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**An ICSTIS Consultation on
Enhancing Stakeholder Engagement
NOC Submission**

The Network for Online Commerce (NOC) is a not for profit trade association that exists to promote and facilitate successful enterprise in interactive Telemedia markets around the world. The NOC is uniquely qualified to reflect the views of the UK premium Interactive Media market as its membership spans the entire value chain and is involved in the vast majority of premium value transactions. We welcome this opportunity to comment constructively on the captioned consultation having been at the forefront of a campaign to encourage ICSTIS to adapt their corporate structure and improve industry engagement to better match the fast moving Interactive Media environment for many years.

Background

As stated in the Consultation paper, ICSTIS is the Enforcement Agency appointed by the statutory regulator Ofcom to apply the Ofcom approved Code of Practice. We welcome the declared intent for ICSTIS to be more proactive but we do have concerns that references to the development of policy and standards may actually place ICSTIS' aspirations beyond the confines of its current remit.

The quoted status of ICSTIS as a "public body in law" is not understood and we would be grateful for some clarification on this point.

We support the approach for consumer protection highlighted in the Consultation document and agree this will take time to mature. However, it is notable that ICSTIS' communication to consumers in the past, both web and literature, has referenced the need to "protect" consumers rather than educate them in a positive manner. With

improved engagement in the future over such matters between ICSTIS and Industry we would hope to take a more acceptable and positive message to consumers.

On a broader note we could use the call for improved engagement contained in this document as an opportunity for industry and ICSTIS to jointly revisit the basics of regulation and seek a more simple approach through the original requirements for honesty, decency and legality. Today's Code has become overly complex and feedback from members is suggesting that it is becoming a barrier to new market entrants and business growth.

Executive Summary

The restructuring of ICSTIS's Executive in 2007 has successfully enabled a corporate delineation of responsibility that should improve engagement with industry. We find ICSTIS are always available to meet to discuss industry issues and it is appreciated that they readily support NOC and other industry Forums by providing relevant representatives where required. The ICSTIS Forums are a useful interface for feedback and interaction with stakeholders.

We comment below on the listed responsibilities to stakeholders, to whom we would regard ICSTIS as being answerable. However, we also believe ICSTIS has a separate responsibility of accountability to its Funders (industry) and its Employers (Ofcom).

- *Provide information about our work and our future regulatory plans.*

While general information will suffice for stakeholders more detail on future plans will be required for accountability.

- *Raise awareness about the work of ICSTIS and the industry we regulate, thus providing an opportunity to build consumer trust in PRS.*

There is a fundamental problem in that ICSTIS are an Enforcement Agency acting on behalf of Ofcom who are the statutory regulator for PRS and for ICSTIS to attempt to match the statutory role of Ofcom can only lead to costly duplication of effort and consumer confusion.

The Premium Rate industry is constantly developing and is now impacted by several different regulatory disciplines therefore it is advisable that any awareness campaigns be fully co-ordinated between Industry and regulatory bodies.

Building consumer trust in PRS is, in our view, an industry responsibility rather than a regulatory one and we would certainly welcome having ICSTIS working alongside industry to achieve this aim, preferably through ILP with its cross industry representation.

We do believe it would be beneficial to raise general awareness of the actual role of ICSTIS and we believe ILP could also assist ICSTIS in this.

- *Educate consumers about PRS so that they are best able to protect themselves and their children from possible problems that can arise.*

From an industry perspective we are very concerned regarding the suggestion that consumers and their children need protection from PRS, rather we should be educating consumers and their children in a positive manner to use PRS responsibly.

Earlier marketing of the Phonebrain website and the use of “protect” terminology portrayed a negative image of PRS and demonstrated the importance and fine balance of conveying the right message to the marketplace.

- *Set standards for the regulation of PRS which meet the test of good regulation.*

The NOC supports sensible standards and certainly supports the principles established by the Better Regulation Commission. We would see ICSTIS and ILP working together to apply these principles to PRS.

- *Support industry and others when developing and operating services, and assist them in being compliant with the ICSTIS code of Practice, thus preventing problems from arising which could generate consumer complaints and so undermine trust in PRS.*

The NOC has always championed proactive regulation over reactive.

In summary we do believe these responsibility bullets would benefit from some amendments and fine tuning in consultation with the ILP. This would also improve industry “buy in”, an important consideration when industry responses to Consultations remains relatively low.

The NOC totally supports any moves to improve engagement leading to evidence based consultation conclusions and eventual evidence based policy. In terms of external relationships we believe it would be of help if ICSTIS could separate the differing requirements between Stakeholders and Funders/Employer.

We believe ICSTIS should be answerable to Stakeholders but accountable to Funders/Employer (Industry and Ofcom) in the same manner that a normal business is answerable to its customers but accountable to its shareholders.

Items to be considered for accountability would include:

- Effective corporate governance
- Demonstrable value for money
- Effective performance measured via KPIs
- Abide by the provisions of the Ofcom MOU
- Effective engagement with ILP

Consultation Questions

Question 1

Do you agree with the responsibilities we have outlined above? If not, why not?

Answer 1

Our comments are detailed under the previous Executive Summary section.

Question 2

Do you agree that all stakeholders require these things from ICSTIS. Are there other requirements which are generic to stakeholders?

Answer 2

Industry and Ofcom are not normal stakeholders. As funders and employer respectively they are entitled to additionally expect and receive accountability from ICSTIS in terms of corporate performance and value for money.

ICSTIS should be answerable to normal stakeholders and we generally agree with the list of expectations provided in the Consultation under Section 2.

Question 3

Do you agree with our assessment of the needs and the specific stakeholder groups identified above? If not, where do you disagree and why?

Answer 3

As mentioned previously we believe ICSTIS should be accountable to Funders and Ofcom while answerable to other stakeholders.

Taking each “stakeholder” as listed:

Consumers

While we agree that consumers need to be better educated on PRS and how to use it we consider it essential that ICSTIS and Industry engage on this subject to promote a positive image to the market. Customer Service standards would also benefit from improved engagement discussions between ICSTIS and industry.

Government etc.

We agree that Civil Servants and Politicians need to have a clear understanding of ICSTIS’s remit and purpose and, as we state earlier, it is our view that potential for confusion exists in this area and that ICSTIS’s role as an Ofcom Enforcement Agency with no statutory powers is not clearly understood. Where parliamentary advice is required we would appreciate industry being consulted via ILP in a spirit of co-regulation and to avoid possible misunderstandings.

Industry

Industry does have a broad definition or meaning and the PRS industry is notorious for its pace of change. This simply re-enforces our view that the most representative and effective contact with the PRS industry for ICSTIS is through the ILP which has been set up for that very purpose.

We are pleased to note ICSTIS's commitment to providing funders with value for money and transparency in future budgets. We believe ICSTIS should be accountable to industry as funders in a similar manner to that which existed under the old INOC (ICSTIS Network Operator Committee) arrangement.

Legislators/parliamentarians

We fully appreciate the reality of ICSTIS needing to justify itself before Ofcom, DTI and DCMS and we believe ICSTIS will be greatly assisted in this obligation if it improves its engagement with ILP who will often be in a more fully informed position regarding market circumstances.

Media

ICSTIS should realise they are not exclusive in receiving media requests for information, industry representatives are also contacted on a regular basis. ICSTIS also need to be aware that media stories, unless carefully handled, can have an adverse effect on PRS business and revenues. For this reason, and being fully aware of the tight timescales often involved, we would like to see much closer engagement and co-operation, via ILP we would suggest, in the release of press information and interviews.

One other important area involving media is the, understandable, perceived ICSTIS tendency to over react to media stories when a more considered response would buy time to engage with industry and probably defuse a potentially damaging situation. Again, improved engagement through ILP would be very beneficial to both ICSTIS and industry.

Ofcom

We would like to see Ofcom take its role of "employer" of ICSTIS more seriously and we would like to see the MOU applied more effectively in the manner of the bullet points listed.

As with industry we do not consider Ofcom to be a normal stakeholder and ICSTIS should be formally accountable to Ofcom for its performance in all respects.

Question 4

How could we improve our engagement through the ICSTIS website?

Answer 4

The website works relatively well and is generally informative. However, it would be sensible, easier and more accurate if the information on the website was derived from a common central data source which is compatible with other databases (such as the one behind the proposed Service Promoter Registration scheme). It would also benefit from closer industry engagement through the ILP in areas designed to focus on information and education.

Question 5

Are there any stakeholder expectations that we may have overlooked?

Answer 5

The NOC would recommend all significant information targeted at consumers, in all media forms, to be initially offered to the ILP for comment on the grounds that ILP is entitled to the opportunity to take a view on consumer contact that could potentially be market affecting.

Question 6

Are there other measures that would contribute to benchmarking our success in improving stakeholder engagement?

Answer 6

With respect to perception audits and consumer research we believe it would be useful to ICSTIS if audit/survey objectives and proposed questions could be offered for comment to ILP at an early stage. ILP will always have the benefit of closer industry contact which can be useful in such exercises.

We are pleased to see that ICSTIS will work with ILP members to make it an effective body and that ICSTIS will observe the Terms of Reference detailed in Annex 3. It is the firm belief of the NOC that the ILP is the vehicle that will demonstrate and provide the engagement necessary to ensure the success or otherwise of the vital relationship between industry and Enforcement Agency.

There have been occasions in the recent past when an ICSTIS claims to have “consulted” with industry have proved to be examples of ICSTIS conducting a poll of, or offering invitations to selective value chain participants without the knowledge of the wider industry. While it is clearly useful for ICSTIS to occasionally gauge feedback from specific parts of the value chain this process cannot be considered as consulting with industry.

It would be of benefit to ICSTIS and industry alike if ICSTIS would in future genuinely engage with industry on key industry issues and the ILP is the ideal vehicle for this.

Question 7

Do you agree that we should adopt these six criteria for consultation purposes? If not, why not?

Answer 7

This seems to be a fairly comprehensive list. However, we do have one additional suggestion to offer:

- **Post Consultation Roundtable**

We would like to use this opportunity to repeat our call for open discussion round table sessions between ICSTIS and the major Consultation responders to enable ICSTIS to transparently discuss its findings prior to a summary of responses being published. This will ensure all facts and opinions are aired before any announcements are made and will normally ensure both sides have had the opportunity to finally consider their positions in the light of all available information. This can only improve engagement and need not delay the Consultation process.

Statement of Representation

The NOC confirms that this response has been compiled following a process of circulation of the relevant Consultation documentation to all NOC members. A list of NOC members may be found at www.noconline.org/currentmembers.aspx .

The views expressed in this response are a fair representation of the views held by the responding NOC membership. Individual members are actively encouraged to submit their own independent views as they deem fit and at their sole discretion.

We look forward to your response and assure you that, as ever, our comments are made constructively and with the aim of achieving an effective, fair and proportional regulatory regime for Premium Interactive Media services in the UK using the PRS billing model.

If any clarification to our response is required or if we can be of any further assistance please contact Zoe Patterson 08707 327 327 or zoe@noconline.org .

Sincerely

Toby Padgham

NOC General Secretary