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By email

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21st October 2005

Dear Suhail

A public consultation seeking comments on proposed specific conditions applicable to premium rate TV Quiz programme and channel services

I attach Intext Media's response to your consultation on premium rate TV Quiz programmes.

I would like to raise a couple of issues that should be considered in conjunction with our comments in the attached document.

We note that you state that there have been over 100 complaints received in five months. While any complaint is to be regretted, given the scale of growth in this market this does not seem to be a serious cause for concern. We would urge ICSTIS not to impose too many burdensome requirements on an industry that has existed since October 2003 and which has operated with little or no consumer harm as far as we are aware.

We would also like to point out that many of the conditions that ICSTIS is proposing could be construed as ICSTIS wishing to regulate the content of TV shows, rather than regulate the usage of premium rate. We recognise that when reviewing "promotional matters" there will be some overlap but TV content is already policed by Ofcom and our broadcast clients have to comply with numerous Ofcom rules too.

If you have any questions relating to the Intext Media response, please let me know.

Yours sincerely



Caroline Griffiths
Managing Director

Intext Media (UK) Limited

Response to

**A public consultation seeking comments on
proposed specific conditions applicable to
premium rate TV Quiz programme and
channel services**

21st October 2005

Submitted by Caroline Griffiths, Managing Director
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Proposed conditions

1. Service name

We are proposing to call these new services 'TV Quiz services'

Question 1

We would welcome your views on whether you are content with this title.

Are there other titles you believe might better reflect the service types in question?

Intext Media Response Question 1

We would not recommend using your proposed name. The generic name in the industry for such services is "Call TV" and so we suggest you use this name. The proposed label "TV Quiz services" conjures up the concept of any quiz on television whereas these draft provisions are clearly designed to target Call TV shows, where a proportion of entrants are not short-listed when they first enter and may decide to enter again.

2. Service description

Question 2

We would welcome your views on whether we have successfully managed to cover all aspects of the services in question.

Are there any other defining characteristics of these services which we should incorporate in our definition?

Intext Media Response Question 2

We have made one word change below to your proposed definition. Call TV concepts usually divide callers into those who are unsuccessful and those who are short-listed. The short-listed callers are the ones who stand a chance of going through on air

"We propose that the prior permission conditions should apply only to broadcast output (programmes and channels) on television where the primary function and content of the output is the provision of competition services (as defined in paragraph 6.2.1 of the 10th Edition of the ICSTIS Code (as amended) ('the Code') where consumers are invited to call or text a premium rate number in order to give their answer (normally either by being connected to the presenter or via a call-back). If participants are not ~~selected~~ short-listed on any given occasion, they are informed accordingly straightaway and have the opportunity to make repeat attempts. The proposed prior permission regime will apply regardless of whether the premium rate service contains a live speech element or not".

We cannot identify any other defining characteristics.

3. Promotion of services

Question 3

We would welcome your views on whether providing this information will be beneficial to the consumer and will allow for greater transparency of how the services operate.

Intext Media Response to Section 3 and Question 3

As these conditions apply to television only it would be very helpful if ICSTIS could specify exactly what is meant by “promotional material” in this context. For TV this can be broken down into “on-screen” meaning visual elements that can be seen by viewers, verbal (spoken or announced by a presenter or voice whether in vision or not) and other forms e.g. through Teletext, web, red button and so on.

We endorse your proposal that it should be made clear to viewers that most participants are unlikely to get through to speak on air. However we question the need for detailed statistical reporting and the forecasting of odds for prize competitions. This is not required for other types of prize competitions run by our clients and so, on a general level, we question what need there is in the context of Call TV projects.

We offer the following comments on your specific suggestions:

anticipated odds of getting through

We think that giving anticipated odds would be disadvantageous to viewers on a number of fronts. Firstly, the odds are not known till after the event and so this could be very misleading and so we doubt whether this could be of value. Even if one made it clear that historical data was being given, this does not help consumers. Secondly giving out a percentage value in the context of a TV show would be unlikely to be readily assimilable: these shows are quite heavy in numerical data anyway, with the telephone number, the pricing message, the prize money and some of the games are numerical too.

identifying the number of live operators taking calls

We are not aware of any systems where there are live operators taking calls. The presenter takes calls and in our experience there is usually just one but occasionally two presenters. However, if there are live operators taking calls this information could be given out.

We think the best way of reinforcing the fact that most entrants do not get through to speak live on air is for the presenter to emphasise that this is the case. Information given out by presenters is readily assimilated and understood.

4. Clarity of pricing and premium rate charges

Question 4.1

We would welcome your views on how effective the proposals in relation to the provision of pricing information would be in practice and whether they are proportionate and targeted.

We would also be interested to see data that illustrates the average length of time a typical 'unsuccessful' message is listened to, in relation to the positioning of the pricing information within the recorded message. If the pricing information is towards the end of the message, do callers listen long enough to hear it?

Are there other or alternative requirements that we should consider?

Intext Media Response to Question 4.1

We agree very much with the principle that viewers must understand that each call or text carries a charge. Our clients are robust in giving out price warnings – they do so with graphics on the screen, with the presenter reminding viewers that they will be charged for every call “whether successful or not” and there are price reminders on the phone lines. However, even though ICSTIS’s recommendations sound similar to this, we would discourage ICSTIS from being too prescriptive: TV professionals understand how best to convey information and the principle here is that pricing must be conveyed unambiguously to viewers. If ICSTIS were to stipulate the principle rather than spelling out how exactly this must be done on air, I think the results would be more satisfactory from a consumer protection standpoint.

We are very surprised that ICSTIS reports that some viewers think that they will not be billed for calls made. Can we assume that because ICSTIS has not referred any such complaints to us that none of the services we run has been affected in this way?

We agree with your third and fourth paragraphs in this section.

You specifically request information as to the duration of “unsuccessful” calls. No client has given permission that we may reveal their individual data but we can confirm that the average duration for different services varies and we see ranges of 7 seconds to 12 seconds.

Question 4.2

We would welcome your views on the most effective way in which to achieve the objective of informing participants of each £20 spend.

Are there other or alternative requirements that we should consider?

Intext Media Response to Question 4.2

The ICSTIS proposal to have a warning message every time a caller has spent £20 would be impossible to achieve and we believe it would be a disproportionate response to the potential for consumer harm.

First and foremost a significant number of callers these days do not pay the BT price and the terminating IVR equipment has no idea whence a call originates and what contract a telephone subscriber has signed up to. As an illustration we could be working with a 60 pence per call tariff and a caller has made 33 calls. Under the proposals we would be obliged to say "You have spent £20..." However we have recently discovered that the mobile network "3" charges £1.99 for 60 pence per call tariffs so a "3" customer would have in fact paid £65! I think in these circumstances a customer would have good cause to feel angry about the misleading price warning!

Furthermore it is important to understand the implications of the distributed network plans that are widely used on these services. Calls are terminated at different locations round the country to increase resilience and there is no easy method for conveying consolidated CLI databases real-time to all the answering points.

We would therefore recommend that ICSTIS adopts the approach that Intext Media already deploys. We count the calls per CLI made to one particular routing point and when certain thresholds are reached we give a warning. E.g. If the point takes 50% of the traffic and the client has requested a warning every 50 calls, then when a CLI has reached that routing point 25 times the caller will hear the warning. It is imprecise but it rarely (if ever) deviates significantly.

Because of this slight unpredictability we use the phrase "Our records show you are a frequent caller". It is our belief that it would be wrong to say "You have made 50 calls" when they could have made a few fewer or more than this figure. Because the "frequent caller" message is different from the norm, it acts as a strong prompt to the fact they are making a high number of repeat calls. Please note that obviously ex-directory and "CLI withheld" customers cannot benefit from this.

Because we rarely, if ever, these days receive complaints about high bills we believe that our method of using a "frequent caller" message must be working.

Our services always carry a price message on the "not successful" outcome and your wording is fine.

We note that you state that there have been over 100 complaints received in five months. While any complaint is to be regretted, given the scale of growth in this market, this does not seem to be a serious cause for concern. We would urge ICSTIS not to impose too many burdensome requirements on the industry.

5. Contact information

Question 5

We would welcome your views on whether requiring a helpline number to be displayed is proportionate and reasonable.

Are there other or alternative requirements we should consider?

Intext Media Response to Question 5

We agree with ICSTIS that it is very important for viewers to be able to contact the programme makers/service providers. However from our years of experience in the broadcast sector we know it is not a good idea at all to have more than one number on the screen at the same time. This is considered to be very poor broadcast practice as it always confuses viewers.

We would recommend strongly that ICSTIS takes a different approach to this.

It may be helpful to refer to our response to Paragraph 5.6 in the consultation on the ICSTIS 11th Code. We stated:

“Contact details for radio and TV may not always be obvious but these media have more limited promotional space/opportunities compared with print media. I would therefore propose that the provision of a website that contains all the ICSTIS required details would be a good solution and that promoting the appropriate URL would meet this requirement.

Also please consider the scenario described under 3.2.7 above where a third party provides customer support.

We would recommend that 5.6 were augmented to read:

“For any promotion the identity and contact details in the UK of either the service provider or information provider or other entity undertaking the customer services role where not otherwise obvious, must be clearly stated so that customers can contact them directly and without using premium rate services or otherwise having to incur unreasonable expense. For TV and radio it is acceptable to state the URL of a website that contains such contact information”.”

You suggest that providing a web address, even if it carries all the supplementary information required, would not in your view be sufficient for Call TV projects. A practical way of overcoming this is to provide details of a P.O.Box (or postal) address from time to time on the screen. No viewer could confuse a postal address with the response mechanism so this should avoid the confusion that the simultaneous provision of two numbers on the screen would precipitate.

6. Terms & Conditions

Question 6

We would welcome your views on whether requiring any significant terms and conditions to be displayed on screen is a proportionate and workable proposition.

Are there additional or alternative requirements we should consider?

Intext Media Response to Question 6

We agree with ICSTIS that significant terms and conditions must be made clear to viewers and, in fact, this is a general ICSTIS Code requirement. However we believe that where key T&Cs are communicated individually to players by post or telephone before being instigated that there should not be a requirement to show them on the screen.

We should also like to recommend that ICSTIS does not insist on there being too many details on the screen as a crowded screen does not delivery clarity. We attach later on a schematic showing what the screen might look like if all your proposals were implemented and there is little space for the content of the TV show! See Page 10.

7. Age/bill payer warnings

Question 7

We would welcome your views on whether requiring age and bill payer warnings to be displayed and being stated orally is a proportionate and workable proposition.

Are there other alternatives we should consider?

Intext Media Response to Question 7

We agree that it should be made clear that under-sixteen year-olds may not enter. However we refer to the arguments put forward in our response to Question 4.1, namely that we would discourage ICSTIS from being too prescriptive in the way that information is conveyed. TV professionals understand how best to convey information and the principle here is that age provisions must be conveyed unambiguously to viewers. If ICSTIS were to stipulate the principle rather than spelling out how exactly this must be done on air, I think the results would be more satisfactory from a consumer protection standpoint. Again, if more information is required on the screen for regulatory reasons the less clear the content of those warnings will become.

8. Closing dates and times and hours of operation

Question 8

We would welcome your views on how easily paragraph 6.2.7 of the Code can be complied with. Are there any specific reasons or difficulties you would face in ensuring closing dates or times are provided?

Intext Media Response to Question 8

We recognise that the ICSTIS Code requires that closing times for competitions should be given and we believe the origins of this rule were to address the situation where magazines with long shelf lives ran competitions. It was important to discourage people from entering a competition that had long since closed. There is no parallel with Call TV shows – viewers do not dial in after the competition has ended.

In general terms Call TV competitions end when someone gets the answer right. This concept is readily understood and we are not aware of any situations where a viewer has misunderstood this.

Onscreen clocks are used as a way of informing viewers when a caller or web entrant will be taken to air. We agree with ICSTIS that, **IF** a programme were to give out misleading information by suggesting a competition closed when the clock count-down had finished and if this were not the case, then this would be wrong. However we are not aware of this happening and it certainly does not happen with any of our clients.

You propose that the closing date and time should be provided. This could be done but the wording would be something along the following lines:

“... this competition will close when someone gets the answer right.”

We do not believe that this would be particularly informative! We therefore would encourage you to re-examine whether viewers really think that the clock count-down predicts when someone will get the answer right.

Occasionally a puzzle ceases to be entertaining and, in those cases, our clients may decide to end the game, give the answer and roll over the prize money into the winnings for the subsequent game(s). We believe this to be good practice.

9. Substantiation

Question 9

We would welcome your views on whether you believe these requirements are a proportionate and workable proposition.

Are there other alternatives we should consider?

Intext Media Response to Question 9

Firstly, we wonder why ICSTIS requires the logic for solving questions always to be the same for every question. Isn't this like saying that every crossword clue must be an anagram? Provided that ICSTIS can be supplied with a logical explanation for any question that it queries, shouldn't this suffice?

We think the ICSTIS proposal that questions and answers should be lodged with an independent third party in advance would be workable, if a little onerous. We recommend that electronic copies should be acceptable as then copies could be stored more easily and they would only need to be accessed following an enquiry from ICSTIS. Could ICSTIS perhaps be the recipient of this information? It could be supplied with a password to protect access and ICSTIS could be given the password for any set of questions it wanted to check.

Proving the existence of prizes would not be an issue providing that our clients were happy to agree to a request from our regulator. Cash is the usual prize used by our clients and ICSTIS could approach them to see if they would provide copies of bank statements. As it is clearly a breach of the Code and possibly fraudulent to run a competition where the prize does not exist, we wonder why you would need particular proof for these services which generate relatively few complaints. The requirement would seem to be disproportionate. Has there perhaps been a problem elsewhere in the industry with prizes not being provided?

We have various methods for proving impartiality in selecting who goes through on air but we wondered if ICSTIS had a particular method in mind when proposing that this information should be made available to ICSTIS. Our clients do not know when a player speaks on air and wins (or otherwise) whether the player has entered via the free or paid-for route.

10. Legality

Obviously no services should be run that are illegal. ICSTIS's position here is difficult as ICSTIS can neither judge nor prove that a service is legal or illegal. Clients who secure legal opinions normally do so on the basis that the advice is privileged and it would be unusual (and I suspect unacceptable to many companies) to make such opinions available to ICSTIS.

AOB

We show below a mock-up of a TV screen showing ICSTIS's recommendations. As stated in our response we believe that the full range of ICSTIS's proposed recommendations are disproportionate given that the presenter speaks much of the information as well and that there is additional information on the phone lines too.

(With apologies to the Nine Live show, broadcast in 2004 and no longer broadcast!).

