

~~CENSORED~~

NATIONAL CAMPAIGN FOR THE REFORM
OF THE OBSCENE PUBLICATIONS ACTS

N C R O P A

FIGHTING SEXUAL CENSORSHIP

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NO/DAW/DP

29th April 1993

The Secretary,
The Independent Committee for the
Supervision of Standards of
Telephone Information Services (ICSTIS),
Kingsbourne House,
229-231 High Holborn,
London,
WC1V 7DA.

Dear Sir,

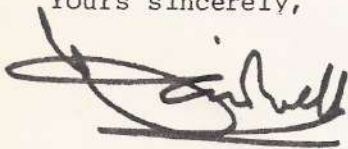
ICSTIS - Revised Code of Practice (Sixth Edition)

I herewith submit the comments and representations of the National Campaign for the Reform of the Obscene Publications Acts (NCROPA) on the proposals for your revised Code of Practice for telephone information service providers.

Whereas the NCROPA is not against appropriate, moderate regulations to protect both the consumer and supplier, it is implacably opposed to measures which impose any form of censorship (except in a few, very limited, special circumstances). As you will see, this view is reflected throughout our submission.

As a completely independent, predominantly consumer-orientated organisation (see enclosed leaflet), the NCROPA very much hopes that its views will be afforded the appropriate high priority consideration they warrant by the ICSTIS.

Yours sincerely,



David Webb,
Honorary Director,
National Campaign for the Reform of the Obscene Publications Acts

Enclosures

ICSTIS - REVISED CODE OF PRACTICE (SIXTH EDITION)

SUBMISSION OF THE NATIONAL CAMPAIGN FOR THE REFORM OF THE
OBSCENE PUBLICATIONS ACTS (NCROPA)

29TH APRIL 1993

PART ONE - GENERAL REQUIREMENTS

- 1.3 The meaning of this sub-clause is obscure. The words "characteristic" and "circumstance" should be clearly defined.
- 1.6 The requirement that undertakings of confidentiality given by service providers to callers must be breached at the ICSTIS's behest is totally unethical and unacceptable. This sub-clause should be deleted.

PART TWO -CONTENT

2.2 Decency

- 2.2.1 This sub-clause is quite unacceptable, imposing as it does ridiculous and impossible restraints on the service provider. There is virtually nothing which in some way or another, will not 'offend' someone else. To impose a 'yardstick of offensiveness' based on all, when telephone services are clearly provided for a multitude of widely differing tastes, needs and desires, would be absurd. In any case, the matter is already embraced in the Code by Section 1.2 under "General Requirements" which requires that services "must not contain anything which is in breach of the law." This sub-clause should be deleted in its entirety.
- 2.2.2. For similar reasons to those given above, this sub-clause should be deleted. (What exactly is "foul" language, anyway - and "foul" to whom?)
- 2.2.3 This sub-clause is unacceptable. Prostitution is not a criminal activity and prostitutes should not be prevented from promoting and pursuing their chosen occupation in the same way as any other lawful business activity. This sub-clause should, therefore, be deleted.

2.4 Numbering of Services

- 2.4.2 There is no reason per se why sexually-orientated visual images should be proscribed, as long as they comply with the law and the other relevant provisions of this Code. The inclusion of this sub-clause smacks of inherent prudery and prejudice against anything with a sexual content. It should, therefore, be deleted.

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PART THREE - PROMOTION

3.3. Decency

- 3.3.1 This sub-clause should be deleted for the same reasons given previously (See 2.2.1). Furthermore, promotions for such telephone services will, in any case, be subject to the provisions of the Obscene Publications Acts and other relevant censorship legislative measures currently in force (notwithstanding that there are a great many, including the members of the NCROPA, who believe such State censorship laws are themselves an out-moded, repressive and intolerable imposition on U.K. citizens).
- 3.3.2 This sub-clause should be deleted for the same reasons given previously (See 2.2.2.).
- 3.3.3 For the reasons given above, this sub-clause should, likewise, be deleted. It is quite improper that the Code should ostensibly seek to extend and add to that which the NCROPA already regards as totally unacceptable State censorship legislation.

PART FOUR - RULES APPLYING TO PARTICULAR CATEGORIES OF SERVICES

4.1 Children's Services

- 4.1.2 The words "All children's services that can cost more than 50p must be prefaced by a short statement clearly stressing that the service should only be used with the agreement of the person responsible for paying the telephone bill.", should be deleted. Carried to its logical conclusion, the thinking behind this bizarre piece of ICSTIS 'nannyism' would mean, for example, that all electricity supply companies should require notices under every light switch stressing that the (electricity) service should only be used with the agreement of the person responsible for paying the (electricity) bill! The behaviour and conduct of a child in its home is the responsibility of its parent(s) or guardian - not of the electricity company - nor of the ICSTIS!
- 4.1.3 Delete the words "... and stressing that it should only be used with the agreement of the person responsible for paying the telephone bill", for the reasons given above and because this is what John Cleese would surely regard as a classic example of the art of stating the bloody obvious! It is the equivalent of a requirement for all shops to display a notice stating that 'All purchases must be paid for"! (Children who use their parents' - or anyone else's - telephones without permission are stealing. Stealing is a criminal act and is covered by the Theft Act.)
- 4.1.8 The term "reasonable parent" is unacceptably imprecise. It is impossible to define specifically what a "reasonable" parent is. No doubt each and every parent believes him or herself to be "reasonable". This effectively renders the sub-clause meaningless and it should thus be deleted.

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4.3 Advice Services

- 4.3.3 The second sentence of this sub-clause is completely unacceptable. That a medical advice service should be proscribed because it contains material which some people might find "sexually titillating" is absurd. As any bona fide psychologist knows, sexual titillation manifests itself in many shapes and sizes and in all phenomena and forms. It is an entirely subjective effect and impossible to categorise in this absurd way. Therefore, the words "Medical Advice services must not contain any material that may reasonably be interpreted as sexually titillating" should be deleted.

4.7 Contact and Dating Services

- 4.7.3 This sub-clause seems to be somewhat of a contradiction in terms. Advertisers wishing to use such services do so of their own free will and the extent of the details and information they may wish to impart in their messages should be their own business. The requirement that their messages should be vetted by the service provider is an unacceptable intrusion into individual freedom of choice. Furthermore it is totally unacceptable that they should not be allowed to include telephone numbers, addresses or any other means of contact if they so wish. The whole sub-clause should, therefore, be deleted.
- 4.7.6 This sub-clause imposes a further unnecessary (and arguably potentially dangerous) restriction of legitimate trade. It should be deleted.

4.8 Services of a Sexual Nature

- 4.8.1 In line four, the words "serious and responsible" should be deleted and replaced by the word "professional". The implication of the present draft wording is that "services of a sexual nature" are all necessarily flippant and irresponsible. This is not so.
- 4.8.3 There is no reason why services of a sexual nature should not include a visual component of any sort. Provided that U.K. censorship laws are not infringed and that the ICSTIS Code of Practice is otherwise adhered to. The wording of this sub-clause should, therefore, be amended to incorporate this provision.
- 4.8.5 Neither of these options is acceptable to us as presently constituted.

Option 1. It would be an outrageous curtailment of freedom of expression, freedom of choice and freedom of the market-place to restrict advertisements and/or promotions for services of a sexual nature to so-called "top shelf publications"*. The pursuit of sexual gratification and thus material and publications about 'sex' is a perfectly natural, instinctive human phenomenon. The inclusion of this sub-clause in the Code of Practice indicates an absurdly irrational and authoritarian refusal by the ICSTIS to accept this fact and also a smug inference

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that items of a sexual nature are intrinsically unsavoury and unwholesome.

The NCROPA does have a little sympathy with those receiving unsolicited publications which contain promotions of services which cause them offence, but it does not extend to support for the overall, blanket proscription of such promotions. Any possible offence caused (damage from which is, we believe, in any case hugely exaggerated by a highly-active minority of 'puritans', bigots and kill-joys) does not warrant so drastic a measure as incorporated in Option 1. Option 1 is, therefore, totally unacceptable and should be deleted in its entirety.

Option 2. As expressed earlier (See 2.2.1), there is virtually nothing which, in some way or another, will not "cause offence" to someone. In a 'free society' the notion that anything which may (or would be "likely to") offend someone should not be permitted, is as inherently wrong as it is absurd, (notwithstanding that it is often no bad thing for someone to be 'offended'). It is certainly an utterly improper criterion on which to base acceptability or otherwise of advertising and marketing material of any kind. (e.g. Many atheists are 'offended' by the pernicious propaganda which is thrust at them from all directions by various religious denominations and sects, but they neither desire nor expect such promotions to be prohibited - and neither would it be right for them to do so in a 'free society'.) For the comparatively small minority of people who are 'offended' by sexually-orientated material, that is their problem. It is not - or indeed should not be - the problem of the publisher. Option 2 is also, therefore, totally unacceptable, (although marginally preferable to the appalling Option 1, perhaps).

* The footnote definition of "top shelf publications" is shamefully prejudicially and improperly judgemental because of the inclusion of the word "indecent", a term which is capable only of entirely subjective interpretation. The definition is also imprecise and inept insofar as the placing of such publications on "the top shelf" is entirely a matter for each newsagent's (or other vendor's) individual choice. May we also remind the Committee that the provisions of the Indecent Displays (Control) Act 1981 render the display of any "indecent" matter in any ordinary newsagents-type shop illegal in the first instance - unless there is a prescribed form of warning notice displayed and appropriate exclusion measures for those under 18 years.

4.8.6 This sub-clause, which qualifies Option 2, is far too restrictive (for the reasons given in 4.8.5., Option 1) and thus not acceptable. It should, likewise, be deleted.

PART FIVE - PROCEDURES AND SANCTIONS

5.3 Emergency Procedure

5.3.1 In line three of this sub-clause, the words "or otherwise to

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require urgent remedy" are too wide and imprecise. If there are any other real 'dangers' the ICSTIS envisages, they should be specified here to replace these words - otherwise the words should be omitted.

5.5 Oral Hearing

5.5.1 The right to oral representation should be afforded all parties at all times and not simply at the discretion of the ICSTIS. This sub-clause should therefore be amended to accommodate such a right.

HOW TO COMPLAIN

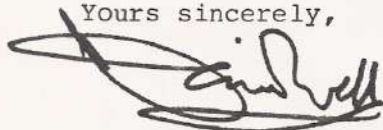
The first sentence of the final paragraph is quite unacceptable. The granting of anonymity to complainants is totally unethical in a free and open society and is wide open to abuse. As in law, complainants must be accountable for their own actions and prepared to accept and acknowledge them openly and publicly, if necessary. The words "The anonymity of all complainants will be preserved unless the Secretariat has express permission to the contrary." should, therefore, be deleted.

This concludes the representations of the National Campaign for the Reform of the Obscene Publications Acts (NCROPA) which we commend to your Committee.

As a staunchly anti-censorship organisation, campaigning mainly for freedom of sexual expression in this already grotesquely and uniquely censor-saturated country, our chief concern is with telephone services of a sexual nature - and most particularly with the horrendous implications of your proposed clause 4.8.5. We therefore strongly urge you especially to accept our comments on this crucial clause and thus to reject it.

We would, of course, be happy to make personal representations before your Committee if you so wish.

Yours sincerely,



David Webb,
Honorary Director,
National Campaign for the Reform of the Obscene Publications Acts