

## **Response of Channel 5 Broadcasting Ltd (Five) to Ofcom's PRS Scope Review**

Five welcomes the opportunity to provide a short response to this consultation on the scope of premium rate services (PRS) regulation. Five makes use of PRS in several parts of our schedule, running competitions that are enjoyed by our viewers and also make a significant contribution to the cost of providing our programmes.

This area of activity is already highly regulated. Five has specific licence conditions governing PRS-related activity, which is also subject to regulation through the Broadcast Code and its associated guidance. In addition, our service providers have to abide by the PhonepayPlus Code of Practice. Many of these regulations are designed to provide as much transparency as possible to our viewers; we believe these need to be borne in mind by Ofcom when it considers the future scope of PRS. We recognise that many companies other than broadcasters make use of PRS; but in so far as the review leads to further requirements on the provision of PRS, it may be appropriate for Ofcom to review the requirements placed on broadcasters to ensure there is no risk of duplication or even double jeopardy.

Five is fully committed to our viewers having as much information as possible about the costs of entering the competitions and quizzes we run. However, at present the information we are able to provide is limited by the range of different tariffs available, which is why we are limited to issuing messages along the lines of "Entries cost £1 from a BT landline; other networks vary and mobiles will cost considerably more."

We would be much happier telling viewers exactly how much it will cost to make a call, providing the amount of information necessary would not be confusing to viewers, given the myriad of fixed and mobile network operators. Even customers on the same network can be charged differing amounts for calls to premium rate numbers according to whether they are on pay monthly or pay-as-you-go contracts.

It is possible to provide accurate prices for the cost of SMS votes and entries to competitions – all entries cost a standard amount (such as 50p or £1 or £1.50), plus the standard charge of sending a text – but an equivalent system does not appear to be feasible for voice calls. Five does not profit from network operators charging more for a PRS call.

Any move to greater price transparency would need to take into account multiple uses of PRS. Some viewers like to enter competitions several times in one evening. A pre-call announcement that was appropriate for an initial or single call might become off-putting if it had to be listened to on every occasion.

## CONSULTATION QUESTIONS

Five believes the Ofcom analysis is very thorough and raises important questions. However, we do not have detailed observations on all the consultation questions, so have limited ourselves to answering those on which we have specific responses.

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

Yes. As indicated in our introductory comments, Five would much prefer to be able to tell our viewers the exact price of entering one of our competitions or quizzes by voice, in the same way as we provide a standard price for SMS entries. If consumers knew how much a competition entry would cost, they would be happier about taking part and less likely to feel aggrieved afterwards.

Five believes Ofcom could achieve this objective either by imposing maximum OCP tariffs for particular number ranges, or by imposing a requirement for OCPs to offer the same tariffs for particular number ranges. In either scenario the payout from each OCP to service providers would still be a matter of individual negotiation but, importantly, consumers would have confidence in knowing the price they would be charged.

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

Yes. This would provide certainty for callers about how much they will spend, rather than relying on the necessarily less specific information put out by information providers.

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

Five supports the idea of such a study, which should cover all the issues identified in paragraph 6.52 of the consultation document. In particular, we would want such a study to identify opportunities to opt out of PCAs, so that people who wanted to enter a competition or quiz several times in a short period did not have to listen to the same message on every occasion. It is also important any study includes an independent analysis of the cost of introducing PCAs, and examines whether the OCP or service provider should be responsible for the content of the PCA. If OCPs are permitted to charge differing amounts for calls to premium rate numbers, it would seem logical for them to be responsible for the content of a PCA informing their customers of the amount they are charging them for the call.

*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?*

We would be concerned such an option would tend to discourage viewers from making PRS calls they would otherwise make, as many people calling from a non-BT line might reasonably assume they would be charged the maximum tariff, whether they were or not. Such an approach might also be inflationary, as network providers might be tempted to increase their charges to (or close to) the maximum. We would prefer OCPs to be obliged to charge the same price for certain number ranges.

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

This might ameliorate the first of the concerns we expressed in answer to the previous question. But it would not greatly help transparency for consumers on other networks, and there might still be a temptation for network operators to raise their tariffs to very close to the maximum, in the knowledge they would not be named. Furthermore, given the tendency of mobile operators to change their tariffs frequently to gain competitive advantage, information and service providers would need to closely monitor tariffs to see which was the maximum at any given moment (indeed, the maximum tariff could change in the time a programme is on air!). This could also cause problems for pre-recorded programmes, and television advertisements with a long campaign life.

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

Yes.

*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)?*

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

We suggest OCPs should be obliged to provide PhonepayPlus with accurate tariff information to enable users of the service to find information quickly on the cost of calls to premium rate numbers. The information currently available is voluminous and potentially confusing. Ofcom need only refer to the links available from [callcosts.co.uk](http://callcosts.co.uk) to assess the differing attempts made by OCPs to make pricing information easily accessible to their customers.

*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?*

Yes

*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?*

Five would be concerned about dual regulation of the same activity and the potential for double jeopardy as a result. Our PRS activities are already heavily regulated by Ofcom and by PhonepayPlus. When regulation of PRS on television was tightened, there was a risk that the same set of activities would be regulated by two different, overlapping regulators. Although this danger has been largely avoided, we believe Ofcom needs to remain alive to the dangers of dual regulation in future.

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

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

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

Five favours a robust system that can enhance the reputation of the PRS sector as a whole. We would tend to favour options D or F3.

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

Yes, we believe it is opportune to carry out an analysis along the lines suggested.

*Channel 5 Broadcasting Ltd*

*July 2009*