



21 October 2005

ICSTIS Consultation Seeking Comments on Proposed Specific Conditions Applicable to

Premium Rate TV Quiz Programme and Channel Services

NOC Response

The Network for Online Commerce is a not for profit trade association that exists to promote and facilitate profitable enterprise in Telemedia markets across the globe and we welcome the opportunity to comment on the proposed Specific Conditions Applicable to Premium Rate TV quiz Programme and Channel Services. We are pleased to recognise and appreciate this Consultation as continuing evidence of the commitment of ICSTIS to work in a spirit of close co-operation with the PRS industry.

The rapid expansion of TV quiz Channels and programmes since their relatively recent introduction is a clear indication of their popularity and also that they are responding to significant consumer demand. Premium Rate is a useful and valuable payment and billing mechanism for these services.

The declared level of 'complaints' received by ICSTIS should be treated with caution and be subjected to closer examination and analysis in order to separate true complaints from enquiries and ensure any response to actual problems is proportional and justified. The present log of 'over 100 complaints' is not necessarily significant given the scale of the services provided and we are concerned that a formal public consultation has been triggered when we believe it to be highly probable that any problems, either real or perceived, could have been quickly addressed through established industry contacts and employing the current ICSTIS Code of Practice.

This is not to say we do not recognise the potential for consumer abuse via such services but we are of the view that the present ICSTIS Code contains sufficient provisions to address any present or future problems which might be identified.

The role of ICSTIS should not in our view extend into the detail and mechanics of how competitions and quizzes are operated, but should focus on the payment and billing mechanisms and ensure consumers have sufficient information available to them so they can make an informed choice on whether to participate in competitions or quizzes via the medium of Television. The recently formalised Gambling Commission will, we assume, have responsibility to ensure that games of chance or minimal skill are operated according to defined standards and we would welcome more discussion on this.



Our responses to the individual items raised by the Consultation are detailed below.

1. Service Name

Question 1

We would welcome your views on whether you are content with this title (TV Quiz Services). Are there other titles you believe might better reflect the service types in question?

The use of the term 'TV Quiz Services' is acceptable but it is not correct to refer to these as new services since variants have been with us for some years now in the form of programmes like the Richard and Judy show and Who Wants To Be a Millionaire. Many other established TV programmes also use simple PRS based quizzes as a source of valuable revenue. Assumedly, ICSTIS will have received complaints relating to such shows over the past few years and we would be grateful for any statistics which might shed light on this. As mentioned in the next item we do have a concern that by isolating TV Quizzes the overall picture is not being properly addressed.

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?

The proposed definition appears to be struggling to discriminate against the newly emerging services while leaving older, more established, services untouched. We believe this to be an error and any service definition must include all Quizzes which utilise PRS as the payment mechanism. It may also be appropriate to address media other than Television to ensure the overall picture is considered. The Definition should be re-visited.

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.

The promotional information provided at the consumer interface should be designed to enable the freedom of informed choice to be exercised. Given the volatile and dynamic nature of the services, any requirement to provide current statistics on odds of getting through, current calls per hour and analysis of the typicality of participants etc. would be costly and unreasonable and also be of questionable use to would be participants.



There is confusion regarding the difference between promotional information and real time service information. Promotional information is required to inform consumers on:

- The nature of the service
- A brief description of the service
- The typical cost of the service
- The means of participating in the service

Consumers are then free to decide for themselves on whether or not to participate. We believe there is room for improvement regarding promotional material and consumer understanding of these services, but this can adequately be addressed without recourse to a Consultation.

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?

We agree that call costs information should be prominently displayed at all times and this is covered by the current ICSTIS Code. It is difficult to take seriously the claim that many complaints received by ICSTIS relate to a lack of pricing prominence given the fact that all services we have reviewed display this information clearly. Many programmes combine the display with regular call cost reminders from the presenter although, strictly speaking, this is not a Code requirement.

There is probably scope for improvement in the area of messages to customers who are being placed in a queue and we would be happy to assist in the compilation of Help Notes to assist in this. This can easily be achieved without a full scale Consultation.

There should be no restriction on presenters encouraging repeat attempts by unsuccessful callers provided that the costs are clearly stated.

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?



The £20 threshold in the ICSTIS Code applies to one individual call and not to a series of individual calls. Provided callers are properly advised as to the cost per call there should be no restriction on the number of calls made by any one caller. It appears that some calls are made on behalf of syndicates who are prepared to invest significantly more than £20 to win a major prize and this is a legitimate use of the service that requires no regulatory interference.

Since consumer spend is accumulated on an individual call basis there is no need for regulatory change to the current Code and there is no justification for requiring costly development to analyse individual call spending patterns, particularly with calls typically costing only £1.

An objective of advising participants of each £20 spend has no relevance here.

We are also mindful that concerns relating to properly informed consumer spending on telephone calls is an issue of credit between the consumer and his network service provider

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 that we should consider?

While the question relates only to a Helpline number the proposition requires the name of the Service Provider to also be displayed in a static or on a rolling screen basis.

Without detailed information on the nature of typical complaints received by ICSTIS we cannot take a view on what contact details would best assist consumers but evidence from one Member suggests that most enquiries would not benefit from an immediate conversation on a Helpline.

There is a point when the amount of information provided on a screen ceases to be useful and becomes confusing and the display of another telephone number might confuse participants regarding the competition number.

Service Providers want to enjoy a good relationship with their customers and will welcome all reasonable efforts to achieve this but in a proportionate and cost effective manner. The display of a web address would appear to be the least confusing and most acceptable way of communicating with customers.

6. Terms and 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?

While services are TV based as stated it must be understood that the receiving screen may be either a TV or a computer and the capabilities of each for displaying Terms and Conditions are very different.



Given that the vast majority of homes have the capability of accessing web based data it makes sense to make Terms and Conditions primarily available via this medium with hard copy by post as an alternative.

We believe it is sufficient that consumers are alerted to the fact that - Terms and Conditions Apply - and that these are available if required. They are then free to exercise their informed choice as to whether or not they wish to access them.

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?

While these programmes are not targeted at, or likely to be regarded as attractive by, children it has to be accepted that some will access them. It is impossible to prevent and the onus for the supervision of minors resides with the parents who are also likely to be the bill payers.

Although this represents even more information to be displayed on screen we would agree that on screen display and presenter warnings regarding 16 years age limit and permission of bill payer be provided.

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?

The open ended nature of most quizzes would seem to prohibit having a specific closing date or time and we agree that the concept of closing of a quiz due to insufficient entries is unacceptable. However, we would anticipate that there will be occasions when the flexibility to close a quiz and rollover prize money to another competition would be required.

We feel that ICSTIS is straying into the mechanics of operating a quiz and this is, in our view, not territory intended to be covered by the ICSTIS Code and not an area where ICSTIS would be expected to display sufficient expertise. The management of standards for competitions is an area better addressed by another organisation, perhaps the recently formalised Gambling Commission would be a suitable home for such a responsibility?

This is a good example of our preference for Help Notes over prescriptive Code where service variants are evolving which do not fit the Code but which require rapid response to changing conditions and where consumer harm is likely or demonstrable.

Unless there is clear evidence to the contrary we do not believe paragraph 6.2.7 of the Code should be enforced to the possible detriment of these emerging and evolving services.



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?

As mentioned in the previous item we do not believe the role of ICSTIS should extend in to the detail of how competitions are run. From an ICSTIS perspective it should be sufficient that the services are legal and that consumers have sufficient information to be able to make an informed choice on whether or not to participate in TV based competitions.

Our Members support the concept of lodging correct answers and calculation paths for quizzes and competitions with an independent third party but we would require discussions and agreement on who that might be. Similarly, it is essential that in any prize promotion some form of underwritten funds should be held in escrow to cover winnings or evidence of tangible goods available. Audit rights, to be held by an independent third party organisation, would be necessary to enforce such conditions and again we would require discussions on which organisation this might be.

The proposed evidence to ICSTIS regarding the selection process for participants to leave a queue and offer an answer would appear to go beyond the scope of the ICSTIS Code but, given this, we believe Service Providers would be happy to demonstrate this facility occasionally and without prejudice.

10. Legality

It is already a fundamental tenet of the current Code that services should be legal and it would be for ICSTIS to take a view, with supporting legal advice, that any service was illegal.

ICSTIS should not necessarily expect to have access to a Service Providers legal advice regarding any particular service activity.

Summary

We do not believe that it can be regarded as proportionate and reasonable to apply a Prior Permission constraint to emerging TV based competition and quiz services.

There has been no evidential proof to show any consumer harm and, to date, we have not had the opportunity to examine the details of calls made to ICSTIS, described as 'complaints', the quantity of which would not normally be considered significant against the total calls placed successfully to these services.

We do accept that there is room for improvement in the promotion and operation of these services but it has to be appreciated that they are still evolving and developing. Customers are



naturally unfamiliar with new territory and we would expect a number of calls seeking help and clarification, but they will not necessarily be complaints.

The NOC takes the view that these emerging services could be adequately addressed by the current ICSTIS Code of Practice and that any real or perceived problems could be quickly resolved through contact and co-operation using established industry contacts.

Neil Penny
Chairman NOC UK