

## **ICSTIS' POSITION FOLLOWING ITS RECENT CONSULTATION ON THE PROPOSED INTRODUCTION OF £2.50 PER MINUTE AND £5.00 PER MINUTE TARIFFS**

ICSTIS, the Independent Committee for the Supervision of Standards of Telephone Information Services is responsible for regulating the content and promotion of premium rate services.

### **Executive summary**

In response to a request from the industry for new higher premium rate tariffs of £2.50 per minute and £5.00 per minute to be opened, ICSTIS has looked at how these tariffs might be introduced without significant risk of consumer harm. A cautious introduction to the market was proposed in the ICSTIS Consultation Document, "The Possible Introduction of Premium Rate Higher Tariffs of £2.50 and £5.00 Per Minute", issued in June 2003. ICSTIS has decided it is prepared to introduce these tariffs on a trial basis for a limited range of services and subject to consumer protection measures, relating to price warnings and total call spends.

### **Summary of responses**

The Committee received 15 responses to the Consultation Document by the closing date of 1 September 2003. The Committee would like to thank all those who responded to the consultation. Detailed summaries of all responses not flagged as confidential will be available on the ICSTIS website in January 2004. Key points are summarised below

#### **Opening the tariff points and doing so on a trial basis**

There was general support for opening up higher tariffs on a trial basis. The Consumer association argued this should be delayed pending a more comprehensive proposal and consultation but another telecommunications consumer group and all originating networks were supportive of a trial. Some respondents queried whether it was possible to introduce a £2.50 tariff without additional trial conditions but most addressed the two tariffs together and felt they did require safeguards.

#### **Use of Prior Permission**

Most respondents agreed services on these new tariffs should go through a prior permission process. One network argued this would be unnecessary if ICSTIS had assured systems in place for validating established service providers as fit to run services at these tariff points. The Premium Rate Association made a related point, arguing for a general scheme of registration of service providers. One respondent argued that permission should be focused on the services with a total cost in excess of £20 – that the harm lay in the aggregate spend, not in the per minute rate. The general view, however,

was that the permission regime was an effective way of deterring fraud and of cutting access to problem services operating without approval. Given the open-ended nature of live advice services and the sensitivities around the Committee is minded to put all services at the new tariffs though the permission process in the first instance. This may be reviewed in light of network responses to the points in this statement relating, in particular, to £5 maximum charging for pay for product goods.

### **Scope of the trial**

There was general agreement to the trial being applied to professional services, such as legal advice. Some doubted the market potential for such services. A number of respondents thought the advisory service could be extended to other non-professional live advice services if, as Telewest put it, a “safety net” exists. The general view was there was little interest in offering business-to-business services. Some networks (Cable and Wireless, the UKCTA group and the Mobile Broadband group) commented on the potential for low-cost pay for product services such as ring-tones and logos. Landline networks pointed out that these were increasing on offer across mobile networks using £5 or other high “drop charges”. The argument was that landline networks should be able to offer broadly equivalent payment options. ICSTIS understands this is an issue that has yet to be resolved between the originating and terminating network groups. The Committee felt it was an area where a trial should be possible if agreement can be reached.

A minority of respondents argued the trial could be open to a broad or universal range of services, possibly including children’s services, sexual and other entertainment services, chat etc. The Committee was not persuaded by these arguments. It recognized the concerns expressed by others over fraud, unauthorized use and extremely high bills.

### **Spend limits**

There was general agreement of a £75 spend limit to all calls and the need for a form of forced release to assure this is respected. The Committee had concerns over the possible consequence if a caller to a live service lost access to the expert she/he had been dealing with. They are inclined to set requirement to address this possibility and remove the risk of recurring expenditure as callers “start over” with a new adviser. There was broad agreement on the benefits of call cost warnings during a call – as an indicator of the level of expenditure.

### **Pricing**

There was universal support for the proposition that callers should get a price notification/warning on connection to a service – that they should be given the call costs and have the option of not proceeding before the costs start to accumulate. Networks took differing positions on how this should be delivered. Some respondents said the responsibility lay with Terminating Networks while some terminating networks said this could only be done by the caller’s call-originating network.

This is a critical issue for ICSTIS, particularly when we already have serious issues around the clarity of call cost information when calls to 090 numbers are made from mobile or other new networks. It is not possible for the regulator to impose a solution but the Committee will want to know that customers on any originating network in the trial are assured that the maximum call costs will be enforced and that warnings will be there on connection.

### Committee Statement

The Committee agreed to the following statement of its position:

1. Services operating at the tariffs will initially be part of an ICSTIS trial;
2. The trial will last for 12 months and participants must apply to join before the end of the first 6 months. The Committee may extend the trial should there be insufficient information after one year to make an informed evaluation. The Committee has the right to suspend the trial or certain services within that period should that, in the opinion of the Committee, become necessary or desirable in the public interest;
3. Services operating at these tariffs must obtain ICSTIS' permission prior to operating. Permission will be granted in the form of a certificate which may contain "conditions" which add consumer protection measures to supplement those in the Code of Practice;
4. Services must be established within 8 weeks of receiving a certificate otherwise permission will be withdrawn;
5. The trial is open to the following categories of service:
  - a) professional advice services (for example legal, veterinary, medical, tax or accountancy advice) and on the understanding that the professional body concerned does not object to the higher tariff payment mechanism. The Committee would also want confirmation that a professional body, such as in the case of accounting advice, the Institute of Chartered Accountants in England and Wales, will have a right or duty to consider any issues raised by the public as to the quality of the advice given;
  - b) other advice services such as technical help, which may not have a professional body, may be considered for permission provided applicants can demonstrate proof of satisfactory professional indemnity insurance or other satisfactory arrangements to deal with redress in cases where there is a dispute over the advice.

- c) services offering low cost items (products) of a non-returnable nature such as ring tones, games, brochures, catalogues, up to a maximum cost of £5.00. The Committee is prepared to include this category of service in the trial but understand originating networks may have residual concerns over this form of “pay-for-product”. Prior to the trial’s start the Committee will be looking to networks to confirm their willingness to carry such services.
6. Whilst permission to operate will be subject to additional consumer protection measures imposed via the permission certificate, the Committee viewed the following two particular measures as key to the Committee's acceptance of the trial:
- a) free to user cost warnings and
  - b) a maximum cost of £75 per call and interim cost warnings after every 10 minutes at £2.50 and after every 5 minutes at £5.00 are assured no matter which network the calls originate from or which service provider the calls terminate with.

In order to be certain that these measures will apply on all networks and in all possible circumstances, the Committee seeks further written assurances from commercial stakeholders. These are detailed below in the "next steps" section of this statement.

7. The Committee may also impose a condition requiring that a mechanism be put in place for callers to finish their call with the same adviser if they are unable to complete their business within the £75 maximum.
8. Service providers joining the trial, and their partner networks, must provide written agreement that the following information will be supplied for trial evaluation purposes:
- a) the nature and number of complaints and incidences of billing dispute and bad debt reported to ICSTIS, network operators and service providers and
  - b) statistical information showing call traffic and durations;
9. The trial will be viewed as a success if, exceptional circumstances aside, the volume of complaints to ICSTIS is no greater than the volume of complaints for all other premium rate services for other premium rate advice services charged at the current maximum tariff of £1.50 per minute or any lower amount.
10. If, after 12 months, the trial is viewed as a success, the Committee would be prepared to consider a second phase to permit a wider range of services to operate at these tariffs, provided consumer protection is not jeopardised.

### A request for a tariff of £2 per minute

Separately, the Committee noted certain comments pointing out that as the highest per minute tariff in existence has been £1.50 since 1994, there may now be a case for a simple inflationary rise to £2.00 per minute, without the necessity of re-assessing consumer protection requirements. Whilst the Committee noted these comments with interest it was agreed that as they related to matters outside the scope of the consultation document, they should not be taken as part of this current debate. The Committee would be prepared to consider consumer protection issues in respect of any proposal for the £2 tariff but would wish to know that such a proposal had been developed with wide support from originating networks.

### Next steps

The Committee invites the Network Operator New Services Focus Group and the Mobile Broadband Group to confirm that the following conditions can be met on all originating networks:

- a) a free to user cost warning;
- b) calls can be limited technically to a maximum cost of £75 per call;
- c) cost warnings after every 10 minutes at £2.50 per minute and after every 5 minutes at £5.00 per minute;

The Committee is aware of arrangements being proposed to satisfy the cost warnings and maximum spends per call requirements for any interconnections via BT but assurance is required that all premium rate services at these tariffs will offer a free to user cost warning message no matter which network calls originate from or terminate with, particularly when calls from mobiles could be significantly higher.

We understand that some originating networks (mobile and fixed line) may choose not to offer customers access to services at these new tariffs. The Committee is asking the New Services Focus Group for confirmation of the position with regard to these networks. The Committee would wish to be notified of any changes in terms of participation by originating networks and would wish to be assured that any networks joining the trial had arrangements in place as necessary to meet the consumer protection arrangements set out above.

The Secretariat has already written to the New Services Focus Group, to ask that work starts on producing these written assurances and the Committee now looks forward to receiving a response. Once the Committee is content that the industry can provide robust answers to points a-c above, invitations to join the trial will be published.