



# Telemedia

Legal and Regulatory Issues

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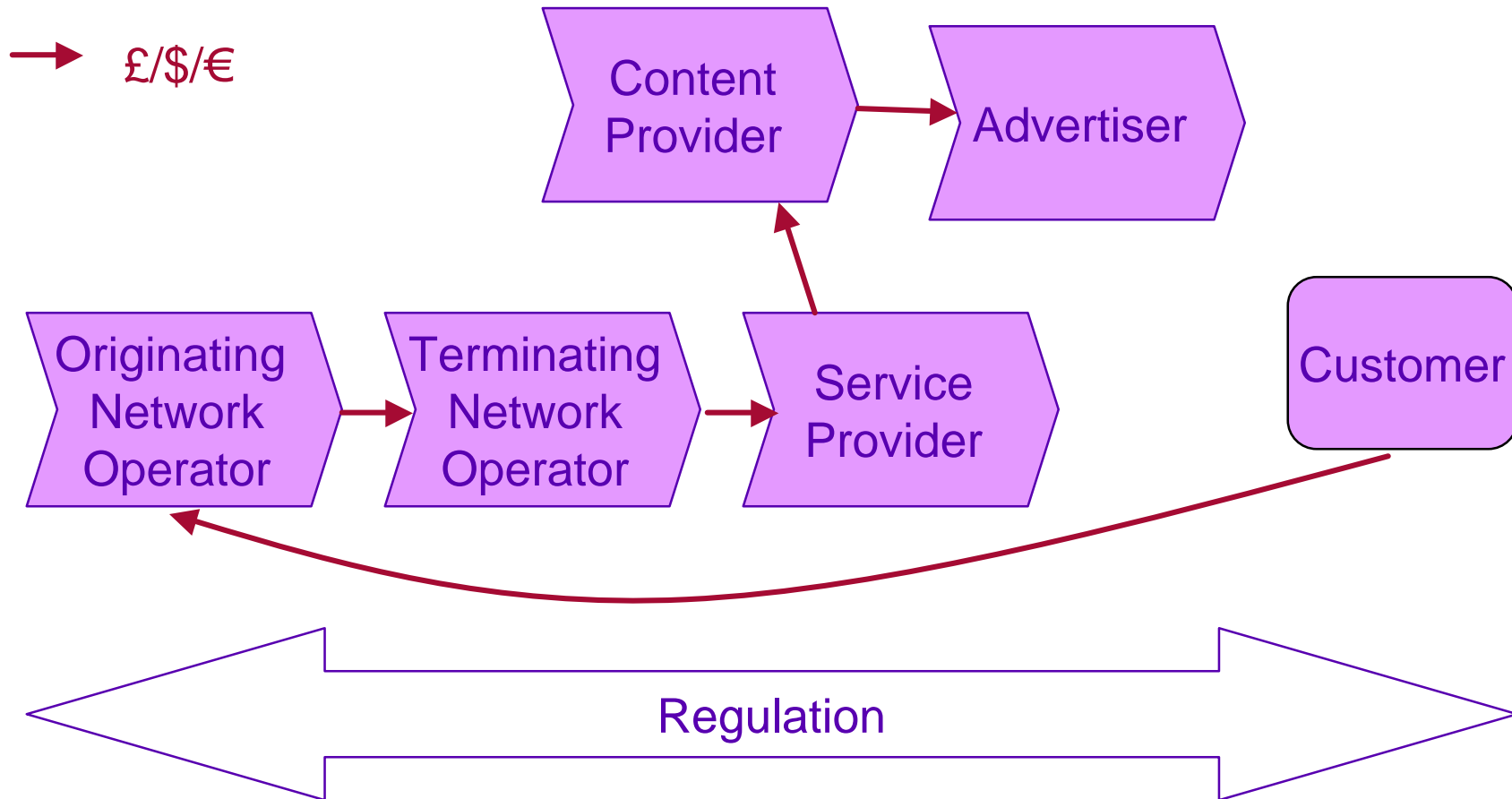
# Agenda

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- Value chain
- What is the point of regulation?
- Overlapping web of rules and laws
- Revenue share
- Opt-in
- Questions



# Value chain





# What is the point of regulation?

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- Governments intervene if:
  - Market failure
  - Public interest
  - Consumer protection
- ...so wide spread of overlapping rules
  - Some harmonised across EU, some not
- You need to understand
  - What you can / cannot do?
  - For what you can do:
    - Constraints on how
    - Impact on revenues and costs



# Overlapping Laws and Regulation

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- Electronic communications
- Privacy and data protection
- National premium rate regulation e.g. ICSTIS
  - Content
  - marketing
- Ownership and licensing of content: IP
- Advertising rules and regulation
- Vertical regulation
  - Financial services, gambling, etc



# Revenue Share

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- In the absence of regulation, matter for commercial negotiation between:
  - Originating and terminating network operators
  - Terminating network operator and service operators
  - Service operator and content provider
- Who “owns” customer?
  - Controls access
  - Takes “margin”
  - Different models



# Opt-in

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- To services...
  - General electronic communications obligations
  - “Market power” ex-ante regulation?
  - General competition law
- To marketing
  - No spam
  - SMS and MMS are “emails”
  - in force from last Friday...



# Any Questions

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- ...over to you





# Thank you

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# Appendix

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- Spam
- Advertising
- Vertical regulation
- ICSTIS code of practice



# Prohibition of Unsolicited Communications

- Prior consent before sending direct marketing email
  - email: “any text, voice, sound or image message sent over a public communications network which can be stored in the network or the recipient's terminal equipment until collected by recipient” - includes SMS, MMS
- Unless
  - electronic contact details obtained, in the context of the sale of a product or a service in accordance with Data Protection law
  - then, the same person may use these electronic contact details for direct marketing of its own similar products or services
  - provided that customers clearly and distinctly are given the opportunity to object, free of charge and in an easy manner, to such use of electronic contact details when they are collected
  - and on the occasion of each message in case the customer has not initially refused such use
- n.b. In UK mail, telephone and fax preference schemes are “opt-out” for non-email direct marketing



# Advertising Regulation

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- Differs by country
- In UK
  - Advertising Standards Authority
    - Codes of advertising and sales promotion
  - OFCOM
    - Regulation of TV and radio advertising s 319-328 Communications Act



# Service Specific Regulation

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- Financial services
- Gambling
- Lotteries
- Games
- Competitions



# ICSTIS

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- Independent Committee for the Supervision of Standards of Telephone Information Services
- Now on statutory basis
  - S120-125 Communications Act
  - OFCOM set conditions for provision, content, promotion and marketing of premium rate services
  - Ninth edition of code of practice
    - Applicable to service operators
    - Sanctions applied via terminating network operator payments



# ICSTIS Code of Practice Pre-conditions

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- Applies to premium rate services accessed in UK except:
  - Those costing up to and including 10 pence except
    - Sexual services always regulated
    - Chatlines always regulated
- Before providing service, service providers must:
  - Notify ICSTIS of telephone numbers to be used and contact details
  - Use correct number range for service
  - Collect documentary evidence to support any claims
- ICSTIS prior permission required for certain categories of service (esp “live” services: e.g. chat, sex, counselling)
- Service provider must
  - Notify Office of Information Commissioner; and
  - Ensure that they can provide all any information to ICSTIS
  - Comply with advertising regulation
  - Not reuse numbers if new service may cause offence



# ICSTIS Code of Practice Content

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- Services and promotional material must not:
  - Contain material indicating violence, sadism or cruelty, or be of a horrible or repulsive nature
  - Involve the use of foul language
- Services and promotional material must not, or must not be likely to:
  - Result in invasion of privacy
  - Induce an unacceptable degree of fear or anxiety
  - Encourage or incite any person to engage in dangerous practices or to use harmful substances
  - Induce or promote racial disharmony
  - Cause grave or widespread offence
  - Debase, degrade or demean
  - Promote or facilitate prostitution





# ICSTIS Code Marketing

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- Services and promotional material must not:
  - Mislead, or be likely to mislead, by inaccuracy, ambiguity, exaggeration, omission or otherwise
  - Be such as to seek to take unfair advantage of any characteristic or circumstance that may make consumers vulnerable
- All promotional material should clearly state price
  - May also be subject to distance selling directive rules on prominence
  - Spoken as well as printed if on TV and over £2
  - Exemption for service less than 50p
  - If consumer unlikely to have seen promotional material, short recorded message at beginning of call



# ICSTIS Code of Practice

## More Detailed Rules

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- Additional specific requirements apply to:
  - Live services
  - Children's services
  - Competitions and games
  - Employment services
  - Advice services
  - On-line services
  - Pay for product services
  - Sexual entertainment services
  - Fund-raising and charitable promotions
  - Consumer credit services
  - Betting tipster services
  - Virtual chat, contact and dating services



# ICSTIS Code of Practice Sanctions

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- Range available to ICSTIS
  - Require breach to be remedied
  - Impose prior permission requirements
  - Fine (collected via network operator)
  - Bar use of numbers
  - Bar service provider and associated individuals from providing any services
  - Require payment of compensation