



A Virgin Media Company

Response to the ICSTIS consultation on:

**Introducing Prior Permission For Premium
Rate Services Used In Television And Radio
Programmes**

12th June 2007

1. Introduction

sit-up channels operate Premium Rate Services (PRS) as a route to enable customers to purchase products. PRS revenues are a small part of the overall revenues of sit-up.

Section 2 contains the responses to the questions contained in the consultation paper.

A supplementary paper, which is commercially confidential and is not for publication, has also been submitted to ICSTIS.

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2. Responses

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 Premium Rate Services must be broad in order to meet ICSTIS' policy objectives; however we would wish to draw attention to the difference between PRS where:

- a) many members of the public are contending for one or few items, e.g. Quiz TV and lowest unique price auctions
- b) the majority of the members of the public 'succeed' and are able to receive goods or services, e.g. price-drop tv

sit-up channels is, in essence, a retail business and the majority of revenues are generated from the sale of goods and services rather than from PRS. Whilst we are a broadcaster, our business model features none of the characteristics that have brought broadcasting PRS into disrepute over recent months. We therefore believe that sit-up should not be subject to the prior permission regime.

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?

In the case of sit-up channels there is not a serious or widespread problem. Methods of managing such issues are contained in our supplementary paper.

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?

Agreed.

SMS – note that some messages can be received many hours after they are sent – and hence it may not be possible to be 100% sure that all messages have been received at the close of an event.

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?

Agreed, though please note:

In some scenarios PRS calls can continue beyond the end of a 'sale' for customer service reasons and hence lines can not be terminated immediately.

Similarly, there may also be occasions where it is to the customer's advantage that a call just missing the closing of a sale/event should be captured; this would allow for the organisation to contact a customer who had wished to participate. It is suggested that such a period after the event closes be limited, e.g. one minute.

SMS – note that some messages can be received many hours after they are sent – and hence it may not be possible to be 100% sure that all messages have been received at the close of an event.

Competitions and prizes – please note that there is a difference between: a) competitions where PRS calls/SMS are only made to compete for the prize; and b) prizes awarded to a selection of successful customers where the PRS call/SMS had an alternative primary purpose, e.g. purchasing goods or services. It is suggested that the former are included and the latter excluded from consideration.

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?

Agreed

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?

Agreed

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

Agreed

It is noted that similar risks will apply to 'pay to compete' competitions on the web and, in the future, in IPTV broadcasting.

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?

Agreed

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 where the auction is of the type 'lowest unique bid' (or similar) which are characterised by there being a high ratio (perhaps greater than 100:1) between participants and winners.

Not agreed where the primary aim is to sell products and or services and hence the ratio of participants to buyers/winners is usually closer to 1:1 and the PRS revenue is a minor share of the overall business revenues.

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?

Agreed

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?

None identified.

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?

Due to the variety of arrangements that are possible between service and information providers it would seem sensible to focus the need to obtain prior permission on one group, e.g. the service provider, but to ensure that all parties are accountable directly to ICSTIS for Code and condition breaches.

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

In a number of compliance regimes that sit-up operates within (Sarbanes Oxley and Payment Card Industry) there is a dual approach:

- a set of controls to be applied to key business processes to ensure control and accuracy
- a set of further controls to technology to ensure that the results of the business processes can not be subverted by unauthorised activities of employees or 3rd parties

It may be appropriate to apply a similar approach to some aspects of this regime. For example, in Coherence, there is a condition that:

‘There must be no amendments to operational systems or procedures relating to the service without senior management authorisation.’

This could be interpreted as

“all changes must be processed through formal configuration management and change control processes”

However, for completeness it could continue with:

“all unauthorised changes must be identifiable and traceable and, where possible, preventable”

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?

Please see answer for Q15

END