

Ann Austin

ICSTIS
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Dear Ann

Mobile Entertainment Forum (MEF) response to the ICSTIS Draft Activity Plan and Budget (2007/08)

We welcome the opportunity to respond to the ICSTIS draft activity plan and budget consultation. It would be very useful to meet with you as soon as possible to discuss some of the issues stemming from the draft plan. Please note that this is a response from the MEF Secretariat and not the Board.

Introduction to MEF

Founded in 2001, MEF is a global trade association representing all participants in the mobile entertainment value chain. Our members are interested in driving the mobile entertainment industry's evolution and commercial potential through collaboration, consultation and promotional activities. We are committed to reducing the barriers to entry into the innovative mobile entertainment market, thereby encouraging entry by new businesses and increasing competition and growth to the benefit of all industry players and consumers. Our global membership is composed of the best thought leaders and mobile entertainment players throughout Europe, the Americas and Asia and we currently have over 120 members¹.

Consultation response

We would like to make the following general comments in relation to the consultation:

- We support and recognise that ICSTIS has had good success in regulating the premium rate industry over the last year. We recognise the importance of working closely with the regulator and offer our advice as and when required.
- We agree with the core themes of developing a strategic agenda for consumer protection. However, ICSTIS should focus most of its efforts in engaging positively with the premium rate industry and ensuring compliance with the Code of Practice through a structured programme of monitoring and enforcement action. Whether harm prevention through proactively educating the public should be considered a core function of ICSTIS is

¹ A full list of our members can be found at <http://www.m-e-f.org>.

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debatable. For example, the development and launch of an educational website for children is commendable but not, one could argue, a core function of ICSTIS.

- The continued improvement of advice to the public through the helpline IVR, website and Contact Centre is to be commended.
- We endorse the plan to create an industry support team. We believe that the team will play a crucial role in helping to prevent harm and will help build trust between the industry and the regulator.
- There is potential for growth for micro-payments. However, the industry has entered a phase of uncertainty as how to monetise new services. Reports produced for the industry generally (the consultation document quotes Informa etc) should not be relied upon as a forecast for the future of the industry in the absence of meaningful dialogue with the premium rate industry. Previously predicted growth markets – such a premium rate VoIP or broadband services have not matched expectations.
- The issues relating to dialler services are unlikely to occur since the 30-day rule has been in place since July 2005. The 11th Edition of the Code gives far greater powers to ICSTIS to levy fines and order refunds.
- Participation TV was effectively controlled by ICSTIS by a thorough prior permission's regime. All new services that are operated in a different way can be dealt with in the same manner if ICSTIS believes there is potential for consumer misunderstanding or harm. We believe the infrastructure for dealing with any new services already exists at ICSTIS. We believe that charging is to be introduced for submitting applications for permissions. This should significantly reduce the number of futile applications received by ICSTIS and will also offset the administrative costs of processing successful applications. We would like to see your projections for how many applications ICSTIS expects to deal with.
- At paragraph 2.2 of the consultation document, ICSTIS uses the examples of the development of mobile video and premium rate gambling services as way of suggesting that these new services are replacing the fall in the market for mobile ring-tones. We would question this assumption. For example, unless presented with evidence to the contrary, it is our understanding that there are few premium rate gambling services that currently have permission to operate. Mobile video is an area the industry is looking to monetise but such services are in the early stages of development. Mention is also made of the greater use of premium rate donation-taking by charities. The rules on how to operate Charities are already very clear and we are unsure how such an increase creates additional burdens on ICSTIS.
- In relation to 'Quiz-TV' type services, paragraph 2.3 of the consultation document states that the industry and the Gambling Commission believe that it is unlikely for the services to be illegal or for service providers to be unwilling to operate them as lotteries. There has been no clear written communication from the Gambling Commission as to the status of these or other competition services. We are still awaiting confirmation and guidance from the Gambling Commission following their recent consultation. We do not believe it is safe to make any assumptions on what will happen in the absence of a stipulated position from the Gambling Commission. It is apparent that the Gambling Commission has not fully considered how the Gambling Act would impact on providers in the complex mobile value chain.
- We would have liked to have seen more detail and evidence of the need for the proposed increase in the budget. There are many figures presented in the consultation without any

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substantiation or supporting evidence. The arguments presented do not seem sufficiently compelling.

Convergence presents both the industry and the regulator with new challenges. We support the need for regulatory flexibility to keep pace with industry developments and consumer trends. ICSTIS with the support of the industry and others such as Ofcom and the DTI has been able to arrive at a position of relative stability in dealing with the industry. We would like to see ICSTIS and the industry continue to succeed. To that end we will continue to work closely with ICSTIS to ensure that the continued and successful development of the premium rate.

Yours,

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