



Mark Collins  
Policy Executive  
ICSTIS Ltd  
Clove Building  
4 Maguire Street  
London SE1 2NQ

12 March 2007

[mcollins@icstis.org.uk](mailto:mcollins@icstis.org.uk)

## **Call TV Quiz Services Review**

### **Analysis and Consultation Document**

#### **NOC UK Response**

The Network for Online Commerce (NOC) is a not for profit trade association that exists to promote and facilitate profitable enterprise in interactive Telemedia markets around the world. The NOC is uniquely qualified to reflect the views of the UK premium Interactive Media market as its membership spans the entire value chain and is involved in the vast majority of premium value transactions. We welcome this opportunity to comment constructively on the captioned document.

It is the fundamental view of the NOC that interactive media consumers who are fully informed at the point of sale and who are therefore offered complete freedom of informed choice enjoy the most effective form of consumer protection.

There will always be a minority of consumers who, for whatever reason, demand, and should receive, a higher level of protection but, as a minority, the level of protection offered must be sensible, evidence led and must not have a disproportionate or distortional effect on the majority market. It is also a noteworthy requirement of the 2003 Comms Act that Industry should, as a matter of process, be given the opportunity to address service problems before regulatory action is considered.

The areas of proposed change to the statement of expectations contained within this document were also largely addressed in our response of October 2005 to the original expectations document and our view then was that the ICSTIS Code, without modification, could adequately deal with any current, and probably future, problems regarding participation TV. That said, the industry does recognise the need to instil greater confidence in services by improving the availability and presentation of useful information to the consumer. This can however be achieved without additional regulators.

We recognise that while there is little evidence of significant consumer harm, there is a need to enhance consumer confidence that appears to derive from lack of certainty and information and also inexperience for what is predominantly a new and developing service. We believe industry should be encouraged and assisted to address, by way of self regulatory measures, emerging teething problems without unnecessarily and prematurely resorting to additional and formal regulatory measures. There is no proven need to extend what is already a complex



PRS Code of Practice and its current provisions are considered adequate to address the subject market.

To comment on the various sections of the document in turn:

## **1. Foreword**

It is heartening to read the opening comments provided by the new Chair of ICSTIS that appear to offer for the future the more pragmatic and co-operative way forward for industry/regulatory relations long championed by the NOC.

We accept and share the recognition that Quiz TV has, not surprisingly as a new genre, attracted the attention of the media and politicians and that it has generated public interest. However, public interest and media concerns do not necessarily translate into public complaints and any proposals for action must indeed “be proportional to the problems evidenced”.

## **2. Executive Summary**

We note that the major modification proposals are focussed on:

- Spoken pricing announcements
- Call warnings
- Transparency

We will address these items later in the document.

*It is particularly pleasing to note that on conclusion of the consultation there will be a further dialogue involving stakeholders to determine any potential final action.*

## **3. Scope**

By focussing on a single specialist Quiz TV sub-set of the Participation TV genre there is a risk that regulation will evolve into a range of specialist sub-sets as new service variants are developed.

## **4. Evidence Review**

We have examined the results of the survey involving 2009 participants and the following points are clear:

- Only 16% of respondents ever watch Quiz TV
- Only 38% of these (6% of total) have ever tried to enter
- 93% of participants understand the payment mechanism
- 38% of participants were aware of the free entry route

It is interesting that the definition of Quiz TV employed in the Statement does appear to cover many other mainstream participation TV programmes containing a quiz or competition element.

The concluded low awareness of the free entry route seems to be tempered by the fact that later analysis showed over 30% (and occasionally 90%) of entries actually use this option.

The survey results contained in this Consultation do not in our view demonstrate a problem which would justify additional formal regulatory measures beyond those currently available. They do however appear to re-enforce our view that these developing services are experiencing teething problems that can and should be addressed by industry before any additional regulation is considered.

## 5. Monitoring

Monitored programmes averaged over 8600 calls per hour plus an additional 2600 via free entry route. This is interesting but it gives no indication of the scale of the total viewing audience hence no information on the total scale of participation.

Items worthy of note were:

- 33% of revenues were returned as prizes. This is superior to the National Lottery, Pools and Casinos etc.
- Over a third (in some cases 90%) of entries used the free route.
- The majority of audience participation occurs after midnight.
- Audience participation is affected by the quality and presentation of the editorial content of the show.

The monitoring exercise offered few surprises and merely serves to emphasise what we already knew about this popular genre. Programmes are impacted by the quality of the programme content and its presentation, the most popular time is after midnight and any programme is affected by a range of dynamic variables.

With “around 16” Call TV Quiz programmes (assumedly excluding the mainstream shows) currently in operation it is a very successful and popular format.

## 6. Complaint Data Analysis

As we have done in the past we question the definition of an ICSTIS “complaint” as there is no detailed breakdown of “complaint” content or context beyond broad categories of “issues”. Can you please confirm whether the figure contains enquiries and therefore that the actual complaint element is considerably lower. If this is indeed the case it appears that consumer concern regarding these services is very low indeed and any figure for demonstrable consumer harm, were it available, would be even lower.

There appears to be no objective or even estimated information on the total number of calls placed to these programmes (an essential element in assessing consumer perceptions) in the document. Industry estimates total calls made per day can be as high as one million hence in order to uphold the regulatory obligation to adopt a proportional response complaints must be viewed in this context.

From the complaints analysis:

- Figure 2 shows 171 “complaints” for 2006.
- 499 written “queries” were received for 2006.

If, for convenience, we assume a generous element of complaints within the “queries” and take a figure of 365 complaints for 2006 we arrive at an estimate of one complaint for every one million calls placed to Quiz TV during peak participation time.

While we will be the first to accept this is a rough estimate it appears that pressure of public complaints is not the trigger for this consultation.

Considering the issues identified as the cause for “complaint”:

### **Fairness of the Competitions**

Given the recent media focus by the tabloid press on these services it would be unsurprising that a number of complaints will be generated. It is important for these media generated “complaints” to be placed in context and balanced against the overall extremely low complaint level for Quiz TV to ensure any response is proportionate to any identified problem.

NOC members accept that there is scope to improve the quality of information provided to would be contestants and this is being actively considered. However, this will require a prescriptive format tailored to the genre of the service and this is best provided by the industry itself and there are precedents for this.

In the mobile sector we have seen the effective introduction of service specific messages for subscription services introduced by the network operators. These were introduced swiftly and effectively with a degree of detail that can only be achieved at industry level by its participants. Such self regulating activity provides prescriptive detail which enhances and in no way detracts from the formal ICSTIS Code. This speed and flexibility, which enables prescription to evolve alongside customer awareness and understanding is, as Ofcom and ICSTIS will agree, not available from formal regulation.

A further query is whether this item actually qualifies as an editorial issue and should therefore fall within the Ofcom area of responsibility.

### **Calls and Billing**

It is unfortunately quite normal for any premium service to attract a share of billing denial and from what we can see Quiz TV is no different to any other service. There is no intent to encourage unexpected high bills nor any mechanism to deliberately falsify call records and consumers have the freedom to place calls in reasonable knowledge of the cost to be incurred.

It is accepted that call cost information to consumers could be further improved and this is the subject of industry discussion. Again this issue can be dealt with by the industry and does not require additional formal regulation.

### **Technical Matters**

At only 7% of “complaints” this appears to be a minor matter except that it does address a possible opportunity for improvement in information displayed or spoken. As with the previous issues this is an area under consideration and any potential improvements will be discussed and assessed.

There is clearly no call for additional formal regulation and industry should handle this as a part of normal service development activity.

### **ICSTIS Conclusions**

It would not be true to state that there has been no consumer harm. Indeed that would not be true of many consumer services. We are however surprised by the statement



that there appears to be sufficient evidence from the trends in complaints that detriment to consumers has occurred.

We believe the evidence points substantially to a responsible and popular service genre attracting up to one million calls per day and generating one complaint. We do not consider this to be justification for additional formal regulatory intervention beyond the correct application of the current Code of Practice and enhanced by industry good practice.

## **7. ICSTIS Background**

### **Transparency**

We agree that there is scope for improvement in the presentation of information regarding the mechanics of the competitions but emphasise again the low scale of complaints received in this area. There is no justification for additional formal regulation here as industry is well placed to address such issues as a part of normal service development activity. Customers are clearly not too unhappy with the quality of the services as they continue to call.

### **On-Screen Statements**

The screen is the obvious interface to consumers where information and guidance may be provided and industry is happy to continue to investigate the screen as a means of providing useful service information. It would be ideal if information could be provided in standard form but this is the domain of the broadcaster and production company and they are well positioned to format required information. They will be guided by the broad principles of consumer protection set out in the ICSTIS Code but NOC believes they are better placed to fulfil this role than mandated regulation.

### **Excessive Use**

There is mention of instances of bill shock but no attempt to relate this to the normal level of billing challenge experienced by the Premium Rate business. If this level of report is no worse than normal then it is not understood why ICSTIS propose further steps to address this as a specific Quiz TV issue.

ICSTIS's remit does not extend to preventing excessive use of services – only to ensuring consumers do not receive unexpectedly high bills. This suggests we should (and do) focus as an industry on ensuring consumers are fully aware of call costs and, again, this is something that industry can fine tune without further regulatory involvement beyond a joint industry/regulatory approach to consumer education. It should be pointed out that individuals' calls spend can only be managed by the call originating network and not the provider of the service. Customers also have the option of participating in multiple services on different channels.

### **Prize Fulfilment**

We are pleased but not surprised that ICSTIS can see no problems here since around 33% of revenues are returned to consumers as prizes, a ratio far superior to the National Lottery or Casinos.

### **Free Web Entry Route**

We would dispute ICSTIS conclusions here and we believe the awareness and utilisation of the free entry route to be relatively high and we would not expect any criticism in this area. The Consultation survey also admits to an adequate level of compliance.

### **Proposed Changes**

While we dispute the necessity for this Consultation and the changes proposed to the Statement of Expectations we will follow the process and address the Questions posed.

#### ***Question 1***

***Do you agree that the provisions for pricing transparency should be strengthened in the way described above and as set out in the Revised Statement of Expectations on pages 27-29?***

#### **Answer 1**

There is no need for change regarding the periodicity of pricing announcements. All that is required is for industry to revisit this and ensure spoken pricing and fixed screen displays information is delivered at intervals of 5-15 minutes, particularly since it is admitted that many already follow this practice.

#### ***Question 2***

***Do you agree with our assessment of Option 1? (transparency)***

#### **Answer 2**

Industry is fully aware of the opportunity to improve the quality of information on service mechanics and dynamics and is currently considering this but it is potentially a very complex area.

There is no question of industry doing nothing but there is no need for additional formal regulatory action beyond the previously mentioned industry/regulatory approach to consumer education.

#### ***Question 3***

***Do you agree with our assessment of Option 2? (transparency)***

#### **Answer 3**

The display of real time dynamics regarding the status of various elements of the service mechanics could involve significant costs and be subject to technical limitations. If achievable the benefit to consumers would need to be fully assessed in order to ensure it was a proportionate response to the perceived concern. Nonetheless industry is considering this alongside a commitment to generally improve the quality of information to consumers.

#### ***Question 4***

***We would welcome views, especially but not exclusively from providers, as to the best technical means and media through which this principle could be delivered and promoted with minimum disruption to the service quality and potential for consumer information overload. We would be willing to assist in this process by facilitating a working party to consider the various options.***

#### **Answer 4**

While we welcome, as a matter of principle, any move to improve the quality of information imparted to permit informed consumer freedom of choice there is, as ICSTIS correctly observe, a point at which additional information ceases to be useful and becomes an impediment to business.



There is scope for Industry/ Regulatory co-operation to overview the level and quality of information to consumers and we would be happy to organise or participate in a roundtable event on this important subject.

**Question 5**

*If you do not agree with any of our assessments presented in Options 1, 2 or 3, what alternatives would you suggest?*

Answer 5

As stated earlier we question the justification for this Consultation exercise at this time and particularly when Ofcom currently have a Consultation open on essentially the same, albeit broader, subject. This Consultation represents a significant overhead to industry and is arguably disproportionate to the level of received consumer complaints. In addition to this we do not believe industry has been offered sufficient opportunity to fix what amount to teething problems with new service variants without undue formal regulatory interference.

**Question 6**

*Do you agree with our proposal for call warnings and are there any other suggestions as to how the possibility of excessive use by consumers may be minimised?*

Answer 6

Two separate items are addressed here:

**On screen statements**

With no evidence observed by ICSTIS monitoring of deliberately misleading statements by programme presenters we agree that the existing Code of Practice, correctly applied, is sufficient to maintain standards in this area.

**Excessive use**

As mentioned earlier ICSTIS have no remit to police “excessive” use and it is worrying that this sub head is further qualified by concerns regarding repeat calls and bad debt, issues which we believe are the commercial domain of the networks or billing agencies. The providers of Quiz TV services have no interest in encouraging customers to run up unacceptable call charges and many, if not all, already address this issue in one form or another.

The Consultation document states that “bill shock” (the actual remit of ICSTIS) is largely contained, stable and not growing and then goes on, somewhat surprisingly, to call for mandatory call cost warnings as a result of evidence of bill shock? This is inconsistent and confusing.

ICSTIS clearly realise that consumer spend is not simply a matter of one consumer calling one service via a landline. Consumers may call multiple services and when, as is increasingly the case, calls are made via mobiles there is no way of accurately identifying call costs in real time as Mobile Operators apply varying mark-ups to calls to Premium Rate numbers.

We do not believe it to be practical or useful to press for cumulative call cost warnings but perhaps this could be discussed in more depth at the suggested Industry/Regulatory roundtable on consumer information.

On a more general note we are apprehensive that ICSTIS appears to be interpreting its agreed remit role of avoiding unexpectedly high bills for customers by ensuring they are properly informed, as a remit to limit consumer spending which is not the



same thing. Avoiding consumer “addiction” to some services and setting mandatory call caps for multiple calls are not within the remit of the approved Code of Practice and these are matters, and we do not belittle their importance, which should be addressed elsewhere.

## **8. Impact Assessment**

We are pleased to note the inclusion of this important Consultation item although, in this instance, we are unable to offer any sensible comment at this time beyond the fact that formal regulatory proposals for change can often carry costs out of all proportion to any supposed benefits.

The Consultation states at the outset an intent to engage, if necessary, in further Stakeholder dialogue before any proposed changes are finalised and we would expect to consider any possible Impact Assessment as an integral part of any such dialogue if and when any changes should be agreed.

Since we do not believe that any formal regulatory changes are necessary from this Consultation we are not in a position to embark on detailed costings for alternatives that may not be serious contenders.

The NOC however does support an industry lead approach to addressing the concerns raised by ICSTIS and, as has been stated, are happy to play a part in bringing the relevant parties together to promote discussion and agreement regarding the areas highlighted.

## **9. Proposed Revised Statement of Expectations**

In the light of the evidence presented we do not accept any necessity for changes to the Statement of Expectations to be formally considered at this time. Nor do we believe that the declared level of customer concern or complaints justifies the time and expense of this formal Consultation exercise, and particularly one that overlaps with a Participation TV Consultation being undertaken by the Regulator Ofcom. We certainly accept that this variant of participation TV is experiencing teething problems but no more than would normally be expected (or indeed has been seen) with a new, developing and heavily used service. The suggestion of an Industry/Regulatory roundtable to jointly consider adjustments to Quiz TV services is sensible and one that the NOC wholeheartedly supports and we would be happy to organise such an industry driven event with the support of ICSTIS.

The NOC would expect industry to be given the opportunity to put its house in order before well intentioned but unnecessary and possibly damaging additional formal regulatory constraints and overheads are applied to this popular service area.

## **10. Statement of Representation**

The NOC confirm that this response has been compiled following a process of circulation of the relevant Consultation documentation to all NOC members. A list of NOC members may be found at [www.noonline.org/currentmembers.aspx](http://www.noonline.org/currentmembers.aspx).

The views expressed in this response are a fair representation of the views held by the responding NOC membership. Individual members are actively encouraged to submit their own independent views as they deem fit and at their sole discretion.

We look forward to your response and assure you that, as ever, our comments are made constructively and with a view to achieving an effective, fair and proportional regulatory



regime for Premium Interactive Media services in the UK using the PRS billing model. If we can be of further help or if you require clarification on any points made please contact us via [zoe@noonline.org](mailto:zoe@noonline.org) or call 08707 327327.

Sincerely

Roy Ellyatt  
Chairman NOC

Cc Ofcom  
DTI  
ILP  
NOC Excom