

0871 Services: an ICSTIS Consultation

Response from PNC Telecom



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Introduction

PNC welcomes the opportunity to respond to the ICSTIS consultation on the future regulation of 0871 numbers. As a network operator with c135,000 numbers in the 0871 range, 250,000 from the newly opened 0872 number range, and varied clients from large corporates to SME's, PNC recognises that the regulation of these numbers by ICSTIS has been required by Ofcom due to a small but very vocal minority who have campaigned to this end. Scare stories continue to appear in the media and we trust that, as part of its role in regulating these services, ICSTIS, reborn as Phone Pay+, will continue its self-assumed consumer education role and will act to counter ongoing inaccuracies.

Comments and Overview

Although the executive summary to the consultation sets out that there will be separate proposal for applying the Code to the 0871 number range, it would appear that the overall outcome of the consultation is to apply the whole of the Code to the regulation of 0871. This can be seen by the fact that every section of the Code is referred to in the consultation questions and statement of application.

There is a reference in Section One to the "consumer concern about these services, especially with perceptions of delay as a means of generating extra revenue" however, Ofcom research as shown that only a small minority of consumers are able to correctly identify the cost of calling an 0871 number, with the majority overestimating the cost. There is no suggestion that these "perceptions" are founded in fact.

It has been our contention throughout the review process handled by Analysys and the consultation process itself, that the transition from 0870 to 0871 was unnecessary, ill conceived and poorly thought through. Rather than leading to improved consumer awareness and better understanding of pricing the change has led to greater suspicion and negative publicity around the use of NGN's and has also added unnecessary costs to the suppliers of, and customers using, the numbers for legitimate purposes as a result of a need to change marketing materials and so on.

Answers to Consultation Questions

Q1: 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.

We agree with the principle of this document, however, it seems to serve the same purpose as a help note and therefore we would recommend that it is called that, rather than creating a new category of document. Additionally, as it is suggested that the whole Code appears to be applicable there does not seem to be a great deal of purpose served by this separate document.

Q2: 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.

Yes, this is appropriate.

Q3: 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.

The due diligence requirements were brought in largely on the back of a specific problem that had almost swamped ICSTIS, namely the dialler issue. Although the requirements are part of regular checking for premium rate business, they could be perceived as being too onerous for 0871 traffic. The upside is that the information needed to fulfill the checks is likely to be much more readily available, as the operators of 0871 numbers do not wish to be associated with anything unacceptable.

Therefore on balance we believe that due diligence requirements can be applied to 0871 service providers.

Q4: Do you have any further information and evidence regarding usual payment times?

Nothing further to add. In its reseller role, PNC does not receive payment for 30 days anyway, so payment could not be made to a service provider before this.

Q5: 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.

This would cause no particular issues for PNC as a network operator.

Q6: 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.

There does not seem any reason why the current obligations on 09 service providers should not apply to 0871 service providers.

Is it circuitous to have the helpline required under para 3.3.5 for a regulated service, regulated by the same set of instructions?

Q7: 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.

Yes, particularly if ICSTIS is correct in its assumption at the top of p21 that the majority of services will be provided by information providers.

Q8: 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.

We think it is generally acceptable to require the same permissions for services offered on 0871 as for those on 09.

Can ICSTIS clarify that service providers with existing permission to operate services, including live 121 chat, will be able to operate similar 0871 services under these permissions?

For the record, page 14 of the documents states that the prior permission requirement for live chat services is due to the increased risk of consumer harm. This is not strictly true as it is there to allow the operation of the compensation scheme which was set up to protect bill payers against unauthorized use of their phones. There should not be a suggestion that these services themselves cause consumer (user) harm.

ICSTIS notes on p15 that there are lower revenue shares involved in 0871 services; can it confirm that the current £300 charge for an application for permission for service on 09 will be reduced proportionately for 0871 applications?

Q9: 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.

We think option D is the best option for considering delay in 0871 services. Many UK businesses operate via a call centre environment now, where callers expect to enter straight into an IVR system rather than hearing an engaged tone and having to redial repeatedly. The public perception of the problem with IVR systems on many of these services is that it can be argued that delay starts from the moment of connection, choosing options and going into a holding queue. The difficult, sometimes subjective decision that has to be made is at which point the service provider is failing to deal with the number of incoming calls adequately by keeping callers in a queue.

The benefit for the operator of using NTS numbers to manage their incoming calls via time of day, location etc is not something that they would wish to jeopardise through negligent or deliberate poor service.

We note that, under option D, ICSTIS proposes to set a timescale for handling of a complaint about delay. Whilst the timescale appears reasonable, we are not sure that ICSTIS is empowered to impose this.

As an aside, there is a comment under the consideration of option C that ICSTIS "would have to keep records of all complaints alleging undue delay". As all complaints are

currently logged on the database, this would not seem to impose an additional burden on ICSTIS.

Q10: 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.

We agree that this is appropriate, though are unsure why there is a reference to misleading promotions (para 5.4) in the consumer risk assessment on p20 when consideration is being given to pricing requirements.

Pricing transparency was one of the two key areas that Ofcom asked ICSTIS to explore and it is clearly the issue that they believe is key to restoring consumer trust in 0871 numbers. However, one of our key concerns that application of the ICSTIS Code will not resolve is the issue of the mobile mark-up. Until it is made clear to consumers that inflated charging is coming from their mobile operator, and not through unscrupulous practice by the service providers or TCPs, the blame is always going to be placed at the wrong door. The media, consumer groups and government need to be educated on where the mark-ups are coming from.

Q11: Do you agree that it is appropriate to allow a three-month implementation period, as outlined above?

Yes, this seems adequate. The implications would be less for live services which are required to give pricing upon connection. This would reduce the urgency for “livery” to be compliant within a defined timeframe.

Would paragraph 5.7.3 apply for an interim period whilst companies are updating their promotional material containing the 0871 numbers?

Q12: 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 find it quite astounding that ICSTIS even discusses the possibility of regulating the “primary source of revenue” such as goods and services purchased entirely separately from the 0871 call. There is clearly absolutely no remit for this, and these aspects are suitably covered by a plethora of other regulators such as the FSA, ABTA and so on.

Indeed, ICSTIS has not historically regulated all content, as it cannot for services such as patient-line (formerly on premium rate) or non-content international calling. The 0871 services in question are far more akin to these than traditional content services and we would not expect ICSTIS to be making judgments about the quality of information provided within the call.

We are pleased to see that Ofcom has confirmed that it is the case that ICSTIS cannot regulate outside its existing remit.

Q13: 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.

Yes, agreed. Can ICSTIS confirm that permissions granted to service providers for services on 09 prefixes will cover the same service operated on 0871? In particular would a contributor to the fund be covered to operate live 121 services on 0871?

Q14: 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.

Yes, agreed.

Q15: 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.

Yes, agreed.

Q16: 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.

Whilst the principle of funding as set out seems acceptable, we are concerned about the percentages put forward by ICSTIS for the notional outpayment. A figure of 60% is assumed as the outpayment from NO to SP, in reality the figure is likely to be less than 50%.

ICSTIS would need concrete examples from a range of TCPs in order to establish the correct figure for a notional outpayment.

Q17: 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.

It is unclear from the text whether ICSTIS means that revenues of less than £500 per annum will be ignored, whether there will be a roll-over until £500 is reached or whether ICSTIS intends to collect a minimum of £500 regardless of whether that level has been reached or not.

Until this is clarified it is not possible to comment on this proposal.

Q18: Do you agree that a minimum payment amount from each network operator should be £500 per annum? If not, please provide your reasons.

As for answer to question 17, this cannot be answered until ICSTIS' intentions are clarified.

Q19: 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.

In this section ICSTIS states that it regulates 070 numbers. This is not the case, although we note that ICSTIS will take action when 070 numbers are used incorrectly as if they were premium rate numbers.

ICSTIS comments that it would not be in a position to spend the funders money on creating a brand for 0871 and running the necessary consumer awareness campaigns, yet the decision was made to do this and employ an advertising agency for PhonePay+ with no industry consultation.

Nevertheless, we do not feel that there is a need to create a separate brand for 0871 regulation.

Q20: 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?

Despite talk of applying only certain sections of the Code, or applying an "ICSTIS Lite" version of the Code, it does appear from this consultation that the Code is being applied in its entirety.

Q21: 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.

As stated earlier, we believe that this document should simply be a help note which can be used to identify any key areas where the Code may be applied differently to its usual application – for example when considering delay.

Conclusion

As the decision to pass the regulation of 0871 numbers to ICSTIS has already been made, it is up to ICSTIS to ensure that it applies this regulation in the best way, that is, with common sense and the proportionality required by the much reduced risk of harm that these numbers can generate.

PNC is happy to discuss any of the issues raised here in further detail should this be helpful.