
Review of the impact on business of the Consumer Codes
Approval Scheme: OFT comments

October 2006

OFT870a

Questions and Answers

Q. Why commission this report now before the scheme has made its full impact on consumers?

A. This report follows on from a baseline study we commissioned and published in 2004 and is one of a series of ongoing studies we will be undertaking as the scheme progresses. It was important to be able to confirm that there was an impact on the behaviour of businesses operating under an OFT approved code before we could assess whether these changes had any impact on consumers. We intend to undertake more research on the impact of the scheme both on businesses and consumers on a regular basis.

Q. One of the key recommendations is to increase the speed of the approvals process. How is the OFT going to do that?

The first approvals have taken longer than anticipated but this has ensured that a robust system for ensuring applications meet the criteria is now in place and working effectively. This system does however depend on code sponsors providing us with timely information and evidence so the process is not entirely within our control. We are currently considering whether we can improve our internal handling procedures for applications in order to process them more quickly, although we will ensure we do not sacrifice the integrity of the process itself.

Q. The survey has found that 97 per cent of businesses say they operate a complaints handling procedure although it's a requirement under CCAS that all businesses who sign up should operate such a procedure. How do you account for this discrepancy?

All members of an Approved code must comply with its requirements. To ensure this, code sponsors are required to monitor their members' compliance with the code. It is not clear why a few businesses (3 per cent) implied they did not have a complaints handling procedure and this will be reported back to the relevant code sponsors to rectify as appropriate and advise us of the outcome.

Q. Insufficient levels of engagement between OFT and potential and existing code sponsors have been highlighted in the report. How will you address this concern?

The findings from this report have been very useful in establishing that code sponsors require more information and interaction at all stages of the process. We will consider and where necessary, revise the information and the formats we use when we provide information for code sponsors. We will also accommodate more frequent discussions with code sponsors who prefer to communicate in this way. The OFT's codes website will also be revised early next year and information on the website for code sponsors will be expanded and clarified.

Q. How do approved codes currently ensure they cover all aspects of identified consumer detriment? Are the recommendations to increase resource helpful in identifying the need for greater dialogue?

Two of the key criteria under the CCAS require code sponsors to not only consult consumer advisory bodies during the initial drafting of the code, but throughout the operation of the code as well. This ongoing consultation ensures that all consumer detriment is identified and measures are included within the code to address them. It is also a requirement that OFT approved codes are regularly reviewed and updated to include measures to address any new practices which may cause consumer detriment.

There is also an internal consultation process within the OFT which ensures that recommendations from, for example, OFT market studies are

addressed within the code, and where we have regulatory responsibilities such as for consumer credit, estate agents etc, identified issues are also addressed. We are however keen to expand our sources of information and have recently agreed with consumer advisory body representatives to organise joint discussions with representatives from newly opened sectors to fully explore issues of existing and potential detriment.

We are also increasingly using information from the new national advisory service, Consumer Direct, to highlight areas of consumer detriment which could be addressed by an OFT approved code.

Q. Increasing flexibility in interpreting the core criteria has been suggested in the report. If accepted, does this mean that some code sponsors won't have to meet all of the criteria? How will this increased flexibility be communicated?

Flexibility in the ways in which the criteria can be met has been a cornerstone of the codes approval process and we have been open to discuss and agree different ways according to the needs of individual sectors/code sponsors. What we are not able to do is to compromise on the integrity of the CCAS by allowing flexibility in whether codes do not need to meet certain criteria where it is clear the criteria are appropriate to their sector. Consumers need to be confident that the Approved code logo assures them of the same generic standards wherever they see it.

We are concerned however that the message regarding innovation in ways of meeting the criteria has not been fully understood and we will consider how to ensure individual applicants are made more aware of this.

Q. Giving consideration to prioritising sectors for inclusion in the CCAS is one of the recommendations. Will the OFT be changing its priorities as a result of this report?

The CCAS initially began with seven priority sectors which were selected according to the agreed criteria from the consultation exercise in 2001. Since then, as our resources for codes assessment have increased, we have expanded the number of sectors from which we will accept applications to 20, and are always interested in hearing from code sponsors in different sectors who wish to make an application. We now have a wide spread of existing well-established sectors such as the car

and estate agents sectors as well as newer sectors such as the internet shopping and renewable energy sectors. From our experience so far we believe that self regulation and the CCAS can only be truly effective where there is a genuine desire within the sector to proceed, therefore we will continue to expand the scheme using our published criteria for the selection of sectors as follows:

- is it likely a code in this sector would gain OFT approval and deliver measurable benefits to consumers?
- Is the sector without a statutory regulator or competing quality assurance scheme?
- Is the consumer faced with complex products or information in this sector?
- Are high-risk transactions commonplace in this sector?
- Is there low consumer awareness of products and rights in this sector?

We will also use market intelligence to take account of market changes and ensure we identify and prioritise the right sectors.

Q. It has been proposed that OFT takes on more of a 'watchdog' role. How does this fit in with the aims of increasing self regulation?

The OFT monitors the code sponsors operation of its approved code by assessing the returns from the code sponsor's monitoring requirements for regular reporting, complaints monitoring, ongoing reviews and by considering changes in market behaviour. It is the responsibility of the code sponsor to monitor its members' compliance with the code and take action as appropriate. While transferring this responsibility on to the OFT would reduce the obligations and costs for code sponsors, we consider this would be in direct conflict with the aim of increasing self regulation and self management by businesses within the UK. Proactive monitoring of individual members by the OFT is likely to increase bureaucracy and reporting requirements for businesses with few benefits for consumers and would undermine the existing flexibility within the CCAS monitoring requirements being matched to the needs of individual sectors and codes. We will therefore not be taking this suggestion forward.

Q. Requirements for monitoring have been identified as a major cost for some, but not all, code sponsors. Will these requirements be changed as a result of the findings of this report? Will anything be done to address smaller code sponsors concerns about funding?

Our aim for the monitoring process is to ensure that consumers can be sure that businesses using the Approved code logo are complying with the requirements of the code, and that this has been independently verified. Monitoring requirements for codes are considered and agreed on an individual basis following negotiation with code sponsors during Stage One of the process. The expense of monitoring will vary between sponsors depending on what may already be in place and the most effective way to gain the necessary evidence. Our intention is to keep the requirements to a minimum while still maintaining the integrity of the findings and we will review the requirements on an ongoing basis.

We are conscious of the particular difficulties faced by small code sponsors regarding the costs of approval and will be undertaking further work on how they can be included within the scheme.

Q. The report is proposing an expansion of the CCAS to cover aspects such as technical competence. How does that fit in to the aims of the CCAS and will that suggestion be taken forward?

The aim of the CCAS is to provide recognisably higher standards of customer service which address identified consumer detriment within individual sectors. It does not cover quality standards of the goods and/or services of member businesses. Assessing and verifying the technical competence standards within sectors would require a major expansion of the CCAS and would need significant extra resourcing and funding if all competences across all sectors were to be verified and approved. At present we are not intending to take this proposal forward, but will keep the situation under review as the scheme progresses and grows.

Q. This report focuses on the changes to business behaviour as a result of approval. What other evaluation work will be undertaken on the CCAS as it progresses?

Further evaluation of the changes to business behaviour will be undertaken on a regular basis. Evaluation of the changes to consumer

behaviour will begin next year and also be undertaken on a regular basis as the scheme progresses.

Q. What plans are there to promote the scheme in future, and in particular, to consumers?

Code sponsors and businesses need to be confident that we will deliver on our promise to promote the CCAS and Approved codes. To date we have launched the scheme to business in 2003 and more recently in October 2005 ran the OFT's biggest marketing campaign ever to launch the scheme to consumers. Since then we have organised two sector specific marketing campaigns to cover the travel and estate agents sectors.

We plan to run more marketing campaigns on a regular basis aimed at consumers to ensure awareness is raised and maintained. We will continue to work with sponsors of OFT approved codes in order to ensure our marketing campaigns meet the needs of the businesses and consumers within their sectors.

Q. Does ABTA's recent withdrawal indicate a problem with the scheme? Will the withdrawal discourage new applications?

The CCAS is designed to help consumers identify businesses that promote consumer interests above the requirements of the law. The OFT must ensure that codes and businesses displaying our Approved code logo meet all our requirements, and ABTA's new arrangements would not have protected consumers deposits and prepayments to the same extent as the approved code. We will continue to work with existing and new applicants to ensure the needs of individual sectors are met, while ensuring the Approved code logo gives consumers a signal of high generic standards of customer service.

Q. In practical terms, how have the approved codes changed their content as a result of OFT approval?

A. All of the approved codes needed to make changes in order to gain approval. The table at Annexe 1 outlines the specific changes that were made.

Annexe 1

CHANGES TO CODE CONTENT/PROCEDURES RESULTING FROM OFT APPROVAL

Association of British Travel Agents (ABTA)

CONTENT/PROCEDURE	OFT APPROVED CODE
INDEPENDENT DISCIPLINARY PROCEDURES	Increased independent (non-ABTA/travel sector) representation in ABTA's disciplinary procedures for dealing with non-compliance by members with the code.
CONSUMER GUIDE	ABTA revised its user-friendly consumer guide 'Building Confidence in Travel' to make the detailed code more accessible for consumers. This guide summarises the main benefits of the code.
CONSULTATION ARRANGEMENTS	ABTA revised its consultation arrangements and agreed to formally consult on a regular basis with consumer advisory bodies to help ensure its code stays abreast of emerging issues in the travel sector.
CONSUMER REPRESENTATION	Formerly, ABTA's code required members to make every reasonable effort to reach a speedy solution in the event of a dispute with a client. ABTA's code now also requires members to deal with a client's formally appointed representative for example, a solicitor or Citizens Advice officer, in the same way as they would with the client in resolving disputes.
CONSUMER SATISFACTION TESTING	ABTA now carries out an ongoing consumer survey to identify issues that are creating problems for consumers.

COMPLIANCE MONITORING	ABTA has introduced systems to carry out pro-active monitoring of compliance with its code of practice rather than only reacting to complaints of non-compliance.
------------------------------	---

Ombudsman for Estate Agents Company Ltd (OEA)

CONTENT/PROCEDURE	OFT APPROVED CODE
COMPLIANCE MONITORING	OEA's revised code now includes an explicit obligation on members to participate in OEA's chosen compliance monitoring and customer satisfaction-testing processes.
DISCIPLINARY PROCEDURES	The code now clearly sets out the disciplinary procedures in the event of non-compliance with the code, including the range of sanctions that are available to the OEA Council which is responsible for disciplinary matters.
CUSTOMER SERVICE	Agents must, where practical, provide consumers with a named point of contact who will assist in dealing with any queries that may arise, both during the Agency period and within a reasonable period of time following the expiration of the Agency Agreement.
VULNERABLE CONSUMERS	The OEA code placed a duty on members not to discriminate against and to offer equality of professional service to any person, regardless of their race, creed, sex or nationality. In addition, the code now includes a requirement for members to have in place satisfactory provisions for attending to the needs of vulnerable consumers.
CONTRACT TERMS	The code now includes a specific requirement in relation to members' obligations to draw up contracts in line with the Unfair Terms in Consumer Contracts Regulations.

Vehicle Builders and Repairers Association (VBRA)

CONTENT/PROCEDURE	OFT APPROVED CODE
INDEPENDENT DISCIPLINARY	A new Disciplinary Committee is to be set up consisting of 2 independent members, 2 Board

PROCEDURES	members, with an independent chair.
MODEL TERMS AND CONDITIONS	Assessment and improvements were made to the VBRA model terms and conditions in line with the Unfair Terms in Consumer Contracts Regulations following discussions with the OFT.
PROTECTION OF PREPAYMENTS AND DEPOSITS	The revised code requires members to have a protection mechanism in place, if they take such deposits.
CANCELLATION RIGHTS	Cancellation rights are now included in the revised code.
INFORMATION PROVISION	The wording in the code has been improved relating to the provision of pre-contractual information, specifically in relation to estimates and quotations.
COMPLETION/DELIVERY	The original code placed an obligation on members to give consumers advance notice of any subsequent delays in delivery or completion. The requirement in the revised code relating to completion times and dates has been strengthened – consumers are now to be immediately informed if goods/ services are going to be late.
COMPLAINTS HANDLING PROCEDURES	Timescales have been added to the required complaints handling procedures in the revised code.