

Question 1: Do you agree that television broadcasters should be directly responsible for PRS in programmes and also for other forms of communication where viewers seek to interact with programmes? Please explain why.:

In the current framework of live PTV chat related products, the broadcaster is classified by ICSTIS as the Information Provider, ie the end user that handles the promotion of the service. Under current ICSTIS set up, it is the SERVICE PROVIDER who is responsible for the entire promotion and content of the service. The Service provider has, to a point, limited ability to control the broadcaster in PTV programmes, with regard to promotion and specific content. The Service Provider can play an important role in advising the Information Provider, offering ICSTIS training, provision of statistics and billing, offering IVR solutions and liaising with ICSTIS to ensure compliance, also in the provision of trained support live operators if any are used.

The role and the actual responsibilities of the Service Provider and the Information provider and their relationships however, vary enormously across the PTV industry. It is also true to say that many Information Providers do not have a full understanding or experience of the complexity and nuances of ICSTIS regulation on their live PTV products. It is also fair to say that in some instances, Service Providers have been prepared to take on an Information Provider and NOT offer the necessary support that its clients need. In the case of ICSTIS complaints, the Service provider then defers everything to the Information Provider. This is not acceptable either. It is important that any new OFCOM decisions therefore offer flexibility between the Service and Information Providers arrangements, and that responsibilities are clearly defined by these parties in any licencing agreements. This has to be looked at on an individual basis for more efficient compliance all round.

My suggestion is that Service Provider MUST initially advise Broadcaster on Training mechanisms for any live TV presenters promoting premium rate lines or speaking on them. These recommendations should be put in writing by the SP and records kept. SP should also advise on and approve all TV graphics and Ts and Cs on any promotion and records should be kept of this. It is the Sps responsibility to ensure the IVR elements are all ICSTIS compliant, from the content of the introduction to the cut off of calls. Furthermore SP should randomly monitor any live call content and check compliance on a regular basis. The SP cannot have control over the actual broadcasts and content of each show and here there is a cross over between ICSTIS and OFCOM in terms of responsibility. Such an example would be ICSTIS contacting us twice in the past year about specific editorial content they find unacceptable on shows we are the Sp for. Their line of thought was that the whole programme constituted the promotion of the PRS numbers and therefore the Service Provider was responsible.

We therefore suggest that the Broadcaster is made responsible for content in shows that concern show content rather than promotion of service and call content.

Question 2: If so, do you agree that a variation to television licences would be the most appropriate way of ensuring that broadcasters are responsible for such PRS compliance?:

Agree, although feel BOTH service providers and the Broadcasters should have responsibilities as described above in point 1 and that this properly regulated between OFCOM and ICSTIS, the SP and the Broadcaster, with responsibilities of each clearly defined.

Question 3: Do you agree that there is a need for broadcasters to obtain independent, third-party verification that they are in fact complying with the draft licence obligations set out in Paragraph 2 of the draft licence variation? If so, which of the options for verification discussed in Section 4 do you think is most appropriate? Are there other appropriate options? Again, please provide reasons.:

Do not feel this is necessary, if criteria is properly set in point 2 above.

Question 4: Do you have any comments on the draft licence variation set out in Annex 5? Please support your comments with adequate explanation and provide drafting proposals as appropriate.:

see above

Question 5: Do you agree that the draft licence obligations should not be limited to television but should also apply to radio broadcasters? Please provide reasons.:

Agree, Radio stations have the same obligations to their listeners that Tv stations have to their viewers.

Question 6: Which of the options proposed in Section 6 do you believe is most appropriate to ensure separation of advertising from editorial content? Please explain why.:

Our view is that Option 3 Classified as Editorial but carrying labelling most effectively meets this criteria. Having a label on screen at all times would ensure that a viewer is clear about the nature of the program that they are watching. This gives the viewer protection.

Question 7: Do you have any comments on the draft new rules and guidance in respect of Options 2, 3 and 4 set out in Annex 6? Please support your comments with adequate explanation and provide drafting proposals as appropriate.:

There are several reasons we reject the other options; Option 4 would effectively have disadvantages under BCAP regulations for live adult and psychic shows which we feel are unnecessary. The OFCOM research documents show that both adult and psychic shows are accepted by the general public in today's environment, being of a straight forward nature and relatively problem free. Option 2 Editorial but subject to new rules, drafts recommendations such as those listed below in point 8, which conflict with current problem free PTV chat mechanisms and lead to less choice for consumers.

Question 8: Do you agree that Option 2 clarifies the existing provisions of the Broadcasting Code and therefore should not be limited to dedicated PTV only, but should apply to all editorial content (on both television and radio) which invites viewers to pay to take part? Please give reasons.:

We do not agree with this. We do not agree that option 2 is a modification of the existing position and believe the clear and strictly applied new rules are unnecessary. Option 3 is far closer to the current PTV genre for chat related shows.

Specific comments concerning clauses in option 2 are as follows;

i)6.22 In chat-based dedicated PTV, e.g. adult chat and psychic, voice calls must be taken by presenters on-air; such calls need not be audible to all viewers. However, callers must not be invited to call or to be diverted to off-screen services, e.g. a call centre.

This point is important and currently essential to all adult and psychic applications on PTV. The PTV genres of caller participation to chat to an on screen party, stemmed from existing ICSTIS licencing to Service Providers on live 121 licences. Under these agreements, broadly speaking, callers were offered a 121 chat. On the initial ICSTIS live licence application forms, questions were asked regarding how many simultaneous live 121 calls would be answered, and applicants were asked what would happen if there were insufficient operators or the Service Provider did not have 24 hour coverage of live Operators. Service Providers would answer honestly with the onus on attempting to get 24 hour coverage and always having adequate operators to satisfy all callers of having a 121 call. The PTV options were therefore often added into this existing mechanism. Thus, it was always deemed preferable to both Service Providers and apparently to ICSTIS, that in the case that a TV personality was already talking, the caller be offered an alternative live conversation. This is how the current format of overflow to "offscreen operators " occurred. In the OFCOM PTV document, OFCOM's preference seems to be to restrict caller connection to participation with presenters on the TV shows and NOT have any other "off screen" connection. If this is implemented, customer choice restricted. Under Current ICSTIS regulations, the service is clearly explained by presenters on screen and all the caller choices explained BEFORE the caller dials. It is surely therefore the callers choice, if he wishes to participate in a conversation with an off screen operator. The current format

is successful and has NOT created any complaints in this area.

Furthermore, it is now ICSTIS stringent policy to have a large amount of information given to the caller at the very start of the call on all adult calls. This includes over 18 warning, name of Service Provider, the fact that callers must be over 18 and have billpayers permission plus the call charges. Thereafter follows a brief introduction to the service advising the caller on how it works. So before the caller can connect to anyone, he has already been on line, paying for the call and listening to this. If he goes through all this, to find he cannot connect to a presenter under the proposed OFCOM changes, his only option would be to hang up, having already spent £2 or so to hear the introduction. We do not feel we should restrict the content as potentially proposed in the OFCOM documents to only on screen participation, as it is likely that many MORE callers will be disappointed using this mechanism.

1) In the case of offering only live 121 connections to operators in OFCOM directives, the caller would listen to all the service intros and menus as stated above and would then hang up if the operator was talking. This is not financially feasible for any station, not does it offer good value to the caller to listen to introductions and then have to redial to retry for 121 connection, and start all over again

2) With the current service, our callers have several choices and it must be stated that they NOT ALWAYS wants to speak with a live presenter. Listening in to conversations in session between the on screen presenter and current callers, is a popular choice. In some instances, callers choose to call and listen several times before choosing an option on a future occasion, to connect to an on screen presenter and have a chat themselves. The caller still feels that they are participating by dialling the number and listening in to live calls.

3) The option of listening in to calls also offers some security for callers. They can hear what sort of conversations take place, and get to feel comfortable before attempting it themselves.

4) Offering Off screen Operator support for 121 calls, offers the chance for callers to speak to presenters who are not presenting live on TV on that day but are available as support. It must be recognised that presenters develop large followings and callers sometimes only wish to speak to ONLY that person. If that person is not presenting on the day, callers would still like to communicate if given a preference.

5) Offering the callers freedom of choice is also important. If callers do not wish to speak to offscreen ops they do not have to do so. But we do feel that, as per the original live licensing, ALL callers should be offered a 121 call should they require this. It is also important to acknowledge in the case of some adult shows, that callers would rather have a 121 with an offscreen presenter that they cannot see, rather than not have one at all.

6) In the case of Live broadcasts, an off air service can still be offered to viewers, using off screen operators. This is then ICSTIS compliant in terms of live licencing for many Service Providers, who state that they run a 24 hour service. .

ii) OFCOM Guidance on rule 10.10

Dedicated PTV usually has the following characteristics:

? prominent and frequent messages to viewers to call (or text) one or more premium rate numbers;

? the telephone number is constantly, or almost constantly, displayed on screen.

ICSTIS already view the whole live PTV programme as being the promotion of the premium rate number. They therefore prefer to have the numbers and terms and conditions running throughout the whole show, as well as spoken pricing every 10 minutes minimum and repeated clarification both written and spoken, on how the services work. It can be argued that these regulations create a genre of TV which is much more sales orientated, which was not necessarily with the Service or the Information Providers original desire or intent. Having said this, this format has been running now for some time, and viewers are used to this, while still feeling able to watch the shows without calling in. So, the current format of PTV described above best fits Option 3, Classed as Editorial but carrying Labelling, which is virtually the format we have today,

iii) OFCOM Guidance on rule 10.10

At this time, Ofcom considers that, in practice, the only acceptable means of participation and charging of viewers/listeners, for the purposes of Rule 10.10 are

telephony-based applications (including SMS and MMS) and 'red button' technology. Payment by cash, cheque, credit card or money transfer is not permitted.

Some PTV stations offer credit card billing. We have not seen any PTV applications where viewers can pay by cash cheque or money transfer. It is our belief that OFCOM do not wish to see these billing mechanisms, purely as they are currently outside the control of ICSTIS. Where an existing service is approved and licenced by ICSTIS to run on PRNs, we do not see the harm in alternative billing by credit card as long as EXACTLY the SAME RULES ARE APPLIED to the alternative billing mechanisms in terms of promotion and call content, to protect the consumer.

Question 9: Has Ofcom correctly identified, in Section 6 and the Impact Assessment in Annex 7, the various impacts arising from each option for dedicated PTV? Again, please give reasons.:

Yes. No further comments concerning this.