

ICSTIS Consultation on prior permission for Premium Rate Services in Radio and Television.

A response from GMG Radio

Background

GMG Radio Holdings is wholly owned by the Guardian Media Group and currently operates 11 analogue and 23 digital radio services across the UK, with plans to launch two further analogue and digital services in the North East and Greater Manchester within the next year. We appreciate the opportunity to become involved in this consultation and in order to respond with constructive comment; we have taken note of the views of various senior members of our management teams in commercial and creative departments including those most involved in interactive and non-traditional revenue.

Therefore this response is very much aligned with how GMG as a 'Radio' company can work within the proposed constraints, give feedback on potential drawbacks and to confirm that at all times we will seek to ensure complete transparency in all transactions which involve PRS.

Summary

We have endeavoured for simplicity, to respond directly to the questions raised in the consultation and appreciate that the issues at stake are potentially complex. Our overall summary and current stance is that if the issue of prior permission becomes too complex radio stations may choose not to run programmes, competitions and events which would in turn deprive commercial businesses, potential charitable causes and of course listeners of opportunities aligned to successful implementation by the stations involved.

However, we would also seek to believe that if prior permission for PRS can be achieved simply to preset effectively and cost proficiently without deprivation particularly in the situation of time lines closure and suggested cost exemptions in setup platforms then we believe it can work.

We also conclude that SMS perhaps brings another issue on time lines closing – currently our understanding is that if someone sends an SMS after the closing point of a competition then to send a bounce back saying lines are closed means the costs lie with the organizer and we also appreciate that this can be extremely expensive especially if there are no premium charges utilized within the event and in the published Terms and Conditions. By the same token we appreciate the fact that if no bounce back is sent the perception will be that this will be seen as a request to continue to send entries in the belief that the entrants vote or entry will still be counted or considered.

Technology and Software issues are also areas highlighted within our response which we believe within the radio industry require further development

We would ask that ICSTIS should for ongoing clarity, give much thought to offer thorough, comprehensive and simple guidelines to radio operators on all compliance requirements to assist stakeholders

Response to published consultation questions

Q1. Do you agree with this definition of Broadcast Premium Rate Services? If not, why not and what would you propose instead?

We agree with the definition and have no further proposal.

Q2. What evidence do you have as to how serious and widespread a problem there is in respect of calls received either before lines are announced as open or after lines are ostensibly closed, and what steps could be taken to manage this problem in a way that limits callers from incurring costs without the benefits of receiving the service?

Speaking to service providers and individuals in the radio industry we don't feel there is a wide spread issue within radio and certainly not within our own business. We believe as in any industry that there could be some operators who could do more to offer a better service to station callers but this could never be generalised.

A reasonable concerns potentially arises regarding software issues and in particular when calls are made to the on air studio in response to a competition question – usually in this situation the on air presenter will have a number of callers to pick from the software randomly and generally selects from the current calls on the system therefore meaning if you have called before or after this point you may have less chance of being selected.

So as a consequence this sort of situation can therefore be caused by software rather than a regulatory issue and is therefore potentially difficult to be always completely compliant. We would be keen for ICSTIS/Ofcom to take this in to consideration and for software manufacturerers to work on simplified means of retaining all calls in to a simple logging system specifically produced and tailored for the radio industry

The use of computers to randomly select winners (as stated in the ICSTIS document, omitting any entrants who do not comply with entry rules or who have won a previous prize within a broadcaster stated period) would also ensure fairness for entrants.

Q3. Do you agree with our proposed conditions for prior permission in relation to connectivity and capacity? Have we omitted anything that is critical to considering risk?

Yes, sufficient time should be allowed for entries to be calculated and clear competition closed notices should be given on air.

Q4. Do you agree with our proposed conditions for prior permission in relation to conduct as set out above? Have we omitted anything that is critical to considering risk?

Yes, entries and votes should only be accepted during a stated period where the vote/competition is running. In relation to lines being physically closed when a competition closes we believe a dialogue between network operators, broadcasters and service providers needs to be established perhaps with consideration given to the radio industry being represented solely by the Radiocentre.

On IVR technology as the report states closing the lines with an engaged or unavailable tone could lead to repeated calls instigated from user confusion. Terminating the call on the IVR platform without charging the user is an option however if this is at cost to the organizer then we believe this needs careful consideration to ensure that the business is not affected. Ideally having telecoms providers offering a free "this service is now closed" message such as the "the number you are calling is not available" message would ensure all parties were protected.

With SMS there is a similar problem as users often send a message after the closing point. So as to not charge a user then a non-premium message would need to be returned, at this point and subsequently there sits a hard cost of the message to the organizer. If no message is sent in return notifying users the competition has ended then the confusion of whether an entry has been counted could cause multiple messages to be sent.

We feel these are technology issues which need to be looked in to by ICSTIS and the radio industry with technology suppliers who should seriously consider giving a number of options as to how these issues can be overcome and at what cost to organisers. A standard method can then be adopted to ensure all are compliant.

Q5. Do you agree with our proposed conditions for prior permission in relation to cost and conditions as set out above? Have we omitted anything that is critical to considering risk?

We agree to the condition of making pricing & associated costs (including different network costs) clear to users and feel that whenever an entry or vote is promoted by a broadcaster then the cost should be stated. Any printed or digital material produced for the promotion should also have clear information on the costs also.

We do however have concerns over stating exactly how much revenue goes from any charitable entries to the end cause. The reasoning is that there is always a difference between what callers are charged and what an organizer receives. In the case of a £1.50 SMS message (dependent on network) it can be a case that an organizer receives between 38p and 90p in revenue from the network.

If a radio station has to specify on air what each network value will go to the charity it:

- a) sounds very messy and could get very complicated for users
- b) raises the question "where is the rest going?" – having to then explain that the networks and (if applicable) service providers take a cut and so on
- c) taking point b into consideration could discourage users to take part causing the charity to lose out on potential donations.

It is perhaps more desirable though less transparent to see this information being listed online and a standard line of “entry costs £X with xxx/x% of proceeds going to charity”. There has to be factual correctness and therefore clarity to users without avoiding a drop in traffic and alleviating the need for organizers having to field endless communication on why so little is going to charity.

Q6. Do you agree with our proposed conditions for prior permission in relation to coherence as set out above? Have we omitted anything that is critical to considering risk?

Yes. We believe within any organization running PRS there should be an experienced and nominated point of contact that possesses at a minimum full knowledge of ICSTIS regulations and preferably should undergo some sort of ICSTIS approved (or operated) training to ensure full compliance. This person would be responsible for ensuring all staff are aware of the code of practice and that competitions/votes are run correctly.

Q7. Do you agree with our analysis that the same inherent risks for premium rate use in programmes on television also exist in radio?

Potentially yes but we do however feel a split needs to be made in terms of BPRS. Prior permission should be required although our view is that for simplicity it should be for any service charging 26p or more per SMS/MMS or Call.

For GMG Radio the bulk of our activity governed by ICSTIS is standard 25p SMS messages for requests or simple competition entries. At this rate it is at a similar level to that of a first class stamp.

One cause for concern is that by way of common example in commercial radio, a presenter has either a few CD's or a pair of tickets to a gig that night – it's probably a last minute competition and to enter listeners are asked to text in and answer a question to win. To seek prior permission for such an event would not be worth the trouble and would therefore be stripped from air. This type of execution has very little financial benefit in terms of message volumes to a station but in terms of audience participation it is of higher value.

There is a danger of going 'too far' in the extreme of prior permission and our proposed solution is to exempt the 25p SMS messages or 0871/0870 numbers from permission seeking level. Consumers are smart enough to make a decision on a 25p message/call and we have not to date seen any excess volumes from individual callers which would perhaps cause concern.

Also with shortcode services being used for so many wide and varied aspects within our business and station output we would worry that having to gain prior permission for every such service would mean that the value to the station in terms of cost to run this service would out-weight the benefit and therefore could be no longer cost effective leading to its demise. This would therefore cut or severely restrict a very effective interaction/communication method between listeners & the station.

Our overall view is that at a 25p or less rate, the inherent risks are far less compared to that of a 50p or higher entry cost. How marketing opt-in/out is conducted poses a serious risk – such as certain shows displaying very small print saying to stop marketing messages add NO INFO at the end of your entry. There should always be an opt-in situation for SMS, and would propose this be an industry wide situation enforced by ICSTIS to protect the end user. Not following this could, and we believe has already started, to damage the reputation of services.

Q8. Do you agree with our judgment that the definition of Broadcast PRS should specifically extend to radio for the reasons set out above? If not, why not?

Yes – subject to 25p and below communications being exempt.

Q9. Do you agree with our proposal to require providers of Call TV Quiz Services to continue to obtain prior permission specific to Call TV Quiz Services but that we include in the existing permission certificates for providers of such services the above conditions? If not, why not?

n/a

Q10. Do you agree with our assessment that Broadcast PRS involving auctions should be included with the need to obtain prior permission? If not, why not?

Yes. The element of bids being received in time is the key point, a possible 2 hour cooling period to allow for any bids caught in networks etc could ensure this is covered and then full winner/bid details can be displayed online for users to see.

Q11. Do you agree that music channels using premium rate votes to determine playlists from participants should be included with the need to obtain prior permission? If not, why not?

Yes, dependent on the cost. As before if it is 25p or below to ask for a request then we do not feel this should be included. Any service offering this facility needs to make it clear that it does not guarantee the song/video is played – with this information the user can make an informed decision on whether to participate.

Q12. Do you agree with our analysis that premium rate services involving charitable giving and donations should be included with the need to obtain prior permission? If not, why not?

Yes. Please refer to answer 5 in which careful consideration should be made to what the wording indicates with regards to the terms and conditions.

Q13. Do you agree with our assessment as to why we suggest that chat services should be excluded from the prior permission regime proposed in this paper? If not, why not?

Yes, as long as they continue to be subject to the current ICSTIS regulations.

Q14. Do you consider that there are other categories of service which fall within the definition of Broadcast PRS but which should not be required to obtain prior permission?

Yes, Please refer to answer 7 where our proposed 25p or below services should not be included in prior permission. We do feel these services need to be compliant but also that placing the steps outlined in answer 6 with overall responsibility to be with the organizer's point of contact will ensure these services are kept fair for the user.

Q15. Do you agree with our proposals to introduce prior permission for Broadcast PRS where the primary focus of the need to obtain prior permission will be on service providers alone? If not, why not?

Yes, where applicable. GMG Radio operates all SMS/MMS services internally and deals directly with all technology suppliers. We feel careful consideration is needed to ensure organisers can practically obtain and manage any prior permission status.

Q16. Do you have any suggestions about how the effectiveness of the proposed prior permission regime might be improved?

Ensuring that these measures are correct and suitable for each service has to be a primary consideration from ICSTIS. Creating a lot of red tape and restriction may create a solution but if it becomes non-workable and de-motivating to radio operators, it faces the possibility of driving organisers out of the game which ultimately will have negative impact as the end user loses out on big prizes, it diminishes the chance to interact/influence broadcasting and an instant line of direct communication is lost to the listeners.

We believe the solution needs to be simple, straightforward yet effective in ensuring that it covers & protects the user without having an adverse affect to the organiser.

Q17. What thoughts or suggestions do you have as to whether or not it would be sensible to engage broadcasters and/or production companies (when information providers) directly within the prior permission regime by causing them to accept, in effect, a position where they are directly answerable to ICSTIS for Code and condition breaches?

Yes where applicable. Broadcasters cannot always have access to what happens behind a service provider or technology suppliers door so to an extent they also need to accept a degree and arguably greater degree of liability. However if the organiser has taken all available steps to comply we genuinely don't feel they can be held totally accountable for third party errors or code breaches which in many or most instances will not be within their complete control.

ENDS

Should ICSTIS require further comment then this request can be directed to:

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