



Mobile Broadband Group
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ICSTIS consultation “Introducing prior permission for premium rate services used in television and radio programmes”

Response from the Mobile Broadband Group

1. The Mobile Broadband Group (“MBG”, whose members are O2, Orange, T-Mobile, Virgin Mobile, Vodafone and 3) welcomes the opportunity to respond to ICSTIS’ consultation on introducing a prior permission for PRS used in television and radio programmes.
2. The MBG understands from the consultation document that ICSTIS intends to instigate a prior permission that will have conditions headed: Capacity and connectivity, Conduct, Cost and Coherence. ICSTIS have also expressed an intention to monitor Compliance to the conditions set down in a service provider’s prior permission.
3. The mobile operators principally provide connectivity to the broadcast PRS services. As such, this response focuses on this aspect but also makes comments on the other conditions.
4. The MBG, along with other industry stakeholders, recognises that trust in PRS has taken a knock as a result of recent widely reported incidents. Nearly all of these arose from lapses in judgement outside the purview of the operators (or occasionally completely unacceptable behaviour) rather than technical problems.
5. Nevertheless, mobile operators are keen to work with ICSTIS and other sections of industry to restore public confidence. We believe that many of the measures already taken by the broadcasters and others (such as audit compliance on current shows) will have gone some way to doing this.
6. We are also supporting the initiative being led by the Mobile Entertainment Forum (MEF) to establish industry guidelines that will apply across the Broadcast PRS value chain. As ICSTIS acknowledges in its document, the only point of direct regulatory action lies with the service provider (as defined in the ICSTIS Code).
7. The MEF guidelines are designed to complement work by regulators and to bring some transparency to the chain of responsibilities for delivering end to end interactive services. Lack of clarity on this point has perhaps made it too easy for some of the unethical problems that have occurred (such as picking winners too early).

8. Our specific comments on the conditions are as follows:

Connectivity and Capacity

9. Within the section on 'connectivity and capacity', ICSTIS refers to the topic of 'latency' in relation to the various methods of collecting votes. The MBG believes it would be helpful to set out in some detail how premium rate text votes are collected and billed for, so as to inform the discussion.
10. There are two methods of billing – Mobile Originating (MO) and Mobile Terminating (MT).
11. With MO billing, the text message submitted by the customer is charged at a premium rate and any acknowledgement returned to the customer is either standard rate or free, depending on how the pricing is set up. With MT billing, the customer sends a vote or competition entry at a standard message rate charge (usually 10-12p) and the service provider sends the acknowledgement as a premium rated (MT) message.
12. Both methods have slightly different characteristics. MO is more robust as the charge is made on vote submission ensuring all voting is paid for by the voter and the effect on the mobile network billing system is less dramatic than MT based charging. The flip side is that, with MO, those that vote late will be charged, even if their vote did not arrive in time to be counted. In the event that this arises because of a technical issue in the network or the service provider's systems, refunds can be arranged by the UK networks or service providers.
13. With MT, the voting takes place before the charging is made and this opens up the possibility for customers to register multiple votes without having sufficient funds available to pay on the MT response. If the service provider decides to check availability of funds before counting the vote, this requires an extra loop in the process and can cause delay. There are also occasional delays in returning acknowledgements to customers with MT, as the transaction has to pass through the billing engine and a queue can build up at this point. This can give the perception of latency in the network, even though a customer's vote was received and counted in time.
14. The topic of 'latency' has also been mentioned in relation to PRS TV voting services on prime time programming. It is worth pointing out that virtually all the identified errors on TV voting so far have resulted from human error.
15. 'Latency', i.e. the speed at which votes are collected from customers and delivered to the counting systems has not been a source of major problems. Indeed it was surprising that the consultation document referred in general terms to 'latency' without any demonstrable evidence. To aid the discussion, the MBG considered it would be helpful to present some statistics that demonstrate how quickly votes have been arriving in some recent shows.
16. A case study taken from a normal voting event (i.e. up to 500,000 votes) showed that 99.89% of votes had arrived within 2 minutes of the vote closing. Leaving the count open for a further 8 minutes accounted for a further 0.04% of votes. Unfortunately there is no split that shows whether this latter figure is accounted for by delay in the network or people voting late. Either way, it is a very small proportion of the votes and clearly shows that 'latency' is not a general issue.

17. In the case of an extreme voting event (i.e. the last night of a very popular show, delivering, say, 2 million votes), a little bit of extra time, perhaps another 10 minutes, would be required to reach achieve the 99.9% delivery. However, as these are relatively rare, proper planning and co-ordination among all those involved would ensure that text voting delivers a reliable service for customers.
18. The consultation document (on page 8) also addresses the issue of closing a number or short code after a vote or competition line has closed. The document states "*Our understanding is that it is easy to close landlines and revert to a dead tone but this appears to be less straightforward with a mobile short code, although not impossible*". The networks obviously can take short codes out of service but this is a very blunt instrument and is only used in situations where a service provider has breached an ICSTIS or some other regulation or has terminated its contract.
19. It would be very cumbersome and impractical for all the networks to be in liaison with a production company so that the timing of the 'switch being thrown' across multiple operators and network elements would be simultaneous. Pre-agreeing a time would not be robust enough to cope with the potential changes in broadcast schedules or programme content. ICSTIS correctly identifies that the service provider, being the point at which all votes are aggregated, is in the best position to implement the time at which text votes open and close and that is where the focus should remain.
20. The mobile operators' suggestion is that broadcasters stop soliciting text votes (both orally and with screen messages) at a reasonable time before a vote window is closed to allow time for collection and counting. This need only be a matter of minutes to ensure that all votes submitted on time reach the count. The broadcast message could also include an element of customer education that informed them that SMS is akin to [an albeit very fast] postal system. This is analogous to consumers knowing to leave adequate time for the standard postal system to deliver mail.
21. Alternatively, the announcement of a vote result could be scheduled for a few minutes later just to make sure that all the votes arriving via text message have arrived. In some instances this would involve the broadcaster making small modifications to the programme format. In any event, the process can be designed to collect votes in a timely manner so that customers can be confident that their entry is valid.
22. We believe it is important to retain PSMS voting, because it is a customer experience that many demonstrably prefer. Although IVR (whether accessed through 'long dial' or voice/video short codes) gives more instantaneous feedback to the voter as to whether a vote has registered, popular lines can become engaged, forcing retries, with an exponential effect on blocked calls and customers not being able to register all votes. Texting is much more intuitive and accessible to the age groups that are prone to TV voting.
23. We should not overstate the topic of latency, as vote collection is generally very rapid and normal capacity can deal with all but the highest volume occasions, such as the last nights of X-Factor and Big Brother. Providing there is proper advance warning from a production company, the high volume occasions can be accommodated.

24. The MBG agrees that the 'Connectivity and Capacity' condition that "*there must be sufficient time for all valid responses sent by viewers or listeners to be considered and reflected in any outcome...which then be reported on air*" is reasonable.
25. ICSTIS will recognise that this requirement can only be met if there is a clear understanding between the format designers/producers, aggregators (SPs) and networks of what is practical to deliver a reliable and trustworthy for customers. Recent discussions at the MEF and elsewhere between mobile operators, service providers and broadcasters have done much to advance this understanding.

Condition on 'Conduct'

26. Subject to one specific comment, the MBG supports the conditions being proposed for Conduct. We believe it would also be useful to have an overarching requirement that services be run in an open, honest and transparent manner, as some of the conduct that has been observed (e.g. near impossible answers to quizzes) has been unacceptable. Such an approach would provide cover for ICSTIS, as it is not possible to predict what variants of the 'near impossible quiz' some may seek to devise.
27. Our specific comment relates to the condition that "*Calls and SMS must notcontinue to be accepted after an announcement that lines are closed has been made*".
28. This appears to be contradictory to the condition under 'connectivity and capacity' that "*there must be sufficient time for all valid responses sent by viewers or listeners to be considered and reflected in any outcome.*"
29. We can see that there may be sense in stopping the advertising and solicitation of SMS votes or entries very slightly earlier than for IVR. However, it should also be permissible for the counting of SMS votes to remain open for a few minutes, depending on the size of the vote, so that the connectivity condition can be met.

Condition on 'Cost'

30. No comments. The condition appears to be in line with ICSTIS code.

Condition on 'Coherence'

31. The MBG agrees with ICSTIS that all the parties involved in the provision of broadcast PRS need to be aware of their respective responsibilities and for the whole service to be delivered in a coherent manner. It is one of the main reasons that the MBG is supporting the Mobile Entertainment Forum in the creation of its good practice guidelines.
32. Nevertheless we cannot support some of the text used in the condition on 'coherence.'
33. For example, ICSTIS states that "*there must be no amendments to operational systems or procedures relating to the service without senior management*

authorisation". This is not a practical requirement. We are aware that some of the recently publicised cases have been attributed to the errors of junior members of staff and agree that this is not an adequate excuse. Nevertheless, organisations should have the freedom to arrange their processes as they see fit.

34. It should be sufficient, within this condition, for ICSTIS to make clear that senior management are responsible for putting in place appropriate procedures for managing the services they provide.
35. Secondly, ICSTIS is requiring that *"Subject to reasonable notice from ICSTIS, service providers must make reasonable provision for Executive staff of ICSTIS and/or its agents to visit the relevant premises from which the service is provided and have access to any records relevant to the provision of the service."*
36. As 'the service' (i.e. the use of PRS for interactivity) is more in the nature of network facility, it is hard to envisage which premises or series of premises would be relevant for the fulfilment of this obligation and is, in any event, not appropriate for the prior permission condition. ICSTIS does not explain why this right of inspection or Customs and Excise type investigation is thought to be required.
37. Service providers will not be able to procure 'access' for ICSTIS staff to network operator premises. The 11th Code already has adequate safeguards in place with respect to information. Ex ante, network operators are required to carry out due diligence on their customers. Ex post, under condition 2.5.1 the 11th ICSTIS Code, network operators are required to comply with ICSTIS requests for information and this is a sufficient back stop for ICSTIS with respect to any data that may be required from mobile operators.

Conclusion

38. The MBG trusts that ICSTIS will find our comments informative and constructive and very much hopes that ICSTIS will see fit to make appropriate changes. We also encourage ICSTIS to support the complementary work of the Mobile Entertainment Forum in putting together good practice guidelines, as this is a forum in which all participants in the value chain can work together to re-build public trust. If any part of this submission gives rise to questions, we would be very happy to provide clarifications in correspondence or to meet with the ICSTIS Executive.