



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

**The deadline for comment is Friday 21<sup>st</sup> October 2005**

Issued by ICSTIS on 21<sup>st</sup> September 2005

# Introduction

Following a significant increase in the number of TV Quiz channels and programmes, together with an increase in the number of complaints we are receiving about them<sup>1</sup>, ICSTIS proposes to introduce a new prior permission regime for premium rate TV Quiz channel and programme services. This consultation document sets out the draft proposed conditions with which service providers must comply in order to obtain prior permission. These have been developed following analysis of complaints and pre-consultative discussion with some members of the sector. We want the requirements to be transparent and proportionate, consistent in their approach and targeted at the issues of most harm, while putting the appropriate accountability on all parties for their action.

The service providers who we propose should comply with these draft conditions are the companies who contract with networks for the provision of premium rate services. However we appreciate that some of the issues consumers have complained about are also matters for the broadcasting regulator (Ofcom) to consider and both ICSTIS and Ofcom have worked on a joint approach to these issues. Ofcom will be publishing guidance for broadcasters regarding these services to support the requirements of the Ofcom Broadcasting Code.

## Scope of the proposed prior permission regime

The prior permission conditions will apply only to those programmes broadcast on television channels where the primary function and content of their output is competition services where viewers 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 they are not selected initially, they are informed accordingly and have the opportunity to make repeat attempts. We propose this prior permission regime to apply regardless of whether the premium rate service contains a live speech element or not.

In particular, we have focused on:

- Clarity of pricing information
- The adequate provision of relevant terms and conditions
- Dealing specifically with aspects of the services that could be construed to be misleading
- Substantiation of certain aspects of the operation of the service.

Before making any final decisions on the draft conditions, we would like to have your views and comments. We also would welcome meetings with affected stakeholders.

## Introduction to ICSTIS

ICSTIS is the industry-funded regulatory body for all premium rate charged telecommunications services in the UK.

We are non-profit making and currently consist of twelve part-time Committee members, supported by a full time Secretariat. We regulate the content and promotion of premium rate services through our Code of Practice. As the regulator for premium rate services our vision is that anyone can use these services with absolute confidence. We investigate complaints and have the power to fine companies and bar access to services. In addition, we offer free copy advice and guidance to both existing and new service providers. We operate a system of prior permission for services of particular sensitivity where additional safeguards are necessary.

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<sup>1</sup> Since May 2005, ICSTIS has received over 100 complaints relating to 14 different service providers.

## **Premium rate services**

Premium rate services (PRS) offer information and entertainment via phone, fax, PC (e-mail, Internet, bulletin board), mobile (SMS/WAP) or interactive digital TV. Services range from sports, voting and sex lines to competition, directory enquiry, chat and business information services, and currently vary in cost from 10 pence to £1.50 per call or minute (typically from a BT landline). Premium rate mobile services use short access codes – typically four or five digit numbers and will usually be shown on phone bills as ‘premium rate call’ or ‘high premium rate service’. Premium rate charging for mobile content is generally on a per text message or per transaction basis and include services such as ringtones, logos and video clips etc. It is also feasible to pay for products that are delivered to a consumer subsequent to a premium rate charge being levied. UK-based landline premium rate services are normally carried on ‘09’ dialling codes and Directory Enquiry (DQ) services on 118xxx codes. The money paid for the premium rate service is shared between the telephone company carrying the service and the organisation providing the content.

Approximately 30,000 services are in operation at any one time, generating estimated revenue of around £1 billion in 2004. For more detailed information on ICSTIS, please go to our website at [www.icstis.org.uk](http://www.icstis.org.uk).

## **How to submit your responses**

Responses should be submitted no later than **21<sup>st</sup> October 2005** to:

Suhail Bhat  
Policy Advisor  
ICSTIS, Clove Building  
4 Maguire Street  
London, SE1 2NQ  
Tel: 020 7940 7412 Fax: 020 7940 7456  
Email: [sbhat@icstis.org.uk](mailto:sbhat@icstis.org.uk)  
Web: [www.icstis.org.uk](http://www.icstis.org.uk)

***Our preference is for responses to be sent by e-mail in Word format.***

Further copies of this consultation paper are available from:

Christine Musumeci  
External Affairs and Policy Administrator  
Tel: 020 7940 7415 Fax: 020 7940 7456  
e-mail: [cmusumeci@icstis.org.uk](mailto:cmusumeci@icstis.org.uk)

## **Publication of Responses**

All responses are treated as public documents by ICSTIS unless respondents specifically state that their response is private. Please indicate on your response if you would like all or part of it to be treated as confidential. All public responses will be published on the ICSTIS website.

## **Timescales and Next Steps**

Respondents are given until **Friday 21<sup>st</sup> October 2005** to respond to this consultation document. After this, ICSTIS will examine all responses received and determine whether the conditions discussed below should be applied and, if so, in what form. We will then publish our conclusions along with any conditions. We will provide a transitional period of 4 weeks between publishing our conclusions (along with any conditions) and the conditions coming into force.

Responses are welcomed on whether this is reasonable in all circumstances.

# 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?

## 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?

## 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.

## 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 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?

#### **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?

## **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.

### **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?

## **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?

## **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?

## **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?

**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. 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?

**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.

## Summary of Questions

### 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?

### 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?

### 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.

### Question 4.1

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### 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.

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### Question 5

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**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?

**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?

**Question 9**

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

Are there other alternatives we should consider?