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RESPONSES TO CONSULTATION

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?

“Quiz Broadcast Services” may be clearer

2. Service description

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 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.

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?

No comment

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3. Promotion of services

We believe that promotional material, including on air comments and graphics, must make it clear that most participants will not get through live on air. This may be done in a variety of ways such as giving the anticipated odds of getting through, identifying the number of live operators taking calls, stating the number of calls taken per hour or competition, or by indicating that participants who get through are not typical of all participants. This should be updated and repeated on air at regular intervals and/or if the chances of getting through substantially change.

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.

TUFF fully supports transparency and the principle of making consumers aware that most participants will not get through to the studio BUT they will still get charged for every call – these programmes never return busy signal.

Presenters on these programmes must be strictly controlled as to what they can and cannot say. TUFF members' complaint analysis has shown the presenters words have very strong influence on caller understanding and behaviour.

Presenters often imply that there is nobody calling in. This is clearly not true – they are just not getting through to the studio. The presenter gives the impression that 'if YOU call you will therefore get through'. Also presenters say "call as often as you like". They should add to that a comment about the costs of calling as often as you like OR not be allowed to encourage at all.

When the programme is designed with a certain percentage of calls NOT reaching the studio why not have that percentage stated and explained.

Similarly if it is not possible to win UNTIL x calls have been clocked up then state that. It is suspected that a minimum number of calls have to have been paid for before they allow a caller through to the studio. If this is true then that should be made clear OR this technique should be outlawed – forcing the competition to take a financial risk.

4. Clarity of pricing and premium rate charges

We believe that consumers must understand and have all relevant information prior to taking part in a premium rate service. In particular, this would include having an understanding of the costs of the service. Many of the complaints we have received from consumers relate to the lack of pricing prominence and a belief that participants will not be charged if they are not successful in getting through to the studio and instead only access a recorded message. As a result, we propose that pricing information must be clearly displayed on screen at all times and for the duration of the competition. It must be static and displayed in a way that does not require close examination. In particular, the pricing information must clearly state that all premium rate entries will incur the same charge, whether the participant is successful or not. In addition to this requirement, we also propose that pricing information must be clearly stated by the presenter or voice-over from the outset of a particular competition and must be repeated at frequent and regular intervals. The presenter or voice-over must also clearly state that all premium rate entries will incur the same charge, whether the participant is successful or not.

We believe that the promotional material, including presenter's commentary and any

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voiceovers, must not encourage continued and repeated attempts at participation without clearly stating that all premium rate entries will incur the same charge, whether the participant is successful or not.

To keep these services in line with other premium rate services operated, we are proposing that as soon as is reasonably possible after participants have spent £20, and after each £20 of call spend, they must be informed that they have spent £20, together with the cost of the service per call or minute. We propose that this is determined by cumulative attempts from a specific CLI with no time restriction.

An example of such a warning might be: "Thank you for entering. You have now spent a total of £20. Every additional call that you make will cost you £ [1]." Variations would be considered by the Committee as part of an application for prior permission.

Equally, we believe that when participants are not selected to give their answers on air, they must be given a message explaining this and giving the entry cost, making it clear that this applies whether or not they go on air. An example of such a message would be "Thank you for your entry. This has cost you £ [1] but you have not been successful this time."

We believe that, given the unique nature and characteristics of the services on offer, the proposed requirements are proportional to the detriment currently being caused and will effectively prevent consumers from failing to understand the costs they incur. We have, as always, tried to ensure an effective balance between the provision of information to the consumer versus the need of the service provider to operate a legitimate business. We do not believe that the proposed provisions will be burdensome for service providers to implement and they should reduce the number of complaints received by ICSTIS, Ofcom and other bodies.

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?

Understanding the cost of a service prior to taking part is essential for the callers to such a competition. Also callers should understand that Telecoms providers will rightfully expect to be paid for any calls made.

The call cost of should be displayed on-screen for the whole period of the competition and should state that all calls will incur the same charge regardless of whether the participant reaches the studio or not.

TUFF agrees that pricing information MUST be stated by presenters from the outset of a competition and at regular intervals without also encouraging callers at that same time.

TUFF members have investigated many customer complaints and believe that large numbers of callers are so intent on repeat dialling that they do not listen to more than a couple of seconds of the phone message and hang-up before any pricing is reached. It is suspected that the pricing is intentionally placed at the end of the message so as not to give concern to repeat diallers. By watching some of the competitions it is clear that many callers are not even watching the programme, perhaps they are too busy redialling? Therefore TUFF believes that the most important information to prevent consumer harm MUST be provided within the message played to the caller over the telephone. Perhaps

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the pricing information should be given immediately as the call is answered. And it should definitely be given BEFORE the callers know if they have reached the studio or not.

The proposal that promotional material including presenters' commentary and any voiceovers must not encourage repeated attempts at participation. TUFF feels this should be considered as just that.

TUFF members report hearing presenter saying that callers can ring as often as they like – this is definitely wrong. Without clearly stating that all calls will incur the same charge whether the participant is successful in reaching the studio or not AND their Telecoms provider will rightfully expect payment for all calls made.

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?

TUFF agrees with the principle of keeping consumers informed.

TUFF members are suffering numerous cases of customer non payment in relation to these competitions. It appears that OCPs are funding the prizes whilst the Programme makers make only profits. As an Industry body TUFF hopes that ICSTIS can also protect OCPs from this growing problem. Therefore it is not unreasonable that SPs must discourage those that cannot actually afford to gamble on these competitions.

TUFF suggests that all entrants to the competitions should be informed that if they win they will need to prove that they have paid their communications provider for the calls that were made in order to enter. Their CLI will have been trapped by their TCP and the number of calls made that day could be checked and spend calculated before prizes are paid out. Perhaps the SP could pay out only a portion of the prize money until such proof is forthcoming, logging any unclaimed residual with an ICSTIS fund. Perhaps then the OCP could be reimbursed in cases of proven non payment.

5. Contact information

Given the immediacy of these services and taking into account the information supplied to us by complainants, we believe that service/information providers should be easily accessible in case of problems with the service or for any other general enquiries. We propose that the name of the service/information provider and a non-premium rate helpline number must be displayed on screen in a static or rolling screen basis. We believe that the provision of a web address on its own would not be sufficient.

TUFF agrees with that it is reasonable for a helpline number to be displayed. Callers may think there is something wrong with the competition if they never reach the studio. Therefore in this case TUFF feels it is reasonable for Service Providers to have to use only 0800 numbers.

This could provide help in the form of recorded FAQs explaining in detail why they never reach the studio. It could also have some kind of voicemail box to request a call back

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next day ? Failure to demonstrate they had attempted to call back would be considered against the SP in any complaints?

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?

A helpline number using only an 0800 number for these Quiz TV services and should be displayed with a rolling screen.

6. Terms & conditions

The Code makes it clear that any significant terms and conditions that are likely to affect a consumer's decision to participate in a competition must be clearly stated. We do not believe that currently all such information is clearly and readily available to consumers. Given that these services are entirely television based, we believe that the only way this can be done is to provide such information on screen and not to require a consumer to look at terms and conditions on a website or Teletext. Examples of significant terms and conditions would include any age restrictions or limits on the number of prizes that can be won.

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?

Critical terms and conditions should be displayed on screen - a rolling screen at reasonable speed may be appropriate.

7. Age/bill payer warnings

We do not believe that the services and their associated promotional material are specifically targeted at children. However, we do believe that the services may have a certain appeal to people under the age of 16 and may, by their nature, encourage repeat calls.

Given the ease of access of these services and that many of the prizes that can be won are cash-based, we propose that service providers give a warning that participants must be 16 and over and have the permission of the bill payer before participating. This warning statement must be displayed on screen at all times as well as being stated orally by the presenter at frequent and regular intervals.

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?

TUFF agrees that Service Providers give a warning that:- participants must be 16 and over, have the permission of the bill payer and that multiple calls @ 60p/call may be

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necessary to even reach the studio before they even get an opportunity to give their answer to the competition.

8. Closing dates and times and hours of operation

Paragraph 6.2.7 of the Code states that any closing dates for competition services must be stated. From monitoring services we have seen that on-screen clocks that count down seem to indicate a closing 'time' (date). However, these do not appear to us to represent an actual closing time for the service and seem to be used to encourage more calls as the clock gives the appearance that the competition is about to close.

This practice has the potential to be misleading. We are proposing that, in accordance with the Code, the service provider must provide a genuine closing date or equivalent (closing time) for each competition they operate.

The Code is clear (paragraph 6.2.7) that an insufficient number of entries is not an acceptable reason for changing a competition closing date/time or withholding prizes. We would expect this provision to be complied with.

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?

There are some very large prizes which are used to tempt entrants and the rules on how that money is paid out re closing times. What happens if that large prize is not won today, Rollovers etc etc ALL this is of great interest to callers and will impact on their decision to play or not.

9. Substantiation

Having looked at the competitions on offer and having examined complaints we believe that there is a perception that many competition services could have more than one correct answer.

Where a competition could have more than one correct answer, a single correct answer must be selected by the service provider and lodged with an independent third party before the broadcast. This answer, and evidence of its lodging with an independent third party, must be made available to ICSTIS on request at any time up to four months after the competition has closed. This length of time is to deal with the billing cycle for potential complainants.

We also feel that in complex competitions (for example puzzles), the logic for solving them must remain consistent and include a logical explanation which should be available to ICSTIS on request at any time up to four months after the competition has closed.

Service providers shall also be expected to substantiate that the prizes offered are available, the evidence of which will need to be made available to ICSTIS on request.

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We will also need service providers to be able to demonstrate that where 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.

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?

TUFF feel that one correct answer must be selected by the Service Provider and be lodged with an independent third party NOT the TCP prior to the broadcast. That this information should be made available to ICSTIS if required up to 4 months after the competition has been closed. Service Providers should be able to substantiate that the prize offered is available.

SPs should have to prove that a random selection of participants get through to the studio. If it really is truly random then it should be possible to win the competition with the first call to the number. It is suspected they wait for a minimum number of calls before they allow any to reach the studio. If that is the case then that does not sound fair and should definitely be made clear on screen OR not allowed.

10. Legality

All premium rate services and their associated promotional material must comply with the law, particularly in relation to gaming and lotteries. In respect of TV Quiz services, ICSTIS will expect to see evidence that legal advice has been sought for each different type of competition service operated by the service provider before permission is granted and we may ask to see the advice obtained after permission has been granted.

Such competitions could be considered to unduly encourage persons to break the law by obtaining a telephone service with the intention of avoiding payment – a criminal offence.

SPs can prove that they do not encourage this by establishing that proof of payment of OCPs charges will be necessary before prizes are paid. If fraudsters are made aware of this early on this will discourage them from obtaining telephone service just for the purpose of entering these competitions at nil cost to themselves and leaving massive unpaid bills.

TUFF thanks you for the opportunity to comment on these proposals.



**J A Wraith
CEO**

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