



James Harris
Head of Industry Support
ICSTIS Ltd
Clove Building
4 Maguire Street
London SE1 2NQ

Optimistic Media
Unit 6/7 Princes Court
Wapping Lane
London E1W 2DA

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Dear Mr Harris,

Optimistic Media Ltd welcomes the opportunity to respond to ICSTIS' consultation on 'Introducing Prior Permission For Premium Rate Services Used In Television'. We are a television and radio production company that has pioneered interactive participation television in the UK and have led the way in introducing consumer safeguards to the genre.

Optimistic Media welcome moves to increase public trust in Premium Rate Services and believes that a prior permission licensing regime is one way of ensuring compliance with the ICSTIS code. We already adhere to the suggested requirements for a prior permission license under the ICSTIS proposals. However, we recognise the importance of ensuring that all service providers meet the same high standards in their productions and welcomes the move to harmonise standards across the sector.

Optimistic Media would caution however against over-regulating a new and growing industry which is still developing in the UK. We believe that the UK would benefit in the long run from maintaining a degree of flexibility so that Participation TV industry is not drawn to more liberal and lucrative markets, and away from the UK market .

Despite some high profile recent cases which have captured the public interest, there is little evidence to suggest that the industry in the broad sense is acting irresponsibly. Providers dedicated solely to Participation TV have a good record for providing fair and responsible programmes.

Significant measures have been taken by Participation TV providers to comply, and in Optimistic Media's case, surpass, the requirements and expectations of ICSTIS and Ofcom on consumer protection.

We are happy for the contents of this submission to be made public and would be delighted to meet with the ICSTIS team to discuss any of these issues in more detail.

Yours sincerely,

David Brook
Chairman
Optimistic Media

Optimistic Media (OM) Response to ICSTIS Consultation on Introducing Prior Permission for Premium Rate Services

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

Optimistic Media agrees with the definition of 'Broadcast Premium Rate Services': "premium rate services which are promoted on television or radio and which provide a facility for interaction or the provision of information, whether in the form of votes, entries, bids or otherwise howsoever"

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?

Optimistic Media has a number of safeguards in place to ensure that competitions cannot be entered before the competition has opened or after the competition has closed. It must also be considered that due to the live nature of the Quiz TV shows that we provide it is very rare for a viewer to call when the programme is not being aired.

It is also important to note that Optimistic Media's live shows are not repeated, so there is no danger of viewers trying to enter a quiz show that no longer exists.

However at present callers are charged when they call into a line that is closed. We had previously looked into whether it was possible for callers to not be charged, but had been told by our telephony partners that it was not possible. We have spoken to BT recently about this point and they believe that this can now be resolved and we will be doing the necessary preparation to action this for future UK television productions. We will also implement this procedure on our current radio shows as soon as we are able to.

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?

Optimistic Media are content with the proposed conditions for prior permission in relation to connectivity and capacity.

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?

Optimistic Media are in agreement with the proposed conditions for conduct. Where applicable, we believe we already satisfy the proposed conditions and have exemplary levels of customer service, viewer safeguards and clear and up to date standards and terms and conditions. In addition, Optimistic Media believes its Code of Conduct provides a model for the rest of the industry and could provide the basis for a successful self-regulated market.

Optimistic Media is keen to see other providers in the industry meet our standards of consumer protection and therefore welcome this as a focus of this consultation.

Furthermore, Optimistic Media is content with the idea of third party verification and supervision of competitions with prizes worth over £5,000.

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?

Optimistic Media already have clear and transparent pricing information available in line with ICSTIS and Ofcom guidance and regulations. We are happy with the proposed conditions for cost and feel that our current practice satisfies these proposals.

Optimistic Media take on additional costs to our programming in a number of ways to ensure our programming is transparent, fair and responsible (as laid out in our Code of Conduct):

- We go out of our way to ensure that the free route of entry is given due prominence on screen.
- We provide a pioneering customer service whereby callers seen to be participating at levels which may be of concern, are contacted by Optimistic Media to ensure they understand the costs of participating.
- We have invested significantly in a management information system, Phoenix, which ensures the highest standard of customer care and a very low level of complaints.

In addition, Optimistic Media prides itself on its high levels of staff training especially with regard to the ICSTIS code. Both presenters and producers must ensure they have satisfied all ICSTIS and Ofcom Guidance during and after each production and copies of the relevant guidelines are on display to all staff throughout the studios.

Producer guidelines have been created to explain fully the reasons procedures are in place. Both the Ofcom and ICSTIS codes are explained before producers take up their positions. There is regular monitoring of Producer performance and their compliance with the codes. Changes to the ICSTIS or Ofcom codes are explained immediately to both producers and crew in production meetings, along with any changes in working practice that need to be employed.

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?

Optimistic Media welcomes the proposed conditions for coherence. Furthermore, Optimistic Media looks forward to working with ICSTIS to assist their understanding of the day to day operations of this developing industry.

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

We agree with the analysis that the same inherent risks for premium rate use in television also exist in radio. To combat these risks presenters of Optimistic Media's radio productions continuously repeat terms and conditions.

Optimistic Media is currently the only provider of this type of radio service in the industry and has already met with ICSTIS to discuss this matter.

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

Optimistic Media are satisfied with this judgement and have already entered into discussions with ICSTIS about regulation for the radio.

Optimistic Media have become increasingly disappointed with the conduct of some other services providers in the television industry and would welcome suitable ICSTIS regulation for radio to ensure that the same discrepancies are not repeated.

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?

Optimistic Media agree that prior permission should be sought for Call TV Quiz Services and would like to add that the additional requirements are already being met by Optimistic Media and other responsible providers.

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?

Broadcast PRS involving auctions is not part of Optimistic Media's business.

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?

Optimistic Media believe that all providers in the premium rate services sector should be subject to the same universal safeguards. Universal safeguards would be of most benefit to consumers but would also help to improve regulation throughout the industry.

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?

Optimistic Media agree that all providers of premium rate services should be included within the need to obtain prior permission. It is important that consumers are aware of and protected by the same safeguards throughout the PRS industry.

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?

Chat services are not part of Optimistic Media's business. However, Optimistic Media would suggest that all providers of premium rate services should be included within the need to obtain prior permission.

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?

There are a number of future developments in this sector that may need to be discussed before their introduction. Optimistic Media would seek continuous and open discussion with ICSTIS in order to discuss suitable regulation for any future services in this industry.

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?

Optimistic Media agree with the proposals and believe that the industry will benefit if clear lines of responsibility are set and focused upon service providers.

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

Optimistic Media do not have any further suggestions at this time but would welcome further dialogue with ICSTIS. Optimistic Media are confident that the introduction of the suggested ICSTIS proposals provide a tighter regulatory framework for service providers and secure safeguards for consumers.

Optimistic Media would stress the need to ensure that permission proposals are processed in a timely manner.

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?

Optimistic Media would recommend increased clarity of the guidelines, with particular reference to terms and conditions that need to be published on air, on the website or which must be orally presented. Optimistic Media believe that this clarity would ensure that universal safeguards are adhered to in the correct manner.

Respond by Tuesday 12 June to:

James Harris
Head of Industry Support
ICSTIS
Clove Building
4 Maguire Street
London
SE1 2NQ
jharris@icstis.org.uk