



**The Premium Rate Association response to ICSTIS
consultation document:**

**“Introducing Prior Permission for
Premium Rate Services used in
Television and Radio Programmes”**

Submitted 12th June 2007.

Introduction

The Premium Rate Association welcomes this opportunity to comment on the possible introduction of a Prior Permission process for service providers wishing to provision Broadcast Premium Rate Services.

The background to this proposal comes as a direct response to the huge amount of media attention focused on television broadcasts featuring or involving Premium Rate telephony as a mechanism for interaction with, and charging of the viewers.

To reiterate many of our previous submissions and consultation responses to ICSTIS and Ofcom concerning these types of service the PRA position still remains the same. That being, these issues are not new, the only difference is the media attention that they have received. ICSTIS have a large arsenal of measures and sanctions at their disposal which could be used to provide the consumer with a good level of protection. The main issue is that from both an industry and a public perspective any potential problems had not identified or prevented through ICSTIS intervention or application of existing regulation.

As you will see from our direct response to the questions posed in this consultation we do not have great comment on the particular points raised in relation to drafting a template for Prior Permissions. However, the PRA believe that it is still the case that consumer harm could still be reduced or prevented through application of the Code of Practice as it stands

Consultation Questions

The following questions appear through the body of the consultation document:

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

The Definition of Broadcast PRS seems adequate.

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?

The PRA are not in a position to present evidence of calls to broadcast PRS being received prior or post competition but are aware that with regards to voice calls it is relatively simple to put in place “dead tones”. In the worst case scenario we would expect the caller should receive a message that the lines are not open and unfortunately the call will still be billed as per the terms and conditions of the promotion. Text based services are harder to “close” however. In all instances we would expect to see on-screen notification and presenter verbal warnings to inform the viewer that the lines were no longer open.

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?

The PRA believe that the conditions surrounding connectivity and capacity are fair as a cover all statement and urge service providers to revisit the underlying technical issues which dictate whether entries / votes will have been lodged in time to count and have a reflection in the outcome. These vary dependent on the entry route, as an example the delivery of an SMS submission has a great potential to miss the entry window through no fault of the participant or the service provider yet it may undermine any good intentions to comply with the connectivity and capability condition.

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?

This clause seems acceptable if not overly prescriptive.

We would ask under which circumstances ICSTIS would view changes to Terms and Conditions during the service as acceptable.

We also ask whether ICSTIS could request that the spoken calls to action on TV based broadcasts which are repeated are edited in a way that would highlight the fact the competition was closed thus protecting any sight impaired viewers/listeners.

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?

As stated in the reasoning behind this prior permission clause it is noted that the aim is really to reaffirm the code provisions related to pricing and conditions. However, we would ask that ICSTIS revisit the drafted clause and provide clarity around what it means by “set up fees” payable by the consumer, and why these have been referenced to the fixed line networks. PRA member feedback seems

to allude that the biggest consumer issues around any premium rate service costs are based on billing from the mobile networks.

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?

The PRA believe that this clause includes provisions which go beyond ICSTIS' remit and is an unnecessary addition to the Code of Practice.

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

It is agreed that many of the potential risks of radio based PRS are similar to those of their television counterpart although there are also many differences.

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?

Agreed

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?

It would seem logical to include the additional clauses in the conditions for prior permission for Call TV Quiz Services if said clauses are agreed. However, once again we must state that it is not ICSTIS' place to become involved in contractual matters and as the Code allows ICSTIS to request relevant documentation from service providers that the 4th point regarding visitation is unnecessary.

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?

Agreed

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?

Agreed

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?

Agreed

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?

We agree that “chat services” as described in the consultation should be excluded from the Prior Permission requirements. We also urge ICSTIS to fully describe these services and the reasons behind their exclusion from the scheme i.e. Live 1-2-1 content, thus avoiding any potential for confusion.

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?

It is our opinion that PRS which is used as a mechanism in broadcast voting format should be listed as a specific category for prior permission and as such should be included in any prior permissions statement.

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?

We agree that for clarity the responsibility for obtaining prior permissions is held by the service provider solely. It is encouraging to note ICSTIS’ acceptance that Service Providers in some cases are not in overall control of editorial content and direction around the services due to their nature. As such ICSTIS will be prepared to approach the broadcaster or production company in their capacity as Information Provider in any instance where any investigation focuses on areas outside of the control of the Service Provider.

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

Should the proposed prior permissions scheme be put in place it should be submitted for regular performance review in order to stay relative and useful.

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?

If this process simply involves acknowledgement to ICSTIS from the relevant company that they are aware of their role and obligations under the Code of Practice then this would seem to be a logical step.

Conclusion

As with any potential change in regulation the PRA are always fully supportive of alterations that will afford the consumer the highest degree of protection from harm. After all, effective regulators and regulation through application of the current code of practice will ultimately add credibility and increase trust in the Premium Rate industry.

As ICSTIS have highlighted in this Broadcast PRS Prior Permissions consultation the decision as to whether these changes will be implemented is wholly dependent on the findings of Ofcom's on-going inquiry into television based PRS. The PRA urge that whatever the outcome of this inquiry, any regulatory changes are primarily measured against what safeguards are already in place and their current and potential effectiveness. Our fears are that draconian measures of Regulation as described in the statement commented on in question 6 will not fit their purpose and will have little value except to create a "Big Brother" environment which is not fitting to the ideal of co-regulation and industry/regulator interaction. It is our opinion that the 11th Code of Practice is reasonably robust and should have been, and still can be applied to broadcast PRS in a manner that limits any potential for harm.

Once again we thank ICSTIS for the opportunity to respond to this consultation and would be happy to provide further information if required.