



**Mobile Broadband Group
PO Box 34586, London SE15 5YA**

12th March 2007

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Dear Mark

Consultation on changes to Statement of Expectations for Call TV Quiz Services

The Mobile Broadband Group welcomes the opportunity to respond to ICSTIS' consultation on the proposed changes to the Statement of Expectations for Call TV Quiz services. This genre of programming has clearly found a significant audience, and the MBG agrees with ICSTIS that viewers have a right and expectation to be treated properly and fairly when taking part. It is also to the benefit of those with a commercial interest in Call TV that customers are able to use these services with trust and confidence.

In all likelihood, events in recent days have dented consumer confidence and the MBG welcomes the steps being taken by ITV and other broadcasters to try to restore it. The MBG would like to note, though, that the problems seem to have arisen from internal processes and execution by the broadcasters and production companies rather than any deficiencies in the regulation. While it is always necessary to take stock when such high profile problems arise, it also necessary to reflect with care. We look forward to responding to further consultations on the matters announced last week.

We have just a few comments about the detail of the ICSTIS proposals.

We support the changes ICSTIS are suggesting for the improvement of the clarity on pricing and agree an interval of no more than 10 minutes between announcement seems to be a reasonable amendment to the current arrangements.

However, before ICSTIS finalises its proposals for pricing clarity it will need to be satisfied that further regulatory intervention is justified against its own consumer research which shows 87% of consumers are aware of the charges, and 78% are aware that selection for participation is random. These figures would suggest that far from there being an information gap, a substantial majority of viewers who use call TV services are aware of the pricing and participation arrangements.

In addition, we seek a few points of clarification on the measures relating to the £10 intervals, reset every 24 hours.

First, on a technical point, can ICSTIS clarify the part of the Code to which the introduction of the £10 warning measure relates? On page 21 ICSTIS explains that *“ICSTIS issues Statements of Expectations from time to time in order to provide greater regulatory certainty as to how the ICSTIS Board is likely to interpret the Code of Practice in the context of a particular service, given that many of the provisions are goal-based”*. The MBG supports the use of SoEs, as they offer the flexibility to deal with issues as they arise (which is very useful in such a dynamic market). Nevertheless, they cannot be used as a device for making up the Code on the hoof or plugging gaps. As a matter of due process, measures introduced into a SoE should be referenced back to the sections of the Code that they are intended to interpret. Otherwise there is a risk that the SoE will be legally flawed and subject to challenge.

Secondly, on page 6 bullet 2, the definition of Call TV is qualified. [*“Typically (but not always) there is no other content than a puzzle and the presenter reiterating the puzzle....”*]. Could ICSTIS just clarify that this qualification does not bring within scope the big voting type shows such as Big Brother.

Thirdly, it should be pointed out that the £10 interval for voice calls can only be based on the standard BT rate and this must be made clear in any announcement. Unless information is very clear, the £10 interval will actually be misleading for consumers calling from other networks, including mobile, where retail charges vary and may well be higher, so consumers may spend more than they believe. Of course, the broadcaster cannot know the specific retail charges being paid by a particular consumer on a particular network and tariff.

Fourthly, are these measures meant to apply equally to viewers submitting entries by premium SMS? The use of the term ‘caller’ could be a bit ambiguous in this context. It would be helpful if the SoE spelt out that the measures apply to all paid for submissions and that the warnings should be sent in the same manner in which they are being received. Thus a viewer using premium SMS should be sent the warnings via SMS. We strongly support ICSTIS in not imposing spending caps on players. Not only is this the correct approach in principle; ICSTIS is not set up to regulate consumer’s behaviour but it would also be disproportionately onerous to implement. Telecommunications companies are not in a position to bar or zero rate calls to a broadcaster’s premium rate service on a dynamic basis, depending on spend on that number.

Finally the MBG has a comment about the principle of introducing £10 call warnings. The MBG does not believe that the case for introducing spend reminders for these services is the same as for subscription services. With the latter there is the possibility that the consumer will have forgotten about the subscription or forgotten how to cease the service because it is continuous and requires no further action from the consumer after the initial set up. Calls or texts to TV shows on the other hand are individual events over which the consumer has complete control. The requirement by ICSTIS for SPs to send £10 reminders is a response to a particular set of circumstances in Call TV and should not be regarded a precedent for future interventions. Furthermore ICSTIS should keep under review the effectiveness of the reminders and consider their removal of the requirement if they do not achieve the intended outcome.

With regard to ICSTIS' proposals for the publication of 'odds' of being selected for live participation, the MBG would urge ICSTIS to exercise extreme caution before committing to the proposed measures in the SoE.

First, ICSTIS seems to be introducing this measure under 5.4.1 of the Code, whereby services "*must not mislead or be likely to mislead in any way*", where you state (on page 23) that the "services mislead by omission." It is not clear from the evidence gathered that providers are in fact being misleading, even by omission. This is therefore potentially a shaky legal basis on which to require display of odds within a SoE.

The MBG fears that what might, on the face of it, seem a simple proposal will draw ICSTIS into ever more complicated, time-consuming and micro-management of the process. If the display of odds is not itself going to be misleading, it will have to be done in the same way by each Quiz provider. This may be intuitively appealing but, in practice, is likely to be inflexible, inappropriate for some formats and potentially very onerous for ICSTIS to check for accurate execution.

It seems to the MBG that such measures are highly onerous and could be an over-reaction to the problem. ICSTIS should consider lighter touch measures for dealing with the perceived problem – perhaps greater emphasis in the price announcement that not all calls will go through to the studio. Time should also be allowed to see whether the market will deal with this issue. ICSTIS states that there are currently around 16 offerings for Call TV. The most successful shows will be those that generate a reputation for giving the best value in terms of entertainment and prizes. At least one show is already offering the kind of information about odds that ICSTIS is proposing. If this is successful, others will copy. If not, the evidence would be that it is not a facility valued by consumers and should therefore not be imposed by regulation.

If there are any matters in this response on which you would like clarification, we would be happy to have further discussions.

Yours sincerely,

Hamish MacLeod

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