

Date: 22<sup>nd</sup> January 2010

### **Ofcom Consultation - Participation TV - Rules on the Promotion of Premium Rate Services**

As a Member of AIME please accept this letter as formal confirmation of Fusion Telecom Ltd's support for the AIME response to the captioned Consultation which will have been submitted by 25<sup>th</sup> January.

Fusion Telecom also encloses additions to the AIME response, as per below.

### **Background**

Fusion Telecom Ltd primarily provides IVR hosting and Service Management for PTV for both Adult and Psychic TV broadcast sector. We also provide 121 operator call services via our supply network of 121 operating companies.

On the Telephony side (IVR) we provide numerous services which allow callers from differing network platforms (such as mobile, land-line and international land lines) to access these services, using a variety of different payment mechanisms.

As a member of AIME, Fusion Telecom have worked closely with them with regard to their responses to the PTV3 consultation which are supported by Fusion Telecom.

We would however like to expand our response in some areas, which are noted below.

#### **Question 1:**

- a) Do you agree with Ofcom's assessment of those stakeholders likely to be affected by changes to the regulatory framework for Adult Chat and Psychic PTV services?***
- b) Do you agree with our understanding of the industry and operators?***

1a) All of these services including many others run independently by the broadcasters for the shows add to the content and variety of the present day demands of the technically advanced population. Restriction of this type of media, particularly when there has been no cause for serious complaint from the viewing public by any means is unjust and we note that the UK are one of the very few, if not only country in the EU to attempt to bring about such regulation.

1b) As Fusion Telecom primarily deal with Hosting and 121 supply for PTV, we strongly disagree with the impact assessment quoted by Ofcom, that closure of this avenue of business, would not have a serious affect on us or the industry as a whole. We do not feel that Ofcom have a complete understanding of the value chain and for this reason find it difficult to understand where its positioning on this crucial area has come from.

**Question 2:**

***Do you agree with our analysis of the options available for regulation of the promotion of premium rate services of a sexual nature, and***

***a) that on the basis of options, a change to the existing rules appears merited?***

***b) of the options presented, Option 4 meets the regulatory duties and suggests least potential impact on stakeholders?***

***c) that the scheduling restrictions of 9pm to 5.30am and requirements for labeling and EPG position under option 4 offer appropriate protection for viewers?***

2a and c) Firstly, to clarify, the term 'Adult' is used by the regulators, you included, supposedly due to the actual PRS adult call content. The actual visual content is NOT of an adult nature, it is merely soft and only suggestive of what viewers believe the term 'adult' to actually mean, or as this genre is now known 'Babe' TV. These shows *are* in the Adult EPG section of the SKY EPG, yet, they do not allow any adult visual content. Interestingly Ofcoms own research using 'Essential' had several 'viewers' commenting on the lack of adult content, to that which they expected to see. Despite viewers (and callers) repeated requests for a slightly harder content, it is accepted that current standards are within the bounds of decency allowed on channels of this type. In fact on TV programmes where there is no PRS, it should be noted that far stronger material is allowed to be shown.

2b) None of the 4 options outlined by Ofcom are preferable to this industry, as although option 4 appears to be the one which will have the least likely impact on stakeholders, it will still put some of them out of business. Fusion Telecom would like to see a fifth option submitted.

**Question 3:**

***Do you agree with our analysis of the options available for regulation of the promotion of live personal psychic services, and***

***a) on the basis of the options, that a change to the existing rules appears merited?***

***b) of the options presented, Option 4 meets the regulatory duties and suggests least potential impact on stakeholders?***

***c) that the restriction of promotion to specific live personal psychic services and the requirements for labeling and EPG position provide appropriate protection for viewers?***

For similar reasons to those listed in Question 2 responses above (Adult), we do not agree with Ofcoms analysis for Psychic , as it has used outdated research and has no methods within its remit to encompass the new genre of the this type of entertainment. It is predicated in the main on protection of consumers and yet admits in its own consultation and following the Essential research, that no such consumer harm can be found.

**Question 4:**

***a) Do you agree with the principles identified for changes to the Advertising Code rules on promotion of PRS of a sexual nature (rule 11.1.2) and psychic practices (rule 15.5)?***

***b) Do you agree with the wording of the proposed rules? If not, please suggest alternative wording.***

4a) Fusion agrees with the principles identified for Adult and Psychic PTV services. We generally support the suggested wording of proposed rules regarding Adult PTV but does not support any attempts by Ofcom to stipulate payment methods for the interactive broadcast services medium. The same restriction applies to Psychic Services. It would be wholly unjust for Ofcom or indeed any other regulatory body to disallow something which is seen by its users as fair and just and had not caused complaint or harm in any way.

There is no evidence of consumer harm in any of the programming from any of the regulators currently 'in charge' of PTV regulation. We cover many different PTV genres and take a responsible view on each,

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working with the Broadcaster, the Service Provider, Technology Providers, Networks and Phone Pay Plus to achieve a quality product that we believe gives value for money to the consumer. We are therefore somewhat confused by the OFCOM consultation, which could effectively bring to an end, 7 years of successful and compliant PTV service provision, with tens of thousands of happy customers and many successful companies behind it. If there was a problem in this genre of TV we fail to see why it was not raised beforehand, particularly in the light of the lack of serious complaints?

Psychic and Adult TV Services, such as those seen on TV today, do not fall into any of the current regulatory bodies codes specifically. This is mainly due to the technology now available, offering the viewers 'experiences' to interact or merely be entertained via their television, land line phone, mobile phone, 3g handset and computer. This type of integration did not exist in the same way, when the current regulatory bodies came to be, nor in fact it seems when any of the 'latest' research was done, specifically those quoted by Ofcom – 2001 for example when the ITC last did research into alternative beliefs, psychic and occult phenomena. The result being, outdated research being used, to manage regulations for a genre of entertainment which did not exist previously. This is all supposedly for the benefit of consumers, who have moved on with the times and do keep up, with this fast moving environment!