



Notification of Contravention of the Premium Rate Services Condition under Section 94 of the Communications Act 2003

Notice served on Talkline Communications Ltd

As originally issued, this document contained a 2 page Notification and an 18 page Explanatory Statement. This version of the document includes only the 2 page Direction. The Explanatory Statement contained information of a sensitive and/or confidential nature and is not being placed on Ofcom's website at this time.

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Section 1

Notification to Talkline Communications Limited under Section 94 of the Communications Act 2003

1. Section 94 of the Communications Act 2003 (the “Act”) allows Ofcom to issue a notification to a person where Ofcom has reasonable grounds for believing that a person is contravening, or has contravened a condition set under section 45 of the Act.

2. Section 123(1) of the Act provides that section 94 of the Act applies to a contravention of the PRS Condition as it applies to a contravention of a condition set under section 45.

Determination made by Ofcom

3. Ofcom hereby determines that there are reasonable grounds for believing that Talkline Communications Limited (“Talkline”) is contravening and has contravened the PRS Condition. Specifically:

- ICSTIS issued directions to Talkline pursuant to the ICSTIS Code on 25 May 2005 and 14 June 2005 (“the ICSTIS directions”).
- Talkline failed to comply with the ICSTIS directions, in that Talkline did not carry out all of the actions and provide all of the information and documents specified in the ICSTIS directions and with respect to the actions carried out and information and documents provided, did not do so by the time and date specified by ICSTIS.

The reasons for Ofcom’s determination are set out in the explanatory statement accompanying this Notification.

The PRS Condition

4. The PRS Condition requires that:

“The Communications Provider shall comply with:

(a) directions given in accordance with an Approved Code by the Enforcement Authority and for the purposes of enforcing the provisions of the Approved Code; and

(b) if there is no Approved Code, the provisions of the order for the time being in force under section 122 of the Act”.

5. The term “Communications Provider” is defined in the PRS Condition as including a person who

“(A) is the provider of an Electronic Communications Network used for the provision of a Controlled Premium Rate Service; and

(B) has concluded an agreement relating to the use of the Electronic Communications Network for the provision of the

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Controlled Premium Rate Service with a Controlled Premium Rate Service Provider.

6. The term "Approved Code" is defined in the PRS Condition as meaning "*a code approved for the time being under section 121 of the Act*".
7. The term "Enforcement Authority" is defined in the PRS Condition as meaning, in relation to the Approved Code, "*the person who under the code has the function of enforcing it*".
8. On 23 December 2003, the Director issued a notification of approval of a code for Premium Rate Services for the purposes of sections 120 and 121 of the Act. This notification approved the Tenth Edition of the code issued by the Independent Committee for the Supervision of standards of Telephone Information Services ("ICSTIS") ("the ICSTIS Code").
9. Ofcom has received confirmation that Talkline is the provider of an Electronic Communications Network that is used for the provision of a Controlled Premium Rate Service and that it has in place agreements with Controlled Premium Rate Service Providers relating to the use of the Electronic Communications Network for the provision of Controlled Premium Rate Services.

Action required by Talkline

10. Talkline shall comply with the PRS Condition by **16 December 2005**.
11. Talkline shall remedy the consequences of its breach of the PRS Condition by **16 December 2005**.
12. Talkline shall have until **16 December 2005** to make representations to Ofcom about the matters set out in this Notification and the accompanying explanatory statement.

Interpretation

13. Words or expressions used in the Notification have the same meaning as in the Act or the PRS Condition.
14. "PRS Condition" means the condition set pursuant to section 120 of the Act for the purpose of regulating the provision, content, promotion and marketing of premium rate services, and set out in a notification issued under sections 48(1) and 120(5) of the Act by the Director General of Telecommunications on 23 December 2003, that took effect on 29 December 2003.

David Stewart

Director of Investigations

3 November 2005