

REVIEW OF THE REGULATION OF PREMIUM RATE SERVICES (PRS)

1. The Consumer Panel wishes to outline its observations and views on the review of regulation of Premium Rate Services, as discussed at the Panel meeting on 21 September 2004.
2. The Panel is encouraged by the close working of Ofcom and the Independent Committee for the Supervision of Standards of Telephone Information Services (ICSTIS) on the review and by a willingness to consider the Panel's concerns. Our expectation is that the review will have positive outcomes for consumers.

Timetable

3. The review was announced on 3 August and the Panel is aware that it is being conducted within a very short time frame; that on 29 September the review project team will go to Ofcom's Policy Executive for approval/advice on how to present to the Ofcom Board; that a draft report will go to the Board for 'sign off' on 5 October; and that c. 8 October the team is due to report back to DTI and ICSTIS.
4. There is likely to be a public consultation, eg on changes to the ICSTIS Code of Practice. The consultation would last 12 weeks, and there could be a six month delay before significant changes are made to the current regime.
5. In recent months ICSTIS has received thousands of complaints from consumers about unexpected charges for premium rate numbers. Many of those charges have often been incurred as a result of changes to the consumer's Internet dial-up connection, with dialler settings switched to premium rate numbers.
6. ICSTIS is already streamlining its complaint handling procedures and on 15 July 2004 it announced plans for new rules requiring premium rate providers to pre-register with the regulator before offering Internet dial-up services.
7. Within the current regulatory framework there may be scope for other improved measures to protect consumers from fraudulent and unscrupulous activity.
8. **The Panel's view:** all appropriate measures should be pursued to improve complaint handling and resolution and redress for PRS consumers and as soon as possible, irrespective of the outcome and timescales of a future public consultation. In particular, measures are required to address issues arising from problems with Internet dial-up. The Panel is aware that there are a number of procedures to assist consumers but some may require further clarification or 'tightening up'.

Redress

9. A concern for some consumers is what to do when they receive an unexpectedly high bill that includes a call or calls to an unknown PRS number and their network operator demands payment, which is almost always the case. There have been numerous reported cases of customers

disputing bills for a single or multiple PRS calls ranging from a few £s up to several hundreds or even a thousand. Due to the nature of some premium rate services, eg 'sex lines', there may be under-reporting of incidents of abuse where consumers are too embarrassed to complain. Where consumers have complained some do not appear to have been advised about complaints procedures for a disputed PRS call, eg making payment of the undisputed part of a bill.

10. When there has been illegal activity by a small minority of service providers, eg fraud or where (some would say) theft has taken place, the Police do not appear to have been effective in tracking down offenders.
11. It is reported that there are safeguards which cut calls off after a certain time or charge but cases of high call charges continue to arise. There appear to be mechanisms for BT and other networks to withhold monies under the terms of their interconnect agreements (contracts) pending resolution of any dispute about alleged fraud, but these mechanisms are slow and limited in scope.
12. There are concerns which derive from the structure of the interconnect arrangements that exist between originating and terminating network operators relating to carriage of PRS calls and revenue sharing. This results in a 'disconnect' between the customer and the PRS provider which has meant that responsibilities for providing redress have been unclear and difficult to enforce. Even where redress is ordered by ICSTIS in many cases refunds are slow or not forthcoming at all from the PRS providers.
13. **The Panel's view:** the Police could be encouraged to do more; originating operators should be required to implement safeguards to cut off calls; it should be made clear to consumers who to contact with a complaint and who may be expected to compensate them; and a mechanism is required to ensure that refunds are made, either directly by the PRS provider or by the terminating operator.

Help and advice for consumers

14. ICSTIS has been struggling to cope with the number of PRS complaints and enquiries it receives. Many complaints turn out to be unfounded, ie about calls that callers have made but have forgotten. Measures are required to allow ICSTIS to get on with its main job of investigation of serious and legitimate PRS complaints. There could be contractual arrangements to overcome but it is in the interests of all players in the value chain to maintain the good name of the PRS industry.
15. **The Panel's view:** some issues could be 'solved' by technical solutions, ie mechanisms to filter genuine complaints from general enquiries; pressure could be taken off ICSTIS by network operators acting as the consumers first 'port of call', by informing the customer of the destination of a disputed call, eg to a chatline or Big Brother, and/or advising them if a particular PRS number is under investigation by ICSTIS; or dedicated helplines and websites run and funded by terminating operators or service providers could provide a similar function.

Light touch regulation

16. ICSTIS is funded by PRS service providers and intended to follow a co-regulatory approach to regulation. However, the PRS sector does not have an effective trade body and is not yet a mature industry. Where it is appropriate the Panel is in favour of 'light touch' regulation but feels strongly that this should not be seen as a virtue in itself.
17. **The Panel's view:** consumer detriment arising from PRS may be sufficient to warrant more intrusive regulation by Ofcom or by ICSTIS with increased Ofcom involvement as a 'back stop' and where consumers are (effectively) having their money stolen Ofcom should not be afraid to introduce 'heavy touch' regulation, should it be necessary to adequately protect consumers.

Follow up

18. The Panel seeks feedback on the response of the Ofcom Policy Executive and Ofcom Board to both its views and the review team's proposals. The Panel will continue to take an interest in PRS; it looks forward to the Ofcom report to DTI and to the public consultation that may emerge; and will revisit PRS at its meeting in six months time.

24 September 2004