

**JAPAN : CHILDREN MOBILE PHONES AND INTERNET – EXPERT’S MEETING**  
**MARCH 2003**

Outline of the presentation by George Kidd, Director of ICSTIS, London

**Background**

ICSTIS 17 years old. Independent regulator

Premium rate charging for value-added content to a (tele)communications bill/account.

PRS now the primary form of micro-payment on interactive TV (voting game-playing), mobiles and Internet.

Many PRS uses are now supplemental to other income flows (TV- advertising, sponsorship), Internet sites (ads, subscriptions) mobile and fixed lines (charging used for helplines, passport services, charitable giving).

Still hard-core of sectors where premium rate charging is core purpose of businesses – competitions (scratchcards), sports update services, chat and dating services.

UK now \$1.5billion market text SMS = \$90 – 200 million

PRS and the young: PRS is a youth “product – 40-50% use this with the focus on ring tones, logos, voting, interactive TV.

Latest products coming to market again attract kids – txtTV, football updates, java games, logos and pop ringtones and down loads.

As a consumer protection regulator born out of concerns over the use of telephony and telephony charges we have had to address child concerns across three broad headings:

COST

CONTENT

CONTACT

**Regulatory Concerns**

Platforms may change and technologies may evolve dramatically but the regulatory issues are broadly constant and especially important for children. We have some basic expectations of service providers:

- Explain what is being offered – the service, the product, the price
- Do not deceive or mislead. Do not take advantage of consumer, product or technology ignorance
- Do not promote in an inappropriate way and do not promote services to those for whom they are inappropriate (kids – chat, sex, high open-ended cost services)

- Do not offend
- Deliver what you promise

**Lets look at the particular characteristics of mobile phones now and as they may be soon:**

**Mobile telephones are:**

**Mobile** !- these phones are always with consumers, always ready for use for the essential or impulse purchase.

**Personal** - it's highly unlikely (not impossible) to have unauthorised calls on a mobile. But it is possible to have personal contact, to make personal purchases and to look at content in a very private way.

**Anonymous** – 70% of UK phones are still pre-pay. Networks do not know who their consumers are. There is no relationship. There is no billing and very little by way of information or support.

**Spend limiting** - pre-pay and contract phones are far more likely to prevent extreme high bills accruing.

**But costly** – mobile calls are costly – premium from a mobile is “costly plus”, premium SMS is \$2+ the second you click the button.

**Visual** – Only with 3g have networks started to appreciate the issues over content – as a commercial opportunity and as a consumer “threat” - networks did not see SMS coming and their reaction to the risks with MMS are already “after the fact”.

**Media interactive** - mobile phones can interact with interactive TV and with Internet sites. Specifically mobiles offer a form of payment – a form of credit - which allows kids to buy products distant from the phone.

“**Less controllable**” UK premium content is paid by mobile terminated (MT) charging. This gives the commercial party the power to charge to your phone potentially at will

**Lets look at what happens when some of these characteristics mix or when they apply to children:**

- Kids can access inappropriate visual content on mobiles with fewer safeguards than exist if we are regulating it as voice or Internet content....send a “buy” order and back comes the product...however hard-core, costly or inappropriate
- Kids can use the SMS codes to access content which is otherwise call barred in the home

- Kids can be drawn into chat services or one to one contacts which are inappropriate and which could lead to physical harm.....we already know how mobiles are used in this way
- Kids are open to the deceptive but heavily pushed approach to respond to messages...phone up grades, award schemes, people who fancy them, messages from numbers they do not recognise

### **ICSTIS' regulatory experiences to date**

- SMS limited by 160 characters and no mass market lift off with mms/3G – UK Premium SMS market is worth US\$120million+
- Chat services have been marketed at children but we have not had (improper/sexual) contact issues arise involving children
- The business model for paid group chat has been costly and uncontrollable due to Mobile terminating basis for payments – consumer pay for each message received – even if they are costly, worthless and unwanted
- We have seen services which use SMS reverse billed charges to a phone to “buy” Internet access. This circumvents call barring and removes all access control messages target at children when premium phone account charging is involved
- SMS has, however, been more honest and reliable way of buying logos/ringtones and games when the alternative is a conventional premium rate call – which carries an additional premia levied by UK mobile networks for calls to 090 landline numbers...
- SMS spam has been a problem...it could double ICSTIS complaint levels in 2003 ( i.e. an extra 10,000 complaints) if recent action fails to deter those who are deceiving consumers. The high level of pre-pay in the UK is certainly reducing the volume of complaints which get to the regulator...pre pay users and child pre-pay users in particular get no bill from their network and are unlikely to know where to take complaints or (to date) to get any help on this from their networks.
- Opting out of Premium SMS with reverse billing is a problem – some service providers do not offer any explanation of how to unsubscribe. Others seem intentionally to make it more complicated than is necessary – requiring that upper or lower case is use (or some particular combination of the two).
- To date the networks approach has seemed to be one of denial...” If you have a problem with a content service call the shop that sold you the phone...”do not

have any service provider details)...cannot identify the nature of a service on a bill. Cannot suggest anywhere you can go with a complaint over the content

- No mass market MMS applications yet – but adult/sex services are obviously ready with products and java game sales are rising.

### **Some key numbers:**

- 70% of UK mobile market is pre-pay.
- \$5 is the average amount left on a UK pre-pay account at any time –
- \$3-5 is the average reverse-billed payment cost of ringtone/logo cost –
- \$7 is the average java game cost.
- 20%+ - the number of PSMS services/paments not completed due to inadequate funds remaining on a handset/SIM card
- 50-70% - the average mark-up on mobile-landline PRS
- 750 – number of complaints over SMS spam. 150 - number of complaints over PSMS services (over 50% are chat related)
- 45% the number of people who had no idea where to go with mobile content complaints

### **Examples of problems**

**Text chat** – no pricing, no opt-out. Spam promotions to kids/costs uncontrolled expenditure(MT) which drains a prey pay card and then immediately drains the replacement card when inserted..

**Spammed services** which were not only deceptive and designed for financial gain but which were intrusive and potentially threatening to children.....ICSTIS used emergency procedures to close a number of “services” which involved the spamming of messages saying “ Someone fancies you – call 090 xxx to find out who” or “I have missed you lots – call me on 090 xxx”. These messages were spammed to millions of handsets – many held by children and, at one point, co-incided with the disappearance and subsequent murder of two girls aged 10. This upset a number of parent and attracted wide media criticism.

We have had examples of **sexually explicit Internet sites which can be accessed via a series of reverse bills** ( see sex.com which offers access in exchange for 4 text messages worth US \$ 10.00).

Some of these sites with or without charge mechanisms contain content which may be legal but which clearly causes grave and widespread offence, debases and degrades those involved and promotes dangerous activities. . One recent example ICSTIS has handled related to a rape site located in Russia but operated by a service provider in the Netherlands, seemingly located there to circumvent national rules under the jurisdictional provisions in the e-commerce directive.

With **multiple text messaging** as a form of payment there is an increasing risk that children will find they have been charged for 2-3 messages (for say US \$ 6.00) but do not have the pre-pay credit for the fourth (and final) US \$2.00 message needed to buy some form of product or service. Often the children have lost the initial \$6.00 but received nothing in exchange. It is still not clear where the income comes to rest in these cases – with the network or with the content provider? What is clear is that networks have no mechanisms in place to re-credit consumers in the event of any kind of problem.

### **Impressions and conclusions**

1. We are just at the beginning of what mobile telephony will do....even if “3G” and wireless Internet is a long way off in the UK/EU.
2. At the same time – beware getting carried away. Killer applications – on PC devices its typed chat, on phones its voice and txt chat, on television its television.
3. For most a phone is a phone in a phone.
4. That said, people – especially children – are ready to use their mobile phones – SMS- as a form of pre-payment or credit facility for goods tangential to or remote from the phone....we certainly see smart business players eyeing this prospect
5. SMS / reverse bill payment will be used for MMS/visual content with little scope for cost/content warnings.
6. Micro-billing is at least part of the equation for limited 3G services in the UK now--“subscription plus”.....”3” offer is \$95 for calls, texts plus about 50 “events”a month.
7. Consumers are having to be more self-sufficient in managing inappropriate content, contact issues so far and commercial offerings. Networks and retailers are becoming less fixated on handset and contract deals.....but there are still serious informational and education gaps in relation to managing content.

## Children

Children can and cannot be categorised. It is no longer possible to make simple distinctions between products for children.....games, ringtones, sports scores, music downloads? Many products in the mobile world may seem to be youth products, but are they ?

Does this mean youth products should be subject to spend limits and special advertising rules?

This is not our approach generally. We only cap spending and require child warnings (on the need for permission and the need avoid re-dials) when a service is clearly targeted at children—i.e. in children's TV or in magazines for children.

Chat--- Is chat "different" ? . Children are always chatting online.....often in closed Instant Messaging groups.

To date we have not allowed any premium rate chat service to be marketed to children. Phone and text services have age messages to scare children off.

But are we worried about the potential cost?, About what the kids might hear? Or about who they might meet on-line and in person.....is it cost, content or contact , or some mix of the three.

We are doing qualitative and quantitative research now on children and SMS services. Top line qualitative reports suggest that even if its not possible to define children's services it is possible for parents to set out what they do and do not want children doing with mobile content.....

- 87% of those in focus groups argued for age limits (16 or 18 for kids on text chat.,
- 93% want mobile safeguards – but only 33% claim to be aware of any safeguards available
- Around half would pay (a few dollars) for safeguards
- Adult concerns over unsolicited spam were over inappropriate contacts but kids were more worried or annoyed by commercial rip-offs

Our general finding with children and content – mobile or otherwise - is that they are a **lot more streetwise** about commercial offerings than we imagine.

They are far less paranoid or worried about inappropriate contact and they are far more techno-literate than their parents.

But having confidence and the competence to use technology and does not mean children have the maturity necessary to decide what they should and should not be seeing and should and should not be doing.

Taking the text chat example our conclusion to date has been that it would be irresponsible of a regulator of a potentially high cost charge mechanism to make it available specifically to enable a business to charge children for talking to strangers.

We recognise children do this on the Internet all the time. In a different “unlicensed” world where regulatory and industry controls may be limited that may be a situation which is unavoidable but to create this in a “paid environment” – especially one which is moving towards visual content exchanges and, perhaps, locational information is another matter.

### Final thoughts on cost, content, contact , mobiles and regulation :-

These are different problems requiring different solutions and the involvement of different bodies.

**Cost** is a shorthand for consumer protection from misleading services and promotions, absent pricing, spamming, in appropriate promotions, services which fail to disconnect, networks meeting their contracted undertakings.

Consumers need to have the understanding of how services and phones work to manage their purchases but they – and child consumers in particular are entitled to expect they are served by effective regulatory arrangements which ensure information is given , harms are stopped, malpractice is punished, redress or dispute resolution is at least a possibility.

This is probably based in part on domestic and EU law but is, in any event a legitimate expectation. In the UK PRS world we have spend limits for those (fewer) products we can now identify as specifically targeted at children.

Protection like this is not something consumers can do for themselves or something which can be left to those in the sector whose chose to act responsibly.

The picture may change again if mobile phones do turn into credit tools with new banking tie-ups and credit lines. But have mobile networks really thought where children fit in this equation?

**Content regulation** ....controlling access to sex, chat or other stuff inappropriate for children is more difficult. We have clear and absolute rules about children accessing these services but we are not social arbiters – it cannot be for us to decide what can and cannot be offered on handsets to adults.

It is dangerous for a consumer protection body to seek to set its own levels of social tolerance. Our aim generally is to ensure our regime reflects established levels of social

acceptance (we take particular account of national film agency content ratings and age limits on children and sex content in retail outlets etc). We expect services to be consistent with their promotions – the “sweet chat” services should not take me to a service which has hard core and abusive language.

What we do have to think about is whether we need to be more challenging in our safeguards OR less liberal in the content we allow because the payment mechanism is ubiquitous and capable of turning a screen into a porn clip by the transmission of a single short code?

So far our focus has been on safeguards..... The ability to prevent access with certainty are limited without the active participation of those with the technical ability and contractual and commercial positioning to do it – networks.

## **Contact**

Is every parent’s nightmare. We have to recognise, however, that telephony and mobile telephony is at the heart of a multitude on chat and dating services. Every British newspaper is full of services – including the Times and Guardian! We have a generation around us whose parents quite possibly met on the Internet.

If chat and dating services could involve contact there are clearly things which can be done to ensure this happens safely. We reflect these is the practices we ask of service providers of adult services --- ( tell users not to give out personal details or numbers, tell them not to talk with those with whom you feel uncomfortable, tell them that if they plan to meet to use a public place etc ) But the messages are not specific to us.....and are not limited to adults (for us) or children (for others!).

All those with an interest in this area have to agree on and communicate messages in a way people can respond to.



## **This takes me to me final conclusion**

- the days of quick fixes and simple single solutions are over.
- The days of genuine internationalisation of services may be arriving with new interconnect arrangements and less absolute network control over the content they allow their customers to access
- This “content is king” message could result in increased “regime shopping” – content/service providers seeking to locate in jurisdictions where there is less or no regulatory risk to their activities, however objectionable they may be
- Parents cannot ask networks to solve the problems. Networks cannot blame regulators. Regulators cannot blame schools or industry.
- We do need a frame work of regulatory protections – and its possible this will be based predominately in the non-statutory sector to deal better with internationalisation
- We also need new innovative and collaborative work on “media literacy”....consumer education and information. This should be delivered by those best resourced, best skilled and best placed to achieve results – this in not likely to be state agencies or regulators.
- We need networks and their commercial partners to think about the ongoing consequences of not being a phone company but of being a content aggregator or provider.
- We need Governments to get past simplistic and ritualistic remarks about “not regulating the Internet” and “empowering consumers”.
- We need to get those with unique ability to provide consumers with access controls to step up and play a leading role.
- We all need to stop and listen to what children are saying understand what they are doing – I do not think they are running scared and do not think we should be doing so either.

Working together to educate, inform, empower, establish social standards and general entitlements and provide effective protection when necessary we can see phones become an essential tool in life.

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