



**UKCTA Response to the ICSTIS Consultation:
Introducing Prior Permission For Premium Rate Services Used
In Television And Radio Programmes**

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Introduction

UKCTA welcomes this opportunity to comment on ICSTIS's proposals for a prior permission regime for "broadcast PRS".

UKCTA is a trade association promoting the interests of competitive fixed-line telecommunications companies competing against BT, as well as each other, in the UK's residential and business markets.

Before we respond to the questions posed in the consultation, UKCTA would like to raise some general observations:

- Although members generally support the idea of a prior permission regime, some members feel that the best approach to a "licensing" scheme for broadcast PRS could perhaps be a "Statement of Expectation".
- The proposal for best practice overlaps somewhat with regulation that is already in place such as the PRS Code of Practice or touches upon areas (e.g. how competition winners are selected) which are outside ICSTIS's remit.
- UKCTA questions the 17% increase in Prior Permission costs. Currently Service Providers pay ICSTIS £300 to obtain Prior Permission. Section 6 quotes a figure of £350. Is this an increase for all Service Providers requiring Prior Permission or does it represent differential pricing due to the increased work required to approve broadcast PRS?



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

The proposed definition appears to address the area of concern. However, a much simpler definition could serve the same purpose: we are not sure that “howsoever” actually provides any clarity now or looking to the future.

We are also unsure whether this definition will also capture 087* when ICSTIS regulate this in 2008. If there is content on TV captured by this definition then it would seem that 0871 (for example) users will also need to seek prior permission?

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?

UKCTA does not have any specific information – we believe that Service Providers are best placed to provide ICSTIS with this information.

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?

We are surprised there is no mention of providing a message to viewers about what is happening with the line and the votes, whether the lines are still open, still being charged but won't count, etc. and what about web or email entries?

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?

The third condition should include the possibility that the re-run may be within the time frame that the lines are open. This appears to be an outright ban from using valid PRS numbers for repeats. It also does not allow for a repeat programmes to use a different PRS number for the re-run.

We also have some concerns that lines can't always be shut down exactly at the time announced, or that indeed SMS will get through within the same timescale. This should be addressed by suitable announcements on the programme.

Whilst it may be possible for a service running a poll or competition to co-ordinate this activity, in the case of an auction site with items on a much shorter turn around this may



lead to technical implementation and timing issues. In such cases numbers are often recycled for subsequent items. ICSTIS needs to be aware that a one size fits all technological solution may not be possible and that in-programme announcements are vital for ensuring consumers are able to take responsibility for their calls.

It is not clear from condition 6 what is actually expected. Does a third party have to verify a competition every time? If nothing changes from week to week in the way winners are selected, does there still need to be third party verification?

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?

The second condition is too vague. What about variations in mobile charges? Reference to the appropriate help note would also go some way to ensure compliance in line with the Code of Practice.

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?

UKCTA do not believe that the last condition is appropriate. It seems to give powers to ICSTIS to view records pertaining to the service without proper judicial process. It is not appropriate for ICSTIS to have these powers unless provided for by the Code of Practice. There is also no reference within this condition about duties of confidentiality on ICSTIS.

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

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?

It makes sense to have a single process for everyone.

That said, radio broadcasts can be local and not just national. In the case of local radio shows using PRS there is an argument that the damage is not so significant, so is prior permission still required?



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?

The broadcast PRS definition is wide enough to capture Call TV Quiz shows. For this reason, they should be included within this prior permission regime and not to have separate rules (i.e. the Statement of Expectation).

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?

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?

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?

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?

If ICSTIS are to regulate broadcast PRS in this way this it is important that there is harmonisation across all TV PRS services.

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 should be clearer how this scheme relates to other PRS broadcasts on TV such as Teletext or advertisements.

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?

It is difficult to see because of the current PRS regulatory regime that prior permission can be applied to any party other than the service provider. If it doesn't apply to the



service provider (as the source of the numbers) then it should apply to the broadcaster as the source of the interaction with the consumer/viewer.

That said, as stated at the outset we would recommend that a Statement of Expectation would be a better way forward. This could be drawn up in conjunction with Ofcom to address any breach of broadcast regulations in this area and then enforced accordingly.

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

It is difficult to answer this question. We would suggest that there should be a review procedure as part of the scheme to ensure that there is no unnecessary burden on any particular party, to gauge the scheme's effectiveness and to ascertain whether any areas have been omitted from the control.

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?

As previously stated, it is our opinion that the responsibility for PRS use in broadcasts falls sometimes with the service or information providers, sometimes with the broadcasters. The approach should be a Statement of Expectation for all parties which is enforced by ICSTIS or Ofcom appropriately.