



**Mobile Broadband Group  
PO Box 34586, London SE15 5YA**

26<sup>th</sup> April 2007

Mr Ayo Omideyi  
ICSTIS  
Clove Building  
4 Maguire Street  
London SE1 2NQ

Dear Mr Omideyi,

**Consultation paper on the changes to Governance**

The Mobile Broadband Group (whose members are O2, Orange, T-Mobile, Virgin Mobile, Vodafone and 3) welcomes the opportunity to respond to ICSTIS' consultation on its proposed changes to Governance.

The MBG supports the changes being proposed by ICSTIS.

There is no doubt that the sector of the communications industry that ICSTIS regulates has become more complex and fast changing in the last five years. It therefore seems quite logical that the board needs to spend more time than it has hitherto on policy development and the assessment of emerging premium rate services. We would also strongly urge the ICSTIS board to deal with operational issues that are brought up by the MBG, ILP and others with more urgency. We acknowledge that external circumstances change ICSTIS' priorities from time to time but these must not allow 'business as usual' topics to be completely put on hold. It causes considerable frustration with stakeholders. The MBG intends to write separately on the detail of this point.

The MBG also welcomes any proposals for the improvement in the quality and timeliness of the adjudicatory work. We note ICSTIS' view that this can be done in a manner that is cost neutral.

We have just a few comments that we would like to be considered further or where we would like clarification.

In some ways, the proposals are analogous to separating the legislature from the judiciary. The CCP will be chaired, as the document states, by an experienced barrister. As such, the chair of the panel will have considerable authority and influence. In the interests of transparency, it would be appropriate for the quarterly report (referred to in paragraph 3 of page 14) being sent by the CCP chair to the

ICSTIS board to be made available to stakeholders in a timely manner. The separation also has the potential for creating two sources of authority within ICSTIS. We do not believe it would be desirable for there to be any confusion over whom has ultimate authority. The new Governance arrangements should be absolutely clear that the Board, subject always to the powers of Ofcom, retains the primary authority over the affairs of ICSTIS.

To this end, we believe that the document needs to be a bit clearer on the status of the sanctions guidance, referred to in paragraph 2 of page 14. There appears to be a duty on the board to review the sanctions guidance but there does not seem to be any duty on the CCP to follow the guidance. Even if it is self-evident that they should, with the new separation of powers, the governance document should formally state that the CCP is bound by the sanctions guidance.

One final observation – the arrangements for emergency procedures appear to be a bit of a hybrid between the new and the old system. The consultation document does not really make clear why the process for emergency procedures has been set up in this way. It would be helpful for this to be explained. Furthermore, we believe this Governance document presents a good opportunity for ICSTIS to set out its policy on the use of emergency procedures in more detail. In the recent past it has not always been clear why emergency procedures have been used in some instances and not in others. There appears to be some inconsistency in their use, which is not always explainable by the potential for consumer harm arising from any given situation. In conversation, ICSTIS members have indicated they intend to be a bit more specific about the use of emergency powers. We would like to see this intention followed through with a guidance note that sets out in more detail the circumstances in which emergency procedures would be used.

Notwithstanding the clarifications and amendments that we seek, the MBG is supportive of this policy and we look forward to working with ICSTIS under the new arrangements in due course.

Yours sincerely,

*Hamish MacLeod*

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Mobile Broadband Group