

Codes of practice – criteria for assessment and guidelines for content

17 February 2003

Chapter 1

Introduction

1.1 The codes of practice initiative flows from five main sources:

- The work that the industry has been doing on a voluntary basis with Oftel on areas such as disconnections, CPS sales and marketing and mobile services for consumers with disabilities;
- The Communications White Paper's call for the industry to come forward with effective codes of practice before the introduction of legislation;
- The Communications Bill's proposal that there should be mandatory codes of practice for complaint handling and dispute resolution;
- The government's ongoing commitment to codes of practice as demonstrated by the Enterprise Bill and OFT's work in this area; and
- Article 33 of the Universal Services Directive (USD) which states: "Interested parties may, with the guidance of national regulatory authorities, ... mechanisms to improve the general quality of service provision by, *inter alia*, developing and monitoring codes of conducts and operating standards."

1.2 It should be noted that throughout this process Oftel's position has been to encourage the industry to fulfil these expectations in the interest of avoiding potentially costly and intrusive regulation.

1.3 These codes of practice will provide further consumer protection by plainly describing the relationship between providers and consumers. Therefore, it is essential that Oftel has a clear and transparent process for assessing whether the codes of practice are in the consumer interest. This paper outlines Oftel's view of good practice in this area in order to facilitate the production of such codes.

1.4 This paper comprises three main parts:

- **Criteria for assessing codes of practice** – these criteria (contained in section two of this document) have been produced by Oftel following consultation with the industry and consumer representatives. Oftel (and later Ofcom) will use these criteria to assess whether the codes put forward by the industry can be approved;
 - **Purpose of industry guidelines** – produced by the fixed industry, this statement (contained in section three of this document) provides an introduction to the purpose of the codes of practice and the guidelines; and
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- **Industry guidelines** – these are contained in the annexes. So far two sets of guidelines have been produced – one by fixed providers and another by mobile providers. These guidelines form the template for any codes of practice to be produced.

Definitions

1.5 It should be noted that this document uses definitions used in the Communications Bill and the relevant General Conditions. Therefore:

- a) “Consumer” or “customer” means a residential consumer or a small business or organisation with up to 10 employees or volunteers, excluding businesses that are themselves providers of electronic communications services.
- b) “Provider” means a provider of publicly available electronic communication services or networks.

Changes to this guidance

1.6 This guidance has been agreed between the industry, consumer representatives and Oftel. However, as issues change it may become necessary for these guidelines to be amended from time to time. In this situation, Oftel will carry out a similar exercise with providers and consumer groups as used to develop these guidelines.

Chapter 2

Criteria for assessing codes of practice

2.1 This section details the way in which Oftel will assess whether codes of practice are fit for purpose. This fulfils the role of a code sponsor as defined in the OFT's core criteria on codes of practice. This role would usually be fulfilled by an industry trade association or similar organisation. As there is no single trade association for the communications industry and one of the driving forces behind the process is the government's desire to see codes of practice, it is appropriate for Oftel (and later Ofcom) to fulfil this role.

2.2 It should be noted that the codes of practice regime outlined in this guidance differs in certain respects from the OFT's core criteria on codes of practice. In certain markets (eg double glazing, dry cleaning, used car sales) a code of practice could contain a single set of principles, targets and promises to be met by all participants. However, due to the variety of types and size of communications providers and the range of services, it was decided that a "one size fits all" approach to codes of practice would not be appropriate. Therefore, these are guidelines which each provider can use to produce its **own** code of practice. These codes should be publicised as such rather than risk confusing consumers over the purpose of the codes of practice. However, it should be noted that the overall principle of the initiative is that providers should as a matter of good practice use their codes of practice as a means of providing consumers with a level of service and protection above and beyond their statutory rights.

2.3 Given this issue above (2.2), there have been discussions about whether we should use a phrase other than "code of practice". However, Oftel believes that any other phrase, eg code of conduct, etc, would be more likely to confuse than clarify. This issue should be resolved by providers making clear what the purpose of their code of practice is.

Meeting the requirements of the industry guidelines

2.4 It is the responsibility of the industry to produce the industry guidelines. Please see section 3 and Annexes.

2.5 Oftel was asked by representatives of the fixed industry (who had developed the first set of industry guidelines) to identify those issues that it would regard as fundamental to an adequate code of practice. Therefore, these issues are identified in the Industry Guidelines by asterisks. However, Oftel recognises that no two communications providers are identical, therefore some asterisked items may not be appropriate to all providers.

Branding issues

2.6 Some providers have more than one customer-facing brand. In these circumstances it is important that the code of practice refers to the brand recognised by the customer. However, if there were no difference between the service offered under different brands, Oftel would be prepared to approve a single draft code that could then be branded differently when published or published referring to all the relevant brands.

Other criteria

2.7 For the codes to be effective there are other issues that – although not part of the content – should be considered when assessing codes, eg presentation, dissemination, etc. When a communications provider applies for approval, the provider should enclose a covering letter as well as the text of the code. This letter would outline how the provider plans to cover the following issues.

Processes for reviewing and updating contents of codes

2.8 Providers will have to ensure that changes that impact on their codes of practice are appropriately dealt with so that consumers receive accurate and up to date information. Providers should describe how they intend to ensure this.

2.9 There is no single best way for providers to review and update their codes. For example, a provider could commit to revisiting and updating their code on regular basis (eg every six months, every year). Or a provider could commit to keeping a log of any changes to their procedures that would impact the code and updating when appropriate. Also, if there are minor changes but a physical update of a code was not justified by the change, providers could update the code on their website or send consumers a note informing them of the change.

Plain language

2.10 The codes should be easily understood by consumers. This means using plain English is essential. Legal terminology or scientific jargon can prevent consumers understanding documents. Clear, short sentences in well produced documents are best for keeping consumers informed about services and policies.

2.11 As far as the use of plain language is concerned, it would be advisable to have either the *Plain Language Commission* or the *Clear English Campaign* to certify the language of the code. This will reduce the administrative burden on both communications providers and Oftel (and later Ofcom) for measuring this criteria.

Accessibility to disabled and elderly consumers

2.12 Under the Disability Discrimination Act, all companies – not just communications providers – that provide services to the public are obliged to avoid discriminating against disabled consumers. Companies must also take reasonable steps to change any practice, policy or procedure that makes it impossible or unreasonably difficult for disabled persons to make use of their services. Companies are also under a duty to take reasonable steps to provide an auxiliary aid or service if it would enable disabled persons to make use – or facilitate their use – of a service which is provided to members of the public.

2.13 Therefore, providers should take these issues into account when preparing and publishing codes of practice. There are several sources of advice for this including Ofcom document *Communicating with customers who are disabled – A guide for telecoms companies* (www.ofcom.gov.uk/publications/consumer/gpm0901.htm). Additionally, the HMSO publication *The Informability Manual* provides guidance on good practice for communicating with consumers who are disabled.

2.14 Some issues that should be considered are:

- how consumers with disabilities can learn of the existence of the codes;
- producing all information in an accessible way, eg good line spacing, using size 12 fonts, left-justified alignment, sufficient contrast between type and background, etc;
- availability of codes in alternative formats, eg large print, Braille, audiotape; and
- how such commitments will be fulfilled, eg on demand or holding versions in stock.

Adequate publicity and dissemination

2.15 In order for codes of practice to be meaningful, consumers must be aware of them. Again this could be carried out in a number of ways depending on the customer base of the provider, the services offered, etc. For example, the methods used by a mobile operator to inform prepay consumers could be different from how they would inform contract consumers receiving a regular bill. Codes of practice could be enclosed in bills or referred to on the back of bills. They could be placed on websites. Codes could be sent on demand to customers or mailed out to all consumers at regular intervals. A disconnections code of practice could be sent to all consumers receiving a late payment reminder or demand.

2.16 The essential guideline is that all providers must find appropriate ways to make their consumers aware of the existence of the code (and any updates to them) and actually distribute these Codes to them. Oftel welcomes any kind of suggestion regarding publicity and invites the industry to be creative in the ways that code will be published. As a minimum Oftel would expect any code of practice to be placed on providers' websites.

2.17 However, regardless of the method chosen by an operator, it is essential that codes of practice are also available free-of-charge on demand.

Timescales for approval

2.18 The speed with which Oftel will be able to approve codes of practice will depend on a number of factors, eg the size of the codes of practice, the number of codes put forward for approval at the same time, whether codes already have plain English sign-off, etc. However, where possible, Oftel will aim to turnaround codes of practice within one month of receiving them.

Monitoring and enforcement

2.19 Providers will be responsible for ensuring compliance with their own codes of practice. The obligation in the General Conditions will be on providers to establish and abide by their codes of practice.

2.20 However, it is worth noting that the Telecoms Ombudsman will take any appropriate code of practice into account when reaching a decision on a dispute. Additionally, Oftel (and later Ofcom) will monitor codes of practice across the industry via Consumer Protection Policy Reviews (CPPRs – see www.oftel.gov.uk/publications/about_oftel/2002/cppr0602.htm for further details).

Chapter 3

Purpose of industry guidelines – produced by fixed industry representatives

3.1 These “Guidelines” [see Annexes A and B] are intended to help all suppliers develop their own individual Codes within a general agreed framework. Different sections may be more (or less) applicable to different suppliers depending upon their range of consumer offerings, and their position within the overall UK communications marketplace. Codes from separate suppliers are, therefore, not intended to be identical – unless the providers involved want that. They are intended to inform consumers about individual suppliers’ offerings, procedures, and policies, and to reflect the diversity of communications services and products available to consumers within the UK. As such the Code(s) are not intended as additional regulation on suppliers, but rather as an aid to better consumer communications and understanding. As such they should promote consumer rights and aid consumer protection.

3.2 The prime aim is to cover all the relevant areas, but it is up to individual suppliers what they include within the detail of any Code(s), whether they produce one comprehensive Code, or a series of area/activity-specific codes, and how these are produced and offered.

3.3 The production of a Code is, therefore, primarily aimed at providing consumers with a clear statement of the range of policies, services and support activities offered by individual communications suppliers. It should provide sufficient information for any consumer to understand the range of services available, how to contact the supplier in order to, for example, obtain a new service, clarify the provider’s terms and conditions, obtain support, or make a complaint.

3.4 The Code should be readily understandable by consumers, in plain English, and readily accessible.

Annex A

Code of practice guidelines developed by the fixed industry

Code Content:

The Code should ideally outline the following areas.

1. Who the supplier is (*)

- With a brief introduction to what they do and provide

2. The purpose of the Code (*)

- To inform customers of their relationship with the supplier

3. Contact details

- how to contact the supplier for a range of purposes, so a number of different contacts may be appropriate (*)
- contact details of related organisations - Oftel, ITC, ASA, ICSTIS, Ombudsman etc. (* **as appropriate**)

4. General philosophy

- The supplier may wish to offer comments on their general approach to business and customers

5. Range of services

- Outline description of the services available from the supplier, with appropriate contact details for further information (*)
 - Channels – brief description of how customers can access these services
 - Indirect Access – services via or with other operators
 - Directory enquiries
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6. Customer Service

General statement on what is available, with any guarantees, commitments, and levels of service offered, or where further information can be obtained,

- Direct sales practices, eg Doorstep selling/telesales (*separate guidelines due to be produced*) (***as appropriate**)
- Provision –ordering service
- Cancellation – ability to terminate service(s) (*)
- Repairs – having a fault fixed/targets etc (*)
- Reconnection – been away or re-joined etc.
- Pricing – details on how consumers can receive full tariff information, ie contact, website address, etc (*)
- Billing, including
 - Billing timeframes and cycles
 - Payment options, eg cash, credit card, direct debit, etc (*)
 - Itemisation (*)
 - Disconnections (for non-payment) process (*separate guidelines due to be produced*) (*)
- QOS – statement on quality/performance targets or standards provided
- Complaint handling process (*)
- Dispute resolution procedures (*)

7. Customer rights/obligations (* as appropriate)

- Number portability
- Data protection
- Terms & conditions – our mutual commitments
- Services for disabled and elderly customers
- Phonebook entry
- Call barring
- CLI

8. Communication with customers

- How the supplier intends to communicate with its current and potential customers – promotions, information and service
- Adherence to various preference schemes (TPS, MPS, FPS etc), DMA guidelines, and DPA requirements, for Marketing and Sales material and contacts
- Adherence to various marketing/sales guidance – eg ASA, ITC, ICSTIS
- General publication obligations – including availability, how customers can acquire the CoP, and in what formats – eg via the web, in paper format on request, and special needs requirements (*)

9. Social Responsibility

- Social and environmental policies
 - Protection/support of, and for, vulnerable groups – eg minors, disabled and elderly consumers, malicious calls (*)
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10. Approval and Review of Code(s)

- All codes to be reviewed on a regular basis in accordance with Oftel/Ofcom requirements

Key

(*) = Oftel believes that this should be included in a code.

(* **as appropriate**) = Oftel believes that this should be present in a code if offered or relevant.

No * = voluntary.

Annex B

Code of practice guidelines for the mobile industry

Code Content:

The Code should ideally outline the following areas.

1. Who the supplier is (*)

- With a brief introduction to what they do and provide

2. The purpose of the Code (*)

- To inform customers of their relationship with the supplier

3. Contact details

- how to contact the supplier for a range of purposes, so a number of different contacts may be appropriate (*)
- contact details of related organisations - Oftel, ITC, ASA, ICSTIS, Ombudsman etc. (* as appropriate)

4. General philosophy

- The supplier may wish to offer comments on their general approach to business and customers

5. Range of services

- Outline description of the services available from the supplier, with appropriate contact details for further information (*)
 - Channels – brief description of how customers can access these services
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6. Customer Service

- General statement on what is available, with any guarantees, commitments, and levels of service offered, or where further information can be obtained,
 - Direct sales practices, eg Doorstep selling/telesales (*separate guidelines due to be produced*) (***as appropriate**)
 - Cancellation – ability to terminate service(s) (*)
 - Repairs – having a fault fixed/targets etc (*)
 - Pricing
 - contact details for further information (*)
 - need to publicise (*)
 - Billing, including
 - Billing timeframes and cycles
 - Payment options(*)
 - Payment time-scales (for customers) (*)
 - Itemisation (*)
 - Disconnections (for non-payment) process (*)
 - QOS – statement on quality/performance targets or standards provided
 - Complaint handling process (*)
 - Dispute resolution procedures (*)

7. Customer rights/obligations (* as appropriate)

- Terms and conditions
- Number portability
- Data protection

8. Communication with customers

- General publication obligations – including availability, how customers can acquire the CoP, and in what formats – eg via the web, in paper format on request, and special needs requirements (*)

9. Social Responsibility

- Social and environmental policies (*)
- Protection/support of, minors; dealing with and malicious calls (*)

Key

(*) = Of tel believes that this should be included in a code.

(* **as appropriate**) = Of tel believes that this should be present in a code if offered or relevant.

No * = voluntary.
