



UKCTA Response to the ICSTIS Consultation on 0871 services

Submitted by: Mark Gracey obo UKCTA PRS Subgroup
E: mark.gracey@thus.net
T: +44 (0)20 8492 7176

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Introduction

UKCTA welcomes this opportunity to comment on ICSTIS's proposals for the future regulation of 0871 services.

UKCTA is a trade association promoting the interests of competitive fixed-line telecommunications companies competing against BT, as well as each other, in the UK's residential and business markets.

General Comments

It came as some surprise to UKCTA just how much of the PRS code ICSTIS proposes should be applied to 0871. In its current form, we believe that the regulation is likely to kill off the 0871 market with users likely to migrate away from 0870 and 0871 to non-regulated number ranges (e.g. 03 and 0845).

We also repeat what we said in our response to the pre-consultation about the approach:

"It has always been UKCTA's belief based on the statements made by Ofcom about the regulation of 0871 that the intention was not to apply the same level of regulation to 0871 as is currently applied to PRS. Specifically, Ofcom stated in its statement "NTS: A Way Forward":

"The 0871 range will not be subject to the same level of regulation as the premium rate 09 number range. However, it will be subject to requirements designed to improve price transparency and to provide an appropriate level of consumer protection"

So our first comment about applying the Code to 0871 is that this seems beyond the scope of Ofcom's intention and not the light touch approach industry imagined would be applied."



Furthermore, in the research commissioned by ICSTIS, Analysys suggests “PRS style regulations with a lighter touch would be adequate for the 0871 market”. We do not see that applying all but two areas of the PRS code is adhering to Ofcom’s wishes or indeed acknowledging the results of the research carried out.

We believe that these points (and those in our the rest of our response) are also valid when considering the fact that not all UKCTA members run premium rate services and so are not familiar with the Code or rigours of applying it to services. For these members sakes it would be preferable for the regulation to be as light as possible. They won’t already have procedures in place for due diligence, and applying the Code will involve new costs to their businesses.

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.

Given the time and budgetary constraints ICSTIS faces it would seem that a Statement of Application will have to suffice. However, it is not clear about how future changes to Statement will take place. Unlike with the Code where there is a rigorous consultation process, this does not appear to be the case with the Statement.

We are sure that any changes will be fully consulted upon, but we wonder whether ultimately it would be more appropriate to include 0871 regulation as a separate section of the Code.

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. Section 1 of the Code can be applied to 0871.

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. ICSTIS would welcome further information regarding quantification of costs.

UKCTA believes that application of the due diligence requirements is disproportionate and does not reflect the level of potential consumer harm which services offered on 0871 give rise to. In particular, the much lower level of revenue outpayment makes these services much less attractive to fraudsters. ICSTIS has certainly not provided any evidence that there has been, or there is expected to be, a particular problem with 0871



service providers giving fictitious details in order to avoid the consequences of regulation.

If ICSTIS really does believe that there is a real risk of 0871 service providers creating similar problems to those created by some 09 service providers it would be much more appropriate to assess the situation once other controls have been in place for a time, for example a requirement for operators to withhold revenue for 30 days . This would at least allow proper assessment of whether more stringent requirements such as due diligence really are warranted.

Additionally, if the application of regulation to 0871 does “kill off” 0871 use then applying due diligence will be an unnecessary burden on network operators, particularly in applying it retrospectively to existing customers.

As discussed when UKCTA met with ICSTIS to discuss the proposals, we urge ICSTIS strongly to reconsider the application of this part of the Code to 0871.

If due diligence is to be applied then we seek further clarity than is given about how certain aspects of the Code should be applied, particularly regarding how 2.3.1(b) and 2.3.1(f) will be applied.

Q4: 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.

Usual payment times will vary from operator to operator and UKCTA are unable to set out what its individual members do.

It is our belief that there is limited desire for quick returns on revenue share from service providers, because of the low revenues generated on 0871, although we acknowledge that in some cases service providers may be reliant on more frequent payments..

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.

A 30 day withhold may be suitable to apply to 0871, however, we would urge ICSTIS to take full account of the responses it receives to this consultation in respect of normal payment periods and the impact of the application of the 30 day rule for 0871 service providers.



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.

Our only comment regarding the application of Section 3 of the Code is that it places a lot of pressure on service providers, particularly those who are not familiar with the 09 regime. We believe that the potential market for "non PRS" 0871 business services such as customer contact centres is huge compared with the traditional PRS market, so applying these measures will have an impact on a large number of organisations. For this reason we also believe that there will need to be an education campaign in order to ensure that 0871 service providers are aware of their compliance requirements.

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.

We have no views on this.

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.

Although we feel that most 0871 services will be exempt from prior permission, we believe that given the risk of consumer harm is considerably less because of lower call prices that prior permission should not apply to 0871 and that the £300 fee is disproportionate.

Furthermore, there are services offered on 0871, such as telephone conference call facilities, that would unnecessarily fall within the remit of prior permission. It seems unreasonable to expect an operator or their customers to register for prior permission simply because they offer the ability for live chat via their teleconference services for businesses.

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.

UKCTA agrees that ICSTIS should not get involved in issues which amount to customer service issues. But we feel it is important that the undue delay issues must relate purely to the misuse of 0871 to generate revenue.



Although option D goes some way to address this we are not sure it means that ICSTIS will not get involved in consumer complaints that actually relate to being kept on hold at busy times, particularly if they have failed to engage with the company. It may be useful to set up some more detailed guidance on how this process will work, so that it is clear.

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.

UKCTA has a number of concerns regarding the practical application of section 5.7 of the Code to services offered on 0871. Charges for calls to 0871 services are generally far lower than those for services offered on the 09 number range, however, the length of any individual call to an 0871 service may vary considerably depending on the reason for the call being made. We are specifically thinking here of calls to customer helplines. We could foresee that in order to ensure compliance, service providers may simply choose to assume that the average cost of a call will be above 50p and publish prices accordingly. Clearly this would be disproportionate and we believe further thought should be given to how section 5.7 might be applied to 0871 services in a fair and proportionate manner.

UKCTA is also not clear what role ICSTIS will have in enforcing the Distance Selling Regulations. The consultation suggests that all PRS numbers are covered by the Regulations; we believe that this is not the case and that the Distance Selling Regulations only apply to when products are sold over the phone, so will not be relevant in all cases. Where the Regulations do apply s5.7 of the Code is obsolete.

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

We do not agree with ICSTIS's suggestion that Service Providers have had a year to implement proper pricing transparency. This has simply not been the case. Service Providers do not know where they stand with regards to the regulations and it is unreasonable to expect them to be able to gauge exactly what they must do whilst the 0871 regulations are being drafted.

UKCTA believes that 12 months would be a much better implementation period as this will allow most 0871 users to update literature and other places where they need to place pricing information.



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.

Yes we agree with this position.

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.

We do not believe it is appropriate for Section 6 of the Code to apply to 0871. Many aspects of this section does not take into consideration 0871 services like telephone call conferencing which would fall within its provisions. Yet such services are typically offered to businesses and not consumers.

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.

We do not see any reason why these provisions should not apply to 0871.

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.

UKCTA seeks ICSTIS's assurances that any investigations and sanctions (particularly fines) will be proportionate for 0871. The harm to consumers is significantly different from 09 PRS.

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.

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.

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

UKCTA seeks more clarity on how the funding of 0871 regulation will take place. Is the intention to introduce a nominal outpayment just for those services where there is no revenue share or for all 0871 services?



In either case we believe that until ICSTIS have a better understanding of the number and type of complaints it will receive that 60% for notional outpayments is too high and that a lower funding model should be implemented. As has been pointed out in conversations with Ofcom and ICSTIS about funding if the levy is not enough then ICSTIS has sufficient reserve funds to cover additional costs until a new levy can be calculated.

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.

UKCTA have no particular views on this. The real issue is whether businesses who only operate on 0871 want to be regulated by the PRS regulator. Our customers' comments suggest that they do not.

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?

We strongly support the notion of a lighter approach and that the current proposals far exceed Ofcom's expectations and are therefore disproportionate.

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.

We have no further comments to add that have not already been covered by this response.