

**PRS SCOPE REVIEW 2009**  
**Response to consultation questions by**  
**GMTV Limited**

**Introduction**

GMTV Limited is pleased to have the opportunity to respond to the questions posed in Ofcom's PRS Scope Review published on 15 May 2009. Answers to the questions are set out below but in general terms GMTV Limited greatly appreciates the need to maintain and wherever possible improve public trust in PRS services and welcomes actions aimed at achieving this. GMTV Limited is concerned that the need for regulation of IPs may differ to an extent between those already regulated (broadcasters) and those who are not. GMTV Limited is concerned to ensure that those it invites to participate in its PRS services receive entry and price information which is both accurate and clear bearing in mind the means of delivery of that information.

*Question 4.1: Do you agree with our analysis of the characteristics of the PRS supply side and the possible concerns related to these characteristics?*

The analysis of the characteristics of the PRS supply side and possible concerns related to those characteristics appear not to apply to broadcasters engaging in PRS. In particular it cannot be said of broadcasters that "barriers to entry and exit are relatively low at the IP level, meaning that those potential for significant turnover of suppliers in the market". Nor can it be said that "... the implication of the complex value chain and high number and ease of entry and exit of IPs combined with rapid technological change means that suppliers tend to be less concerned with maintaining a favourable reputation". We are taking every step to ensure we maintain a favourable reputation for our PRS.

Further, our direct experience is that the number of complaints from consumers which stems from differential pricing by communications providers is minimal and so in general terms it would be hard to say that the communication and pricing information has presented too much of a challenge. Our view is that a fair degree of certainty (and certainly as much certainty as is readily provided by OCPs) is communicated to participants in PRS where we are the IP.

*Question 4.2: Do you agree with our analysis of the demand characteristics of PRS? Do you think there are additional characteristics which are not included in our analysis?*

We agree with the analysis of the demand characteristics of PRS.

*Question 4.3: Do you agree with our assessment of the potential consumer harm in a situation where PRS regulation is ineffective?*

While agreeing broadly with the assessment of the potential consumer harm in a situation where PRS regulation is insufficient or ineffective, we would point out that it is difficult to conclude that the pricing information provided at present by us generates a significant degree of confusion. Further, we note that the PRS operated by us (on-air competitions) is regulated by means of the Broadcasting Code and recent variation to our licence as granted by Ofcom and this renders much of the potential harm less likely or at the very least liable to be detected and addressed promptly.

*Question 4.4: Do you agree with our assessment of the potential and actual consumer harm in respect of PRS?*

We repeat here that the possibility of actual consumer harm in respect of PRS seems fairly remote in the context of an IP which is a regulated broadcaster. In particular as a proportion of complaints relating to our PRS there are very few complainants who appear confused as to price and that confusion is largely limited to a very small number of consumers with (i) “bill shock” resulting from making voice telephony calls to PRS numbers from a mobile telephone and (ii) some confusion as to the return text message essential given that GMTV operates a MT billing system.

We would add as potential harm to consumers misinformation provided by OCPs in an apparent failure both to explain clearly pricing (in particular of voice telephony calls from mobiles) and suggesting consumers text the word “STOP” to our competition SMS shortcode. The latter misinformation leads to a further entry to a GMTV competition which is charged as such. Consumers doing this have been badly advised as we do not run any subscription PRS.

As to the possibility of consumer “addiction” there is no evidence that a significant number of multiple entries to our competitions is received by paid entry routes and in fact entry is capped at 5 entries per entry route per competition. As most of our competitions (the only PRS operated by us at present) are weekly, this amounts to a maximum weekly entry of 10 paid entries.

We would further mention that as IPs, broadcasters enjoy a particularly prominent profile and are in our experience likely to be the first port of call when addressing a complaint. We have received considerable feedback in relation to our PRS services and have in place an appropriate mechanism to ensure that every enquiry is answered appropriately and promptly. Issues which we have been unable to resolve are the very few “bill shock” complaints related to pricing of services by OCPs. In our experience OCPs at times fail to explain charges at all or clearly and re-direct complainants to us.

*Question 5.1: Do you agree with the application of the characteristics to the services?*

We have no comment to make on these.

*Question 5.2: Do you agree with our assessment of potential harm for each of the services?*

We have no comment to make on these.

*Question 5.3: Do you agree with our assessment of alternative means of protection for the new services in our analysis?*

We have no comment to make on these.

*Question 5.4: Do you agree with our analysis of the appropriateness of self-regulatory initiatives in the context of PRS?*

We have no comment to make on these.

*Question 5.5: Do you consider self-regulatory initiatives could be implemented for (certain) PRS? If so, please set out for which services, and what such an initiative would look like.*

We have no comment to make on these.

*Question 6.1: Do you consider there is a consumer benefit requiring all OCPs to offer the same retail price to a PRS number?*

There would undoubtedly be consumer benefit in the certainty which would be obtained by requiring all OCPs to offer the same retail price to any one PRS number. As a broadcaster IP, we would then be in a position to relay this information to participants. There appears to be widespread confusion amongst consumers as to why we can price text entries reasonably precisely but not voice telephony.

*Question 6.2: If you do believe there is a consumer benefit, do you have suggestions as to how this option could be implemented?*

We have no suggestions as to how the option might be implemented.

*Question 6.3: Do you consider this option could have any negative side-effects? If so, which ones?*

The obvious potential negative side effect would be the possible increase in the charges levied by the OCPs if they had to “round up” to the single retail price.

*Question 6.4: Do you consider PCAs would improve price transparency in the PRS market?*

It appears obvious to us that PCAs would greatly improve price transparency in the PRS market and this position appears to be supported by research conducted by Ofcom.

*Question 6.5: Do you consider Ofcom should carry out such a study? If so, which aspects should such a study cover?*

We consider that the carrying out of a study in respect of PCAs covering the aspects already outlined by Ofcom would be beneficial given the need to quantify assertions of technical complexity and costs to be weighed against a solution which would appear very popular with consumers and broadcaster IPs.

*Question 6.6: Do you consider including BT's tariff and a maximum tariff for the PRS in PRS advertisements would improve price transparency in the PRS market?*

GMTV is unsure that the inclusion of BT's tariff and also a maximum tariff (as opposed to a single tariff) would necessarily improve price transparency in the PRS market. To explain further, GMTV's view is that the provision of too much information, albeit entirely accurately, does in the case of PRS promoted on television, appear to have the potential to generate confusion which in turn leads to the potential misunderstanding of pricing information provided. The balance which a broadcaster IP must always seek to strike is between providing information which is entirely accurate and ensuring that the message given to the viewer is sufficiently simple so that such accuracy is not lost in an overly complex message. Our view is that the “endslate” used for our PRS competitions on air is both accurate and clear, albeit not entirely comprehensive, and to provide significantly more information may in fact be counter-productive in creating confusion. In summary any additional information should be in lieu of existing vague information and very brief and simple.

*Question 6.7: Do you consider the name of the OCP with the highest tariff should be included?*

We would be reluctant to see the name of the OCP with the highest tariff being included in the endslate for the reasons stated above, in that it would be additional information to be comprehended by the consumer. In fact to mention a particular network would be to introduce an additional concept and it would be easy to underestimate the confusion that may cause. It would also create for broadcasters an onerous obligation to monitor such tariffs constantly. This might prove particularly difficult if tariffs were to change mid week during a weekly competition promoted on air. We would not welcome a position where a message to consumers might have to be varied mid-competition.

*Question 6.8: Do you consider there are any additional implications linked to this option, apart from the ones we have set out above?*

We would only make the point that it would appear unreasonable burden to place on broadcasters to monitor constantly prices which OCPs are free to vary and that fixed prices (akin to those levied by OCP's for text communications) appear to us as being a necessary precursor to the provision of pricing information beyond that which we provide on air at present.

*Question 6.9: Could you provide us with an estimate of cost information regarding the collection and updating of tariff information (for SPs and OCPs)? Do you believe there are there any other costs involved under this option?*

As we are an IP and not a SP, we have no comment.

*Question 6.10: Do you agree with our proposal to expand the PhonepayPlus number checker?*

It is felt that the PhonepayPlus number checker is a useful tool and should be as comprehensive as possible and so the proposal to extend it appears a good one.

*Question 6.11: Which criteria should be used regarding numbers to be included in the number checker (e.g. revenues, complaints over the last X weeks etc)?*

The criterion we understand are applied at present is the number of enquiries (5 or more in any one week) and this appears to us an appropriate approach.

*Question 6.12: What information should be included per number in the number checker?*

Our observation here is that the information provided at present is possibly too generic and helps create some confusion. This is because it identifies every form of service for which the number may be used. In at least a few instances we are aware that consumers have become confused with a number used exclusively for our competitions because the description of services on number checker included every type of service which could potentially be offered on that number and so included subscription type services such as horoscopes. This added to the misconception on the part of consumers who somehow believe they have subscribed for a service and continue to text "STOP" to our competition shortcode.

*Question 6.13: Do you agree PhonepayPlus should carry out an analysis into the benefits of requiring SP/IPs to adopt a formal complaints procedure?*

In our experience most consumer dissatisfaction and confusion has arisen from the mishandling of complaints by OCPs rather than any failure on the part of SP or us as an IP. In fact as a responsible broadcaster we have a complaints procedure and would expect other broadcasters to have in place such a procedure as being appropriate in the context of the licence variation requiring the appropriate handling of all viewer interaction. Where the IP is a broadcaster then it is arguably by far the most visible and “high profile” part of the value chain and is in our experience by far the most likely entity to receive complaints. There is no evidence that our SPs receive complaints relating to PRS but we do, understandably, receive them directly from consumers.

*Question 6.14: Do you consider that in light of developments in the PRS market, IPs should be targeted as a point of regulation, in addition to SPs or on their own? If so, what kind of rules should be applied to IPs and/or SPs?*

As previously indicated those IPs which are broadcasters licensed by Ofcom are already regulated by the Broadcasting Code and further by the terms of the licence issued to each of them. Further regulation of broadcaster IPs would appear inappropriate and liable to introduce a disproportionate burden and quite possibly some confusion.

*Question 6.15: Do you consider there are other options for a registration scheme / reputational database which have not been included in these studies?*

As a broadcaster IP we would support any measure which in any way strengthened public confidence in PRS services.

*Question 6.16: Which is your preferred option, and what are the reasons for this?*

We have no comment.

*Question 6.17: Do you agree with our analysis that PhonepayPlus should run a registration scheme / reputational database?*

We have no comment.

*Question 6.18: Do you agree with the options identified regarding call barring facilities?*

As we are not an OCP and our PRS activity is limited to competitions the number of entries to which is capped at a reasonably low level (5 per entry route), we have no view on the extension of call barring facilities as a means of mitigating consumer harm.