



Help Note for avoiding misleading promotions Version 1: November 2006

Introduction

This ICSTIS Help Note is to assist service providers in achieving compliance with our Code of Practice. It is a non-binding document and does not form part of the Code of Practice.

Service providers seeking clarity about the application of any Code provision to a particular service are strongly advised to contact the Executive **before** starting to operate the service.

Section 5.4 of the Code sets out provisions relating to fairness. Section 5.4.1a specifically deals with misleading services and promotions. There is a separate Code provision and Help Note on inappropriate promotions.

What is meant by unfair?

Issues relating to the provision of misleading advertising and promotions are the most commonly upheld breach of the ICSTIS Code. It should be remembered that ICSTIS' definition of a promotion is widely drawn to include anything where the intent or effect is, either directly or indirectly, to encourage the use of premium rate services. Promotions are not limited to paid-for advertising under this definition. It includes editorial promotions in publications and broadcast media, direct marketing, leaflets, posters and even a live agent giving out a premium rate number for consumers to call.

All promotions must be 'legal, decent, honest and true', and be prepared with a sense of responsibility to consumers. Any claim made in a promotion must be able to be substantiated. If a service provider cannot do so, it may find itself in breach of the ICSTIS Code.

When will ICSTIS consider a promotion or service to be misleading?

If consumers are to use premium rate services with trust and confidence it is important that they have available all the key relevant information about a service as part of their consideration of the call to action. In essence, the consumer must be able to make an informed choice as to whether or not to take part in the premium rate service. Any claims, offers or enticements to attract consumers to engage in a premium rate service should not mislead them by stating an untruth or half-truth or through failing to state or not make sufficiently prominent an important term or condition likely to affect their decision to use the service.

Examples of where we have found promotions/services to be misleading

Consumers can be misled in many different ways. The following are examples of Code breaches by service providers:

- A premium rate SMS service that did not make clear that consumers would be entering a subscription service.
- A service where the promotional material stated that “*No credit card needed. Just a short call to hear your password.*” The short call cost the consumer £10.
- A text message advertising a competition service suggested that the recipient was being invited to enter a competition to win a mobile phone. However, it appeared that rather than advertising a competition, the text message was advertising a sales promotion, where the purpose of the message was to gather data and offer a mobile phone and associated package. This was not made clear to the consumer.

Compliance Advice

Compliance advice is available, free of charge and in writing, from the Executive. Please note that Executive advice is not binding on the Board, although a record of advice is maintained and taken into account should a service later be found to be in breach of the Code.

Further information

Contacting the Executive:

ICSTIS
Clove Building
4 Maguire Street
London
SE1 2NQ

Tel: 020 7940 7474
Fax: 020 7940 7456
E-mail: compliance@icstis.org.uk
Website: www.icstis.org.uk