



Protecting citizens and consumers from mis-selling of fixed-line telecommunications services

Notification of Modification to a General Condition

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Section 1

Summary

- S.1 'Ofcom' (the Office of Communications) exists to further the interests of citizens and consumers through a regulatory regime which, where appropriate, encourages competition. Effective competition delivers choice and lower prices to consumers as well as opportunities for new services and providers. However, consumers may need protection from inappropriate behaviour by certain providers that may undermine confidence in the market as well as causing individual detriment.
- S.2 An example of such inappropriate behaviour concerns the mis-selling of fixed-line telecommunications ('fixed-line telecoms') services which covers a range of sales and marketing activities, and includes 'slamming', which is where customers are simply switched from one company to another without their express knowledge and consent.
- S.3 Ofcom is committed to preventing problems with mis-selling of fixed-line telecoms services. It adopts a proactive role in tackling such problems by monitoring complaints data, and seeking to resolve problems with those companies whose activities generate the greatest volume of complaints. However, in the light of concerns that mis-selling of fixed-line telecoms services had been growing as a problem, Ofcom decided last year to consult on the effectiveness of current consumer safeguards.
- S.4 In April 2004, Ofcom published a consultation document on the effectiveness of current consumer safeguards which had been designed to protect consumers from mis-selling of fixed-line telecoms services. It is available on the Ofcom website at:
http://www.ofcom.org.uk/consult/condocs/mis_selling/mis_selling.pdf
- S.5 In the light of comments received in response to that document, Ofcom concluded that the balance of evidence, together with the risks to consumers should a serious problem arise, supported the conclusion that the current safeguards are inadequate to provide satisfactory consumer protection against the risks of mis-selling of fixed-line telecoms services. Accordingly, Ofcom published a statement and further consultation document in November 2004. This document included a consultation on a notification of a proposed modification to General Condition 14 on Codes of Practice and Dispute Resolution. It is available on the Ofcom website at:
<http://www.ofcom.org.uk/consult/condocs/mis-selling/mis-selling.pdf>
- S.6 The effect of the proposed modification was to impose requirements upon all Communications Providers ('Providers') who engage in sales and marketing activities for fixed-line telecoms services to establish, and comply with, codes of practice on sales and marketing, in accordance with published guidelines.
- S.7 In the light of further comments received in response to that consultation, Ofcom remains persuaded that the balance of evidence suggests that mis-selling of fixed-line telecoms services is a problem at present, and that this, together with further risks to consumers should mis-selling grow as a problem, supports the introduction of additional regulatory safeguards. Ofcom is, therefore, today giving effect to the proposals set out in the November

2004 consultation document with a modification of General Condition 14 on Codes of Practice and Dispute Resolution under section 48(2) of the Communications Act ("the Act") by means of a publication of a Notification. The published guidelines for sales and marketing codes of practice for fixed-line telecoms services are set out in the Annex to the Schedule to the Notification, published at Annex 1 to this document.

S.8 The Notification sets out the following:

- that there is an obligation upon all Providers who engage in sales and marketing of fixed-line telecoms services to establish, under set guidelines, codes of practice, and to comply with the provisions set out in those codes;
- that the requirement to establish, under set guidelines, codes of practice on sales and marketing, and to comply with the provisions set out in those codes, is subject to a 'sunset' clause. The effect of such a clause is that the modification will lapse two years after the date of introduction unless a positive need is demonstrated to reinstate the requirement;
- the guidelines for sales and marketing codes of practice for fixed-line telecoms services; and
- that there is an obligation to provide codes of practice on sales and marketing on request, and free of charge, to customers.

S.9 This measure will ensure that codes of practice for sales and marketing are enforceable. Ofcom will have the power to take enforcement action against those providers who breach the provisions of their code, including ultimately imposing a financial penalty on the relevant Provider.

S.10 Ofcom proposes that the requirement will take effect six weeks from the date of publication of this document.

Section 2

Introduction

What is mis-selling/slamming?

- 2.1 The development of competition for fixed-line telecoms services, notably Carrier-Pre Selection ('CPS')¹ and Wholesale Line Rental ('WLR')², continues to bring benefits through changes in the way in which services are marketed and delivered. This includes much greater use of direct selling techniques such as selling via the doorstep, by telephone and in public places such as supermarkets.
- 2.2 Such sales and marketing techniques are used widely throughout the energy industry and, while they have made a significant contribution to the development of competition in that sector, they have also resulted in instances of irresponsible sales and marketing activity, specifically mis-selling (as defined below). This has the effect of undermining consumer confidence in the transfer and switching process, and causing consequential damage to the industry as a whole.
- 2.3 The term 'mis-selling' covers a range of sales and marketing activities that can work against the interests of both consumers and competition and undermines confidence in the industry as a whole. It can include:
- the provision of false and/or misleading information (for example, about potential savings or promising offers or gifts which do not actually exist);
 - applying unacceptable pressure to change Providers, such as refusing to leave until the customer signs, or using threatening or otherwise intimidating behaviour; and
 - 'slamming', an extreme form of mis-selling, where customers are simply switched from one company to another without their express knowledge and consent. Forms of slamming can include, for example, passing off (i.e. where representatives claim to represent a different company from the company they are actually working for), customers being told they are merely signing for information and then being switched from one provider to another, or forging of customers' signatures on contracts without the customer being aware.

¹ "Carrier Pre-Selection" (CPS) means a facility which allows a Subscriber to whom a Publicly Available Telephone Service is provided by means of a Public Telephone Network to select which Pre-selected Provider of such Services provided wholly or partly by means of that Network is the Pre-selected Provider he wishes to use to carry his calls by designating in advance the selection that is to apply on every occasion when there has been no selection of Provider by use of a Telephone Number;

² "Wholesale Line Rental" (WLR) means a facility which allows Communications Providers without Significant Market Power in the Relevant Market to provide an integrated service comprising calls and access by renting the exchange lines on wholesale terms from the Communications Provider with Significant Market Power in the Relevant Market, and sending customers a single bill for both calls and line rental;

The regulatory framework and basis for Ofcom involvement

- 2.4 A new regulatory framework for electronic communications networks and services entered into force on 25 July 2003. The framework is designed to create harmonised regulation across Europe, and is aimed at reducing entry barriers and fostering prospects for effective competition to the benefit of consumers.
- 2.5 Section 3(1) of the the Act states that “It shall be the principal duty of OFCOM, in carrying out their functions –
- (a) to further the interests of citizens in relation to communications matters; and
 - (b) to further the interests of consumers in relevant markets, where appropriate by promoting competition.”
- 2.6 In particular, section 3(3) of the Act states that “in performing their duties under subsection (1), OFCOM must have regard, in all cases, to -
- (a) the principles under which regulatory activities should be transparent, accountable, proportionate, consistent and targeted only at cases in which action is needed; and
 - (b) any other principles appearing to Ofcom to represent the best regulatory practice.”
- 2.7 Section 4 of the Act requires Ofcom to act in accordance with the six European Community requirements for regulation, including, in particular, to:
- promote competition in the provision of electronic communications networks and services, associated facilities and the supply of directories;
 - contribute to the development of the European internal market;
 - promote the interests of all persons who are citizens of the European Union; and
 - not favour one form of, or means of, providing electronic communications networks or services, i.e. to be technologically neutral.
- 2.8 Under the new framework, Providers are subject to a number of general conditions which apply to all persons providing electronic communications networks and services. Matters to which general conditions can relate include conditions appropriate for protecting the interests of end-users of public electronic communications services ('PECS') (section 51(1)(a) of the Act). Section 52(2)(e) of the Act states that it is Ofcom's duty to set such general conditions as are appropriate for securing that Providers establish and maintain procedures, standards and policies necessary to secure the effective protection for domestic and small business customers of such Providers.
- 2.9 Accordingly, the basis for Ofcom's involvement is to ensure that the regulatory environment provides appropriate safeguards to protect the interests of citizen and consumers as well as the reputation of the industry as a whole.

However, this needs to be balanced by the application of Ofcom's regulatory principles and, in particular, the requirement of proportionality, the 'bias against intervention' and the obligation to make the 'least intrusive' form of regulation¹.

Current consumer safeguards

- 2.10 As set out in Ofcom's April 2004 consultation document, there are currently a range of measures that are available to consumers to protect them from mis-selling of fixed-line telecoms services. These include general consumer protection legislation which is enforced by a number of different institutions, albeit this legislation is not specific to telecommunications services, as well as guidelines that have been agreed with the industry and consumer representatives in respect of sales and marketing codes of practice for fixed-line telecoms services. These guidelines are currently voluntary, however, and Ofcom does not have any enforcement powers in relation to such codes.
- 2.11 There is also a telephony consumer guide, *Promoting competition in fixed-line services: a customer guide to using different phone companies for your line and phone calls*, which aims to ensure that customers are adequately informed about the nature of these services. It is available on the Ofcom website in the Help and Advice area.
- 2.12 The industry-agreed CPS/WLR transfer process also provides additional safeguards to protect consumers from the affects of mis-selling of fixed-line telecoms services by providing for a ten-day switchover period before a customer's order can be activated, and the customer switched. During the switchover period, the customer should receive two letters – one from the losing provider and one from the gaining provider – notifying the customer of the details of the transfer. This process is intended to ensure that customers are not transferred without their express knowledge and consent.
- 2.13 Where customers have been 'slammed', and contact BT, or other Providers, during the switchover period, Providers are able to use 'Cancel Other', which is a functionality which enables Providers to cancel orders for CPS and WLR in certain defined circumstances, primarily where slamming has occurred. Ofcom considers that 'Cancel Other' plays a useful role as a consumer protection mechanism.
- 2.14 Ofcom published its final Direction specifying when BT is permitted to use Cancel Other and what information BT must provide to its competitors about its use of Cancel Other on 21 January 2005. Ofcom's Direction and Determination permitted BT to use Cancel Other in cases of slamming as well as other certain specified cases. In the Direction, Ofcom provided further detail on the definition of slamming and clarified the types of behaviour covered by the definition. This clarification is expected to lead to a reduction in the number of cases in which BT uses Cancel Other.
- 2.15 Ofcom also made clear that it intended to review BT's use of Cancel Other in the light of the proposed obligations on Providers to establish sales and marketing codes of practice. That is because, if slamming is not occurring, the need for Cancel Other as a consumer protection measure would be redundant.

¹ as set out in Ofcom's Annual Plan 2005/6 consultation document.

- 2.16 The Direction and Determination is available for viewing on the Ofcom's website at: <http://www.ofcom.org.uk/consult/condocs/cancel-other/codir/>
- 2.17 However, Ofcom recognises that the CPS and WLR transfer process and Cancel Other functionality deal primarily with the consequences of mis-selling. They have not been specifically designed to prevent mis-selling occurring. Rather, they ensure that the transfer is prevented before any material harm is done to the consumer's interests.

Ofcom's commitment to tackling mis-selling

- 2.18 Alongside these consumer safeguards, Ofcom continues to adopt a proactive role to tackling problems related to mis-selling and, in particular, continues to monitor complaints data, both derived from consumers contacting Ofcom directly, and also data submitted by BT on a monthly basis about the number of alleged selling issues. In light of that data, Ofcom has initiated a series of meetings with companies over the course of the last year in order to discuss their sales and marketing activities, and to identify various strategies aimed at reducing the volume of complaints arising from such activities.
- 2.19 Ofcom has also facilitated various bi-lateral meetings between Providers to discuss the issue of mis-selling and, in particular, to provide an opportunity to the parties involved to engage constructively on the issues in order to seek to resolve the areas of disagreement.
- 2.20 More recently, Ofcom has initiated further discussions with companies on an individual basis to discuss research findings into BT's reported instances of apparent mis-selling. That research, conducted by Schema, a management consultancy to the communications and media industry, examined the extent to which BT's 'Unfair Trading Incidents' ('UTI') data accurately reflects levels of mis-selling. The data Schema evaluated gave a strong indication of a number of key service, customer and process issues relating to different sales and marketing activities employed, including the use of off-shore call centres, UK call teams, field sales agents, the internet and direct mail. Ofcom's report on Schema's investigation is being published today. This report is available on the Ofcom website.
- 2.21 Ofcom views these discussions as an important part of its commitment to minimising the potential for mis-selling and considers that the various discussions have proved extremely valuable. In particular, they have provided an opportunity for Ofcom to work with companies in reviewing sales processes, copies of sales scripts, sales literature and procedures for handling complaints. Such discussions have, for example, resulted in changes to sales scripts, changes to incentive schemes in order to introduce greater control on sales agencies, various commitments by companies to record all future sales calls as well as the introduction of other agreed quality measures being introduced.

The April 2004 Consultation

- 2.22 In April 2004, Ofcom published a consultation document on the effectiveness of current consumer safeguards which have been designed to protect consumers from mis-selling of fixed-line telecoms services. It put forward two options for consideration:
- (1) consumers are adequately protected, and there is no need to make any changes; and
 - (2) consumers are not adequately protected, and there is a need for additional regulation in the form of mandatory guidelines for sales and marketing codes of practice.
- 2.23 The consultation document made clear that option 2 would only be preferred if there was evidence and support for the view, both that mis-selling of fixed-line telecoms services was a serious problem and that the current measures did not provide sufficient protection to consumers.
- 2.24 In addition, and separate to the issue of the effectiveness of consumer safeguards, Ofcom also sought views in relation to the need for clarification of certain provisions contained within the existing guidelines for sales and marketing codes of practice for fixed-line telecoms services.
- 2.25 Ofcom's April 2004 consultation document is available on the Ofcom website at: http://www.ofcom.org.uk/consult/condocs/mis_selling/mis_selling.pdf

The November 2004 Consultation

- 2.26 In the light of stakeholder responses to the April 2004 consultation document, Ofcom considered that the balance of arguments, together with the risk to consumers should the problem of mis-selling continue to increase, supported the conclusion that the current consumer safeguards do not provide adequate consumer protection against the mis-selling of fixed-line telecoms services.
- 2.27 Ofcom therefore concluded that a requirement should be imposed upon Providers who engage in sales and marketing activity for fixed-line telecoms services to establish codes of practice on sales and marketing in accordance with published guidelines, and to comply with the provisions of those codes. It was proposed that the obligation should be subject to a 'sunset' clause, such that it would lapse two years after the date of introduction unless a positive need could be demonstrated to reinstate the obligation.
- 2.28 In order to make this obligation enforceable through a modification to the relevant General Condition ("GC 14"), it was necessary to follow the procedure for setting, modifying or revoking conditions as set out in section 48 of the Act. This required the publication of a Notification of the proposed modification. The November 2004 consultation document therefore included a consultation on a notification of a proposed modification to GC 14. It is available on the Ofcom website at: <http://www.ofcom.org.uk/consult/condocs/mis-selling/mis-selling.pdf>

Explanatory Statement and Notification under section 48(1) of the Communications Act

- 2.29 The Explanatory Statement and Notification, published today, gives effect, with modification, to the proposals set out in the November 2004 consultation document. The Notification and Schedule to the Notification, published at Annex 1, sets out the following:
- that there is an obligation upon all Providers who engage in sales and marketing of fixed-line telecoms services to establish, under set guidelines, codes of practice, and to comply with the provisions set out in those codes;
 - that the requirement to establish, under set guidelines, codes of practice on sales and marketing, and to comply with the provisions set out in those codes, should be subject to a 'sunset' clause. The effect of such a clause is that the requirement will lapse two years after the date of introduction unless a positive need is demonstrated to reinstate the requirement;
 - the guidelines for sales and marketing codes of practice for fixed-line telecoms services; and
 - that there is an obligation to provide codes of practice on sales and marketing on request, and free of charge, to customers.
- 2.30 This measure ensures that codes of practice for sales and marketing are enforceable. Ofcom will have the power to take enforcement action against those providers who breach the provisions of their code, including ultimately imposing a financial penalty on the relevant Provider for non-compliance.
- 2.31 Ofcom is satisfied that the modification to GC 14 on Codes of Practice and Dispute Resolution are in accordance with the tests of proportionality, transparency, and non-discrimination, and are objectively justifiable. For clarity, Ofcom has modified GC 14 by deleting GC 14 in its entirety and replacing with the modification included.
- 2.32 Ofcom has also considered, and acted in accordance with, its principal duty in section 3, as well as the six community requirements in section 4, of the Act.

Section 3

Responses to the consultation and Ofcom's comments

Overview

- 3.1 In its November 2004 consultation document, Ofcom invited views and comments on the Notification and proposed modification to GC 14, and specifically the following:
- the obligation to establish, under set guidelines, codes of practice on sales and marketing, and to comply with the provisions of those codes;
 - the relevant period of such an obligation;
 - the guidelines for sales and marketing codes of practice for fixed-line telecoms services; and
 - the obligation to provide codes of practice on sales and marketing on request, and free of charge, to customers.
- 3.2 Ofcom received a total of 13 responses, including responses from members of the industry, consumer interests and others with a particular interest in subject. A list of the respondents who submitted non-confidential responses is attached at Annex 2. The non-confidential responses themselves are available for viewing on the Ofcom website at:
<http://www.ofcom.org.uk/consult/condocs/mis-selling/responses/?a=87101>

Ofcom's proposals

The obligation to establish, under set guidelines, codes of practice on sales and marketing, and to comply with the provisions of those codes

- 3.3 Ofcom received 13 responses on the proposal that there should be a requirement to establish, and comply with, codes of practice on sales and marketing, which are consistent with published guidelines. Ten respondents agreed that additional safeguards were required, with eight respondents supporting the proposal to make existing guidelines mandatory, one arguing that there should be a single mandatory code rather than mandatory guidelines, and one arguing that there should be a single code to cover all consumer issues rather than one specifically covering sales and marketing activities. One response, for example, made reference to "a lack of clear discipline and regulation" and "scope for uncertainty" arising from the use of Guidelines.
- 3.4 Three respondents expressed concern about the proposal to extend regulation, and argued that there was insufficient evidence to suggest that mis-selling is a problem. A number of those respondents supporting Ofcom's proposals also raised questions about the evidence under consideration.

While they supported the need for additional regulation, they expressed concern that the proposal might not be objectively justifiable because there were no reliable methods of quantification, agreed by the industry, by which mis-selling could be properly assessed. In particular, a number of respondents stressed that Ofcom should be cautious in basing its analysis on the number of consumers contacting Ofcom directly. They noted that BT had, until recently, provided Ofcom's contact details when it wrote to customers to confirm the cancellation of a transfer, and suggested that that may have influenced the volume of customers who had contacted Ofcom. A number of respondents also made reference to the Schema investigation into BT's reported instances of apparent mis-selling of fixed-line telecoms services, and invited Ofcom to take account of that research in its analysis of mis-selling.

- 3.5 BT made specific reference to Ofcom's proposed definition of fixed-line telecoms services which specifically restricted the obligation to IA, CPS and WLR, and therefore, in its view, explicitly excluded those Providers who did not provide IA, CPS and WLR, including BT. It argued that the existing drafting of the proposed Notification should be amended to make clear that what will be caught are situations where a customer is transferred, either to or from BT in respect of narrowband lines and calls.

Ofcom's comments

- 3.6 Having considered the responses received, Ofcom considers that the proposed obligation to establish, under set guidelines, codes of practice on sales and marketing, and to comply with the provisions of those codes, should now be set.
- 3.7 Ofcom notes that of those responding, the majority supported the introduction of additional safeguards and, more specifically, the proposal to introduce mandatory guidelines for sales and marketing codes. Ofcom has considered the suggestion that there should be a single mandatory code of practice, as put forward by two respondents. However, Ofcom does not share the view that a single mandatory code of practice would provide more effective enforcement than an obligation to establish codes of practice, under set guidelines, and to comply with the provisions of those codes.
- 3.8 Ofcom has therefore not been persuaded that the objective of ensuring best practice for sales and marketing would be better achieved through a single mandatory code of practice. In Ofcom's view, the guidelines approach will ensure that codes of practice for sales and marketing are enforceable, and provide Ofcom with clear powers to take enforcement action against those Providers who breach the provisions of their code.
- 3.9. In particular, the 'guidelines' approach is consistent with the way in which Ofcom has approached the need for additional consumer safeguards in other areas, including consumer codes of practice. As with sales and marketing codes, Ofcom took the view in respect of consumer codes that a 'one size fits all' approach would be inappropriate given the variety of types and sizes of different Providers and the range of those services. In addition, Ofcom also notes that the current guidelines for sales and marketing have been developed over a number of years and have already been subject to extensive consultation and input from industry and consumer stakeholders.

- 3.10 Some concern was also expressed in respect of the evidence being considered in support of the proposition that mis-selling was currently a serious problem that warranted additional regulatory intervention. Consequently, it was suggested that Ofcom's proposals were neither proportionate nor justified. Ofcom does not agree with that view. Ofcom believes, as set out in its November 2004 consultation document, that the balance of the evidence supports the conclusion that current consumer safeguards do not provide adequate consumer protection against mis-selling, and that further safeguards are therefore needed.
- 3.11 First, it remains Ofcom's view that the volume of consumers who contact Ofcom directly with a complaint about mis-selling/slamming remains too high, and Ofcom would expect to see the volume substantially reduced before accepting the argument that no further safeguards are required. As indicated previously, the current transfer process for CPS and WLR is designed to ensure that any problems relating to the affects of mis-selling are picked up during the transfer process because the transfer is prevented before any harm is done to the consumer's interests. Accordingly, those consumers who typically complain to BT would typically not pursue the complaint with Ofcom. The fact that consumers do feel sufficiently aggrieved to contact Ofcom in order to formally complain, even after the transfer has been cancelled is, in Ofcom's view, a valid consideration.
- 3.12 Second, a number of respondents referred to the fact that a recent upsurge in complaints coincided with a change to the wording of the letter BT sends to consumers when it cancels a transfer, which advised consumers to contact Ofcom in the event that they wished to make a formal complaint about the transfer. Ofcom accepts that this may have partially contributed to the recent increase in complaints to Ofcom. However, Ofcom does not agree that the recent increase can only be attributed solely to the reference in BT's letter. In particular, Ofcom notes that BT's letter did not imply that customers were required to contact Ofcom. Ofcom's conclusions that mis-selling is a problem, and growing, are also not based solely on the period covered by the change of wording to BT's letters but over a longer period of time during which the data has shown an upward trend. Moreover, Ofcom's most recent data suggests that complaint volumes continue to rise even following the removal of the specific reference to Ofcom.
- 3.13 The two diagrams below set out the volume of complaints/expressions of dissatisfaction received by Ofcom over the last 15 months for CPS and WLR against the total number of orders going through each month. The two graphs demonstrate there has been an upward trend in absolute complaints/expressions of dissatisfaction received, albeit that there is little evidence to suggest that such complaints are rising faster than the underlying rise in volume of CPS/WLR orders going through each month. The figures nevertheless remain too high, and Ofcom would expect to see a substantial reduction, both in absolute volumes and also expressed as a proportion of sales growth, over the next two years.

Figure 1: CPS complaints & expressions of dissatisfactions against CPS set-up orders: monthly volumes

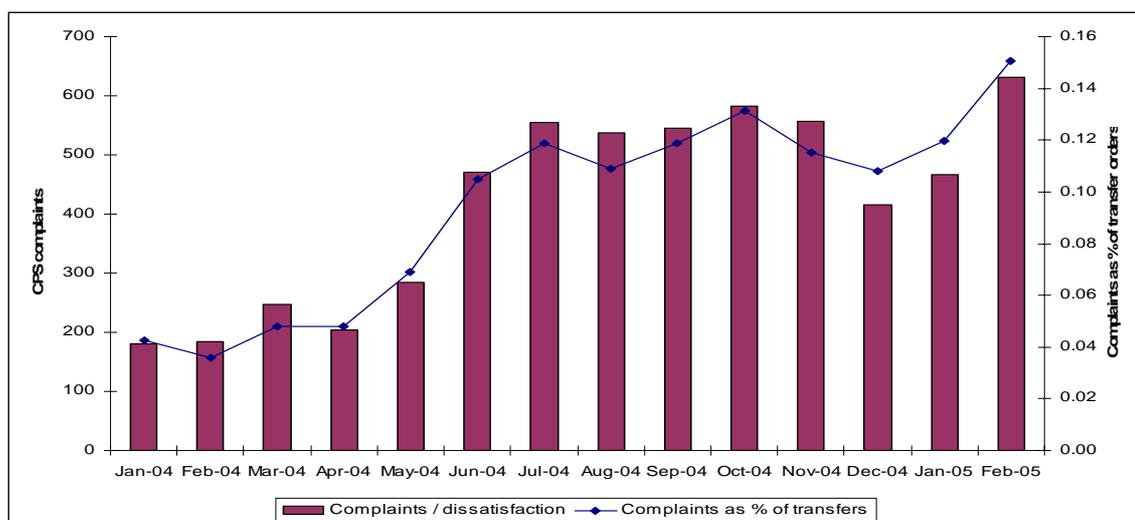
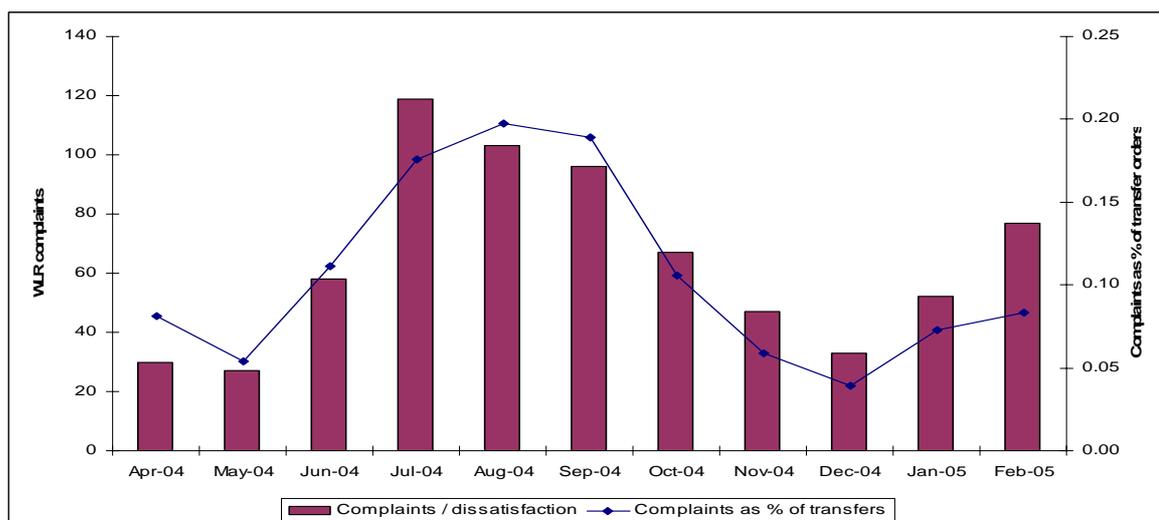


Figure 2: WLR complaints & expressions of dissatisfactions against WLR set-up orders: monthly volumes



3.14 It is also helpful to put these figures in the context of other telecoms based complaints received for the period 1 January 2004 to 31 December 2004. In Ofcom's view, this exercise highlights clearly that complaints related to CPS/WLR mis-selling and slamming are significantly greater than other types of complaints received, and provides further justification for regulatory intervention in this area.

Figure 3: Nature of telecoms-based complaints during 2004

Nature of complaint	2004 volumes
CPS/WLR slamming	3,558
CPS/WLR mis-selling	2,184
Customer Ignored or inadequate response given by service provider	4,323
Customer charged for cancelled service by service provider	3,342
Disputed PRS calls	2,295
Failure or time taken by service provider to repair service	2,049
Broadband – general issues	1,748
Customer experiences difficulty contacting service provider	1,715
Line rental charge	1,541
Customer experiencing malicious or nuisance calls	1,505

- 3.15 In addition, as a number of respondents mentioned, Ofcom has now received the Schema study into the extent to which the UTI data published by BT Retail represents a true reflection of the level of mis-selling. Schema's findings show that, while BT's UTI data does not reflect levels of mis-selling, they nevertheless support the conclusion that mis-selling is currently a problem which warrants the introduction of additional safeguards. It is evident from Schema's analysis of the 220 UFT cases that mis-selling or slamming occurred in 53% of all cases. Ofcom considers that this is high, particularly given that the number of UTIs generated by BT each month is typically around 15,000. To put the issue in context, by applying 53% "true" slamming ratio to the volume of UTIs generated by BT over the last 12 months, the Schema research appears to suggest that incidents of mis-selling and/or slamming could be in the region of 100,000 on an annualised basis.
- 3.16 Ofcom has also given consideration to the definition of fixed-line telecoms services used in its Notification and the view that, as currently drafted, it would be restricted to those Providers who provide IA, CPS and WLR. Ofcom agrees that the obligation should apply equally to BT as to IA, CPS and WLR Providers. It is therefore making changes to the Notification to clarify that it is intended to apply to situations in which a customer is transferred either to, or from BT, in respect of narrowband lines and calls, as well as between IA, CPS and WLR Providers.
- 3.17 Accordingly, Ofcom has modified the definition of those Providers to whom the requirement is applicable by adding reference to Providers who provide the 'Wholesale Inputs' to fixed-line telecoms services. This means, for example, that where BT is acting as the access network operator for the provision of fixed-line telecoms services and continues to have Domestic and Small Business Customers, they would be subject to the requirement.
- 3.18 In addition, Ofcom is also modifying the definition of fixed-line telecoms services to clarify that Wholesale Calls should be captured. BT currently offers Wholesale Calls to Service Providers which enables Service Providers to offer their own branded telephony services over the BT network. Ofcom

considers that Wholesale calls are functionally equivalent to CPS from a consumer's perspective and, therefore, the risks of mis-selling and slamming are identical for Wholesale Calls as with other fixed-line telecoms services.

- 3.19 However, in the absence of clear evidence that mis-selling is a problem for other services such as cable services, LLU and other new voice services, Ofcom does not consider that the obligation should be extended to these services at this stage. It is, of course, open for such classes of Providers to adopt similar guidelines for sales and marketing on a voluntary basis.

The relevant period of such an obligation

- 3.20 Ofcom received six responses addressing what the relevant period of the proposed requirement should be and, in particular, whether it should be subject to a sunset clause whereby the proposed requirement would lapse after two years after the date of introduction unless a positive need were demonstrated to reinstate the requirement.
- 3.21 Two respondents supported the proposed sunset clause. One respondent argued that a "double-sunset" clause should be considered so that the appropriateness of mandatory guidelines (as well as BT's use of 'Cancel Other') could be evaluated after one year as well as two. Three respondents did not feel that a sunset clause was appropriate although they suggested that the regime should be reviewed after 12 months to ensure that it was being effective. They also argued that any review should not start from the assumption that regulations fall away unless there was a continuing problem.
- 3.22 Four respondents expressed concern that 28 days would not be sufficient to implement the necessary changes required. One respondent argued that the period before the obligation came into effect should be two months, and two argued that it should be approximately three months.

Ofcom's comments

- 3.23 Ofcom has given consideration to the comments received. Responses on the appropriateness of a sunset clause were mixed. Ofcom notes the argument that the removal of a problem by use of a sanction does not mean that the problem will not re-occur if the sanction is removed. However, Ofcom must act consistently with its regulatory principles, including a bias against regulation and that all regulation must be evidence-based. Ofcom therefore remains of the view that, should the problem of mis-selling be addressed over the next two years, with the result that the problem of mis-selling is reduced, it would be inappropriate to maintain regulatory obligations thereafter. Accordingly, Ofcom has decided to endorse its proposal that the obligation for Providers to establish, and comply with, codes of practice, should be subject to a sunset clause of two years.
- 3.24 However, Ofcom is clear that mis-selling will only be addressed effectively through a concerted effort by the industry to work together to reduce mis-selling. In particular, and as set out previously, Ofcom strongly encourages the industry to explore the extension of self- and co-regulatory measures within the telecoms sector which could address current concerns about mis-selling, and provide a natural replacement for formal regulation in due course. Ofcom has indicated previously, for example, that there is merit in starting

discussions on the introduction of a nationally accredited scheme for the recognition, and accreditation, of sales agents. Ofcom remains of this view, and is happy to facilitate any such initiatives going forward.

- 3.25 In addition, and in light of comments received during the consultation exercise and, specifically, concern that 28 days would not be sufficient to implement the necessary changes required, Ofcom has been persuaded to increase the implementation period to six weeks from the date of publication of this document.

The guidelines for sales and marketing codes of practice for fixed-line telecoms services

- 3.26 Ofcom received a number of specific comments on the guidelines. These are available for viewing on the Ofcom website at:
<http://www.ofcom.org.uk/consult/condocs/mis-selling/responses/>

General comments

- 3.27 A number of respondents expressed concern at the detailed nature of the guidelines, and argued that there would be little discretion available to Providers. It was argued that the guidelines should only oblige Providers to follow best practice, but that they went beyond this. Conversely, a number of respondents argued that there was not sufficient clarity behind the guidelines, with one respondent, in particular, arguing that, they would result in a "lack of clear discipline and regulation" and "scope for uncertainty".
- 3.28 One respondent argued that the guidelines should prevent market denigration, while another respondent also argued that the guidelines did not provide adequate protection to customers from 'save' activity.

Ofcom comments

- 3.29 Ofcom notes that there is a clear divergence of views as to the nature of the guidelines and, in particular, whether they are sufficiently flexible or, indeed, provide too much discretion. Having carefully considered comments received, Ofcom has not been persuaded to depart substantially from the current approach of the guidelines which, in its view, provide an adequate and clear framework as to what constitutes best practice in the area of sales and marketing. Indeed, as already mentioned, Ofcom also notes that the current guidelines have been developed over a number of years, and have already been subject to extensive consultation and input from industry and consumer stakeholders.
- 3.30 Nor has Ofcom been persuaded to extend the coverage of the Guidelines to incorporate issues relating to market denigration or 'save' activity which are covered through other regulatory mechanisms.
- 3.31 However, Ofcom is revising parts of the Code in light of comment received. These revisions are aimed primarily at providing further clarity to certain sections of the Code, although, in some areas, Ofcom has been persuaded to remove or strengthen current provisions. This is set out below.

Section 1: Introduction and overview

3.32 The following comments, in particular, were received on section 1:

- the term companies should be replaced by Communications Providers;
- the focus of guidelines should be amended to cover conduct after the point of sale;
- the requirement to explain contract terms should be to explain 'key' rather than 'full' terms, with the full terms to follow (in writing) in the next few days;
- references to the code in marketing material should be made mandatory;
- a copy of the required summary should be provided to all customers at the point of sale or, enclosed with the notification letter from the Gaining Provider;
- an address or e-mail should be provided for the named contact in all references to there being a code available, and in the code itself and any summary; and
- the named 'person' should be a named 'department' or 'team' rather than a named individual.

Ofcom comments

3.33 In light of comments received, Ofcom is making amendments to section 1.

3.34 Ofcom agrees that the term 'Communications Providers' would provide greater clarity than 'companies', and therefore proposes to replace all references to 'companies' with 'Communications Providers'.

3.35 Ofcom is replacing the references to "full terms" to "key terms" in section 1.2. Ofcom agrees that it is unnecessary that a sales agent should be expected to detail every term of a contract, verbal or otherwise, to which customers have agreed. Ofcom therefore considers that it is sufficient that the sales agent is required to explain the key terms, with the full terms to follow in the next few days.

3.36 Ofcom is clarifying the section relating to how customers and advice agencies should be made aware of the Code (section 1.4) by requiring that procedures should be documented, and by providing further examples as to best practice in this area.

3.37 Ofcom is retaining reference to a "named person" in section 1.6 of the Code, and is strengthening to include a requirement for relevant contact details to be included. Ofcom has not been persuaded that replacing the reference to "person" with that of "department" or "team" would provide for better accountability. Ofcom believes that there would be greater accountability if responsibility for compliance remained with a named individual.

Section 2: Status of the Code

3.38 No comments were received in respect of section 2 and, as such, it remains as set out in the November 2004 consultation document.

Section 3: Sales, marketing, advertising and promotion

3.39 The following comments, in particular, were received on section 3:

- Providers should also act in the spirit of any codes or policies published by any regulatory body, as well in compliance with them;
- references should be also made to television and radio regulatory codes in similar terms to that of the OFT approval scheme; and
- guidelines should be amended to explicitly bar market denigration.

Ofcom comments

3.40 In light of comments received, Ofcom is making amendments to section 3.

3.41 Ofcom is providing further clarification to section 3.2 which currently states that customer's wishes need to be protected by making clear that customer's legal rights need to be similarly respected.

3.42 Ofcom is including reference to "other applicable advertising codes" in section 3.3 to clarify that there are various advertising codes which Providers are required to act in accordance with.

Section 4: Recruitment and sales training

3.43 The following comments, in particular, were received on section 4:

- there is need to ensure that offshore employees are captured;
- the guidelines should be clarified to make clear that reference to 'third party agencies' is to agencies to whom the customer care facility has been outsourced rather than to resellers;
- the records of sales persons should be kept for all reasons of departure and not merely transferring to another company;
- further clarity is required on the meaning of the term "records";
- three years is too long a period for Providers to be required to retain records;
- the reference to identification badges being "returned and accounted for" should be one of reasonable endeavours as it is difficult to guarantee;
- the guidelines should ensure the availability of clear information about rates and charges associated with calling plans; and
- the 'relevant principles of consumer law' should be identified;
- the guidelines should include a requirement to comply, the means of enforcement and the way in which customers can make a complaint;
- the reference to commission and pyramid sales practices should be clarified/deleted as such schemes are widespread within the industry.

Ofcom comments

3.44 In light of comments received, Ofcom is making amendments to section 4.

3.45 Ofcom agrees that the guidelines should be clarified to make clear that references to third party agencies are not intended to capture resellers (section 4.2)

- 3.46 Ofcom is adding a new section 4.5 to clarify that the provisions are intended to capture the use of non-UK based employees.
- 3.47 Ofcom is clarifying the reference to sales persons leaving (section 4.4) to make clear that sales records should be kept where sales persons leave “for any reason” rather than merely transferring to another company. Ofcom is also clarifying that the records referred to are ‘sales’ records, which includes all recordings and notes on sales. Ofcom is also changing the minimum period from three years to six months which would be consistent with comments received for similar requirements elsewhere in the guidelines and, in Ofcom’s view, provides a satisfactory period for Providers to retain records.
- 3.48 Ofcom is amending the reference to the need for badges to be “returned and accounted for” to “reasonable endeavours to be made to retrieve”. Ofcom agrees that such a provision would be sufficient.
- 3.49 Ofcom is including a further requirement on the list of topics relating to the training of sales persons (section 4.6) so that procedures for handling customer complaints are also included. Ofcom agrees that it is important that consumers are able to be provided with accurate advice on the complaints procedures, when requested.
- 3.50 Ofcom is removing reference to “such as schemes largely based on commission and/or pyramid recruiting structures” in section 4.8. In particular, Ofcom recognises that incentive-based sales methods or multi-level marketing structures are widely used throughout the industry, and that while they could potentially lead to poor sales practice, the onus has to be on the Provider to establish good practice through commercial agreements and the structure of remuneration arrangements.

Section 5: Customer contract

- 3.51 The following comments, in particular, were received on section 5:
- sales representatives should also provide name and contact details for persons they represent;
 - the guidelines should also specify examples of conduct which would amount to a breach of the Code;
 - the reference to information on identity badges being 14 font size should be removed. In addition, the requirement for Braille should be removed;
 - the concept of vulnerability should be clarified;
 - the reference to sheltered housing should be expanded to apply to other facilities such as nursing homes and residential care facilities; and
 - the guidelines should ensure that authorisations for transfer which are documented by the sales representative at the point of sale should be collected in a form that is secure, relevant, comprehensible and accessible, and retained for a period of six months.

Ofcom comments

- 3.52 In light of comments received, Ofcom is making amendments to section 5.

- 3.53 Ofcom is removing the requirement that information on identity badges must be in 14 point. Ofcom recognises that the requirement that information should be in 14 point would result in other important information, including photographs, potentially being lost. Ofcom considers that the requirement that information should be presented in such a way “that does not require close examination” would be sufficient.
- 3.54 Ofcom is clarifying section 5.8 by adding “nursing homes or residential care facilities” to the current provisions.

Section 6: Entering into a contract –information, order forms and contracts

- 3.55 The following comments, in particular, were received on section 6:
- the guidelines should ensure that reasonable steps are taken that the person who authorises the transfer is authorised;
 - there should be clarification as to whether the guidelines capture telesales as well as face to face;
 - the guidelines should state that the reference to a contract should be in a bold and prominent font;
 - the guidelines should include provision about the form or content of contracts, and terms should be clearly set out;
 - the reference to face to face approach should be removed as it is unnecessarily restrictive;
 - the guidelines should provide that the customer should be given a copy of the Code or at least a summary of it;
 - the guidelines should be ‘time-proofed e.g. little sense in including fax as a mainstream communications tool;
 - the notification letter should contain a requirement to confirm details of the making of the agreement between the Service Provider and the customer;
 - there should be clarification that the notification letter is the same one required under the CPS and WLR End to End documents;
 - the notification letter should include a brief statement explaining that consumers have the ability to freely choose who provides their calls service as distinct from their line rental services;
 - the notification letter should also include reference to OTELO;
 - the reference to 1st class mail should be removed as it would involve extra costs;
 - the reference to list of services is too precise and should be amended to “a general indication of services affected/unaffected”;
 - five days for receipt of letter is too short to be workable and should be extended to 14 days to be achievable;
 - the reference to “initiated contact” should be removed on the grounds that it is sufficient that the customer has applied online;
 - there should be further clarification required in respect of the term “an order maturing”; and
 - there should be a requirement that Gaining Providers have to explain their cancellation policy in the notification letter.

Ofcom comments

- 3.56 In light of comments received, Ofcom is making amendments to section 6.

- 3.57 Ofcom is clarifying the requirement in section 6.1 in respect of who is the authorised person by reference to “reasonable steps”.
- 3.58 Ofcom is taking out the reference to “face to face” in section 6.3 and replacing with “direct”. This is intended to clarify that the requirements looking at customer approaches will capture telesales as well as face to face sales and marketing activity.
- 3.59 Ofcom is also making reference to “as appropriate” in the first bullet point under section 6.3 dealing with essential information in order to be less prescriptive in terms of the essential information required.
- 3.60 Ofcom is clarifying the reference to when Providers would be required to despatch letters by removing the reference that letters should be sent to customers by 1st class mail within five working days to that of the need to follow industry-agreed processes. In Ofcom’s view, this provides sufficient clarity to Providers, and puts the onus on them to comply with the industry-agreed processes.
- 3.61 Ofcom has removed the reference to “companies to ensure that the orders they submit do not mature until the switchover period is complete in section 6.10. It is evident that this provision was causing confusion. In Ofcom’s view, the key issue is that customers have the right to change their mind during the switchover period, and this has been adequately captured in section 6.9.
- 3.62 Ofcom is transferring all references to the need for Providers to have in place provisions for customer satisfaction relating to contracts and contractual information from section 8 (Audit of contracts) into this section. Ofcom recognises that there was some confusion relating to how these two sections related to each other. Ofcom considers that separating out the audit of contracts from the more general audit requirements would improve clarity. While audit of contracts would still remain an important part of any audit procedures, the audit requirements set out in section 8 are intended to capture more than just audit of contracts but also systems, procedures and documentation.
- 3.63 Ofcom is clarifying that the customer satisfaction contact should be made by a person not engaged directly in activities leading to the promotion of sales contracts.

Section 7: Consumer Protection and other legal requirements

- 3.64 No comments were received in respect of section 7 and, as such, it remains as set out in the November 2004 consultation document.

Section 8: Audit

- 3.65 The following comments, in particular, were received on section 8:
- there should be further clarity required in terms of ‘regular audits’ and in terms of level of detail expected;
 - there should be further clarity required as to whether notification letter can be used for audit purposes;

- audit requirements should align more closely with energy regulation, including who is able to conduct audit process;
- the audit provisions should be amended so that Providers are required to audit a statistically significant sample of transfers in addition to the requirement to send the notification of transfer letter;
- there should be provision for keeping audit records and reporting to Ofcom on a regular basis the outcome of audits.

Ofcom comments

3.66 Ofcom is transferring all references to the need for Providers to have in place provisions for customer satisfaction relating to contracts and contractual information from this section into section 6. Ofcom recognises that there was some confusion relating to how these two sections related to each other. Ofcom considers that separating out the audit of contracts from the more general audit requirements would provide further clarity. While audit of contracts would still remain an important part of any audit procedures, the audit requirements set out in section 8 are intended to capture more than just audit of contracts but also systems, procedures and documentation. In light of this, Ofcom is modifying the heading to 'audit' rather than 'audit of contracts'.

Section 9: Customer complaints procedure

3.67 The following comments, in particular, were received on section 9:

- the reference to 'first contact' in section 9.1 requires clarification;
- the guidelines should contain a reporting provision to ensure that Ofcom is aware when there is a breach of the code;

Ofcom comments

3.68 In light of comments received, Ofcom is making amendments to section 9.

3.69 Ofcom agrees that the current text would appear to suggest that the complaints procedures would need to be explained on first contact with consumers. This was not the intention, and Ofcom is aware that Providers are currently under regulatory obligations in respect of complaints handling in GC 14. Ofcom is therefore amending to include the requirement that Providers act in accordance with their current obligations.

Section 10: Distributing the code: creating awareness

3.70 No comments were received in respect of section 10 and, as such, it remains as set out in the November 2004 consultation document.

3.71 To conclude, the revised guidelines are set out in the Annex to the Schedule to the Notification at Annex 1.

The obligation to provide codes of practice on sales and marketing on request, and free of charge, to customers

3.72 Ofcom received three responses in respect of the proposed obligation to provide codes of practice on sales and marketing on request, and free of charge, to customers. Two respondents argued that such an obligation was entirely appropriate, and was likely to be part of good business practice. One respondent argued that the obligation did not go far enough, and that the current guidelines on provision of information, including the obligation to provide codes on request, and free of charge, to customers, were inadequate.

Ofcom's comments

3.73 No objections were received in respect of this proposal. The only issue raised was whether or not there should be an obligation to make it a mandatory requirement that customers are provided with a summary of the Code prior to contract formation. The issue of whether or not further material should be made available to consumers as part of the sales process was addressed in the November 2004 consultation document. As set out in that document, Ofcom did not consider that there was sufficient evidence to suggest such further obligations were necessary or that the proposed obligation to make codes available on request, and free of charge, was inadequate.

3.74 Accordingly, while Ofcom acknowledges the importance of consumer information, it believes that it is sufficient that the Code should be easily accessible to consumers, and made available on request, free of charge. Nevertheless, Ofcom would expect Providers to use all reasonable steps to ensure that consumers are made aware of the existence of the codes by reference in their sales and marketing literature, and that Providers should also make codes available via their own public websites, and ensure that it is well sign-posted on such sites.

3.75 Ofcom is therefore endorsing the proposed obligation that Providers should provide customers with codes of practice on sales and marketing on request and free of charge.

Ofcom's conclusions

3.76 As set out above, and in its November 2004 consultation document, Ofcom considers that the balance of evidence supports the position that current consumer safeguards do not provide adequate consumer protection against mis-selling of fixed-line telecoms services. In Ofcom's view, the evidence, together with the risks of not being able to take effective enforcement action should a serious problem arise, supports the introduction of additional safeguards.

3.77 As already set out in this document, there are currently a range of measures that are available to consumers to protect them from the risks and affects of mis-selling of fixed-line telecoms services, including general consumer protection legislation, the transfer process for CPS and WLR itself and Ofcom's continued role in monitoring the volume of complaints and initiating early discussions with those Providers whose sales and marketing activities are the cause of the greatest volume of complaints. However, it is Ofcom's

view that, while such measures all contribute to ensuring that the potential for mis-selling is minimised, they have not created sufficient incentives upon Providers to improve performance, and have resulted in a sufficient overall improvement.

- 3.78 Ofcom notes that BT has argued, as part of its response, that any new consumer protection measures should be augmented, in appropriate cases, by enforcement action taken under existing legislation, such as the Enterprise Act.
- 3.79 Ofcom has not been persuaded to date that Enterprise Act action would provide the most appropriate, nor indeed the most effective, enforcement mechanism to tackling the problem of mis-selling. Ofcom's view is that with the introduction of these guidelines Ofcom would have the necessary enforcement powers to deal effectively with the problem of mis-selling.
- 3.80 Notwithstanding the above, Ofcom retains an open mind to the possibility of future Enterprise Act action where it is persuaded that such action would provide an appropriate and effective enforcement mechanism.

Section 3 – Ofcom's general duties

- 3.81 Section 3(1) of the Act, as set out in paragraph 2.5, sets out the principal duty of Ofcom. Ofcom is required by this section to carry out its functions in line with this duty.
- 3.82 Ofcom considers that its decision to require Providers who engage in sales and marketing of fixed-line telecoms services to establish, under set guidelines, codes of practice on sales and marketing, and to comply with the provisions of those codes falls within the scope of section 3 of the Act. In particular, Ofcom considers that the principal duty, set out in section 3(1) of the Act is appropriate to this issue.
- 3.83 This is because, as explained in this document, Ofcom considers that the balance of evidence supports the position that the current consumer safeguards do not provide adequate consumer protection against mis-selling of fixed-line telecoms services, and that further measures are therefore required. Ofcom considers that instances of mis-selling can be distressing to those consumers involved, particularly in the case of vulnerable consumers, and this can work against the interests of both consumers and competition by undermining consumer confidence in the switching process. Ofcom considers that the proposed requirement set out in this document will ensure that consumers are better protected, and that it will provide a greater incentive upon Providers to improve performance and follow best practice in this area.
- 3.84 Ofcom has also considered when carrying out its functions, amongst other things, the requirements in section 3 (2) of the Act to secure the availability throughout the UK of a wide range of electronic communications services, and section 3 (4) of the Act, namely that in performing its duties Ofcom must also have regard to such of the following as appears to be relevant in the circumstances, in particular:
- the desirability of promoting competition in relevant markets;

- the desirability of promoting and facilitating the development and use of effective forms of self-regulation;
- the desirability of encouraging investment and innovation in relevant markets;
- the needs of persons with disabilities, of the elderly and of those on low incomes; and
- the opinions of consumers in relevant markets and of members of the public generally.

3.85 Ofcom considers that the modification set out in this statement meets the above criteria and that, in particular, and as set out above, the imposition of consistent rules in this area will be beneficial to competition given that a loss of consumer confidence in the switching process will damage the industry as a whole. Ofcom also considers that the requirement would have the effect that all Providers who provide fixed-line telecoms services or the Wholesale Inputs to fixed-line telecoms services, and engage in sales and marketing, would be subject to the same rules, and that this will also be beneficial to competition.

Section 4 – European Community requirements for regulation

- 3.86 As mentioned in paragraph 2.7, section 4 of the Act requires Ofcom to act in accordance with the six European Community requirements for regulation.
- 3.87 For the reasons set out above and, in particular, that it would provide greater incentives for Providers to improve performance and follow best practice in this area, and ensure that all Providers are subject to the same rules, Ofcom believes that the modification would meet these requirements.

Section 47 – Test for setting or modifying conditions

- 3.88 As set out under section 47(1) of the Act, in modifying a condition, Ofcom must be satisfied that the test set out under section 47(2) has been met. The test is that the modification of the condition is:
- (a) objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates;
 - (b) not unduly discriminatory against particular persons or against a particular description of persons;
 - (c) proportionate to what it is intended to achieve; and,
 - (d) transparent in relation to what it is intended to achieve.

Objectively justifiable in relation to the networks, services, facilities, apparatus or directories to which it relates

- 3.89 Ofcom considers that the modification is objectively justifiable. Ofcom considers that instances of mis-selling can be distressing to consumers,

particularly where they are vulnerable, and can result in a loss of consumer confidence in the switching process, and consequently damage the industry as a whole.

- 3.90 In addition, Ofcom considers that the risk of not doing anything, including that of increased negative publicity, is likely to damage consumer confidence in the switching process, and that this will have a detrimental effect upon competition.
- 3.91 Ofcom therefore considers that the modification to GC 14 to establish, under set guidelines, codes of practice for sales and marketing, provides enhanced consumer protection, and ensures that Providers have greater incentives to follow best practice in this area. The modification, as explained previously, would be subject to a 'sunset' clause which would lapse two years after the date of introduction. This would ensure that it would be a short-term interim measure during the continuing rollout of CPS and WLR, and that the requirement would cease to apply in the event that the problem of mis-selling diminishes.

Not unduly discriminatory against particular persons or against a particular description of persons

- 3.92 Ofcom considers that the modification is not unduly discriminatory. This is because the modification applies to all Providers who provide fixed-line telecoms services or the Wholesale Inputs to fixed-line telecoms services, and engage in sales and marketing. While a similar requirement is not being imposed in the context of providers of other fixed-line products or mobile services, Ofcom notes that there is no evidence to suggest that there is a problem of mis-selling in respect of other services which would require similar regulatory intervention at the current time.
- 3.93 Moreover, Ofcom considers that the modification is preferable to the current system in the case of CPS whereby regulation is carried out indirectly via the CPS operator, and therefore imposes costs on the CPS operator that neither BT nor the actual Provider of the service bear. Under the modification, all Providers are required to have codes of practice in place and, in the event of problems relating to mis-selling, Ofcom has the power to take action directly against those parties that are selling to consumers, and causing the problems in the first place.

Proportionate to what it is intended to achieve

- 3.94 Ofcom considers that the modification is proportionate on the grounds as there should be little burden on responsible Providers who already follow industry best practice in this area as set out in the guidelines. In addition, Ofcom considers that this new obligation would represent one of the least intrusive options available to Ofcom as other available options, including those used in other countries and sectors, tend to require changes to wholesale processes. Such options would represent an increased form of regulatory intervention, and would be likely to make it more difficult for consumers to switch to a new provider.

Transparent in relation to what it is intended to achieve.

- 3.95 Ofcom is satisfied that the modification is transparent insofar as the nature and obligations are clearly set out in this document.

Monitoring and enforcement

- 3.96 Ofcom will continue to gather statistical and qualitative information from both external and internal sources including consumer complaints to Ofcom, BT's 'Cancel Other' data and 'Cancel Own' data (i.e. the functionality which enables Providers to cancel orders that they have placed for CPS and WLR themselves). In certain circumstances, Ofcom may also use its formal information gathering powers to request information from third parties such as Otelio and CISAS.
- 3.97 If Ofcom receives complaints about non-compliance with GC 14 as set out in Annex 1, these will be handled in line with Ofcom's Guidelines for the handling of competition complaints, and complaints and disputes about breaches of conditions imposed under the EU Directives which are available at: http://www.ofcom.org.uk/bulletins/comp_bull_index/eu_directives/

Notification

NOTIFICATION OF A MODIFICATION UNDER SECTION 48(1) OF THE COMMUNICATIONS ACT 2003

The modification of General Condition 14 on Codes of Practice and Dispute Resolution for the purpose of imposing requirements upon all Communications Providers who provide Fixed-line Telecommunications Services or the Wholesale Inputs to Fixed-line Telecommunications Services, and engage in sales and marketing activities, to establish codes of practice for sales and marketing in accordance with published guidelines, and to comply with the provisions of those codes.

- A. The Director General of Telecommunications (the 'Director') issued on 22 July 2003 the General Conditions Notification, which took effect on 25 July 2003 by way of publication of a notification pursuant to section 48 (1) of the Act;
- B. OFCOM issued a notification pursuant to section 48 (2) of the Act setting out their proposals for the modification of General Condition 14 (the 'First Notification');
- C. A copy of the First Notification was sent to the Secretary of State in accordance with section 50(1) (a) of the Act;
- D. In the First Notification and accompanying explanatory statement, OFCOM invited representations about any of the proposals set out therein by **5pm on Friday 7 January 2005**;
- E. By virtue of section 48(5) of the Act, OFCOM may give effect to any proposals to modify or set SMP services conditions as set out in the First Notification, with or without modification, where:
 - (i) they have considered every representation about the proposals made to them within the period specified in the First Notification; and
 - (ii) they have had regard to every international obligation of the United Kingdom (if any) which has been notified to them for this purpose by the Secretary of State;
- E. OFCOM received responses to the First Notification and have considered every such representation made to them in respect of the proposals set out in the First Notification and the accompanying explanatory statement; and the Secretary of State has not notified OFCOM of any international obligation of the United Kingdom for this purpose;

THEREFORE Ofcom gives the following modification

- 1. OFCOM, in accordance with section 48 (1) of the Act, hereby makes the following modification of General Condition 14 on Codes of Practice and Dispute Resolution as set out in the Schedule to this Notification.

2. OFCOM considers that the measures referred to in paragraph 1 above comply with the requirements of sections 45 to 50 of the Act, as appropriate and relevant to each of the measures.
3. In taking the measures set out in this Notification, OFCOM have considered and acted in accordance with their general duties in section 3 of the Act and the six Community requirements in section 4 of the Act.
4. OFCOM's reasons for the modification referred to in the Schedule to this Notification are contained in the accompanying explanatory statement published with this Notification.
5. The effect of the modification is set out in, among others, Section 3 of the accompanying explanatory statement with this Notification.
6. Copies of this Notification and the accompanying explanatory statement have been sent to the Secretary of State in accordance with section 50(1)(a).
7. In this Notification:
 - (i) "**Act**" means the Communications Act 2003;
 - (ii) "**Fixed-line Telecommunications Services**" means narrowband calls and lines services provided to Domestic and Small Business Customers by means of Indirect Access, Carrier-Pre Selection, Wholesale Line Rental or Wholesale Calls;
 - (iii) "**General Condition Notification**" means the notification setting general conditions under section 45 of the Communications Act 2003, issued by the Director on 22 July 2003;
 - (iv) "**OFCOM**" means the Office of Communications; and
 - (v) "**Wholesale Inputs**" means facilities that are provided by a Communications Provider to another Communications Provider to allow for the provision of Indirect Access, Carrier-Pre Selection, Wholesale Line Rental or Wholesale Calls;
8. Except insofar as the context otherwise requires, words or expressions shall have the meaning assigned to them in this Notification and otherwise any word or expression shall have the same meaning it has in the General Conditions and otherwise any word or expression shall have the same meaning it has in the Act.
9. For the purpose of interpreting this Notification:
 - (i) headings and titles shall be disregarded; and
 - (ii) the Interpretation Act 1978 shall apply as if this Notification were an Act of Parliament.
10. The Schedule to this Notification shall form part of this Notification

Neil Buckley

Policy Director, Consumer

A person authorised by Ofcom under paragraph 18 of the Schedule to the Office of Communications Act 2002

13 April 2004

Schedule

The modification of General Condition 14 on Codes of Practice and Dispute Resolution for the purpose of imposing requirements upon all Communications Providers who provide Fixed-line Telecommunications Services or the Wholesale Inputs to Fixed-line Telecommunications Services, and engage in sales and marketing activities, to establish codes of practice for sales and marketing in accordance with published guidelines, and to comply with the provisions of those codes.

1. General Condition 14 on Codes of Practice and Dispute Resolution shall be deleted and replaced in its entirety as follows:

14. CODES OF PRACTICE AND DISPUTE RESOLUTION

Basic Code of Practice regarding provision of Public Electronic Communications Services

14.1 The Communications Provider shall produce a basic code of practice for its Domestic and Small Business Customers which sets out at least where such customers may avail themselves of the information required to be published under Condition 10.2 as relevant to the provision of Public Electronic Communications Services. The code of practice shall be drafted in plain English which is easy to understand, and copies of the code of practice shall be provided on request and free of charge to any Domestic and Small Business Customer.

Codes of Practice for Complaints

14.2 Within one month of this Condition entering into force, the Communications Provider shall establish and thereafter maintain procedures that conform with any applicable Code of Practice for Complaints for the handling of complaints made by its Domestic and Small Business Customers in relation to the provision of Public Electronic Communications Services.

Codes of Practice for Sales and Marketing

14.3 During the Relevant Period, those Communications Providers who provide Fixed-line Telecommunications Services or the Wholesale Inputs to Fixed-line Telecommunications Services, shall:

- (a) establish and thereafter maintain a Code of Practice for Sales and Marketing for dealing with its Domestic and Small Business Customers, which conforms with the Guidelines set out in the Annex to this Condition; and
- (b) comply with the provisions of the Code of Practice for Sales and Marketing established according to Condition 14.3 (a) above.

The Code of Practice for Sales and Marketing shall be drafted in plain English which is easy to understand, and copies of it shall be provided on request and free of charge to any Domestic and Small Business Customer.

Dispute Resolution

14.4 The Communications Provider shall implement and comply with a Dispute Resolution Scheme, including any final decision of the Dispute Resolution Body made in accordance with that Scheme, for the resolution of disputes between the Communications Provider and its Domestic and Small Business Customers in relation to the provision of Public Electronic Communications Services.

14.5 In this Condition:

(a) “**Carrier Pre-Selection**” means a facility which allows a Subscriber to whom a Publicly Available Telephone Service is provided by means of a Public Telephone Network to select which Pre-selected Provider of such Services provided wholly or partly by means of that Network is the Pre-selected Provider he wishes to use to carry his calls by designating in advance the selection that is to apply on every occasion when there has been no selection of Provider by use of a Telephone Number;

(b) “**Communications Provider**” means a person who provides Public Electronic Communication Services to Domestic and Small Business Customers;

(c) “**Code of Practice for Complaints**” means a code of practice approved from time to time by the Director for the purpose of this Condition in accordance with sections 52 and 53 of the Act;

(d) “**Codes of Practice for Sales and Marketing**” means a code of practice established in accordance with Condition 14.3 (a);

(e) “**Dispute Resolution Body**” means the body of persons responsible for administering a relevant Dispute Resolution Scheme;

(f) “**Dispute Resolution Scheme**” means procedures approved or established from time to time by the Director for the purpose of this Condition in accordance with sections 52, 54 or 55 of the Act;

(g) “**Domestic and Small Business Customer**” means, in relation to a Communications Provider, a Customer of that Provider who is neither-

(i) himself a Communications Provider; nor

(ii) a person who is such a Customer in respect of an undertaking carried on by him for which more than ten individuals work (whether as employees or volunteers or otherwise);

(h) “**Fixed-line Telecommunications Services**” means narrowband calls and lines services provided to Domestic and Small Business Customers by means of Indirect Access, Carrier-Pre Selection, Wholesale Line Rental or Wholesale Calls;

(i) “**Guidelines**” means the guidelines set out in the Annex to this Condition;

(j) “**Indirect Access**” means a facility which allows a Subscriber to whom a Publicly Available Telephone Service is provided by means of a Public Telephone Network to select which such Service provided wholly or partly by means of that Network is the service he wishes to use by the use of a Telephone Number on each separate occasion on which a selection is made;

(k) “**Publicly Available Telephone Services**” means a service available to the public for originating and receiving national and international calls and access to Emergency Organisations through a number or numbers in a national or international telephone numbering plan, and in addition may, where relevant, include one or more of the following services: the provision of operator assistance services, Directory Enquiry Facilities, Directories, provision of Public Pay Telephones, provision of service under special terms, provision of specific facilities for End-Users with disabilities or with special social needs and/or the provision of non-geographic services;

(l) “**Public Telephone Network**” means an Electronic Communications Network which is used to provide Publicly Available Telephone Services; it supports the transfer between Network Termination Points of speech communications, and also other forms of communication, such as facsimile and data;

(m) “**Pre-selected Provider**” means a provider of a Public Telephone Network who has notified the Communications Provider with Significant Market Power in the Relevant Market that it is able and willing to provide Carrier Pre-selection to Subscribers to whom the Communications Provider with Significant Market Power in the Relevant Market provides Publicly Available Telephone Services;

(n) “**Relevant Period**” means a period of two years beginning on 26 May 2005 and ending on 25 May 2007;

(o) “**Subscriber**” means any person who is party to a contract with the provider of Publicly Available Telephone Services for the supply of such Services in the United Kingdom;

(p) “**Wholesale Calls**” means end-to-end calls sold by one Communications Provider to another for the purposes of providing services to End-Users;

(q) “**Wholesale Inputs**” means facilities that are provided by a Communications Provider to another Communications Provider to allow for the provision of Indirect Access, Carrier-Pre Selection, Wholesale Line Rental or Wholesale Calls;

(r) “**Wholesale Line Rental**” means a facility which allows Communications Providers without Significant Market Power in the Relevant Market to provide an integrated service comprising calls and access by renting the exchange lines on wholesale terms from the Communications Provider with Significant Market Power in the Relevant Market, and sending customers a single bill for both calls and line rental;

Annex

Guidelines for sales and marketing codes of practice for Fixed-line Telecommunications Services

Key elements to be included within sales and marketing code of practice

1. *Introduction and overview*

1.1 Key objectives to be outlined:

- To ensure that Communications Providers ("Providers") provide their Domestic and Small Business Customers ('Customers') with standards of protection over and above those provided by the law (see table below for examples).
- To ensure good practice and responsible selling in the marketing of Fixed-line Telecommunications Services, and to help Customers understand the service and behaviour to be expected;
- To provide a clear framework within which responsible Providers should be working, providing reassurance to Customers and consumer representatives as to what constitutes good practice in the sales and marketing of Fixed-line Telecommunications Services.

1.2 The focus to be sales and marketing of Fixed-line Telecoms Services to Customers, dealing primarily with issues arising before, during and at the point of sale, with particular emphasis on the avoidance of mis-selling and misrepresentation, and ensuring customer understanding of the services offered and the key terms of any contracts they are entering into.

1.3 Procedures to be in place for sales and marketing staff, and agents, to be informed of the Codes of Practice for Sales and Marketing ('the Code') and its contents, and for monitoring their compliance with it.

1.4 Procedures to be in place, and fully documented, for Customers and advice agencies to be made aware of the Code and its contents such as, for example, making reference to the Code in sales and marketing literature, as part of the Providers' 'notification of transfer' letter (referred to in paragraphs 6.11 and 6.12), and by making available on Providers' public websites.

1.5 Codes to be drafted in plain English which is easy to understand, and copies of it to be provided on request, and free of charge, to Customers.

1.6 Providers' accountability to be visible in the form of a named person, responsible for compliance, with relevant contact details, including an e-mail address.

2. Status of code

- 2.1 All Providers who engage in sales and marketing for Fixed-line Telecoms Services are required under General Condition 14.3 to establish the Code in accordance with these Guidelines, and comply with the provisions of the Code.
- 2.2 Compliance with the Code does not guarantee compliance with any legal requirement.
- 2.3 Non-compliance with the Code does not affect the validity of any contract between the company and the consumer, unless otherwise provided by law.

3. Sales, marketing advertising and promotion

- 3.1 Customer approaches may occur in a wide range of ways e.g. by TV, radio or press advertising, promotions in shops or shopping centres, post, fax, electronic mail, telephone or in person. Regardless of the way in which sales and marketing activities are conducted, Providers to act responsibly and compliantly.
- 3.2 Customers' legal rights and wishes to be respected where they have registered with any relevant preference service, including the Mailing Preference Service, the Telephone Preference Service, the Fax Preference Service and the E-mail Preference Service.
- 3.3 Advertising and promotion to comply with the British Codes of Advertising and Sales Promotion and all other applicable advertising codes. In addition, advertising and promotional literature to be clear, unambiguous, accurate and fair, containing no false or misleading information about price, value or service and, in particular, must not denigrate other Providers.

4. Recruitment and sales training

- 4.1 Appropriate procedures to be set up for the selection of staff involved with direct contact with customers for the purposes of sales and marketing activity.
- 4.2 Providers to be responsible for ensuring that sub-contractors (third party agencies) also set up equivalent selection procedures. For the avoidance of doubt, third party agencies shall not include resellers to whom telephony services are sold on a wholesale basis.
- 4.3 Whilst operating within current employment legislation, recruitment of sales staff to have regard to:
 - behaviour and appearance, recognising that the sales person may be seen as the 'public face' of the industry;
 - security – references and relevant convictions for criminal offences to be checked and taken into account;
 - evidence of mis-selling or lack of integrity in any previous selling employment.

- 4.4 The following requirements related to sales staff based in the UK to be observed:
- the applicant must provide proof of National Insurance number, proof of address and two references;
 - referees cannot be related to the applicant;
 - business referees must not both be from the same company;
 - if a sales person leaves for any reason a copy of his or her sales records (including all recordings and notes on sales) will be retained for a minimum period of six months;
 - reasonable endeavours to be made to retrieve the identification badges of staff leaving the company.
- 4.5 For sales-staff not based in the UK, equivalent procedures to be applied, and documented.
- 4.6 Providers to satisfy themselves that they have taken reasonable steps to ensure that every such person is trained so as to have a sufficient understanding that any relevant advice given by such person is not misleading. Topics covered to include:
- arrangements for competition in the supply of telecommunications in the UK;
 - the different telephone options provided by the company and how these differ from other competitive telecoms products (which may or may not be offered by the company); for example, Indirect Access, Carrier-Pre Selection, Wholesale Line Rental or Wholesale Calls;
 - the process for ordering the telephone service;
 - the relevant principles of consumer protection law;
 - the prices charged by the employing company and its other terms and conditions of service and, in particular, methods of payment, duration of contract and any termination fees;
 - the nature, and cost, of any additional services on offer;
 - the process for cancelling the contract both during the cooling-off period and at any time following commencement of the service; and
 - the existence of the sales and marketing code of practice and the benefits provided;
 - the procedure for handling customer complaints.
- 4.7 Responsibility for compliance with the Code by representatives, and any sales agency acting on their behalf, to lie with the Provider. The Provider to

identify the title of the person accountable for ensuring that the company and its agents observe the Code, and the title of the person responsible for handling complaints relevant to the code.

- 4.8 Remuneration systems, to be documented, and not to be such as to encourage misleading or exploitative sales practices. The Provider to be kept informed of incentive schemes used by any agencies it employs for sales and marketing.

5. Customer contact

- 5.1 Discretion to be used when visiting consumers' homes, particularly during the hours of darkness. No face to face contact to be made outside the hours of 08.00 to 20.00, and no telephone calls to be made outside the hours of 08.00 to 21.00, unless at the customer's request
- 5.2 Representatives involved in face-to-face sales and marketing to be issued with identity badges that clearly display the name of the Provider they represent and a unique identification number for that representative. The identity badge to also display the representative's name, a photograph of the representative and an expiry date for validity of the card. The information on the card to be presented in such a way that does not require close examination. Identity cards must also be made available with key information in Braille, on request
- 5.3 All representatives to immediately identify themselves, the company they represent and the purpose of the call and the expected call duration. If visiting or meeting in person, they should draw the Customers' attention to their identity card.
- 5.4 Reasonable steps to be taken to keep informed of local authority initiatives, password schemes etc, such as the Local Distraction Burglary Initiative.
- 5.5 All representatives to be courteous, use appropriate language and offer clear and straightforward explanations. All information should be factual and accurate. Representatives should not misrepresent the services being offered nor those of other Providers. Representatives should also check that Customers entering into contracts understand, and intend, them.
- 5.6 Representatives to cease contact with any person who indicates that the contact is inconvenient, unwelcome, inappropriate or too long. If the Customer requests it, the discussion to be ended immediately and, if making a doorstep call, the premises to be left immediately.
- 5.7 Representatives not to abuse the trust of vulnerable Customers e.g. those who are elderly or whose first language is not English, or who have special needs. Providers should have a policy regarding such Customers, including that their representatives do not pursue sales presentations to Customers whom they believe may be vulnerable.
- 5.8 Where there is sheltered housing, nursing homes or residential care facilities contact to be made with the warden or other person in authority before any approach is made to the Customer.

- 5.9 No sales or marketing activity to be conducted that is directed to those who are under the legal age for entering into contracts.
- 5.10 Sales and marketing campaign records to be maintained for six months, including the date and the approximate time of the contact with the Customer. Records to be such as to allow subsequent identification of the salesperson(s) involved and to assist in dealing with any complaint or query.

6. *Entering into a contract – information, order forms and contracts*

- 6.1 All reasonable steps to be taken to ensure that the person entering into a contract is authorised to enter into the contract for the Fixed-line Telecommunications Services/bills at the premises.
- 6.2 Order forms and contract forms to be designed such that the contractual nature of the document is clear to the Customer, and it contains a statement of the contractual nature of the document immediately adjacent to where the Customer signs the document so the statement cannot easily be obscured or concealed¹. Customers to sign over the word “contract”
- 6.3 Where a direct approach to the Customer takes place, the Customer to be given the information set out in this paragraph, in writing, in a clear and comprehensible manner
- essential information including the identity of the company, its address, telephone, fax and e-mail contact details, as appropriate;
 - a description of the telephone service sufficient to enable the customer to understand the option that the customer has chosen, and how it works;
 - information about the major elements of the service, including the cost of any standing charges, the payment terms, line rental, key call types and details of “protected or special support” arrangements;
 - the arrangements for provision of the service, including the order process and, as accurately as possible, the likely date of provision. Where there may be significant delay in the likely date of provision, the Customer to be informed;
 - the existence of a right of cancellation and the process for exercising it;
 - the period for which the charges remain valid; and
 - the minimum period of contract, and minimum contract charges, if any.

¹ This is in order to minimise cases where order forms are misrepresented as confirmations of the sales person's visit. This is likely to be an offence under the Trades Descriptions Acts.

- 6.4 Customers to be made aware of the existence of the Code, and preferably provided with a summary. Copies of it to be provided on request, and free of charge, to Customers.
- 6.5 At the Customers request, full written information about tariffs to be made available.
- 6.6 If a Customer signs an order form following face to face contact, or enters into a written contract, the customer must be given a copy of the order form or contract, as well as the following details in writing either at the same time or within 5 working days, unless previously supplied in writing prior to contract:
- information about any after-sales services or guarantees; and
 - arrangements for the termination of the contract.
- 6.7 Orders placed by distance selling means to comply with Distance Selling Regulations, which are set out in the table below.
- 6.8 In the case of internet orders, a well sign-posted hyperlink to this information which is easily visible to the web site visitor to be prominently displayed with the information being capable of being easily downloaded and printed.
- 6.9. During the switchover period there should be 'no cost' cancellation for Customers where they change their mind. Customers to be made aware that they have the right to change their mind during the switchover period .
- 6.10 Customers to be permitted to cancel orders and terminate contracts by telephone, in writing, by fax or by e-mail.
- 6.11 Providers to send a mandatory letter in accordance with the industry-agreed process informing the customer of the details of the transfer, and the following to be clearly communicated:
- date of notification;
 - CLI(s) affected;
 - list of services affected/unaffected, e.g. IA call barring;
 - date of switchover;
 - the sender's contacts details for any queries.
- 6.12 The notification will be by letter although may be sent electronically where Customers have initiated contact by applying online, and have confirmed online that they wish all future correspondence to be sent electronically. Otherwise Customers would need to positively request by written correspondence that information be sent electronically.
- 6.13 Providers to keep under review the procedures by which contracts are agreed and to take appropriate steps to prevent recurrence of any problem identified.
- 6.14 In all cases, Customers to be contacted along similar timescales to the industry-agreed process described in paragraph 6.11 to confirm that the Customer understands that they have entered into an agreement, are happy

to proceed with the agreement and are content with the way in which the sales and marketing activity was conducted.

- 6.15 Such Customer contact to be either part of the mandatory Customer 'notification of transfer' letter referred to in paragraph 6.11 or through a separate process. This contact to be made by a person not engaged directly in activities leading to the promotion of sales contracts.
- 6.16 If it is found that the contract was not understood or intended, or if the order matured before the expiry of the switchover period, and the Customer wishes to cancel, Providers to terminate the contract without charge or other penalty to the Customer.

7. Consumer protection and other legal requirements

- 7.1 Procedures to comply with all applicable legislation and appropriate amendments (see table below for examples).

8. Audit

- 8.1 Providers to carry out regular audits of systems, procedures and documentation to ensure that they are acting compliantly with all aspects of the Code.

9. Customer complaints procedure

- 9.1 Providers' internal procedures for handling Customer complaints to also include those relating to their sales and marketing activities. Providers to ensure that all their staff and representatives who deal directly with Customers are made aware of this procedure, and that they should inform Customers of the existence of their complaints procedure in accordance with their current obligations.
- 9.2 The complaints procedure to set out how Customers may complain about the company's sales and marketing activity and what further steps are available if they believe their complaint has not been dealt with satisfactorily.
- 9.3 In addition, Customers also to be made aware of any dispute resolution arrangements as recognised by Ofcom. Currently Ofcom has approved two schemes: the Office of the Telecommunications Ombudsman ('OtelO') and the Communications and Internet Services Adjudication Scheme ('CISAS').
- 9.4 Providers to liaise regularly with Ofcom and the relevant consumer groups to monitor the number and nature of complaints under its code.

10. Distributing the code: creating awareness

- 10.1 The Code to be available to Customers on request, free of charge and in a reasonable range of formats.
- 10.2 The head office of the Citizens Advice (address: Myddleton House, 115-123 Pentonville Road, London, N1 9LZ) plus other head offices of relevant major

advice agencies normally to be sent copies of the code and any subsequent update. Providers with restricted operations such as those operating only in specific regions to circulate copies to advice agencies as appropriate.

Legislation of particular relevance to sales and marketing of particular telephony products

Particular attention is drawn to the following regulations (as amended, where appropriate), in addition to all other appropriate consumer protection law and advertising Codes of Practice

	Title	Comment
1.	The Unfair Terms in Consumer Contracts Regulations 1999 SI 1999 No 2083	<ul style="list-style-type: none"> introduces controls over unfair standard terms in contracts with consumers requires written contracts with consumers to be in plain, intelligible language
2.	The Consumer Protection (Cancellation of Contracts Concluded away from Business Premises) Regulations 1987 SI 1987 No 2117	<ul style="list-style-type: none"> requires that written notice of cancellation rights (min 7 days) in prescribed form is given to consumers entering into contracts at their homes or in other places (e.g. shopping precincts)
3.	The Consumer Protection (Distance Selling) Regulations 2000 SI 2000 No 2334	<ul style="list-style-type: none"> requires extensive information to consumers before and after consumers enter into contracts using channels of marketing such as direct response press or TV adverts, telemarketing, mail order, etc requires cancellation rights (min 7 working days) to be given to consumers, starting from the date of delivery of prescribed information provides that making demands for payment for services not ordered by consumer is a criminal offence
4.	Telecommunications (Open Network Provision)(Voice Telephony) Regulations 1998 SI 1998 No. 1580	<p>Extensive requirements for system-less resellers and operators of systems licensed by DTI to</p> <ul style="list-style-type: none"> offer written contracts to consumers complying with the regulations; to publish their terms and conditions and tariffs by placing copies in every major office for public inspection during prescribed hours
5.	Various Misleading Advertising Regulations	

6.	Consumer Protection Act 1987 (Part III)	
7.	Consumer protection legislation	<p>Civil responsibilities</p> <ul style="list-style-type: none"> • Misrepresentation Act 1967 • Unfair Contract Terms 1977 • Sales of Goods Act • Supply of Goods and Services Act 1982 • Consumer Protection 1987 • Sale and Supply of Goods Act 1994 • Control of Misleading Advertising Regulations 1988 SI 1988 No 915 • Consumer Protection (Cancellation of Contracts concluded away from Business Premises) Regulations 1987 SI 1987 No 2117 • Unfair Terms in Consumer Contracts Regulation SI 1999 No 2083 <p>Criminal liabilities</p> <ul style="list-style-type: none"> • Trade Descriptions Acts 1968 • Administration of Justice Act 1970 • Fair Trading Act 1973 • Price Act 1974 • Consumer Protection Act 1987 (Parts II, III, IV and V) • Consumer Protection (Cancellation of Contracts concluded away from Business Premises) Regulations 1987 SI 1987 No 2117 • Consumer Protection (Distance Selling) Regulations 2000 SI No 2334

Non-confidential respondents to the consultation document

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