and A2.478 which delineates the requirement to differentiate between 0871 and premium rate services because of its acknowledged confusion in the mind of the citizen consumer that Government services provided on the 08xx range (which will continue notwithstanding the coming introduction of the 03xx range) are in fact to be charged as Premium Rate Services.

Ofcom specifically addressed this issue and stated that the solution was contained in paragraph 4.180, as seen below<sup>7</sup>.

4.180 In our view this issue can be addressed by ensuring that the regulation of 0871 is given a distinct branding, unrelated to PRS regulation. Although the regulations would be administered by the PRS regulator, ICSTIS, they could for example:

- use a different name;
- be based on a separate Code of Practice, with fewer regulations, reflecting the consumer protection concerns and the lower prices of the services involved;
- be funded by a separate levy; and
- be accessed via a separate website.

ICSTIS' proposal not to address this issue flies not only in the face of Ofcom's stated objective but also would appear to act in direct contravention of its prime objective:

“to increase the level of consumer protection provided for calls to these numbers”

“Detriment” is defined in the NTS: A Way Forward process as having at least two elements. The first being that a citizen consumer may pay more for a service that is appropriate. The second, and the by far more dangerous, is that the citizen consumer will be prevented from using the services specifically provided for him through fear of expense and inability to pay.

ICSTIS' apparent refusal to clarify this confusion drives to the essence of the problem and INWG cannot understand why ICSTIS would take this stance.

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<sup>7</sup> NTS: A Way Forward, final policy statement 19 April 2006  
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**Q.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?**

INWG holds deep concerns regarding the dangers to the citizen consumer, and potentially to the Transformational Government initiative, if any number in the 08xx range becomes equated in the mind of the public with Premium Rate services. These dangers were understood and addressed by Ofcom in its NTS: A Way Forward statement of April 2006.

INWG makes the strongest representation that if ICSTIS does not adopt Ofcom's recommended solution, as detailed below, then it must take some other competent action that will totally fulfill the objective and avoid potential citizen consumer detriment<sup>8</sup>.

4.180 In our view this issue can be addressed by ensuring that the regulation of 0871 is given a distinct branding, unrelated to PRS regulation. Although the regulations would be administered by the PRS regulator, ICSTIS, they could for example:

- use a different name;
- be based on a separate Code of Practice, with fewer regulations, reflecting the consumer protection concerns and the lower prices of the services involved;
- be funded by a separate levy; and
- be accessed via a separate website.

**Q.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.**

**Respondents are also asked to indicate their preferred option in applying the undue delay provisions of the Code to the 0871 number range.**

No response.

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<sup>8</sup> NTS: A Way Forward, final policy statement, 19 April 2006  
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