



**OFTEL & ICSTIS
Joint Consultation Paper
on the Regulation of
Premium Rate Services**

August 1999

Office of Telecommunications
50 Ludgate Hill
London
EC4M 7JJ
Tel: 0171 634 8700
Fax: 0171 634 8943

<http://www.oftel.gov.uk>

Contents

Chapter 1	Summary	Page 3
Chapter 2	Background	Page 5
Chapter 3	Weaknesses with the Regime	Page 8
Chapter 4	Proposals to Extend the Regime	Page 10
Chapter 5	The New Code of Practice	Page 15
Chapter 6	Premium Rate Service Numbering	Page 16
Chapter 7	Consultation	Page 17
Glossary		Page 18
Appendix A	Draft licence modification	Page 19
Appendix B	Draft ICTSIS Code of Practice	Page 26

Chapter 1

Summary

1.1 Premium Rate Services (PRS) are products and services which can be accessed by dialling special telephone numbers. Customers pay for the product or service, as well as the telephone call itself, through their normal telephone bill. This is why PRS are almost always more expensive than standard call tariffs.

1.2 Ever since PRS were introduced in the UK, 13 years or so ago, they have been subject to certain safeguards. Why? Firstly, is the relationship between the telephone company and the customer. It is the telephone company's customer who is responsible for payment of bills regardless of whoever makes the calls on their telephone. The result can be inadequate control over the types of calls which can be made using the customer's telephone and inadequate control over the costs or charges that the customer may incur. Secondly PRS can be accessed very easily. Anyone can pick up a phone and call PRS unless the owner of that telephone service has actively barred access.

1.3 For many years the telecommunications industry has voluntarily regulated itself through a body called ICSTIS – The Independent Committee for the Supervision of Standards of Telephone Information Services. ICSTIS independently supervises the promotion and content of PRS on behalf of the telephone companies. This voluntary arrangement covers most PRS. However a small group of services – those which involve live conversations – are subject to regulation by OFTEL and are defined in Telecommunications Act licences as 'Controlled Services'. This allows OFTEL to require telephone companies to cease the service on which the live PRS is run if the telephone company itself, or the provider of the live PRS, refuses to participate in the supervisory process run by ICSTIS.

1.4 This Consultation Paper proposes that most PRS should be subject to the same regulatory arrangements which, at the moment, only apply to live conversation services. The reason for this is that whilst the voluntary system has worked quite successfully for a long time, gaps have appeared which have resulted in the abuse of consumers. There have been instances where thousands of people have been subjected to unsolicited, sexually explicit faxes promoting a PRS. There have also been cases where hundreds of people complained that they called a PRS competition line and had not received their prizes. The company promoting the competition was incapable of fulfilling the offer; the result was that many thousands of pounds had been spent by consumers for no value whatsoever. Even though ICSTIS recommended its toughest sanction – that the telephone companies concerned block the continued running of these services – they were slow and/or unwilling to do so. Moreover OFTEL had no formal procedure to intervene and stop these abusive PRS.

1.5 OFTEL and ICSTIS consider that the nature of this abuse is such that it is in the public interest to extend the regulatory regime so that the Director General of Telecommunications has powers to intervene where necessary to protect consumers. This Consultation Paper describes proposals to extend the definition of 'Controlled Services' in both the Telecommunications Act licences and the ICSTIS Codes so that the control exerted by ICSTIS can be extended to cover all PRS which are above the standard tariff for a national rate call and all sex content and Chatline services regardless of their price. Such steps would also allow OFTEL to intervene if requested to do so by ICSTIS. These changes will have no effect on the vast majority of responsible PRS products and services.

1.6 OFTEL is consulting separately on how customers should be able to control access to certain types of PRS from their telephone service. Parents might, for example, want to bar access to adult services from their home telephone. A Consultation Paper will be published soon.

1.7 If responses to this informal consultation reveal a broad consensus to move forward as proposed, OFTEL and the Department of Trade and Industry (DTI) will proceed with modifications to the relevant licence conditions which will include a further period of formal, statutory consultation. ICSTIS will make appropriate changes to its Codes of Practice along similar time-scales which will require formal recognition by OFTEL. OFTEL anticipates that the modified conditions could take effect from next Spring.

1.8 This paper is being circulated widely and comments are welcomed. Details on how to do so are explained in Chapter 7.

Comments are invited on the proposals by 1 November 1999.

Chapter 2

Background

What are Premium Rate Services (PRS)?

2.1 These are services which customers can call and pay for by means of their telephone bill. A common example of a PRS is a weather information service perhaps advertised in a newspaper. The customer calls the advertised telephone number and can listen to, say, an up to date weather forecast for their local area. As the name suggests, PRS are normally charged at a higher price (a 'premium') than normal calls and they appear, like any other call, on the customer's telephone bill. When a customer pays their bill, their telephone company shares the money it collects for any PRS call with the provider of the service. In the example, the provider would be the company providing the weather information service. PRS are given special dialling codes, which OFTEL is in the process of making much easier for consumers to identify. By April 2001 all PRS numbers will begin 090. Other examples of PRS include phone-in competitions, some forms of entertainment service or over-the-phone advice.

Control of PRS

2.2 With certain exceptions, OFTEL's powers are generally limited, in practical terms, to imposing controls on those who are granted Telecommunications Act licences by the Secretary of State including those running telecommunications services under the class licence called the Telecommunications Services Licence. OFTEL should require those who have telecommunications licences (in the main, telephone companies) to abide by certain conditions which are set out in their licences. These conditions can, from time to time, be changed which is what it is being proposed in this consultation. However, the point is that the OFTEL regulations impact only on those with licences – this is the telephone companies and not those companies who are actually providing the content (eg the weather information).

2.3 Following the introduction of PRS, OFTEL encouraged the industry to control and police these services voluntarily. OFTEL welcomed the establishment in 1986 of ICSTIS – The Independent Committee for the Supervision of Standards of Telephone Information Services – as an independent, non-statutory body, financed by the telephone companies. The role of ICSTIS is to supervise both the content and promotional material for PRS and, with the support of the telephone companies, to enforce its Codes of Practice. ICSTIS carries out its role by exercising the following functions:

- Setting and maintaining standards for the content and promotion of PRS, and keeping these under review.
- Consulting the industry and other interested parties before changing these standards.
- Monitoring services to ensure that both the content and promotional material comply with these standards.
- Investigating and adjudicating upon complaints relating to the content and promotion of PRS and recommending action designed to achieve compliance where the Code has been breached, which may include the imposition of sanctions.

- Providing a system for the adjudication of claims for compensation in respect of unauthorised use of live conversation services.
- Publishing reports on its work at regular intervals and generally publicising its role.

2.4 The Code of Practice applies directly to those who provide content services. The licence requirements and the Code of Practice are tied together by allowing telephone companies to use their telecommunications networks to run what are defined in licences as being PRS, only if there is a satisfactory Code of Practice in effect which controls the provision of those PRS.

2.5 At the moment, through a licence condition called the ‘Controlled Services’ Condition, OFTEL only allows telephone companies to use their telecommunications networks to run ‘live’ PRS if there is a Code of Practice in effect, which controls the provision of such services, and that the Code has been recognised by OFTEL. If ICSTIS recommends to OFTEL that any person should stop running a live PRS, or should not be allowed to run a live PRS in the first place, then OFTEL, may direct the telephone company to cease to provide or not to provide the means of running the live PRS. The only Code of Practice recognised by OFTEL is the Live Conversation Services Code of Practice or ‘Live Code’. This is supervised by ICSTIS.

2.6 Although the licence condition only applies to this relatively small group of PRS, described as ‘live’ services, the telecommunications industry uses the independence of ICSTIS to voluntarily self-supervise a whole range of PRS which are currently outside the ‘live’ definition in the ‘Controlled Services’ Condition. This is achieved via a Code of Practice known as the ICSTIS ‘General Code’.

2.7 One of the issues which is key to this consultation is what services ought to be covered by the licence condition (subject to mandatory regulation) and what should be left to self-regulation. The reason why, historically, only ‘live’ PRS have been subject to mandatory regulation is explained below.

The history of PRS regulation

2.8 During the late 1980s, problems appeared in the PRS industry. High telephone bills were run up, often due to long calls made by children using the telephone without the permission of the bill payer. This led to bill payers being left exposed to disconnection if they refused to pay for the PRS calls made without their permission. Because of the lack of information about the price of PRS calls, people risked running up high bills which they could not afford to pay. At this time, the type of PRS which caused these problems were ‘live’ services, especially Chatlines. OFTEL proposed to control these services through licence amendments but could not secure formal agreement from BT because of its legally binding commitments to service providers. To overcome this problem OFTEL made a reference to the Monopolies and Mergers Commission (MMC) in 1988.

2.9 The MMC considered the issues surrounding PRS and made its report in January 1989. The MMC concluded that the lack of adequate control for customers over the types of service that could be accessed, and the charges that might be incurred, were against the public interest and impaired the value and quality of telephone service. However the MMC recognised the value of PRS and concluded that, with some additional safeguards, these services should be allowed to continue. The safeguards identified included the provision of itemised billing, notification when bills reach a pre-set limit, call barring and calling line

identification. Because these safeguards were not all generally available at the time, the MMC recommended that live PRS could only be provided in accordance with a Code of Practice, recognised by OFTEL. This took the form of the 'Live Code' – monitored and administered by ICSTIS – but with OFTEL holding an enforcement role in the background with regard to live, but not recorded, PRS. This remains the case today.

2.10 Chatlines, however, continued to be a problem. Chatlines are defined as the kind of service which enables more than two people to talk to each other simultaneously without the operator of the service having introduced them, or without them each having agreed to talk to each other. In other words the people who call the Chatlines are strangers to begin with unlike, say, a conference call. As a result of a recommendation from ICSTIS, OFTEL came to the view in 1992 that consumer protection (via compensation arrangements) for Chatline services were inadequate. This led to the withdrawal of the recognition of the ICSTIS 'Live Code' for that specific purpose. This had the effect of prohibiting the running of Chatline services. This also remains the case today although consideration is currently being given to their possible re-introduction.

2.11 A review of the future regulation of PRS was carried out from 1995 to 1996 and is recorded in a Consultative Document dated July 1995 and a subsequent Statement of October 1996, both entitled '*The Future Regulation of Premium Rate Services*'. The outcome of this process was intended to strengthen industry self-regulation by, as far as possible, achieving a 'one-stop-shop' for PRS regulation through ICSTIS. Nevertheless OFTEL considered it appropriate to retain regulatory oversight of this rapidly developing market, particularly to ensure adequate consumer protection.

2.12 At that time, no modifications were made to the existing PRS licence conditions but amendments were made to the ICSTIS 'Live Code'. Instead of requiring all service providers of 'live' PRS to record all calls and make payments to a Compensation Fund, they have to first seek permission from ICSTIS before they can offer services. This application process includes the pre-vetting of live services and ICSTIS applies appropriate safeguards depending upon the type of service which may include the recording of calls and making payments to the Fund.

Chapter 3

Weaknesses with the regime

What are the problems?

3.1 OFTEL and ICSTIS believe that in most cases PRS are operated well and raise no problems. The majority of PRS service providers conduct their business without breaching the Codes of Practice and, in cases where problems have occurred, ICSTIS and responsible telephone companies have been able to resolve most complaints without the intervention of OFTEL. However, during the past year or so, certain PRS have given both OFTEL and ICSTIS cause for very serious concern.

3.2 In 1998 ICSTIS dealt with two cases which generated considerable consumer harm and many complaints. In one case, ICSTIS received over 450 complaints about faxes promoting PRS which were sent, unsolicited, to thousands of fax machines – in the home as well as in places of business. The content of these faxes was found by many to be very offensive, most of it sexually explicit. Most complaints came from parents and guardians whose children had picked up the faxes. ICSTIS upheld a number of serious breaches of the ‘General Code’ and heavy sanctions were imposed.

3.3 Another service involved competitions for which callers had to listen to a seven minute premium rate message in order to claim their prize. At one pound per minute this cost callers £7.00. The competitions were promoted by personally addressed leaflets delivered to thousands of households in the UK. Several breaches of the ‘General Code’ were raised against a succession of companies which ran the promotions, behind each of which was the same individual. Matters came to a head after hundreds of complaints were received from people who had called and spent £7.00 but had not received their prizes, which in most cases was a mobile phone. On investigation it became clear that the company promoting the offer at the time was incapable of fulfilling the offer and, as a result, it was established that thousands of people would never receive their mobile phone or their money back. In the region of £80,000 worth of premium rate calls had been made for no value whatever.

3.4 In both cases ICSTIS and OFTEL received hundreds of complaints, some from or via Members of Parliament, and both cases generated a lot of media interest and comment.

3.5 Under the ‘General Code’ ICSTIS has a number of sanctions which include the power to recommend that the telephone company, to whom the service provider is contracted, blocks the number in question. In both of these cases, ICSTIS recommended the toughest sanctions available in response to considerable consumer harm. However, in both cases the telephone companies concerned were very slow to respond and in one case only did so when OFTEL expressed its grave concern about the impact of these PRS. These serious breaches of the ‘General Code’, giving rise to thousands of complaints, coupled with the failure by the telephone companies to act on ICSTIS’ recommendations, seriously undermined ICSTIS’ ability to apply the Code of Practice and provide effective customer protection.

Why were the controls inadequate?

3.6 In both cases OFTEL and ICSTIS were able to take some action. But because the PRS in these cases were not 'Controlled Services' as defined in Telecommunication Act licences (those services covered by the ICSTIS 'Live Code'), the telephone companies, over whose networks these PRS were running, were under no obligation to comply with ICSTIS' recommendations and the provisions of its 'General Code'. Moreover, OFTEL was unable to make a direction to the telephone company concerned to cease the services. If informal intervention had not had the desired results, OFTEL could not have enforced action.

3.7 OFTEL was so concerned by the manner in which customers had been left exposed to services, where the offer being promoted was "demonstrably misleading, potentially illegal or exploitative", that the Director General of Telecommunications wrote to all telephone company Chief Executives. A copy of this letter, dated 6 August 1998, can be found on OFTEL's Web site. In it, OFTEL asked the telephone companies to co-operate with ICSTIS and OFTEL in dealing with scams or blatant abuses where they are about to happen or are happening.

3.8 In spite of OFTEL's action in the summer of 1998, the problems continued. At the end of the year, one of the telephone companies which had failed to act on an ICSTIS recommendation earlier in the year did so again. More complaints about the same service provider were received and ICSTIS again found serious breaches of its 'General Code'. ICSTIS' recommendation to the telephone company went unheeded until OFTEL again used its good offices to secure a remedy for a second time.

3.9 There are many more telephone companies now operating in the PRS market. This presents practical difficulties for ICSTIS in ensuring that each supports the 'General Code' and acts upon its recommendations. The experience of the past year has highlighted the weakness in industry regulation and the consumer harm that is caused when telephone companies fail to act. OFTEL and ICSTIS believe it is in the public interest to see that arrangements are strengthened.

Chapter 4

Proposals to extend the regime

4.1 In order to ensure that consumers are adequately protected from the type of abuses described in the previous chapter, it is proposed that the more formal regulation currently applied to live PRS should be extended to most PRS currently covered by both the 'Live' and 'General' ICSTIS Codes of Practice. No changes to the 'rules' about PRS content and promotion are being proposed – this consultation is about making sure that the 'rules' can be enforced.

4.2 With this aim in mind, OFTEL and ICSTIS have identified key characteristics of the types of service which might cause concern, and which therefore should be subject to the extended regulatory regime.

- They are paid for through the telephone bill of a subscriber.
- The revenue for the call, which comprises the price of the telephone call plus the service, is shared between the telephone company and the provider of the service.

And either

- The charge for the service is above the standard tariff for a national call: BT currently charges 6.73 pence per minute at peak times for a national call.

Or

- The service may be of a sexual nature.

Or

- The service is a Chatline.

Or any combination.

4.3 Each of these characteristics is examined below so that the reasons as to why they give rise to issues of concern are explained.

Paid for via the telephone bill

4.4 The primary issue with charging customers for higher priced services accessed over their phone by billing them on their telephone accounts, is the lack of customer control over expenditure and, consequently, the risk of possible disconnection. Many customers only see their telephone bill once every 3 months and, if calls are made to PRS, it can be difficult for customers to keep a track of their expenditure. This problem may be made worse if the bill payer is not aware that someone else with access to their phone is actually making calls to PRS. This lack of customer control may, in the worst cases, lead to circumstances in which the bill payer cannot afford to settle their telephone account. If this happens, then the customer may lose their telephone service altogether – an outcome that OFTEL considers is highly undesirable. OFTEL and ICSTIS consider that there is a significant difference between services which are billed to a customer's telephone account and other services, which may look very similar to PRS, which are billed by other means (eg Credit Card).

Separately billed content services

4.5 Some services, which bear a superficial resemblance to PRS, can be accessed by customers by dialling ordinary telephone numbers. The price for the phone call is the normal charge made by the caller's telephone company – often a few pence per minute. In other words, there is no 'premium' or higher charge billed to the customer's telephone account for calling these services. Customers will be able to identify this, as the advertised number will not start with digits 090. 090 identifies PRS (see Chapter 6).

4.6 The content element of the call, the product or service, is billed by means other than the caller's telephone bill. The most common example is billing by Credit Card. This payment mechanism removes the key reason for regulation – high telephone bills and the risk of disconnection. Billing by Credit Card also controls access. Unless the caller has a valid Credit Card in the first place and authorises the service provider to take payment from it, access will be denied. OFTEL and ICSTIS conclude that Credit Card services do not need to be caught by the proposed regulations.

Do you agree that services paid for by Credit Card do not need to be controlled?

4.7 There is also at least one example where, instead of the service being billed to a telephone account (PRS) or Credit Card, the service provider actually sends the caller an invoice. Like Credit Card services there is no direct risk to telephone service since only the normal call charge will be billed to the customer's telephone account. Even though the control over access afforded by Credit Card payment is not present in this case, OFTEL and ICSTIS do not consider that such a service warrants mandatory control at this time. However the development of such services requires careful monitoring to ensure that the consumer is adequately protected. OFTEL and ICSTIS believe that telephone companies themselves can take the lead in monitoring these types of service.

Do you agree that separately billed services should not be controlled?

Sharing PRS revenues

4.8 This characteristic distinguishes PRS from other types of calls that are more expensive than standard tariffs. As well as distinguishing PRS from other calls, the business relationship between the provider of the value-added service and the telephone company under which the call revenues are shared, highlights another potential issue. The motive of the service, for instance a live conversation, might be to encourage the caller to stay on the phone for long periods of time. This increases the amount of revenue which the service provider (and telephone company) will collect and, consequently, the size of the telephone bill which the customer will receive.

International services

4.9 Some providers of live chat or recorded sex content services, may run their operations from overseas and are accessible to UK customers by dialling advertised international numbers. These services share very similar characteristics to PRS except that the means by which the service provider obtains its revenue is different. The way it works is that the service provider sets up its operation in an overseas country and makes an agreement with the overseas telecommunications administration to take a share in the extra revenue which is

gained by attracting calls into their country. This is possible because the overseas administration demands a high fee for terminating calls in its country.

4.10 OFTEL's remit is to regulate the UK telecommunications industry only; its remit does not extend to overseas countries. Because the service providers of these international services, and the telecommunications administrations which support them, are located outside the UK it follows that OFTEL's remit does not extend to them. However, from the consumer perspective these services are expensive and share the same characteristics of PRS described earlier in this document. Whilst, therefore, OFTEL is limited by its geographical jurisdiction from including these services within its 'Controlled Premium Rate Services' definition, it nevertheless supports ICSTIS' approach, which is to agree with telephone companies and/or service providers to take what action they can when a breach of ICSTIS' 'General Code' is identified, taking account of international law and regulations. There is no business relationship between UK telephone companies and the overseas providers of the content services and therefore the procedures for enforcement cannot be the same as PRS within the UK. In practice, because the service provider can seldom be located when ICSTIS approaches it about breaches of the Code, its usual sanction is to recommend to the UK telephone company that access is barred to the international telephone number on which the service is promoted and provided.

The prices of PRS calls

4.11 The primary concern about PRS is their expense. Because access to these more expensive calls is very easy, and because someone other than the caller may be responsible for paying the telephone bill, the bill payer has little way of controlling the use made of the telephone and the high bills which may be incurred as a consequence. If a service, which meets the proposed criteria of PRS discussed so far (billed to telephone accounts and shared revenue), is relatively inexpensive then the risk to bill payers is significantly diminished. OFTEL and ICSTIS propose that only the more expensive PRS – those charged above the standard tariff for a national call (BT currently charges 6.73 pence per minute at peak times for a national call) – are included in the definition of Controlled Premium Rate Services, except for services of a sexual nature and Chatlines (discussed below).

Do you agree that, generally, only more expensive PRS should be controlled?

Services of a sexual nature

4.12 PRS, where the content is of a sexual nature, are of particular concern to some customers. The content of these services is an emotive subject. OFTEL has always maintained that it is beyond its remit to make decisions about what telephone users should or should not listen to. The Telecommunications Act 1984 defines, to some extent, what is unacceptable in terms of content and deals with abusive and obscene telecommunications messages. These are made a criminal offence and a matter for the law enforcement authorities not OFTEL. However controlling access to services of a sexual nature is an issue and will be debated in a forthcoming public consultation exercise. However, it is recognised that not only is access control important in terms of curbing high bills (possibly through unauthorised use of the phone), but it is also important for some customers who may wish to bar access to certain services.

4.13 It is proposed that services of a sexual nature will fall within the definition of Controlled Premium Rate Services, provided they are billed to telephone accounts and are shared revenue, but regardless of the cost of calling these services.

Chatlines

4.14 The particular problems which, in the past, have been associated with Chatlines are discussed in Chapter 2. In that Chapter it is also explained that Chatline services are currently prohibited. This will remain the case until and unless Chatline services are contained in a code of practice recognised by OFTEL.

4.15 It is proposed that should Chatlines be reintroduced at some point in the future, they should be defined as Controlled Premium Rate Services regardless of the price of calling them. This is because of the attractiveness of the services to children and young people, and the higher risk (to a greater or lesser degree depending on the tariff) of unauthorised calls and high bills.

Do you agree that the characteristics adequately describe the features of PRS which should be subject to regulatory control? Do you have any different suggestions?

4.16 It is likely to be the case that certain services, which would not be viewed as PRS, will fall into the proposed definition of Controlled Premium Rate Services. Directory Enquiries is a good example. For this reason, a provision in the revised Condition is proposed which will enable the Director General to make a determination which effectively excludes any such services.

Revised licence condition called ‘Controlled Premium Rate Services’

4.17 It is proposed that services which have these characteristics will be captured in a new definition of ‘Controlled Premium Rate Services’ and subject to a revised Controlled Premium Rate Services Condition in all relevant licences. A draft licence condition is included at Appendix A. The DTI will propose similar modifications to the appropriate condition in the Telecommunications Services Licence (TSL).

What these proposals are designed to achieve

4.18 Like the current Controlled Services Condition, the proposed regulations would mean that Licensees could only provide Controlled Premium Rate Services if there is Code of Practice governing the provision of Controlled Premium Rate Services in effect at the time. Moreover, the Code of Practice would only be valid if OFTEL had recognised it as such, after consultation. Thereafter, the role of ensuring compliance passes to the body responsible for administering the Code of Practice – ICSTIS. The only circumstances in which OFTEL would become directly involved in regulating Controlled Premium Rate Services arises where,

- ICSTIS recommends that a particular service provider or licensee (acting as a service provider) should not or no longer be permitted to provide a Controlled Premium Rate Service and the service provider or licensee has refused to comply with ICSTIS’ rulings.
- OFTEL retains the discretion to withdraw its recognition of the Code of Practice which would have the effect of prohibiting all Controlled Premium Rate Services.

4.19 The result of the proposed expansion of the types of service defined as Controlled Premium Rate Services, and therefore subject to the above regulations, means that the majority of services which consumers recognise as PRS will be controllable.

4.20 Under the new regime ICSTIS would replace its two current Codes with a single document discussed in Chapter 5.

4.21 OFTEL and ICSTIS recognise that most telephone companies and service providers who are in the business of providing those PRS not previously defined as 'Controlled Services' were already voluntarily complying with ICSTIS' 'General Code. The new licence condition and the new 'Single Code' will not result in any significant change in the way their businesses are run.

Do you agree that the proposed regime and enforcement procedure provides satisfactory control over the activities of providers of PRS?

Responsibilities of telephone companies

4.22 The above proposals do not cover every eventuality that might give rise to concern. Services, which give the appearance of PRS, but are not billed to telephone accounts and services accessed by making international calls have already been highlighted as falling outside the scope of Controlled Premium Rate Services. OFTEL has, in the past, been eager to allow the PRS market to be self-regulated by the industry through ICSTIS. Even though these proposals represent more intrusive regulation, in the interests of consumer protection, OFTEL would encourage telephone companies and service providers to look inwards at their own arrangements to ensure that common sense and a responsible attitude prevail toward these kinds of services.

4.23 OFTEL is keen to encourage telephone companies to look at their contractual arrangements with service providers and customers, with a view to ensuring that standards are maintained and in some cases improved. This is particularly so with regard to those customers of telephone companies who run services which fall outside the scope and definition of Controlled Premium Rate Services and are engaged in practices which would be unacceptable to those who operate within the PRS regime. For example, consideration could be given to those customers of telephone companies who provide content services over a basic telephone service and who bill callers separately for payment. Telephone companies might consider changes to their terms and conditions which might allow them the discretion to impose adherence to the established ICSTIS Code of Practice in circumstances where a customer is providing a telephone information service.

Chapter 5

The new code of practice

5.1 The ICSTIS Code of Practice was last reviewed in 1997, with the eighth edition published in March 1998. The Code was amended again in February 1999 to give ICSTIS the power to supervise individuals associated with service provider companies. This was put in place to address the harm caused by those individuals who continued trading under new company names after companies, which they controlled, had been barred by ICSTIS from operating services.

5.2 The purpose of this proposed Code revision is to make the following changes:

- Combine the Live Conversation Services Code of Practice ('Live Code') with the ICSTIS Code of Practice, eighth edition ('General Code').
- Insert the definition of 'Controlled Premium Rate Service' taken from the draft licence condition in addition to the 'General Code's' definition of Premium Rate Services.
- A few minor drafting changes have also been made arising from the combining of the Codes, but there are no changes of substance.

5.3 A draft copy of this Code revision is included at Appendix B.

OFTEL and ICSTIS would welcome any comments on these revisions.

Chapter 6

Premium Rate Service numbering

6.1 In January 1997, OFTEL issued a public statement setting out a reformed UK National Numbering Scheme as a result of rapid growth in demand for numbers. This presented an opportunity to construct a Scheme that would make it easier for customers to identify different types of service and prices of those services.

6.2 PRS were scattered over a host of different number codes such as 0331, 0898, 0660 and 0991. However since September 1998, these numbers have been in a process of transition. In future all PRS will begin with the numbers 090 and any sex content PRS will begin 0909. This means that it will be much easier to recognise PRS and makes it much easier for customers to bar access to these services if they wish to do so.

6.3 The allocation of telephone numbers is controlled by OFTEL and the conditions under which telephone companies and others may obtain and use telephone numbers are contained in licences and a document called the '*Numbering Conventions*'. It is proposed that the new Controlled Premium Rate Services Condition will require telephone companies who provide PRS to do so in accordance with the '*Numbering Conventions*'. This is the mechanism by which the service and the number will be linked.

6.4 There will be a separate consultation on modifications to the '*Numbering Conventions*' soon.

Chapter 7

Consultation

7.1 OFTEL and ICSTIS seek the views of customers, consumer groups, service providers, operators and any other interested parties on the proposals contained in this consultation document by **1 November 1999**. There will then be a further two week period during which comments on the representations made during the first period of this consultation are invited. This will end on **15 November 1999**.

7.2 Views and comments should be made in writing and sent to:

Sylvia Smith
Regulatory Policy Directorate
OFTEL
50 Ludgate Hill
London, EC4M 7JJ

Tel: (0171) 634 8742, Fax: (0171) 634 8757
E-mail: ssmith@oftel.gov.uk

7.3 To make operations simpler, OFTEL will remain the single contact for this public consultation. However OFTEL will copy all responses to ICSTIS.

7.4 Written comments will be made publicly available in OFTEL's Research & Intelligence Unit except where respondents indicate that their response, or parts of it, are confidential. Respondents are therefore asked to separate out any confidential material into a confidential annexe which is clearly identified as containing confidential material. In the interests of transparency, respondents are asked to avoid confidentiality markings wherever possible. Appointments to view written comments in OFTEL's Research & Intelligence Unit, which must be made in advance, can be arranged by calling (0171) 634 8761.

7.5 This document is also available at OFTEL's Internet Web site at <http://www.oftel.gov.uk>

7.6 OFTEL would like to set up a link between this Consultative Paper on OFTEL's Web site and any responses on respondents' own Internet pages. Please contact Lauren Ryner at OFTEL on (0171) 634 8753 or by e-mail: web.oftel@gtnet.gov.uk to arrange this.

7.7 OFTEL has a free e-mail based mailing list to help people stay informed about the work OFTEL is doing. Each time a document is placed on OFTEL's Web site, subscribers receive an e-mail informing them. If you would like to join, please use the form on the Web site to add yourself to the list. There is a link to the form from the 'What's new' section of the site.

Alternative formats

7.8 Copies of the full Consultative Paper are available on disc.

7.9 The summary is available in large print, Braille and tape formats. Please contact the OFTEL Research and Intelligence Unit on (0171) 634 8761, or by e-mail: infocent.oftel@gtnet.gov.uk, or call textphone (0171) 634 8769 for more information.

Glossary

Call Barring – The ability to programme a Public Switched Network access line so that outgoing calls to certain related groups of numbers such as special charge rate, international or mobile services cannot be made.

Calling line identification (CLI) – A facility that enables identification of the number from which a call is being made.

Chatline – A service which allows more than two persons simultaneously to conduct a telephone conversation with one another and where the persons concerned are normally strangers to each other to begin with.

Controlled premium rate services – Those premium rate services defined in the proposed licence modification as being subject to controls.

Controlled services – Those premium rate services which are currently defined in licences as being subject to controls. They comprise of chatlines and live conversation services.

International number – The number to be dialled following the international prefix to obtain a called party in another country.

Live conversation services – A definition of the group of premium rate services which includes the provision of live telephone conversation either between the provider of the service and the caller or two callers to the provided service.

National Numbering Scheme – A scheme for the allocation and re-allocation of numbers which is specified by the Director General and made available by him for public inspection.

Numbering Conventions – The rules by which numbers are allocated.

Premium Rate Services (PRS) – Services, including recorded information and live conversation, run by independent service providers. All calls to these companies are charged at a higher rate than ordinary calls to cover the companies' costs in providing the content of the call and the operator's cost for the special network facilities needed.

Service provider – Provider of telecommunication services, or services with a telecommunication service component, to third parties whether over its own network or otherwise.

Telecommunications Services Licence (TSL) – A class licence under which individuals can offer certain telecommunications services including a private payphone service. The licence authorises the connection of up to 20 sites by self-provided lines, or an unlimited number by leased lines.

Appendix A

CONDITION 33A

CONTROLLED PREMIUM RATE SERVICES

- 33A.1 The Licensee may only provide a Controlled Premium Rate Service in whole or part by means of the Applicable Systems (whether or not Messages comprised in, or resulting from the provision of, such Services have previously been or are subsequently conveyed by any other public telecommunication system) where the Relevant Condition is satisfied.
- 33A.2 The Licensee may only provide a telecommunication service to another person by means of the Applicable Systems by means of which that person, to the knowledge of the Licensee, provides a Controlled Premium Rate Service (whether or not Messages comprised in, or resulting from the provision of, such services have previously been or are subsequently conveyed by any other public telecommunication system) where the Relevant Condition is satisfied.
- 33A.3 The Relevant Condition is that there is in effect at the time the Controlled Premium Rate Service concerned is provided, a Code of Practice governing the provision of such a Service, which has been recognised by the Director for the purposes of this Condition after consultation with the Licensee and with any body which he considers to be representative of those wishing to provide such Services.
- 33A.4 A Code of Practice shall only be recognised for the purposes of paragraph 33A.3 if the Director is satisfied that:
- (a) its provisions are capable of properly regulating the provision of the Controlled Premium Rate Services to which it relates and, without prejudice to the generality of the foregoing, which provisions may include making adequate provision for compensating those who suffer as a result of the provision of such Services or any description of such Services; and
 - (b) adequate arrangements have been made for the constitution (including the arrangements for the funding) of a body of persons to apply and administer the Code (referred to in this Condition as "the Body applying and administering the Code").
- 33A.5 A Code of Practice is recognised for the purposes of this Condition where it is specified as such in a determination made by the Director, and the Director may, at any time after such a Code is recognised and after giving not less than one month's notice in writing of his intention to the Body applying and administering the Code, determine that its recognition be revoked if he is satisfied that its provisions are not capable of properly regulating the provision of the Controlled Premium Rate Services to which it relates or that it is not being properly applied and administered (whether, without prejudice to the generality of the foregoing, due to lack of funding or otherwise).
- 33A.6 For the purposes of this Condition the Director may recognise a Code of Practice in relation to any description of Controlled Premium Rate Service or to all Controlled

Premium Rate Services and the provisions of this Condition shall apply accordingly.

33A.7 If:

- (a) a recommendation is made to the Director by the Body applying and administering the Code that any person (including the Licensee) should no longer be permitted or should not be permitted to provide a particular Controlled Premium Rate Service or any Controlled Premium Rate Services (whether or not he is providing it or them when the recommendation is made); and
- (b) the Licensee has failed to comply with a recommendation made by the Body applying and administering the Code in accordance with any of the procedures set out in that Code that the Licensee cease to provide, or, as the case may be, shall not provide the relevant Service or Services either itself or to any other person; and
- (c) the Director considers it appropriate

the Director may direct the Licensee to cease to provide, or, as the case may be, not to provide that person or any other person with any service facilitating or enabling the provision of the relevant Controlled Premium Rate Service or Services or, as the case may be, itself cease to provide, or, as the case may be, not to provide the relevant Controlled Premium Rate Service or Services.

33A.8 The Director may determine, subject to such conditions as he thinks fit, that:

- (a) any Controlled Premium Rate Service of any description, or any individually specified such Service provided by a person named in the determination, is not to be treated as a Controlled Premium Rate Service for the purposes of this Condition; and
- (b) any individually specified Controlled Premium Rate Service in respect of which a determination under sub-paragraph (a) above has been made or which is within a description of Controlled Premium Rate Services in respect of which such a determination has been made, is to be treated as a Controlled Premium Rate Service for those purposes notwithstanding such determination;

and where a determination of the kind specified in sub-paragraph (b) above is made the provisions of this Condition shall apply to such a Service from the date specified in the determination.

33A.9 For the purposes of ascertaining whether a service is a Controlled Premium Rate Service, the Director shall determine, from time to time, in accordance with the procedure set out in paragraph 33A.10 below, an amount for the charge of the Call by means of which the service is obtained or the rate according to which such Call is charged or both which, when exceeded, means that sub-paragraph 33A.11(a)(iv)(A) of the definition of Controlled Premium Rate Services is satisfied. In making such a determination, the Director shall have regard to the prevailing standard rates for national calls of the Licensee and other licensed operators providing Controlled Premium Rate Services from time to time.

33A.10 Where a determination is made pursuant to paragraph 33A.9 the procedure shall be as follows:

- (a) before making the determination, the Director shall serve upon the Licensee a notice informing the Licensee of any amount he proposes to specify in the determination;
- (b) the notice in sub-paragraph (a) above shall be copied to the Body applying and administering the Code and to Interested Parties at the same time as being served upon the Licensee;
- (c) the Licensee, the Body applying and administering the Code and Interested Parties shall be given a period of not less than 28 days in which to make representations;
- (d) the representations made by the Licensee or the Body applying and administering the Code or Interested Parties or any of them, shall be published in such manner as the Director considers appropriate to bring such representations to the attention of the Licensee, the Body applying and administering the Code and Interested Parties (having regard to the wish of the Licensee or such body to keep matters contained in any representation confidential);
- (e) the Licensee, the Body applying and administering the Code and Interested Parties shall be given a further period of not less than 14 days in which to make any observations on the representations which have been published;
- (f) when the Director has considered the representations and any observations made, he shall prepare a draft determination and statement of reasons for that determination and send it to the Licensee, the Body applying and administering the Code and any Interested Party who has submitted representations or observations, or both, giving those persons a period of not less than 14 days within which to comment; and
- (g) after considering any comments received, the Director shall make the determination and publish such determination in the same manner he published the representations referred to in sub-paragraph (d) above; and
- (h) the provisions of this Condition shall apply from the date specified in the determination.

33A.11 In this Condition:

- (a) subject to any determination made by the Director pursuant to paragraph 33A.8 above or to paragraph 33A.12 below, a Controlled Premium Rate Service is one in respect of which:
 - (i) the person responsible for paying the charges for the Call by means of which the Service is obtained is billed by means of his telephone bill for any amount in respect of the provision of the Service;

(ii) in addition to charges relating to the simple conveyance of the Messages comprised in, or resulting from the provision of the Service, charges are payable for the additional content of the Call or other product or service delivered in the course of or as a direct consequence of the provision of the Service;

(iii) the person providing the Service obtains the whole or any part of his revenue directly or indirectly from the Licensee (or, where that person is the Licensee, that part of the Licensee's business which provides the Service is credited with revenue from that part of its business which conveys the Messages comprised in, or resulting from the provision of, the Service); and

(iv) either

(A) the charge for the Call by means of which the Service is obtained or the rate according to which such Call is charged is a charge or rate which exceeds any amount determined by the Director in a determination made pursuant to paragraph 33A.9 of this Condition; or

(B) the Service is of a sexual nature; or

(C) the Service is a Chatline Service; or

any combination of the above;

(b) Chatline Service means a service which consists of or includes the enabling of more than two persons (the participants) simultaneously to conduct a telephone conversation with one another without either:

(i) each of them having agreed with each other; or

(ii) one or more of them having agreed with the person enabling such a telephone conversation to be conducted;

in advance of making the Call enabling them to engage in the conversation without knowing the respective identities of the other intended participants or the telephone numbers on which they can be called. For the avoidance of doubt a service by which one or more additional persons who are known (by name or telephone number) to one or more of the parties conducting an established telephone conversation can be added to that conversation by means of being called by one or more of such parties is not on that account a Controlled Premium Rate Service if it would not otherwise be regarded as such a service; and

(c) services of a sexual nature means services which are of a sexually suggestive or titillating nature or services where the associated promotional material is of a sexually suggestive or titillating nature.

- (d) Message Service means a service which consists of or includes, the sending of speech, music or other sounds or signals to any person or terminal apparatus who or which obtains access to that service by means of the Public Switched Telephone Network;
- (e) Public Switched Telephone Network means any public telecommunication system which is used to provide switched voice telephony services to the general public.
- (f) A Call for the purposes of this Condition includes, a call made by a computer or made automatically by any other terminal apparatus.

33A.12 An International Call which terminates on a telecommunication system outside the United Kingdom is not a Controlled Premium Rate Service. For the purposes of this Condition, an International Call means the conveyance of any Message by means of the Applicable Systems which has been or is to be conveyed by means of any telecommunication system outside the United Kingdom but for the avoidance of doubt an International Call does not include any call terminated on a telecommunication system within the United Kingdom.

33A.13 The Licensee shall allocate Numbers to Controlled Premium Rate Services which it provides in accordance with this Condition in accordance with the National Numbering Conventions published by the Director in accordance with paragraph [34B.9] of this Licence.

CONDITION 33B

PROVISION OF SPECIAL FACILITIES

33B.1 The Licensee shall comply with any direction made under this paragraph which requires the Licensee to make available such of the facilities listed in paragraph 33B.2 as are specified in the direction. A direction under this paragraph shall be made by the Director after consultation with the Licensee and shall specify only facilities which the Director considers it will be technically and economically practicable for the Licensee to provide. The direction shall specify the date by which each facility is to be provided and the class or description of customer (whether described by reference to area or otherwise) to whom it is to be provided and shall be subject to such conditions as the Director thinks fit.

33B.2 The facilities referred to in paragraph 33B.1 are:

(a) The provision to any customer of the Licensee for voice telephony services who requests it of a bill or invoice showing, by reference to the number used to access the service, and the date and time on which access was obtained, the amount of any charge imposed by the Licensee for a telephone call to any service to which this Condition applies;

(b) the notification to such a customer who requests it, as soon as reasonably practicable, of:

(i) the date on which the total charges accrued within the standard billing period of the Licensee for voice telephony services and any other service to be included in the bill or invoice for such services exceed an amount specified by that customer being an amount, or one of a number of amounts, from time to time specified by the Licensee as being suitable for the purpose; or

(ii) the date on which the aggregate charges accrued in any such period in respect of Chatline Services and Message Services to which this Condition applies exceed an amount determined from time to time by the Director; and

(c) the barring, by means of apparatus forming part of the Applicable Systems, on request by any such customer, of access from any Exchange Line specified by that customer and in respect of which that customer is the customer of the Licensee, to all Chatline Services and Message Services to which this Condition applies.

33B.3 The services to which this Condition applies are those Chatline Services and Message Services in respect of which;

- (a) the person providing the service obtains the whole or any part of his revenue from the Licensee (or, where that person is the Licensee, that part of the Licensee's business which provides the Service is credited with revenue from that part of its business which conveys the Messages comprised in, or resulting from the provision of, the Service); and
- (b) the person responsible for paying the charges for the telephone calls by means of which the Service is obtained is billed by means of his telephone bill for any amount in respect of the provision of the Service.

33B.4 In this Condition a Chatline Service and a Message Service have the respective meanings given to those terms in Condition 33A.

Appendix B

Draft ICSTIS Code of Practice (incorporating the ICSTIS Live Conversation Services Code of Practice)

Ninth Edition
(August 1999)

The Independent Committee for the Supervision
of Standards of Telephone Information Services

SUMMARY OF PROPOSED AMENDMENTS TO THE DRAFT NINTH EDITION OF THE ICSTIS CODE OF PRACTICE

The purpose of this latest Code revision is to make the necessary changes to the eighth edition (last amended in February 1999) in order to:

- Combine the Live Conversation Services Code of Practice (“Live Code”) with the Code of Practice, eighth edition (“General Code”).
- Insert the definition of “Controlled Premium Rate Services” (paragraph 1.4.2) taken from the draft Licence condition in addition to the General Code’s definition of Premium Rate Services (paragraph 1.4.1).

Additionally, a few minor drafting changes have also been made arising from the combining of the two Codes, but there are no changes of substance.

Specific paragraph amendments are as follows:

1.3 Scope of the Code

This section of the Code explains that the Code is recognised by the Director General of Telecommunications with respect to Controlled Premium Rate Services. These are services defined in the draft Licence condition. (See Appendix A to this consultation paper.)

1.3.1 This paragraph makes it clear that the Code is mandatory in respect of Controlled Premium Rate Services. Previously, the recognition was of the Live Code only (which related to what were then defined as “Controlled Services”) and, accordingly, the mandatory nature of the Code is much increased. However, as this paragraph explains, the application of the Code remains voluntary for services falling outside the definition of Controlled Premium Rate Services but within ICSTIS’ definition of Premium Rate Services.

1.3.3 The process for making any changes to the Code is explained. This provision is taken directly from the Live Code.

1.4 Definitions

1.4.1 The definition of Premium Rate Services remains the same as in the General Code (eighth edition, as amended).

1.4.2 The definition of Controlled Premium Rate Services has been developed out of discussions between OFTEL and ICSTIS.

The definition of Controlled Premium Rate Services differs from that of Premium Rate Services in the following respects:

- The services are defined by a minimum cost, save in respect of services of a sexual nature and chatlines which are covered by the definition whatever the cost.
- Services which are provided from offshore locations are not covered.

1.4.9 The definition of a chatline is taken from the current Licence condition. Paragraph 1.4.9 makes clear that the operation of chatlines is prohibited until such time that the Director General of Telecommunications states that they can be provided. The Live Conversation Services Code of Practice was de-recognised in relation to chatlines in 1992 because of the failure of the compensation scheme for chatline services.

Section 4 Provisions relating specifically to live services

This section is where the Live Code has been integrated into the General Code. Provisions which occurred in the Live as well as the General Code are now unnecessary and have been removed from the live section.

4.1.1 This paragraph makes clear that any service which has an element of two-way live speech as well as other types of content must abide by the rules laid down in section 4. The definition of a live service (paragraph 1.4.8) has been simplified to “PRS which contain any two-way live speech”.

4.4.3 The specific requirements relating to content of conversations which appeared in the Live Code have been removed because they are all contained in the content provisions of section 3 of the Code. In the case of live services, service providers are required to make all reasonable endeavours to prevent conversations of a kind that might breach any Code provisions.

1. INTRODUCTION

- 1.1 About ICSTIS
- 1.2 Terms of Reference
- 1.3 The scope of this Code
- 1.4 Definitions

2. Administrative Provisions

- 2.1 Responsibility
- 2.2 Setting up a service
- 2.3 Prior permission
- 2.4 Data protection
- 2.5 Other regulators and Codes of Practice
- 2.6 Number re-use
- 2.7 Engagement of associated individuals
- 2.8 Promotion by non PRS telecommunications

3. Promotion and Content Provisions

- 3.1 Legality
- 3.2 Decency
- 3.3 Honesty

Provisions relating specifically to promotional material

- 3.4 Pricing information
- 3.5 Address information
- 3.6 Service identification
- 3.7 Promotions with long shelf-lives
- 3.8 Use of the word 'free'
- 3.9 Inappropriate promotion
- 3.10 Promotions in non-print media
- 3.11 Editorial promotions

Provisions relating specifically to content

- 3.12 Delay
- 3.13 Undue encouragement of unauthorised use
- 3.14 Incorrect information

4. Provisions Relating Specifically to Live Services

- 4.1 Definitions
- 4.2 Prior permission
- 4.3 Operating procedures
- 4.3.1-4.3.3 Monitoring
- 4.3.4 Employment and training
- 4.3.5 Introductory messages
- 4.3.6-4.3.7 Under age callers
- 4.3.8-4.3.10 Unauthorised use of telephone
- 4.4 Promotion and content of live services
- 4.5 Compensation scheme rules

5. Provisions Relating to Particular Categories of Service

- 5.1 Children's services
- 5.2 Competitions and other games with prizes
- 5.3 Virtual chat services
- 5.4 Contact and dating services
- 5.5 Employment and business opportunities
- 5.6 Betting Tipster services
- 5.7 Bulletin boards and other computer-based services
- 5.8 Sales promotion services
- 5.9 Fundraising and charitable promotions
- 5.10 Advice services
- 5.11 Services of a sexual nature

6. Procedures and Sanctions

- 6.1 Delegation of powers
- 6.2 Complaint investigation
- 6.3 Informal procedure
- 6.4 Standard procedure
- 6.5 Emergency procedure
- 6.6 Adjudication
- 6.7 Sanctions
- 6.8 Oral hearings
- 6.9 Reviews
- 6.10 Administrative charge

1. INTRODUCTION

1.1 About ICSTIS

The Independent Committee for the Supervision of Standards of Telephone Information Services (ICSTIS) is the regulatory body for the premium rate telecommunications industry. The Committee consists of around 10 members, all appointed in their individual capacities. ICSTIS is a non-profit making limited company which is financed by the industry. The Committee is supported by a full-time Secretariat.

1.2 Terms of reference

The role of ICSTIS is to supervise both the content of and promotional material for premium rate services and, with the support of the Network Operators, to enforce this Code of Practice. ICSTIS undertakes the following tasks:

- a** setting and maintaining standards for the content and promotion of premium rate services, and keeping these standards under review;
- b** consulting the industry and other interested parties before changing these standards;
- c** monitoring services to ensure that both the content and promotional material comply with these standards;
- d** investigating and adjudicating upon complaints relating to the content and promotion of premium rate services and recommending action designed to achieve compliance where the Code has been breached, which may include the imposition of sanctions;
- e** providing a system for the adjudication of claims for compensation in respect of unauthorised use of live conversation services;
- f** publishing reports on its work at regular intervals and generally publicising its role.

1.3 The Scope of this Code

- 1.3.1** This Code has been recognised for the purposes of the relevant Conditions in Network Operator licences on by the Director General of Telecommunications ('the Director General') in so far as it relates to Controlled Premium Rate Services ('CPRS').

This Code supersedes all previous Codes and is effective from Network Operators can only carry CPRS on the basis that there is a recognised Code of Practice in place and accordingly, as a result of recognition of the Code by the Director General, Network Operators are obliged to support ICSTIS' regulation of CPRS.

As can be seen from the definitions set out below, CPRS is more narrowly defined than premium rate services ('PRS'). In particular CPRS does not include services which cost less than a certain amount which is determined by the Director General other than services which are of a sexual nature or are chatlines which are automatically included. Nor does it include services which are terminated outside the UK, even though calls are made to those services from within the UK. Accordingly, whilst ICSTIS continues to regulate all PRS support by Network Operators for regulation of PRS which fall outside the definition of CPRS remains voluntary.

1.3.2 In respect of PRS (but not necessarily CPRS) this Code applies to all premium rate services which are accessed by a customer in the United Kingdom, whether those services are provided from within the United Kingdom or from abroad and whether the Service Provider is situated within the United Kingdom or abroad.

1.3.3 This Code may be amended by ICSTIS from time to time following consultation with Network Operators and other interested parties, but (unless the Director General has given his written consent to such an amendment, in which case the amended Code shall have effect from the date of such consent), no amendment to this Code of Practice shall come into effect for the purposes of any licence condition applicable to any Network Operator until two months have elapsed from the date on which ICSTIS has provided the final text of such amendment to the Director General.

1.4 Definitions

1.4.1 Premium rate services ('PRS') are services where part of the overall charge paid by a customer to the Network Operator for the service, being payment for the content of the call or other product or service delivered in the course of, or as a direct consequence of, the call, is passed on by the Network Operator, directly or indirectly, to the Service Provider.

1.4.2 Controlled premium rate services ('CPRS'). These are defined in Network Operator's Licences as follows:-

"A CPRS is one in respect of which:

- (i) the person responsible for paying the charges for the Call by means of which the Service is obtained is billed by means of his telephone bill for any amount in respect of the provision of the Service;
- (ii) in addition to charges for the simple conveyance of the Messages comprised in, or resulting from the provision of the Service, charges are payable for the additional content of the Call or other product or service delivered in the course of or as a direct consequence of the provision of the Service;
- (iii) the person providing the Service obtains the whole or any part of his revenue directly or indirectly from the Licensee (or, where that person is the Licensee, that part of the Licensee's business which provides the Service is credited with

revenue from that part of its business which conveys the Messages comprised in, or resulting from the provision of, the Service); and

(iv) either:-

- (A) the charge for the Call by means of which the Service is obtained or the rate according to which the Call is charged is a charge or rate which exceeds any amount determined by the Director General in a determination made pursuant to [the relevant paragraph] of this Condition; or
- (B) the Service is of a sexual nature; or
- (C) the Service is a Chatline Service; or

any combination of the above.”

1.4.3 Network Operator means any company recognised as such by ICSTIS. ICSTIS may recognise as a Network Operator (a) any company which runs a public telecommunications network over which premium rate services are conveyed, or (b) any company associated with a company which runs such a network. ICSTIS shall publish a list of ‘Network Operators’ recognised by ICSTIS for the purpose of this Code of Practice. ICSTIS may amend this list from time to time as it sees fit and will publish any such amended list.

1.4.4 Service Providers are individuals, organisations or companies that provide premium rate services.

1.4.5 Information providers are individuals, organisations or companies on whose behalf Service Providers may provide services. Regardless of the origin of the content of a service, responsibility for compliance with this Code of Practice rests with the Service Provider.

1.4.6 Associated individuals are any partner in or Director General or senior manager of a Service Provider, any manager having day-to-day responsibility for the conduct of its relevant business and any individuals in accordance with whose directions or instructions such person are accustomed to act or any member of a class of individuals designated by ICSTIS and notified to the Service Provider in writing.

1.4.7 Promotion means anything where the intent or effect is, either directly or indirectly, to encourage the use of premium rate services and the term **promotional material** should be construed accordingly.

1.4.8 Live Services are any PRS which contain any two way live speech.

1.4.9 Chatline Service means a service which consists of or includes:-

the enabling of more than two persons ('the participants') simultaneously to conduct a telephone conversation with one another without either:-

- (i) each of them having agreed with each other; or
- (ii) one or more of them having agreed with the person enabling such a telephone conversation to be conducted:

in advance of making the Call enabling them to engage in the conversation without knowing the respective identities of the other intended participants or the telephone numbers on which they can be called.

The operation of chatline services is prohibited until such time as the Director General determines they may be provided.

2. Administrative Provisions

2.1 Responsibility

Service Providers are responsible for ensuring that the content and promotion of all their premium rate services (whether produced by themselves or by their information providers) comply with all relevant provisions of this Code.

2.2 Setting up a service

2.2.1 Before providing services, a Service Provider must notify ICSTIS of the following:

- a** the telephone number ranges (including dialling codes) allocated to it by the Network Operator(s);
- b** the name, address, telephone and fax number of the person representing the Service Provider who is nominated to receive all communications in connection with the application of the Code; and
- c** where different from **b** above, the name and contact details of the person responsible for handling enquiries.

Any changes or additions to the above must be notified to ICSTIS immediately.

2.2.2 Where certain codes or number ranges have been designated by either Ofcom or a Network Operator for the provision of particular service categories, services within these categories must use those codes or number ranges.

2.2.3 Before promoting or providing services, the Service Provider must have readily available all documentary and other evidence necessary to substantiate any factual claims made. This material, together with a statement outlining its relevance, must be provided without delay if requested by ICSTIS.

2.2.4 Service Providers must use all reasonable endeavours to ensure that all their services are of an adequate technical quality.

2.2.5 There are guideline documents ('ICSTIS Guidelines') giving detailed advice on certain areas of the Code which are available from the Secretariat. Further guidance on any matters relating to the Code is also available from the Secretariat.

2.3 Prior permission

2.3.1 ICSTIS may require that particular categories of service must not be provided unless ICSTIS has given its prior written permission for any service within that category. ICSTIS will give reasonable notice of such a requirement and the category of service to which it applies and will publish a full list of such service categories from time to time. Prior permission may be granted subject to the imposition of additional requirements. Such permission may be withdrawn upon reasonable grounds and with notice in writing.

2.3.2 Where a Service Provider can demonstrate for a particular service that any requirement of the Code can be adequately satisfied by alternative means (except 4.2.1 below) ICSTIS may give prior written permission for the service to be provided. Such permission may be withdrawn upon reasonable grounds and with notice in writing.

2.4 Data protection

2.4.1 When registering with the Data Protection Registrar, all Service Providers must in their application:

- a** disclose ICSTIS as a potential data user;
- b** state that the data may be used for regulatory purposes.

2.4.2 Service Providers must not give any undertaking to callers, suppliers, information providers or others which could preclude any information being given to ICSTIS in confidence.

2.4.3 Services which involve the collection of personal information, such as names, addresses and telephone numbers (which includes the collection of Calling Line Identification (CLI) or caller display information), must make clear to callers the purpose for which the information is required. The service must also identify the data user (if different from the Service Provider or information provider) and any different use to which the personal information might be put, and give the caller an opportunity to prevent such usage.

2.5 Other regulators and codes of practice

Promotions in print media must also comply with the provisions of the British Codes of Advertising and Sales Promotion which are supervised by the Advertising Standards Authority. In the case of promotions on radio or television, whether in programmes or advertisements, there are codes of practice published by the Independent Television Commission and the Radio Authority which are also relevant to premium rate services.

2.6 Number re-use

A service must not be replaced on the same number by another service which might give offence to or might be inappropriate for callers reasonably expecting the original service.

2.7 Engagement of associated individuals

Service Providers must not knowingly engage, or permit the involvement as an associated individual of, anyone who is subject to a recommendation made

by ICSTIS under paragraph 6.7.2 below, contrary to the terms of the recommendation.

2.8 Promotion by non-PRS telecommunications

Wherever a premium rate service promotes, or is promoted by, a non-premium rate telecommunications service, both services will be considered as one where, in the opinion of ICSTIS, it is reasonable to do so.

3. Promotion and Content Provisions

3.1 Legality

Services and promotional material must not contain anything which is in breach of the law, nor omit anything which the law requires. Furthermore, services and promotional material must not facilitate or encourage anything which is in any way unlawful.

3.2 Decency

3.2.1 Services and promotional material must not:

- a** contain material indicating violence, sadism or cruelty, or be of a repulsive or horrible nature;
- b** involve the use of foul language.

3.2.2 Services and promotional material must not be of a kind that are likely to:

- a** result in any unreasonable invasion of privacy;
- b** induce an unacceptable sense of fear or anxiety;
- c** encourage or incite any person to engage in dangerous practices or to use harmful substances;
- d** induce or promote racial disharmony;
- e** cause grave or widespread offence;
- f** debase, degrade or demean.

3.2.3 Service Providers must use all reasonable endeavours to ensure that services and promotional material are not used to promote or facilitate prostitution.

3.3 Honesty

3.3.1 Services and promotional material must not:

- a** be of a kind that is likely to mislead by inaccuracy, ambiguity, exaggeration, omission or otherwise;
- b** seek to take unfair advantage of any characteristic or circumstance which may make consumers vulnerable.

Provisions Relating Specifically to Promotional Material

3.4 Pricing information

3.4.1 The Service Provider must ensure that the charge for calls to each service is clearly stated in all promotions. Prices must be noted in the form of a numerical price per minute, inclusive of VAT, or the total maximum cost to the consumer of the complete message or service.

3.4.2 Textual pricing information must be legible, prominent, horizontal and presented in a way that does not require close examination.

3.4.3 In the case of promotions transmitted in television programme time, the pricing information must be spoken as well as being visually displayed if the maximum call cost can exceed £2.00.

3.4.4 Services which always cost 50 pence or less and are terminated by forced release are exempt from all requirements concerning pricing information.

3.4.5 In cases where it is unlikely that a consumer will have seen or heard any promotion containing pricing information, the Service Provider must place a short, distinct pricing message at the beginning of the service.

3.5 Address information

For any promotion the identity and contact details of either the Service Provider or information provider, where not otherwise obvious, must be clearly stated so that customers can contact them directly.

The identity means the name of the company, partnership or sole trader and the contact details must consist of one of the following:

- a** a full postal address including postcode; or
- b** a PO Box number including postcode (PO Box numbers cannot be used in the case of employment services – see 5.5.3f); or
- c** a telephone helpline number (to be charged at no more than UK national rate).

3.6 Service identification

- a** In all promotional material, the code or prefix must be presented in such a way that it can be readily identified as a premium rate code or an international prefix;
- b** if the service operates on an international number and terminates outside the UK, it must be made clear in the promotional material that it is an international call.

3.7 Promotions with long shelf-lives

In the case of services which are promoted in publications or other media which have a shelf-life of three months or more, a statement must be included in the promotion to the effect that the information given is correct as at the date of publication and that date must also be stated. If the call charges increase during the life of the promotion, such services must be prefaced with a short message informing callers of the new rate(s).

3.8 Use of the word ‘free’

No premium rate service may be promoted as being free. No product or service may be promoted as being free, or described in a way that implies it is free (for example, a gift), if the most obvious or practical way of obtaining it is by using a premium rate service. The word ‘free’ may be used in cases where the Service Provider revenue does not exceed the delivery costs of the product and the promotional material states the maximum cost of the call.

3.9 Inappropriate promotion

Service Providers must use all reasonable endeavours to ensure that promotional material does not reach those for whom the service concerned may be inappropriate.

3.10 Promotions in non-print media

Promotions transmitted by radio, television, teletext, telephone, facsimile, Internet or any other form of communication must observe the provisions of this Code in the manner most reasonable and appropriate to the technology employed.

3.11 Editorial promotions

In the case of promotions that appear in editorial material, Service Providers must use all reasonable endeavours to ensure compliance with the provisions of this Code.

Provisions Relating Specifically to Content

3.12 Delay

Services must not be unreasonably prolonged or delayed.

3.13 Undue encouragement of unauthorised use

Services must not be of a nature which unduly encourages the unauthorised use of telephones by providing the caller with cash or anything which can readily be exchanged for cash as a reward for having taken part in the service.

3.14 Incorrect Information

Services must not contain incorrect information and it should be clear to consumers when time-sensitive information was last updated.

4. Provisions Relating Specifically to Live Services

4.1 Definitions

4.1.1 Services which include elements of live conversation as well as other types of content must comply with the Code provisions relating to live services.

4.2 Prior permission

4.2.1 A Service Provider must not provide any live service unless it has first obtained a certificate from ICSTIS giving the Service Provider permission to provide that service. Service Providers must not continue operating a live service if no certificate is in force.

Such permission may be subject to any conditions that ICSTIS may consider appropriate, to ensure that the particular service does not cause consumer harm. Such conditions may relate, for example (but not to restrict the generality of the provision), to the content, advertising or recording of calls. Services provided for entertainment or services for which prior permission is otherwise required (see paragraph 2.3.1) are likely to be subject to additional conditions.

4.2.2 In what ICSTIS considers to be appropriate cases it will not issue a certificate unless it is satisfied that compensation arrangements exist (as set out in section 4.5 of this Code) which will enable the prompt and effective provision of compensation to any subscriber whose telephone has been the subject of unauthorised use involving calls to the relevant live service(s) and in respect of which the adjudicator has made an award under section 4.5 of this Code.

4.3 Operating Procedures

Monitoring

4.3.1 Service Providers and their employees ('Operators') must act in accordance with the Code to facilitate monitoring and effective investigation in the case of complaint.

4.3.2 ICSTIS may apply any conditions it deems appropriate in the granting of a certificate under paragraph 4.2.1 (which may include conditions relating to operating

procedures) and without prejudice to that general power ICSTIS may require that Service Providers:

- a** ensure that all conversations are listened to continuously by an operator (who is the person acting on behalf of the Service Provider to whom a caller speaks when accessing the live service);
- b** ensure that all lines are continuously recorded to allow investigation of complaints.

4.3.3 Where recording of conversations has been required, such conditions as ICSTIS may think appropriate may be imposed, but in particular Service Providers may be required:

- a** to use recording equipment approved by ICSTIS such as to enable the time, date and content of live services to be accurately identified from the recording, such recordings being at all times compatible with ICSTIS replay facilities as specified;
- b** to immediately disconnect the services if recording should cease at any time for any reason;
- c** to retain such recordings for a period of at least six months and deliver them to ICSTIS and the adjudicator, intact, within three working days of request;
- d** before the commencement of service and in the event of any subsequent change to the recording equipment and/or the number and use of the lines, to submit the following to ICSTIS:
 - i** a statement from the individual installing the recording equipment which identifies the type of equipment and the number of lines that have been connected to that equipment;
 - ii** a written declaration, in a form prescribed by ICSTIS, providing the following:
 - (1)** the telephone number(s) associated with each line;
 - (2)** the recording channel associated with each line;
 - (3)** the type, and nature, of live service associated with each line;
 - iii** a statement from the relevant Network Operator giving all the telephone numbers, and numbers of lines in respect of each, supplied to the Service Provider;
- e** to permit representatives of ICSTIS to visit their premises with or without notice at any time to investigate Code compliance and to inspect the recording equipment, and to give such information and co-operation as ICSTIS may reasonably request which pertains to compliance with this Code.

4.3.4 Employment and Training

At the time of entering into employment, every operator must be given a copy of this Code. After adequate training (which should be for a minimum of four hours) and in addition to on-the-job supervision, the operator must sign a document to confirm that

s/he has read this Code and has had its contents and significance explained and that s/he will comply with its provisions. A copy of this signed document must be retained by the Service Provider and should be produced on request from ICSTIS. No operator shall be under the age of 18, and ICSTIS retains the right to impose a condition that operators should be of a higher age.

4.3.5 Introductory messages

All Service Providers must ensure that on connection each caller receives a brief introductory message giving details of all the call costs, the name of the Service Provider providing the live service and a warning that rules apply governing disallowable conversation content which will be applied by operators. If applicable, the caller must also be informed that a recording of the conversation may be required to be made available to ICSTIS and the adjudicator.

Under-age callers

4.3.6 Operators shall do everything practicable in accordance with the procedure set out in this Code to prevent persons under 18 years of age taking part in any live service.

4.3.7 If an operator has reasonable grounds to suspect that the caller is under 18 the following procedure must be adopted:

- a** ask the caller his/her age and date of birth; and
- b** ask the caller such other relevant questions as the operator deems appropriate; and
- c** if the caller hesitates in responding or the replies do not correlate or the operator is still not satisfied, then the caller should be regarded as being under 18 and be cut off.

Unauthorised use of the telephone

4.3.8 The Service Provider shall take all reasonable steps to identify and cut off calls made without the authority of the telephone subscriber and in order to satisfy this obligation shall adopt the following procedure:

- a** any caller who appears to be using the live service excessively, either due to the length of an individual call made, or due to the frequency with which calls are made, must be warned by the operator of the potential costs arising from such usage;
- b** callers who, having received a warning, remain on the line should be asked whether they are responsible for paying the telephone bill or have permission to use the telephone line. If there is any reason for the operator to doubt the truth of the response, then the caller's name, address and telephone number should also be obtained and checked promptly. The telephone number should then be dialled in a further attempt to verify the authenticity of the caller. The

operator may take such other steps as seem helpful in establishing the authenticity of the caller;

- c if callers refuse to answer the above questions then they should be immediately cut off.

4.3.9 Operators should adopt the following procedure if a caller has been connected to the live service for a significant amount of time and has not spoken:

- a the operator should prompt the caller to speak;
- b if there is no response the operator must inform the caller of the costs that arise from overuse of the service;
- c if there is still no response the operator must follow the procedure set-out in paragraph 4.3.8 above.

4.3.10 ICSTIS will engage in random monitoring of conversations to check Code compliance. ICSTIS will, in cases where conversations are required to be recorded, also call for random samples of those recordings for the same purpose.

4.4 Promotion and content of live services

Promotion

4.4.1 Promotional material for live services must state clearly that conversations are being constantly recorded where there is such a requirement.

4.4.2 Promotional material for live services must not:

- a encourage children or young people to call the service;
- b be directed primarily at persons under 18.

Content of conversations

4.4.3 Service Providers must use all reasonable endeavours to ensure that any talk is of a kind that complies with the provisions of this Code.

4.4.4 Service Providers must actively discourage callers from seeking or giving out surnames, places of work, addresses or telephone numbers, or arranging or attempting to arrange any meeting while connected to a live service. ICSTIS may give an exemption in respect of this requirement for business advice or information services where the giving of such information is a necessary part of the service.

4.4.5 Service Providers must ensure that operators cut off any caller who does not comply with the requirements set out in paragraphs 4.3.7 or 4.3.8.

4.5 Compensation scheme rules

- 4.5.1** The ICSTIS compensation scheme requires Service Providers to contribute to the Live Conversation Service Providers Compensation Fund ('the compensation fund') and to enter into a contract with the trustees of the compensation fund in a form agreed by ICSTIS and to lodge a bond with ICSTIS as security against meeting compensation claims (a 'compensation scheme bond').
- 4.5.2** The compensation scheme bond is a document under seal whereby a third party guarantees the fulfilment by the Service Provider of their obligation to pay any sum awarded by the adjudicator to the claimant. Such bond must be provided by a body acceptable to ICSTIS in such form and in such amount as ICSTIS shall require and shall be expressed to remain in force for one year from the date on which the Service Provider shall cease to provide live services in respect of which such bond was required.
- 4.5.3** A claim for financial compensation must be received on a written claim form available from ICSTIS. When claims are received by ICSTIS the relevant Service Provider will be given an opportunity to settle them to the satisfaction of the claimant. ICSTIS will give whatever guidance and help is required to the claimant (having particular regard to any special needs).
- 4.5.4** If the Service Provider does not settle the claim to the satisfaction of the claimant within a time considered reasonable by the adjudicator, the ICSTIS Secretariat will investigate the claim and prepare a report on each case which will be passed to the adjudicator for adjudication. The ICSTIS Secretariat will provide the adjudicator with such assistance as s/he may require.
- 4.5.5** Where in a claim made by an individual subscriber (but not in respect of a claim made by a subscriber which is a limited company or a business subscriber) the adjudicator has been unable to identify any firm evidence to support either acceptance or rejection of a claim, s/he shall normally give the benefit of the doubt to the claimant. However, the adjudicator may decide against a claimant if s/he believes that a decision in favour of the claimant would represent an injustice.
- 4.5.6** The adjudicator must be a person appointed by ICSTIS, but must not have any interest in any Service Provider of a live service.
- 4.5.7** The compensation fund is under the control of trustees who are authorised to make payments to claimants when so directed by the adjudicator. The trustees must be separate and independent of ICSTIS and the adjudicator, but ICSTIS must be consulted before a new trustee is appointed and may veto the appointment.

Procedures and principles

- 4.5.8** In reaching decisions the adjudicator must apply the following principles and procedures:
- a** proceedings will always be conducted on the basis of a written claim and any written response made by the Service Provider, but in appropriate cases the adjudicator may wish to meet the claimant and/or the Service Provider and ask for oral representations to be made. Failure of the claimant to agree to a meeting will not however of itself prejudice his/her claim;
 - b** the adjudicator may take whatever steps (either personally or through ICSTIS) the adjudicator considers helpful to the adjudication including (but without limiting the adjudicator's powers) consultation with any relevant person or body;
 - c** claims must be dealt with as promptly and regularly by the adjudicator as the number of claims reasonably permits;
 - d** subject to paragraph 4.5.5 the adjudicator shall adjudicate entirely as s/he sees fit on the basis of all the material before him/her and (entirely without prejudice to the foregoing) the adjudicator may disallow any claim made by a subscriber who the adjudicator in his/her sole discretion considers to have a significant level of business or commercial expertise or resources.
- 4.5.9** The adjudicator shall formulate a set of guidelines, a copy of which will be available on request from ICSTIS, which s/he may have regard to in making his/her decisions.
- 4.5.10** Where the adjudicator concludes that the claim should be met s/he shall pass his/her conclusion and direction to ICSTIS. S/he shall also stipulate the appropriate level of compensation (if any) to be paid. Such award of compensation may at the adjudicator's sole discretion include legal and other costs and expenses of the claimant.
- 4.5.11** ICSTIS has no power to alter any such decision of the adjudicator.
- 4.5.12** In any case, the adjudicator may direct ICSTIS to inform the claimant of the availability of suitable call-barring equipment or facilities and of the availability of itemised billing and may make an award relating to the cost of such equipment or facilities. The adjudicator may give such further or other advice as s/he sees fit.

Awards

- 4.5.13** If an award is made:
- a** ICSTIS will inform the relevant Service Provider of the award and any applicable administrative charge. The Service Provider shall promptly make payment to ICSTIS of the sum awarded to the claimant and any administrative charge. If the Service Provider fails to pay promptly such failure will amount

to a breach of this Code and ICSTIS will enforce the compensation scheme bond lodged by the Service Provider and pay to the claimant the sum awarded and to itself any administrative charge from the proceeds of the bond. After deducting all reasonable costs and expenses arising from and in relation to such enforcement ICSTIS shall retain any balance remaining for such period (being not less than one year) as shall appear to it in its absolute discretion to be necessary to cover any possible further awards and administrative charges in respect of services operated by that Service Provider;

- b** if it is necessary for ICSTIS to take steps to enforce a bond the Service Provider concerned must forthwith cease to provide any live services;
- c** in the event that the total of the award made by the adjudicator and/or such further awards or administrative charges raised against a Service Provider cannot be met from the proceeds of the compensation scheme bond provided by that Service Provider then ICSTIS shall direct the trustees of the compensation fund to pay any such outstanding award or balance of award. Once directed to effect a payment, the trustees will pay it out by virtue of the provisions of the trust deed;
- d** In the event that the adjudicator decides that no award should be made or that the award made should be no greater than a sum previously offered (unconditionally save as to time for acceptance) by the Service Provider to the claimant prior to investigation by ICSTIS and which was not accepted by the claimant then any administrative charge made by ICSTIS in respect of such case shall be paid by the trustees by virtue of the provisions of the trust deed.

4.5.14 Service Providers, ICSTIS, and the adjudicator shall provide the Director General with such information as s/he may reasonably require regarding the operation of the compensation scheme.

4.5.15 The adjudicator shall prepare an annual report which shall be presented to ICSTIS for inclusion in ICSTIS' published annual report.

5. Provisions Relating to Particular Categories of Service

5.1 Children's services

5.1.1 Children's services are those which, either wholly or in part, are aimed at or would reasonably be expected to be particularly attractive to persons under 16 years of age.

5.1.2 Promotional material for children's services must clearly state:

- a** the maximum possible cost of the service; and
- b** that the service should only be used with the agreement of the person responsible for paying the telephone bill.

5.1.3 Children's services, and any associated promotional material, must not:

- a** contain anything which is likely to result in harm to children or which exploits their credulity, lack of experience or sense of loyalty;
- b** involve an invasion of privacy of any child;
- c** make direct appeals to children to buy, unless the product or service is one likely to be of interest to them and one which they could reasonably be expected to afford for themselves;
- d** encourage excessive use of premium rate services.

5.1.4 Children's services must:

- a** cost no more than £3.00;
- b** be terminated by forced release;
- c** if the service costs over 50 pence, be prefaced by a short statement clearly stressing that the service should only be used with the agreement of the person responsible for paying the telephone bill;
- d** include nothing that a reasonable parent would not wish their child to hear or learn about in this way;
- e** not encourage children to ring other premium rate services or the same service again.

5.2 Competitions and other games with prizes

5.2.1 Services in this sector ('competition services') fall into five basic categories:

- lotteries,
- competitions,
- other games with prizes,
- an entry mechanism into a draw,
- information about prizes.

Most of these are subject to legal restrictions. Before setting up such services, Service Providers are strongly advised to seek advice on legal and excise duty implications.

5.2.2 Promotional material for competition services which can cost more than £1.00 must clearly display:

- a** the cost per minute and likely playing time, or the full cost of the call;
- b** details of how the competition operates and an indication of any tie-breakers.

5.2.3 Competition services which may cost more than £5.00 must, as soon as is reasonably possible after the caller has spent £2.50, and after each £2.50 of call spend thereafter, require an active confirmation that the caller wishes to continue with the call. The method used to obtain this confirmation must have been granted permission by ICSTIS. Failure to provide the correct responses must, after the provision of any necessary prize claim information, cause the service to be terminated immediately by forced release.

- 5.2.4** Competition services which are aimed at or would reasonably be expected to be particularly attractive to persons under 16 years of age must not:
- a** offer cash, or anything which can be readily exchanged for cash, as a prize;
 - b** feature long or complex rules;
- 5.2.5** Promotional material must clearly state any information which is likely to affect a decision to participate, in particular:
- a** any closing date;
 - b** any significant terms and conditions, including any restriction on the number of entries or prizes which may be won;
 - c** an adequate description of prizes, including the number of major prizes;
 - d** any significant age, geographical or other eligibility restrictions.
- 5.2.6** The following additional information must also be made readily available to potential competitors. If not contained in the original promotional material, it must be available free to anyone sending a stamped, self-addressed envelope:
- a** how and when prizewinners will be informed;
 - b** how prize-winner information may be obtained;
 - c** any criteria for judging entries;
 - d** any alternative prize that is available;
 - e** the details of any intended post-event publicity;
 - f** any supplementary rules which may apply.
- 5.2.7** Competition services must have a closing date, except where there are instant prizewinners. An insufficient number of entries or entries of inadequate quality are not acceptable reasons for changing the closing date of a competition or withholding prizes.
- 5.2.8** Competition services and promotional material must not:
- a** use words such as ‘win’ or ‘prize’ to describe items offered to all participants;
 - b** exaggerate the chance of winning a prize;
 - c** suggest that winning a prize is a certainty;
 - d** suggest that consumers must dial a premium rate number in order to participate if an alternative postal entry route is available.
- 5.2.9** Service Providers must ensure that:
- a** prizes are awarded within 28 days, unless a longer period is clearly stated in the promotional material;
 - b** postal entries have the same chances of winning as telephone entries;
 - c** if there is any subjective assessment in the selection of the winning entries (for example, tie-breakers) in a competition open to the general public, then judging is by a person independent of the Service Provider and any intermediaries involved, or by a judging panel including at least one independent member.

Virtual chat services

- 5.3.1** Virtual chat services enable two or more callers to exchange separate recorded messages between each other while connected to the service. These services do not involve live telephone conversation. Virtual chat services may also enable contact details to be exchanged between callers, either in the course of exchanging messages or using voice-mail boxes.
- 5.3.2** Service Providers must use all reasonable endeavours to ensure that nobody under the age of 18 uses virtual chat services.
- 5.3.3** All virtual chat services must, as soon as is reasonably possible after the caller has spent £10.00, and after each £10.00 of call spend thereafter, do the following:
- a** inform the caller of the price per minute of the call;
 - b** require callers to provide a positive response to confirm that they wish to continue the call. If no such confirmation is given, the service must be terminated.
- 5.3.4** Service Providers must:
- a** have in place, and implement in appropriate circumstances, a reasonable complaints handling procedure;
 - b** pay reasonable and valid claims for compensation.
- 5.3.5** At the time of entering into employment, Service Provider employees who are involved in operating virtual chat services (whether or not for the purposes of monitoring) must be given a copy of this Code. After adequate training (which should be for a minimum of four hours), the employee must sign a document to confirm that s/he has read this Code and has had its contents and significance explained and that s/he will comply with its provisions. On-the-job training should also be given. A copy of this signed document must be retained by the Service Provider and should be produced on request from ICSTIS. No such employee shall be under the age of 18 and ICSTIS will retain the right to impose a condition that operators should be of a higher age.
- 5.3.6** Service Providers who operate virtual chat services which enable contact details to be exchanged, either in the course of exchanging messages or using voice-mail boxes, must:
- a** warn callers of the risks involved when telephone numbers are given out to other callers and give callers clear advice on sensible precautions to take when meeting people through virtual chat services;
 - b** ensure that publicly available elements of the service do not contain telephone numbers, addresses or any other means of direct contact;
 - c** where it is not obvious, make clear how long an individual message will remain on the service;
 - d** when requested by the caller, ensure that their details are removed from the service at the earliest opportunity and in all cases within 24 hours;
 - e** make clear, in the promotional material, any restrictions on the location, sex and age range of callers to the service.

5.4 Contact and dating services

5.4.1 Contact and dating services must not enable two or more callers to exchange separate recorded messages between each other while connected to the service.

5.4.2 In the context of this section, the ‘advertiser’ is the person featured in the initial message.

5.4.3 All contact and dating services must, as soon as is reasonably possible after the caller has spent £10.00, and after each £10.00 of call spend thereafter, do the following:

- a** inform the caller of the price per minute of the call;
- b** require callers to provide a positive response to confirm that they wish to continue the call. If no such confirmation is given, the service must be terminated.

5.4.4 All promotional material must make clear:

- a** where, when and for how long an individual’s advertisement will appear;
- b** the location, sex and age range of advertisers on the service;
- c** when individually advertised voice-mail boxes may not contain a recorded message from the advertiser;
- d** if advertisers are obliged to leave a voice message in addition to the text message for publication.

5.4.5 Service Providers must:

- a** use all reasonable endeavours to ensure that nobody under the age of 18 uses contact and dating services;
- b** warn advertisers of the risks involved when telephone numbers are to be given out to respondents and give users clear advice on sensible precautions to take when meeting people through dating services;
- c** ensure that publicly available elements of the service do not contain telephone numbers, addresses or any other means of direct contact;
- d** when requested by the advertiser, ensure that their details are removed from the service at the earliest opportunity and in all cases within 24 hours;
- e** bar access to a voice-mail box where the advertiser has not collected responses for more than four weeks. If the Service Provider is unable to tell when responses are collected, no advertisement may be published for more than four weeks.

5.5 Employment and business opportunities

5.5.1 Service Providers wishing to provide employment services should seek advice from the Department for Education and Employment. Section 6(1) of the Employment Agencies Act 1973 prohibits employment agencies and employment businesses¹ from charging fees to persons for finding or seeking to find them work whether employed or self-employed, subject to certain exceptions. The Service Provider element of the premium rate charge amounts to a 'fee' for this purpose. Any service which is found to be in breach of the law² will breach the Code (see paragraph 3.1).

5.5.2 Services and promotional material must:

- a** correspond to genuine vacancies and/or opportunities, the existence of which must be fully substantiated on request;
- b** not be likely to mislead a caller as to the conditions, necessary qualifications or availability or extent of any potential employment or business opportunity, whether by inaccuracy, ambiguity, exaggeration, omission or otherwise;
- c** make no claims relating to earnings unless the evidence that such earnings are currently and regularly attained by existing employees or equivalent is readily available.

5.5.3 All promotional material must clearly state:

- a** the maximum total cost of the call;
- b** any additional expenditure, including any investments, that may be required over and above the cost of the telephone call;
- c** the type of work to be done and its geographical location,
- d** the number of workers required;

- e** the basis and level of remuneration and, where known, the level of earnings that may realistically be expected;
- f** the identity and full address of the Service Provider or information provider – a PO Box number or registered office is not sufficient, nor is a telephone helpline number.

5.5.4 All services must:

- a** provide all the information required by 5.5.3 above within the first two minutes of the service itself, together with the principal terms of employment and the address and/or telephone number of the employer or business opportunity provider;
- b** inform the caller of the cost of the call as soon as is reasonably possible after the caller has spent £2.50, and after each £2.50 of call spend thereafter.

¹ This does not cover potential employers who use premium rate services to appoint their own employees directly.

² Details of regulations relating to pyramid selling and multi-level marketing schemes are available from the Department of Trade and Industry.

5.6 Betting tipster services

5.6.1 Services and promotional material must not:

- a** make claims about future selections being certain winners or about the certainty of profits;
- b** quote odds for future selections unless the availability of these odds can be substantiated.

5.6.2 Opinions on particular selections given in services or promotional material must make clear that they are opinions and not statements of fact. The use of quotation marks on their own is not sufficient.

5.6.3 Claims about the following must be capable of substantiation:

- a** previous selections, including general statements about tipsters' records of success;
- b** past profits. Aggregate profit figures may only be calculated using starting prices, and the total stake on which the profit is based must be stated.

5.7 Bulletin boards and other computer-based services

Service Providers must use all reasonable endeavours to ensure that the information contained on bulletin boards and similar computer-based services complies with this Code.

5.8 Sales promotion services

5.8.1 The promotional material for a sales promotion must:

- a** make clear any factors likely to affect a consumer's decision to participate in a promotion before the consumer is committed to any purchase upon which participation depends. These factors include:
 - instructions on how to participate;
 - the full cost and any conditions of participation;
 - any closing date;
 - any significant age, geographical or other eligibility restrictions;
 - any limits on the number or amount of promotional products on offer.
- b** make clear if participants may become involved in further publicity or advertising, whether connected with the sales promotion or not;
- c** obtain participants' written permission if their names and/or addresses are to be used in further publicity.

5.8.2 The promotional material for a sales promotion must not mislead consumers, whether by inaccuracy, ambiguity, exaggeration, omission or otherwise, as to the nature of the promotion. Particular care must be taken when the consumer has no opportunity to examine goods before delivery.

5.8.3 Contingency plans must be made to supply consumers with an alternative (either in cash or in kind) of equal or greater perceived value in case of unexpectedly high demand.

5.9 Fundraising and charitable promotions

5.9.1 The use of promotional material for charitable promotions is subject to the Charities Act 1992.

5.9.2 Promotional material for charitable promotions and for fundraising must make clear:

- a** the name of the beneficiary;
- b** either the total sum per call or the amount per minute to be paid to the beneficiary;
- c** any restrictions or conditions attached to the contribution to be made to the beneficiary.

5.9.3 There must be no limit to callers' contributions – should these contributions exceed projected targets, the additional amounts should be given to the beneficiary according to the same criteria used for contributions below that level.

5.9.4 Substantiation of the benefit accruing to the beneficiary as a result of the promotion must be available on request.

5.10 Advice services

5.10.1 All advice services must:

- a** be conveyed in a responsible manner;
- b** if giving medical, financial, legal or other similar professional advice, indicate clearly in the promotional material, or at the beginning of the service, the identity, the current status and any relevant professional qualifications and experience of the person(s) or organisation supplying the information or advice. If the advice is given by a person with no relevant qualifications, the service should explain the source of the information;
- c** be prefaced with a statement that the caller should not act upon advice which needs individual interpretation without first consulting a suitably qualified practitioner.

5.10.2 To avoid being classified as 'services of a sexual nature', advice services and promotional material for them must not contain anything of a sexually suggestive or titillating nature.

5.11 Services of a sexual nature

5.11.1 Services of a sexual nature are services of a sexually suggestive or titillating nature or services where the associated promotional material is of a sexually suggestive or titillating nature.

5.11.2 Services of a sexual nature, or promotions for them, must not contain references which suggest or imply the involvement of children.

- 5.11.3** Services of a sexual nature must not contain a visual component (for example, facsimile, video telephony or pictorially-based electronic mail).
- 5.11.4** Promotions for services of a sexual nature must not appear in generally available publications (other than ‘top shelf publications’³) or in any publication which is unsolicited. In the case of promotions in other media, equivalent measures reasonable and appropriate to the media employed should be applied.
- 5.11.5** All recorded services of a sexual nature must, as soon as is reasonably possible after the caller has spent £10.00, and after each £10.00 of call spend thereafter, do the following:
- a** inform the caller of the price per minute of the call;
 - b** require callers to provide a positive response to confirm that they wish to continue the call. If no such confirmation is given, the service must be terminated.

6. Procedures and Sanctions

6.1 Delegation of powers

The Committee may delegate its powers to sub-committees which will be formed of no less than three Committee members.

6.2 Complaint investigation

6.2.1 ICSTIS will investigate all complaints which are received within a reasonable period from the time when the call was made.

6.2.2 ICSTIS, through its Secretariat, monitors premium rate services. The Secretariat can itself initiate a complaint where there appears to be a breach of the Code.

6.2.3 During complaint investigations the Secretariat may request the Service Provider to disclose to ICSTIS, in confidence and within a reasonable time period, any additional relevant information or documents required for the completion of the investigation. This may include information about call volumes, patterns and revenues, details of the numbers allocated to an information provider, or details of services operating on particular premium rate numbers.

6.3 Informal procedure

If an apparent breach of the Code is of a minor nature, causing little consumer harm, the ‘informal procedure’ may be used. Factors including the seriousness of the breach and the Service Provider’s breach history may be taken into account when deciding whether the informal procedure should be applied. In such cases:

- a** the Service Provider will be contacted and informed of the apparent breach;

³ For the purposes of this provision, ‘top shelf publications’ are publications which, by reason of their erotic, indecent or sexually entertaining or explicit content, are normally placed on the top shelf by newsagents.

- b** if the Service Provider agrees that a breach of the Code has taken place, the Service Provider will be required to remedy the breach. No other sanction will be imposed or any administrative charge levied;
- c** the Service Provider will be sent a letter confirming what has been agreed;
- d** if the Service Provider disputes the breach, the standard procedure may be invoked.

6.4 Standard procedure

When the Secretariat receives or initiates a complaint, the ‘standard procedure’ will usually be invoked:

- a** the Service Provider will be given all the necessary information about the complaint, including details of the service or promotional material which gives rise to the apparent breach of the Code, and will be referred to the relevant provisions of the Code;
- b** the Service Provider will be given a reasonable time in which to respond and to provide any information requested. In the absence of any special circumstances, this response will be required within five full working days. In special circumstances, a shorter time limit may be set – but this will be no less than 24 hours;
- c** if the Service Provider fails to respond within the required period, ICSTIS will proceed on the assumption that the Service Provider does not wish to respond;
- d** the Secretariat will prepare a report, together with relevant supporting evidence, which will be placed before ICSTIS for adjudication.

6.5 Emergency procedure

Where it appears to the Secretariat that a breach of the Code has taken place which is serious and requires urgent remedy, the ‘emergency procedure’ will be invoked:

- a** the Secretariat will undertake an immediate investigation of the complaint;
- b** on completion, the Secretariat will notify its findings to three members of the Committee;
- c** if all three members agree that there appears to be a serious breach of the Code requiring urgent remedy, the Secretariat will telephone the Service Provider to advise that the service appears to be in breach of the Code, that the emergency procedure has been invoked and that, unless the service is removed immediately, the Network Operator will be informed of the breach and requested to bar access to the relevant number(s) forthwith and to withhold from the Service Provider any outstanding payments;
- d** if the Secretariat is unable to contact the Service Provider, ICSTIS will advise the Network Operator of the apparent breach of the Code and recommend that access to the relevant number(s) should be barred forthwith;
- e** once the service has been removed, the Service Provider will be provided with all the necessary information relating to the complaint and will be referred to the relevant provisions of the Code. The Service Provider will then be required to respond in writing within three working days;
- f** all relevant information will, in the absence of special circumstances, be laid before the Committee within 14 days from the date of the initial reference;

- g** the time limits set out in this section may be extended at the Committee's discretion if the Committee considers that their strict application might cause injustice.

6.6 Adjudication

On the basis of the evidence presented, the Committee will decide whether there has been a breach of the Code. Each case will be considered and decided on its own merits.

6.7 Sanctions

6.7.1 Once ICSTIS has adjudicated on the complaint in question, the Secretariat will put before the Committee the Service Provider's details – these will include a list of relevant breaches upheld and sanctions imposed and the numbers of lines and numbers allocated to the company.

6.7.2 ICSTIS has a range of sanctions which it will apply according to the degree of seriousness with which it regards the breach. Having taken all relevant circumstances into account, ICSTIS may:

- a** require the Service Provider to remedy the breach; and/or
- b** require an assurance from the Service Provider, or any associated individual relating to future behaviour in terms determined by ICSTIS; and/or
- c** require the Service Provider to submit certain or all categories of services and/or promotional material to ICSTIS for prior permission for a defined period; and/or
- d** recommend to any Network Operator that access to some or all of the numbers allocated to the Service Provider should be barred for a defined period; and/or
- e** recommend to all Network Operators that the Service Provider and/or any associated individual found to have been involved knowingly in a serious breach of the Code by the Service Provider should be prohibited from providing a particular type or category of service for a defined period; and/or
- f** impose an appropriate fine on the Service Provider to be collected by ICSTIS. Non-payment of a fine will be considered to be a breach of the Code and may result in further sanctions being imposed, in addition to a recommendation to any relevant Network Operators to withhold and pass over to ICSTIS the sum(s) due from the Service Provider's outstanding payments; and/or
- g** recommend to all Network Operators that the Service Provider and/or any associated individual found to have been involved knowingly in a serious breach of the Code by the Service Provider should no longer be permitted to provide any premium rate services for a defined period; and/or
- h** require, in the case of virtual chat services (see section 5.3), that Service Providers pay reasonable and valid claims for compensation;
- i** in the most serious cases recommend to the Director General that he should make an appropriate direction to the Network Operator (or to the Network Operators) to cease to provide (or as the case may be, not to provide) the Service Provider with any service enabling it to provide any controlled premium rate services in accordance with the relevant provision of the CPRS Condition in the Licence of each such Network Operator.

6.8 Oral Hearings

6.8.1 At any stage of its process, ICSTIS may require, or a Service Provider may request, an oral hearing. Such a request must be made in writing and set out the reasons why the Service Provider considers that an oral hearing is necessary.

6.8.2 ICSTIS shall not make a recommendation under either paragraphs 6.7.2e or 6.7.2f in respect of an associated individual unless the Service Provider and the associated individual have been informed that such a recommendation may be made and provided with the opportunity to attend an oral hearing.

6.8.3 Subject to paragraph 6.8.2 above, the granting or refusal of a request for an oral hearing and the procedure adopted for the purposes of any such hearing are matters entirely within the discretion of ICSTIS.

6.9 Reviews

6.9.1 ICSTIS may, at its discretion, review adjudications and/or sanctions in the light of new information.

6.9.2 A Service Provider may request a review by setting out in writing the case for such a review.

6.9.3 Having received a written request from the Service Provider as to why an adjudication and/or sanction should be reviewed, ICSTIS will decide whether the review is merited and may proceed with the review forthwith or set a later date for such a review.

6.9.4 One or more nominated Committee members may decide to suspend the sanction imposed, pending a review by the Committee.

6.10 Administrative Charge

All Service Providers found to be in breach of the Code may be invoiced for the administrative and legal costs of the work undertaken by ICSTIS. Non-payment will also be considered to be a breach of the Code and may result in further sanctions being imposed, in addition to a recommendation to the relevant Network Operator to withhold and pass over to ICSTIS the sum(s) due from the Service Provider's outstanding payments.