



Mobile Broadband Group
PO Box 34586, London SE15 5YA

1st December 2005

George Kidd Esq
Director
ICSTIS
1st Floor
Clove Building
4 Maguire Street
London SE1 2NQ

Dear George

ICSTIS activity plan and budget for 2006/07

The MBG welcomes the opportunity to give its views on the activity plan and budget for ICSTIS in 2006/07.

We agree with the view that during 2006 premium rate services will continue to grow in both volume and range, however, we believe that an estimation of 10% market growth may prove to be optimistic – particularly in light of the recent negative publicity that has surrounded some premium rate services. We believe that 2006 industry growth will be more in the order of 6%. Notwithstanding this point, it is good to note that the budget increase forecast for 2006/07 will be considerably smaller than the budget increase for 2005/06. However, an inextricable link should not be presumed between the rise in the market value and the cost of regulation. Our objective should remain to bring down the cost of regulation through more effective action and further productivity gains. We note that improved processes and better training have yielded 20% productivity gains in the current year. These are improvements to be commended and to build on.

ICSTIS also mention general market developments that could give rise to new sources of work. While ICSTIS is right to keep an eye on such developments, there should be no underlying assumption that developments will always fall directly within the remit or give rise to more regulation. The MBG will wish to continue the dialogue with ICSTIS about the most appropriate and proportionate regulation of new services.

The current year has seen a number of successes in bringing the problems with Internet diallers under control and ICSTIS and the industry will be looking to make further improvements through implementation of the Ofcom recommendations and the introduction of the 11th Code of Practice.

The MBG has a few comments to make about the activity plan and budget.

Complaints

We note since June, ICSTIS has achieved its KPI of 80% of cases closed within 12 weeks, although there appears to have been a change in the method of measurement (now 12 weeks from allocation). We would like to be assured that this is not a way of massaging the numbers

There has also been an increased use of emergency powers. The MBG supports the use of emergency powers, when they are used to head off significant consumer harm. We understand that this mostly arises from the increased use of Automatic Calling Equipment. It would be useful and instructive to have complaints handled under normal procedures and complaints handled under emergency procedures shown separately. We want to know that the KPI is not just being achieved through greater use of EP and that the 20% of cases going beyond 12 weeks are not being extended interminably.

Monitoring

The MBG supports the greater emphasis that ICSTIS will be placing on proactive monitoring. As you know the mobile operators have been doing this over the past year and, to great effect, been using a warning system to prevent code breaches causing actual consumer harm. As the PRS market develops fast, the mobile operators will continue to do this but we will be looking to build a closer working partnership with ICSTIS in stamping out bad practice. We would like to see ICSTIS also make greater use of a warning system and thus reduce the total number of cases that have to be taken through the full complaints process.

Funding

With respect to funding, we very much support ICSTIS in its development of the principle that the polluter pays. While fines should never be relied upon to fund regulation, we maintain that it is absolutely right that those that breach the Code should pay a greater proportion of the costs of regulation than those that don't. We agree with the administrative charges for case handling and we believe that the level of fines set are not excessive in terms of the consumer harm caused (although we are very disappointed with the rate of collection this year). There are clearly still a number of miscreants at large who still think it worthwhile to risk the level of fines currently imposed. We are also very hopeful that the new 30 day rule will deter a large number of premium rate scams and hugely improve the rate of collection for fines levied.

The MBG supports the principle of charging for a prior-permission. This will deter frivolous applications and thus reduce overall costs. It is possible, though that the level of £600 is too high. At current levels, ICSTIS is receiving 1,000 applications per annum. Even assuming that this would fall by 50% if charging is introduced and when fewer types of service have to apply for prior permission under the 11th Code, this would still raise £300,000 per annum. We suggest that a charge designed to cover only the administrative costs of £125,000 would be more appropriate – say £250. We do not want the charge to act as a deterrent to market entry by genuine new applicants.

The Budget

In last year's letter the MBG commented that the presentation of the budget is opaque. There is little in this year's budget that would cause us to change that view. We acknowledge that ICSTIS has broken down the expenditure lines and explained the important underlying assumptions. However, no cash flow forecast or projected balance sheet is presented. This makes it impossible to reconcile ICSTIS's published financial statements with the budgets and to make an overall assessment of the financial position. For example, in March 2005, ICSTIS had £4,070,222 in the bank. On the face of it, this is more than would be required for its immediate needs, or indeed to cover the £1.5m contingency fund. It is important to remember that this is industry's money and it could be better employed as working capital for the industry than lying idle in the ICSTIS bank account. An explanation for this level of cash

holding should be forthcoming. The MBG would like a clarification of the current cash position and the projected cash position for the end of 2006/07. As fines are used to reduce the Levy in the financial year following the year in which they are collected, it would be better to use the Fines money to build up the contingency reserve rather than through an extra amount on the levy.

In addition, as last year, no detail was given on capital expenditure (although it has now been supplied). Disclosure and consideration of the cash flow and balance sheet should be included in the regular budget discussion – not just the operational expenditure.

One final point: in last year's activity plan, provision was made for a benchmarking research on consumer trust in premium rate services. It is not clear whether this work was ever undertaken and, if it was, whether there were any significant findings.

Subject to the comments and questions raised above, the MBG is generally supportive of the activity plan. We are as anxious as ICSTIS to ensure that this industry is properly regulated.

Yours sincerely,

Hamish MacLeod

Hamish MacLeod
Mobile Broadband Group