

ICSTIS CONSULTATION PAPER ON PROPOSED SPECIFIC CONDITIONS APPLICABLE TO PREMIUM RATE TV QUIZ PROGRAMME AND CHANNEL SERVICES PUBLISHED ON 21ST SEPTEMBER 2005

This response to the consultation paper is on behalf of QuizLogic, a group of people who participate in the quizzes under consideration.

In general we certainly welcome the introduction of the conditions proposed by ICSTIS. As customers of these Quiz Channels we have concerns about the transparency of the manner in which they currently operate, in particular the validity of the logic they employ to calculate solutions to their puzzles, the accuracy of their answers and the claimed randomness by which they select callers. We have elaborated on these points in our responses to the specific questions you have asked which are set out below.

1. Service Name

Q1 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?

We are happy with the proposed title of 'TV Quiz services'.

2. Service Description

Q2 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?

We are happy with your definition.

3. Promotion of Services

Q3 We would welcome your views on whether providing this information will be beneficial to the consumer and will allow greater transparency of how the services operate.

We certainly agree that the service providers should have to make clear the likelihood of actually getting through live on air so that customers can better gauge their chances. The presenters on the Great Big British Quiz (GBBQ) claim that about 50% of all callers get through to the group out of which the person is selected to give an answer live on air and how that is better than other channels. But it is a useless piece of information because they give no indication of the size of that group so a potential caller has no idea whether it is a 1 in 10 chance, or 1 in 100 or 1 in 1,000.

The service providers must have this information so it is only correct that they publish it to prospective participants.

4. Clarity of Pricing and Premium Rate Charges

Q4.1 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 the service providers need to make it clear that the cost of a call applies to every call, in particular those where the caller is unsuccessful in getting through to the next stage.

We do not believe that unsuccessful callers listen for very long to any ‘sorry you have not been selected’ message. Therefore any information in that message that reminds the caller of the cost of the call needs to be sooner rather than later.

Q4.2 We would welcome your views on the most effective way in which to achieve the objective of informing participants of each £20 spent. Are there other or alternative requirements that we should consider?

No comment.

5. Contact Information

Q5 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?

We certainly think that this is a good idea. The only way of communicating with the service providers is via the email address they give on their websites. But our experience is patchy to say the least when it comes to getting a response to email queries. Those queries usually relate to the answers they have given for a particular puzzle (eg will they please check it is correct because it does not seem to follow the same logic that they’ve used for the last three puzzles of this type that they’ve broadcast) or their process for selecting callers. And their responses usually avoid answering the question, their excuse for that attitude in relation to the answers to puzzles being that their terms and conditions state that no correspondence will be entered into about answers to puzzles.

So the option of a phone helpline (provided it is answered) in addition to emails would be a step forward.

6. Terms and Conditions

Q6 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 other or alternative requirements that we should consider?

We agree that age restrictions and limits on prizes should be displayed on screen.

Some service providers say they limit the number of calls. For instance the GBBQ has recently introduced a limit of 100 calls per month. And they certainly do restrict the number of web entries (which are free) to that limit. But we do not believe they actually limit the number of phone calls anyone can make. So they are happy to keep accepting calls at £1 per time from anyone without restriction. Except that they reserve the right to not pay out any winnings if the call limit is exceeded. This seems to us to be unreasonable discrimination against web entries. If a service provider wants to limit the number of entries then it should be free to make that choice. But if it does so then it must not accept any web entries or phone calls in excess of that limit and must not charge for any phone calls in excess of that limit. We therefore believe that this requirement needs to be added to ICSTIS's proposed operating conditions.

In addition, where a service provider imposes such restrictions on the number of calls then the presenters must make that clear at regular intervals. Because currently they say all they can do is encourage anyone to phone in but make no mention of any restrictions they impose. Similarly some service providers limit the amount anyone can win in a six month period but no mention of this is made by the presenters who again say you can phone in as many times as you want.

Finally all these service providers include in their terms and conditions something along the lines of 'the answer to any quiz shall be determined at the sole discretion of the company and the company will not enter into any correspondence about that answer'. We accept that it is reasonable that the company does not want to enter into discussions that would reveal the logic they use for the more complicated puzzles. However, what is wholly unacceptable is for the company to hide behind such a clause and refuse to answer when the question is 'Can you please check that the answer to the puzzle you broadcast yesterday was correct because it does not follow the logic we believe you have used for previous puzzles of this type and so it seems you have either calculated it incorrectly or have changed the logic'. Hence ICSTIS needs to ensure that a company's terms and conditions do not include such a widely drawn 'no correspondence about the answers' clause. Such a clause should only cover not having to reveal the logic behind an answer to a puzzle.

7. Age/Bill Payer Warnings

Q7 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?

We agree with the proposals.

8. Closing Dates and Times and Hours of Operation

Q8 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 puzzles broadcast by these companies generally fall into one of two categories. Firstly easy puzzles (eg who is this famous footballer - DAVDI BECKMAH?) where they can be 99.9% certain that whichever caller gets through to the studio he or she will give the correct answer. And secondly more difficult puzzles where the answer is not obvious and requires the caller to do some (or much) work to determine it.

We definitely agree that a closing time should be given for all puzzles.

For the more difficult puzzles referred to in the preceding paragraph, the closing time could only be an estimate since for such puzzles the service providers start to accept calls straight away and they cannot be certain when (or if) it will be solved. But if they intend to take it off air after a certain time then that should be clearly stated.

But the service providers operate in a different way for the easy puzzles where they know that it is virtually certain that the first caller they put through on air will answer it correctly. For these puzzles they simply don't take any calls on air for a period of time (perhaps 15 minutes or 30 minutes or more) in spite of the fact that people will be calling in trying to give the answer. So they should be forced to state for how long the puzzle will remain on air (see also our response to Q9 about the randomness or otherwise of the manner in which they select callers to go on air).

Currently when a service provider decides to stop the more difficult puzzles after they have been on air for some time and have not been won, in most instances they give the answer and that is the end of the puzzle. But for some puzzles some of the service providers decide to not give the answer and instead bring the puzzle back the next day. And some service providers repeatedly roll-over some puzzles. The practice of rolling-over a puzzle is simply to generate more revenue – many viewers will not realise the puzzle has been broadcast previously and so will phone in the same wrong answers as were given the previous day. We therefore believe that when a puzzle reaches its stated closing time it should cease and the answer must be given. Hence the ICSTIS conditions should preclude the possibility of roll-overs and must require the service providers to state the answer to the puzzle when it ceases (some service providers do not currently give the answers to some puzzles).

We wholly agree that a lack of callers is not an acceptable reason for changing the stated closing time or withholding prizes.

9. Substantiation

Q9 We would welcome your views on whether you believe these requirements are a proportionate and workable proposition. Are there other alternatives we should consider?

In many ways this is the most important part of the proposed conditions.

There is absolutely no doubt that for the harder types of puzzle there could be more than one 'correct' answer. That is because the logic employed by the service providers for these harder types of puzzle is obscure – which is necessarily the case because the puzzles would otherwise be too easy. But a different 'correct' answer could equally well be calculated by using an equally obscure but different logic. So once you know the obscure logic then you can work out the answer. But had the service provider picked a different obscure logic then the answer would have been different. And it is impossible to say that one obscure logic is more appropriate than another – the trick for the viewer is in determining which obscure logic the service provider has used.

A good example of this comes from the GBBQ. When they first started broadcasting, some of the puzzles they used involved showing a picture of some dice (three sides of each dice being visible) with the instruction 'add the numbers'. After a few of that type of puzzle had been broadcast some viewers worked out the logic that the GBBQ were using to determine their answers. So whereas the first dice puzzles were on air for hours without being solved, the later puzzles did not last long on air before someone got through with the correct answer. It then reached the stage where they were being solved very quickly and the GBBQ stopped broadcasting such puzzles. However, they have recently started to broadcast dice puzzles again although the dice are a different colour and the puzzle is now called something different. But other than the colour, the picture of the dice is the same as for the first type of dice puzzle and the instruction is still 'add the numbers'. It was obvious that the old logic would not give the required answer and that proved to be the case. But it is an example where the GBBQ have effectively re-used a previous puzzle but are now employing a different obscure logic to determine the answer. Which proves the point that there is more than one correct answer – it is simply a case of determining which obscure logic the service provider has chosen to employ.

A further example comes from Brainteaser TV and Sky Quiz Live which are both operated by Endemol. On 16th August 2005 Brainteaser TV broadcast a puzzle which comprised a nine by five grid with the 45 cells containing the letters L, I, N or E and the instruction was 'how many lines?'. The answer given was 327. Three days later Sky Quiz Live broadcast the exact same puzzle except the instruction was 'count the lines!'. This time the answer was 333! So that is an example of effectively one service provider (Endemol) operating different logic to produce two different answers to the same puzzle (or alternatively they calculated one of the answers incorrectly).

So we very firmly believe that the service providers must lodge their answers to all puzzles with an independent third party before the broadcast. The ICSTIS proposal is only in respect of those puzzles which could have more than one correct answer. But the service providers could claim that all puzzles have only one correct answer (ie the one they have chosen) when that is patently not true in the sense meant by ICSTIS. But forcing them to lodge the answers to all puzzles in advance will avoid this potential issue.

However, we believe the ICSTIS proposals need to go further in this area. Our experience, having solved the logic for a particular type of puzzle broadcast by a particular service provider, has been that the answer for a subsequent puzzle of the same type has been incorrect. There are only two reasons for this:

- (a) The service provider has changed the logic for the puzzle. That is wholly unacceptable. And we fully support the stance of ICSTIS that all puzzles of the same type must employ the same logic. But we believe that when submitting the answer for a puzzle to an independent third party prior to screening then the service providers must also submit the logic for that puzzle so that there is no doubt about the intended logic for any puzzle before it is screened.
- (b) The service provider makes a mistake in calculating their answer for a particular puzzle. This certainly happens and we can provide proof if necessary (ie an eventual admission from a senior manager at one of the service providers that this did indeed occur on some puzzles where we queried the answers). And we have our suspicions about other service providers although getting them to admit any errors on their part is very difficult. So we believe that the independent third party should actually check that it agrees with the answer calculated for each puzzle using the logic provided. If this proves impossible then the service providers certainly need to improve the checking procedures for their answers prior to any puzzle being broadcast.

But we have one further proposal in this area. We said above that the logic for the harder puzzles was necessarily obscure because otherwise they would be too easy. But there is obscure and obscure. It is necessary to ensure the puzzles are fair. But the service providers can currently make the logic impossibly obscure if they want to (eg each letter in a sentence has a value based on its position in the alphabet but every T has a value equal to the number of letters in the sentence and every other E counts five times). That is stupid illogical logic and should not be allowed. So we propose that the independent third party should verify that the logic for any new type of puzzle invented by a service provider is reasonable. This would not stop the puzzles being difficult but would stop service providers producing puzzles incorporating ludicrous logic.

As an alternative to an independent third party checking solutions and verifying that the proposed logic for a new type of puzzle is reasonable, then either or both of those tasks could be undertaken by ICSTIS.

ICSTIS is also proposing that service providers need to be able to demonstrate that there is a random selection process to select participants to get through to the studio for a chance to answer, that this process is impartial and that all entrants have an equal opportunity to gain access to the studio. We support these proposals. Service providers need to demonstrate that there is no bias whatsoever against participants who choose to enter via the web (and hence take advantage of the free entry this route provides). They also need to demonstrate that there is no bias against previous winners who it is reasonable to assume are more likely than the average caller to solve a puzzle.

But service providers currently claim that their selection process is random when that is patently untrue. On easy puzzles of the type outlined above they know that whenever anyone is put through to the studio to answer that puzzle there is a 99.9% chance of them answering it correctly. So if they want the puzzle to last 30 minutes then they simply don't select anyone for 28 minutes and then select someone randomly from those that call in the last two minutes. But that is not a random process because the service providers choose when they take a call. And the presenters keep repeatedly saying during the first 28 minutes that they are waiting for calls and call selection is random when they know that they have no intention of selecting anyone during that period. So that needs to be addressed in any proposals involving the demonstration of random caller selection.

Finally, with most service providers the only time a caller is asked to give their answer to a puzzle is if and when they are put through to the studio live on air. That is as it should be. But we believe there is at least one service provider (Grab a Grand) that does not operate on this basis. It requires participants to phone up and give their answer to the service provider. They then select (randomly they claim) from amongst those callers the person who is eventually put through to the studio. But there is anecdotal evidence that the selection process is not random. If you phone in with an incorrect answer you are more likely to be selected than if you phone in with the correct answer. And if you try to circumvent this by giving the wrong answer to the service provider to aid your chance of selection and then give the correct answer if you get through to the studio then your entry is declared null and void because their conditions state that you must give the same answer both times. That is a wholly unacceptable method of operation. There is absolutely no valid reason why the service provider has to operate on that basis. They have an immediate conflict of interest because they know each participant's answer before choosing who to put through to the studio. So we propose that ICSTIS specifically include in their proposals a condition that a service provider can only operate on the basis that the first time a participant is required to give their answer is when and if they are put through live on air to the studio.