

Consumer codes of practice: the OFT's response to the consultation

July 2001

Further copies

Further copies of this report can be downloaded from our website at www.oft.gov.uk/html/research/reports/oft344.htm or by contacting the OFT publications order line.

Viewing individual responses

Individual responses are available for viewing at the OFT office at Fleetbank House. Those wishing to view may do so by booking an appointment with Mary O'Driscoll on 020 7211 8815.

OFT publications order line

OFT information leaflets and reports can be ordered free of charge on 0870 60 60 321.

Information on the internet

You can also order OFT publications online, and find advice and information on consumer rights and on the work of the OFT at www.oft.gov.uk

Crown copyright

© Crown copyright 2001

This material may be freely reproduced, except for sale or advertising purposes.

CONTENTS

<i>Part</i>		<i>Page</i>
1	Introduction	1
2	A sound basis to move forward	2
3	Key issues	3
4	Transition from Stage 1 to Stage 2	8
5	Next steps: the timetable for future action	8
 <i>Annexes</i>		
A	Summary of responses	9
B	Views on preliminary list of priority sectors	25
C	The OFT's core criteria for the new approach to codes of practice	33
D	List of respondents to the consultation paper	37

1 INTRODUCTION

- 1.1 In our consultation paper of 27 February 2001 we set out the Office of Fair Trading's (OFT) new approach to consumer codes of practice. The proposals outlined in this document centred on a two stage approval process.
- 1.2 At the first stage the OFT will encourage code sponsors to develop codes which promise to deliver on core criteria set by the OFT. We will confirm in writing to sponsors of well formulated codes that their codes appear to meet our core criteria and are likely to be of practical benefit to consumers and good traders. There would be no OFT endorsement of the codes at this stage. The successful code sponsors would then be invited to take part in Stage 2. At this stage they will be required to provide evidence of delivery on the initial promise. The OFT will endorse and promote at this second stage once the burden of proof has been met by the code sponsor.
- 1.3 The second stage needs additional funding and new powers. The DTI plan to include the latter in a Enterprise Bill to be brought before Parliament in 2001-2002.
- 1.4 Our consultation paper put forward proposed core criteria for the new approach and also criteria for the selection of priority sectors for the new regime. We invited comments on:
- the proposed core criteria for the new regime;
 - the criteria used to draw up a preliminary list of priorities for the new regime; and
 - the preliminary list of priority sectors.
- 1.5 The level and quality of responses received was very encouraging. A total of 96 responses were received. This demonstrates a high level of interest in the subject of self-regulation and in particular the OFT's approach to the subject. A summary of the responses is at Annexe A and a summary of respondents' views on the preliminary list of priority sectors is at Annexe B.
- 1.6 We were particularly encouraged by the response from the Better Regulation Task Force. It had expressed reservations about the Department of Trade and Industry's (DTI) Consumer White Paper approach to codes of practice. It had doubted whether consumers would be able to rely on approved schemes. The Task Force believes that the OFT has addressed this issue by making it necessary for codes to have robust evidence of practical success before they achieve full OFT endorsement. The Task Force supports this wholeheartedly.

- 1.7 Many respondents welcomed the OFT's initiative and support it in broad terms. For example, the Confederation of British Industry (CBI) agrees with the OFT in seeing the benefits of well conceived and operated codes for consumers and business alike. It feels that the case for self-regulation of this kind is well stated in the consultation paper and is being recognised more widely by, for example, the European Commission.
- 1.8 Several respondents described our new approach as ambitious. Some feel that it is over ambitious. At the same time it has been acknowledged that a challenging approach is necessary in order to achieve the desired outcomes.

2 A SOUND BASIS TO MOVE FORWARD

- 2.1 It is obvious that there is enthusiasm to get started on the new regime. The CBI has described our ambitious timetable as recognising that there is a need to develop some momentum to get the regime off the ground. It feels that this is required if strong leadership within trade bodies is to succeed. These sentiments accord with those of the OFT. We believe that the time is right to move to the next stage of development and implementation. The responses provide a strong basis upon which to finalise the framework for the new regime.
- 2.2 Not every code sponsor will be ready for the regime. We acknowledge the particular problems smaller trade associations may experience in adjusting to it . We want to set out a framework for action which focuses on priority sectors but at the same time gives a clear steer to others as to what they should be aiming for. We do not want to discourage participation by those who can make a difference in reducing consumer detriment and increasing consumer confidence. However we realise that for some organisations it may take time for them to deliver the necessary changes to their codes.
- 2.3 The overall consensus is that our proposed regime is ambitious but worth pursuing. This is as we hoped. The OFT had judged that a more ambitious approach was necessary. It was meant to be challenging but deliverable. We cannot guarantee that the regime will deliver but we believe it is the best way forward in that it gives self-regulation its best chance of succeeding. We are attempting to facilitate change in the behaviour of businesses and consumers. That requires a more rigorous approach than in the past, with the rewards of endorsement and promotion by the OFT where higher standards are attained. We see high standards and marketing as the two key strands of our approach. If we cannot deliver on one the other is endangered. This view appears to be shared by many respondents.

3 KEY ISSUES

Marketing

- 3.1 OFT promotion of the regime is a key factor for many respondents. Representatives of business, consumer organisations and regulators have all flagged up the importance of adequate publicity in promoting the regime. Marketing is one of a number of central issues underpinning the new regime.
- 3.2 Some trade associations have said that they need to know what the likely marketing will entail before they decide whether to participate. We had carried out some preliminary work on marketing and will be carrying out further work to identify and cost the necessary activity to build a new brand which will gain consumer recognition and trust.
- 3.3 We cannot at this stage give precise details of the final marketing strategy or the cost. However, we are committed to producing a strategy which is consistent with building a key consumer brand in the market place. We believe that self-regulation can play its full part in making markets work well for consumers and for traders who deliver what consumers need.
- 3.4 To deliver a successful brand will not be easy or cheap. But then the benefits to consumers and participating businesses should be considerable. We realise that not all business representatives are convinced. Some need to see the colour of our money before they commit. We understand this and part of our future action will be convincing those who remain somewhat sceptical of the benefits of our new approach. The sceptics are not confined to business. In the past consumers rarely changed their buying behaviour significantly as a result of self-regulatory initiatives.

Compliance with the law

- 3.5 A key theme to emerge from trade association responses is that of the co-existence of consumer protection legislation enforcement and voluntary codes of practice which safeguard and promote consumer interests. Some associations have questioned why we should demand from them higher levels of compliance with a voluntary regime than for the enforcement of statutory legislation. Our consultation paper stated that compliance with the law should be taken as read and codes of practice should deliver benefits to consumers beyond the law.

- 3.6 Our view is that if code sponsors are to promise the OFT that its members adopt higher standards then that promise should mean real benefits for consumers, particularly when the OFT will be promoting these 'better traders' to consumers as traders they can trust. It seems entirely reasonable to expect participating businesses to live up to the promises made on their behalf by their trade association. Code sponsors will have to ensure that their members deliver on the promise.

Rogue traders

- 3.7 A related theme is the need for effective action against 'rogue traders'. Several trade associations have said that the OFT, and other regulators, must ensure that there is rigorous pursuit of rogue traders alongside the new codes regime. We totally agree. After all we have said that the new approach to codes of practice will help marginalise the rogue traders, and make them easier targets to spot for enforcers of legislation. Having marginalised them we must ensure that they are tackled effectively, particularly using the Stop Now powers.
- 3.8 Effective enforcement of consumer protection is the key goal. We are committed to playing our part in ensuring more effective enforcement of consumer protection legislation. In those areas where we have exclusive powers we are taking steps to sharpen our performance, making best use of the information sources available to us. Where we share powers with others, we will continue to identify ways in which we can together make best use of those powers available to us.
- 3.9 Within that framework of more effective enforcement of the law, we can pursue our other key activities such as advice and education for both consumers and business. A more effective self-regulatory regime will feed in to all these other activities. The new approach to codes of practice will also benefit from these activities. Any good, pro-market, regulator must make full use of the full range of tools available to encourage business to follow – and consumers to understand and demand – best practice. Where business is committed to delivering better standards of customer service, those businesses deserve the rewards of increased custom.
- 3.10 Our deliberately challenging regime for codes of practice is part of our overall strategy to make markets work well for consumers. Our activity will be more sharply focussed on the delivery of real results for consumers and honest traders. Making this happen poses challenges for the OFT, other regulators and business. We hope that business will want to play its part in making our vision of competitive fair-dealing markets a reality. Our aim of putting the 'self' back into self-regulation reflects our desire to see business shape its response to the challenges of the current and future market place.

Core criteria

- 3.11 Our aim is to set a very firm foundation upon which to build the new codes regime. We must ensure that the core criteria underpinning the regime are robust and credible.
- 3.12 The responses have not identified areas where the proposed criteria require amendment. In the main respondents have found the criteria to be clear, realistic but challenging. The CBI believe that the core criteria are realistic, but they point out that in some industries it may not be possible to set up a code which meets all of the OFT's core criteria. DTI has made the same point. Some trade associations describe the criteria as unachievable. They tend to be the smaller trade associations whom we would expect to experience the most challenges in adapting to a more rigorous regime in the short term. However, given the importance of the core criteria to the regime we do not wish to water them down.
- 3.13 In the light of the support we have for the proposed criteria we have decided that they should form the basis of the new regime. They are reproduced at Annexe C.
- 3.14 Some of the questions we posed in the consultation were aimed at identifying those areas where the core criteria might not apply in their entirety. The consultation process has not revealed any specific areas where that is so. The CBI asked that we use the core criteria flexibly as a framework for assessment. Others have differing views as to how independence can be introduced into existing mechanisms for compliance and dispute resolution, and into the process of compiling the content of codes of practice. A further issue is whether codes for use in differing marketing channels, (for example, distance selling by e-commerce as opposed to face-to-face), need differing application of the criteria.
- 3.15 We have decided that it is appropriate that we issue guidance to clarify aspects of the criteria, including those mentioned above. This should ensure that our intentions are clearer to those who find difficulty in anticipating what they mean. We plan to issue this guidance later in the summer when inviting code sponsors to consider whether they wish to be considered for the new regime. That guidance will need to be reviewed in the light of experience in assessing the first codes under the new regime.

Priority sectors

- 3.16 There has been very little comment on the criteria used to draw up our preliminary list of priority sectors. In addition the sectors included in our preliminary list have not been significantly challenged. Only five organisations

disagreed with elements of the OFT's preliminary view of priority sectors. They gave the following reasons:

- priority should not be given to those sectors that already have effective and approved codes (Consumer Credit Trade Association and The National Consumer Credit Federation);
- sectors such as credit which are already highly regulated should not be included (LACOTS and The National Consumer Credit Federation);
- the OFT should concentrate on rogue traders rather than targeting whole sectors. For example, 'MOTA members engage in direct marketing and offer credit but we do not believe that that should be of particular concern to the OFT in the early stages' (Mail Order Traders Association – MOTA); and
- the OFT should not treat the funeral sector as a priority because there is no evidence of significant consumer detriment or lack of competition (National Association of Funeral Directors – NAFD).

3.17 The inclusion of credit as a priority has not been questioned by other credit trade associations or consumer groups. LACOTS has suggested that debt management and credit repair should be included. The Credit Services Association has suggested the addition of debt management to the priority list. We had envisaged that both of these sub-sectors of the credit market would be included within the heading of credit but will clarify this in the final list. As for the inclusion of the funerals sector, other trade associations have not expressed the same view as the NAFD, that funerals should not be a priority area. Other direct marketing associations have not echoed the view of MOTA. LACOTS has identified all direct marketing as a priority area.

3.18 Several suggestions have been made as to possible additions to the priority list of sectors, for example:

- construction (including home repairs, improvements and maintenance);
- computers and related services;
- furniture;
- mortgages;
- insurance;
- mobile phones;

- electrical goods retailing and repair;
- clothes and shoes; and
- time slots for delivery and service calls.

Details are contained in Annexe B.

3.19 Our prime targets in drawing up a list of priority sectors are high risk/cost transactions where consumers are most vulnerable. Low risk/cost transactions involving items such as shoes and clothes are not areas we believe we should focus on. Nor do we wish to duplicate work being done by others, for example in relation to the codes for banking and mortgages and the Quality Mark for Builders.

3.20 Following the consultation our view remains that the following sectors should be the initial priority sectors for the new regime:

- Used cars.
- Car repair and servicing.
- Credit, including debt management and credit repair.
- Funerals.
- Travel.
- Estate agents.
- Direct marketing.

3.21 We will evaluate the suggestions made by respondents for additions to this list using our criteria for the selection of priority areas. These are as follows:

- known problem areas for consumers;
- complex products;
- high-risk transactions;
- low consumer awareness of products and rights;
- likelihood of a successful code;

- absence of a sector specific statutory regulator; and
- absence of an alternative self-regulatory regime.

4 THE TRANSITION FROM STAGE 1 TO STAGE 2

Several respondents have asked for clarification of the timing and detail for the transition from Stage 1 to Stage 2. This is another issue we will cover in the guidance to be issued later in the summer. The Consumers' Association sought clarification in respect of Stage 2. It expressed concern at the consequences for consumer confidence should the process not reach Stage 2. We agree entirely. As we stated in our consultation paper we see Stages 1 and 2 as inter-dependent.

5 NEXT STEPS: THE TIMETABLE FOR FUTURE ACTION

The timetable for future action, as set out in our February 2001 consultation paper is:

- issue final version of core criteria in early July 2001;
- agree upon the priority sectors to be tackled first and start on the first stage of the regime later in July 2001;
- in early August 2001 invite code sponsors to state whether they wish to participate;
- during September and October 2001 we will assess applications from code sponsors; and
- in November 2001 announce which codes meet Stage 1 and are eligible to go forward to Stage 2.

As stated above we will be producing guidance on the core criteria. This will be sent to code sponsors in early August 2001.

ANNEXE A

SUMMARY OF RESPONSES

Introduction

On 27 February 2001, the Office of Fair Trading published a consultation document on its new approach to consumer codes of practice. The consultation document asked 10 questions on the proposed core criteria and priority sectors listed in the document. Responses were requested by 31 May 2001.

Total number of responses received was 96 – broken down as follows:

Trade associations with OFT supported codes	24
Organisations with consumer codes of practice	26
Trade associations with purely business to business codes of practice	2
Codes supervisory bodies	2
Local authorities/Trading Standards	4
Organisations representing consumers	12
Organisations representing business	4
Government departments/Agencies	5
Individual respondents/Consultants	6
Regulatory bodies	4
Others	7

Summary

The summary is in two parts as follows:

1. General comments from respondents about the new approach.
2. A generalised summary of the answers to the individual questions contained in our consultation document.

A GENERAL COMMENTS FROM KEY STAKEHOLDERS

1. The Better Regulation Task Force , CBI, Consumers' Association, DTI, LACOTS, National Association of Citizens Advice Bureaux and the National Consumer Council all supported the proposals as follows:
2. The Better Regulation Task Force stated that it welcomed the proposals in the Consumer White Paper to strengthen the OFT's approval of codes of practice. However, they had been concerned as to whether consumers would be able to rely on approved schemes. They advise that the OFT now appears to have addressed this concern by making it necessary for codes to have robust evidence of practical success before they achieve full OFT endorsement. The Better Regulation Task Force supports this approach 'wholeheartedly as self regulation will only be taken seriously if breaches of codes of practice have an impact on the offending trader'.
3. The CBI agreed with the OFT on the benefits of well conceived and operated codes for consumers and businesses alike. They remarked that the case for self-regulation of this kind had been well stated in the consultation paper. The CBI also stated that for codes to be effective they must be seen to deliver on their promises and to exceed what is required by common law and statute. However, they commented that codes should not be looked upon as a substitute for effective enforcement of the law against rogue traders. The CBI have urged the OFT to use the core criteria flexibly as a framework for assessment and judge codes based on outputs relating to greater consumer satisfaction, not simply against checklists. Sponsors would also need an early indication of whether their codes would meet the criteria, if they were to invest time and effort to continue.
4. The Consumers' Association was very positive in its support and restated its commitment to contributing to the success of the proposals. It welcomed the OFT's continuing lead in the area and stated that OFT's 'contribution and direction is imperative to ensure the new scheme gains the confidence of

both industry and consumers alike'. They expressed concern at the consequences for consumer confidence should the process not reach Stage 2. They also commented on the cost and resource implications of the new approach for both the OFT and code sponsors themselves.

5. The DTI strongly welcomed the initiative and described it as a 'positive step forward in the work we have jointly been undertaking'. They stated that they are firmly committed to the promotion of self-regulation through effective codes of practice. The DTI agreed that it would be in nobody's interest for the scheme and OFT's name to be devalued by association with ineffective codes. They advised that they are aware of concern, by some businesses, that by setting the compliance criteria at such a high level, there is a risk that the costs involved in conforming will be prohibitive to small and medium sized associations. For example they question the need to apply the same compliance criteria between 'high risk/cost transactions like mortgages' and 'low risk/cost transactions like buying a pair of shoes'. The DTI have asked if there is flexibility within OFT's approach for those good codes that cannot meet the very high standards, but who nevertheless offer a reasonable level of consumer protection beyond the provisions of the law. They also expressed concern that if the criteria are perceived as too demanding by sponsors it is likely that some good codes will not be submitted for approval.
6. LACOTS advise that they support the new approach in general terms, particularly the more vigorous monitoring requirements.
7. The National Association of Citizens Advice Bureaux welcomed the OFT decision to appraise the existing codes and the overall way in which it is proposed to do this. They agreed that the new approach offers the opportunity to reduce consumer detriment.
8. The National Consumer Council welcomed the new initiative and take the view that self regulation can help in both driving competition and in regulation, provided that it is taken seriously. They have emphasised that it is not merely the structure of the scheme that is important, but how relevant the promises made are and whether they are delivered. Like the Consumers' Association, they have pointed out the repercussions of the new approach on the budgets of the OFT and the codes schemes themselves. However, they stated that there is a considerable amount of scepticism to be overturned. They felt this cannot be done without effective communication to consumers of the advantages of choosing a member of a scheme. They advise that if the criteria set out in the consultation paper are not thought to be achievable, they should not be watered down. Their rationale for this is that codes approved in the past have not proved relevant to consumer protection and that, 'we need to get away from the current situation'.

B GENERAL COMMENTS FROM TRADE ASSOCIATIONS WITH SUPPORTED CODES

(*) = Priority Sector

There has been a mixed reaction to the proposals. This amounts to what could be called a guarded welcome by most but with a number of provisos about costs and some sector specific issues. There is a strongly held belief from many trade associations that their own codes are working very well as they are.

British Footwear Association (BFA)

- An ambitious approach to thoroughly upgrading the current diverse consumer codes of practice with many examples of excellent practice. However, they suspect it is too ambitious because it appears expensive and cumbersome – few industries will be willing and able to maintain OFT recognition, even if they start the process of working towards it.

British Vehicle Rental and Leasing Association (BVRLA) (*)

- Supports the initiative to establish a regime of OFT approved codes, provided the exercise does not become over bureaucratic, costly and that it provides perceived benefits to members and consumers. They would wish to be assured of an active marketing campaign to raise consumer awareness of the objectives of the core criteria and the value of the endorsement. There is some suggestion that this will not happen, which raises concerns for the BVRLA.
- The BVRLA sees a benefit in seeking endorsement in principle, subject to full evaluation of the procedures and the cost of complying with the core criteria.

British Holiday and Home Parks Association (BHHPA)

- The proposed criteria have been couched in broad terms to allow individual industries the flexibility to tailor them as appropriate. However, the language is often very loose, particularly in the definition of terms. This invites uncertainty and a host of detailed questions as to the practical application of the proposals

British Retail Consortium (BRC)

- Unfortunate that the OFT did not take the views of business sufficiently into account in the development of its new approach. It would be better

if the OFT were to withdraw these proposals even at this late stage and undertake a more open – minded consultation exercise. If the OFT pursues its current proposals many trade associations will decide the cost of delivering the vigorous regime will outweigh the perceived benefits, resulting in lower consumer protection as codes are abandoned

Consumer Credit Association (CCA) (*)

- The proposals are a workable set of criteria. There are, however, reservations about some of the proposals which need further exploration and consideration of the implications. These are outlined in their answers to the specific questions.

Credit Services Association (CSA) (*)

- Core criteria are not totally realistic and achievable because Criteria 4 (c) applies to lenders and retailers, but not members who are agents and not contract principals.

Direct Marketing Association (DMA) (*)

- Welcomes the OFT's endorsement of the self-regulatory approach to consumer protection exemplified in the consultation paper. However, there must be an adequate marketing budget to ensure consumers are aware of the scheme. Raising consumer awareness and creating an OFT brand will not be an easily achievable goal. Most trade associations are already stretched financially and will not be able to undertake the promotional burden.

Estate Agents Ombudsman (*)

They were pleased to confirm their support for the initiative and keen to participate in the process, but anticipate difficulties:

- The withdrawal of existing support on 31 December 2001. Replacement of booklets will confuse consumers and be expensive for members. Would have preferred a seamless change from the old to the new.
- Monitoring and compliance audits may be too challenging and may side track resources away from complaints resolution and drive away members.

Finance and Leasing Association (FLA) (*)

- Criteria focus very much on monitoring, enforcement and the organisation of the code function. The FLA believe the focus should be more towards the establishment of the code and its marketing.

Glass and Glazing Federation (GGF)

- The core criteria are unrealistically high and unlikely to be achieved by a large part of industry in all sectors. The aim seems to be perfection, whereas it would be better to target a distinct improvement in consumer protection with a resulting reduction in complaints.

Motor Cycle Industry Association (MCI)

- The OFT proposals include a marketing campaign in order to create a brand that differentiates traders complying with such a code from those who don't. This won't be achieved unless the OFT is prepared to devote adequate resources.

Mail Order Traders' Association (MOTA) (*)

- OFT should give priority to dealing with the 'real rogue traders' rather than targeting all industries that happen to be within the specified sectors.

National Association of Funeral Directors (NAFD) (*) (Not supported, but a priority)

- Welcome the proposals but fail to understand why the funeral sector is a priority particularly in light of the OFT review which is ongoing and when there is no evidence of significant consumer detriment.
- Concerned that the OFT will dismiss the past history of approved codes and suggests the emphasis should be on improvement rather than rebuilding.
- Suggest there should be a joint audit of the present code followed by a statement by the OFT of the changes necessary to meet the new criteria.
- Would like OFT to consider a formal provisional approval of Stage 1 because of the delay in full approval at Stage 2. This may make it difficult to persuade trade association members to comply fully and will leave in place potentially unfair competition.

National Association of Estate Agents (NAEA) (*)

- Supportive of the consultation paper's objectives. They agree with the response from the Ombudsman Board, with the proviso that any final regime must be balanced in its approach to consumers and businesses. It must not place an unacceptable financial burden on small businesses, as it will

then risk losing the support of a vast number of responsible businesses which do actually support the ethos of customer service.

National Caravan Council (NCC)

- The NCC states that it believes 'the principles of the new mechanisms outlined in the consultation paper are broadly correct'. However, it has concerns that the criteria are unachievable, the timescales are unmeetable and a large amount of OFT guidance and input will be necessary.

National Consumer Credit Federation (NCCF) (*)

- The proposals will generate a tier of bureaucracy with considerably increased expenditure which will ultimately fall on consumers for little benefit. Their members already comply to a previously acceptable code of practice and conform to the CCA. The consultation document does not include a cost benefit analysis.

Radio, Electrical and Television Retailers' Association (RETRA)

- Strongly support the official backing of good codes by the OFT and wish to see a successful OFT backed scheme. Considers Stage 1 a clear and sound foundation for later OFT public endorsement.

Retail Motor Industry Federation (RMIF) (*)

- Keen to enter into constructive discussion with the OFT regarding clarification of a number of issues in the consultation document and the core criteria. Hopes the OFT will apply the core criteria in a flexible manner.

Scottish Motor Trade Association (SMTA) (*)

- Believe that their present code has largely been successful, but accept that improvements can be made and are committed to ensuring that any new code will increase consumer confidence. They particularly welcome any efforts to marginalise rogue traders. However, they have some reservations as to whether the proposals in the consultation paper will achieve that aim.

Society of Allied and Independent Funeral Directors (SAIF) (*) (Not supported, but a priority)

- In order for the new approach to be effective it must operate within the parameters of compulsory trade association membership, a single code of practice and a cost effective Ombudsman scheme.

- Whilst the concept of the new approach is generally accepted, there is scepticism as to whether there will be sufficient government investment in its marketing so as to make a practical impact on consumer decision making processes.

Society of Motor Manufacturers and Traders (SMMT) (*)

- The aims remain elusive and will not achieve the elimination of consumer detriment without the rigorous pursuit of rogue traders by TSOs and other agencies.

Vehicle Builders and Repairers Association (VBRA) (*)

- Proposals outlined for the core principles are generally welcomed and will establish a consistent approach for the consumer, sponsors and businesses.

OTHER GENERAL COMMENTS

Support from other sources was varied. Organisations such as the Banking Code Standards Board, the Financial Services Consumer Panel, Qualitas, GISC and ICSTIS all expressed support. There were however a significant number of smaller trade associations, among them, British Association of Removers, Domestic Appliance Service Association, British Christmas Tree Growers Association and the Association of Master Upholsters and Soft Furnishers who disagreed with the proposals, mainly on the grounds that the criteria would be too expensive and resource intensive for them to achieve.

A number of others such as the British Cheque Cashers Association, and the Federation of Small Businesses supported the proposals in principle, but had reservations as to how some might be put into practice.

RESPONSES TO SPECIFIC QUESTIONS

Q1 Are the core criteria realistic and achievable? If not, please suggest how they can be improved

1. The majority of respondents were generally positive about the core criteria in principle, with a number of code sponsors, (for example the Banking Code Standards Board, Building Societies Association, Council of Mortgage Lenders, Retail Motor Industry Federation), confident that their existing codes would

meet the criteria. The CBI stated that the core criteria individually seem to be realistic but believe that an expectation that all codes should meet all criteria may discourage some associations. Some serious concerns were expressed, particularly by smaller trade associations, about their ability to achieve them.

2. These reservations mostly focussed on the cost of implementing particular elements, especially those relating to the requirements under Criteria 6 – Monitoring, in relation to performance indicators. Mystery shopping was seen by some small associations as being prohibitively expensive as well as discriminating in favour of larger, richer trade associations. The National Association of Funeral Directors thought mystery shopping had limited scope within the funeral sector. The Vehicle and Body Repair Association pointed out that mystery shopping for the car industry was already very expensive because of the need to use 'set up' vehicles. Due to the additional costs, the Federation of Master Builders was concerned that this would make its members less competitive against the 'cash in hand' operators.
3. The Radio, Electrical and Television Retailers Association suggested that instead of developing performance indicators, the OFT should stipulate the detail and information required to be included in a code's annual report.
4. Dispute resolution mechanisms were also seen as potential problem areas for some, particularly the need to provide an independent redress system. Cost was the main obstacle, especially for smaller associations. The Glass and Glazing Federation was particularly concerned about the requirement that code members would not be able to refuse to allow a complaint to go before a redress scheme. They stated that customers would possess a very strong bargaining counter if they were aware of this right, as the cost of the arbitration is paid by the member.
5. Compliance and disciplinary procedures were expected to pose difficulties for a number of associations. Expulsion from the association was considered by some to have a double negative effect, whereby an expelled member would continue to operate to consumers' detriment while avoiding any duties or obligations it had whilst in membership. It was pointed out that membership of a trade association is voluntary and members are unlikely to vote to be part of an organisation which imposes fines on them. Even 'naming and shaming' would require a great increase in formality and structures for appeal (Finance and Leasing Association, Qualitas, and Boleat Consulting).
6. The requirements for cooperation with **any** intermediary chosen by the consumer under Criteria 5 – Complaints Handling, was seen as problematic by several respondents including the Direct Marketing Association, Motor Cycle Industry Association and the Electrical Contractors' Association of

Scotland. The motives behind the involvement of some intermediaries were questioned with concern about 'hidden agendas' or political motivation.

7. A number of smaller trade associations questioned the availability of consumer organisations which could be consulted as part of the preparation of their code, in accordance with Criteria 3 b. The British Association of Removers commented that there was no specific organised representative body for its sector.

Q2 We would expect all codes to comply with the core criteria. Are they sufficiently challenging? Please highlight any potentially weak areas, and explain why.

1. Most respondents felt that the criteria were sufficiently challenging. The Consumers' Association thought that there should be a requirement to publicise the complaints scheme as it can only be effective as long as consumers are aware of it. A number of other organisations, (Financial Services Authority and National Consumer Council), also suggested that there should be a greater level of independence within governing bodies for both preparation of the code and subsequent monitoring.
2. Some smaller trade associations felt that the criteria are challenging to the point of being unrealistic because of the cost of implementing the requirements, especially in relation to monitoring.

Q3 How relevant are the criteria to individual sectors? Can they be easily translated into sector specific provisions? If not, please explain why. Examples would be particularly useful.

1. Responses to this question were varied, ranging from those who foresaw little or no difficulties to those, mainly smaller trade associations, who did not see the criteria as achievable or relevant for their sectors because of cost. There was also some concern expressed that too little account had been taken of specific issues within particular industries. Others understood why it was not appropriate to deal with narrow sector specific issues within core criteria.
2. The Consumers' Association was very positive about the criteria, stating that they represent a comprehensive set of principles and could see no reason why they should not be translated to individual sectors. The consumer should remain at the heart of any sector specific provisions. There may be sectors in which additional regulatory considerations, such as health and safety requirements, may involve additional criteria.

3. Although the CBI saw the individual criteria as being realistic, the expectation that all codes should meet all of the requirements might discourage some associations from trying to set up schemes. They have urged that the OFT use the core criteria flexibly as a framework for assessment.
4. The Domestic Appliance Service Association thought there would not be serious problems in translating the criteria to its sector. However, they stressed that there would need to be considerable development work and meetings with government departments, consumer representatives and businesses. They would need support to pay for the time and expenses of experienced and competent people.
5. Both the National Caravan Council and the British Home and Holiday Home Parks Association were concerned that the criteria make insufficient allowance for seasonal industries and for those where the supply chain comprises different sub-sectors within a sponsor's area of responsibility. The British Home and Holiday Parks Association were also concerned that the requirement to have review systems in place could cause them problems as changing their code of practice, with its complex supporting contract of 10 years, would be intricate and expensive.
6. The National Consumer Council suggested that it should be made clear that the list in Criteria 4(c) only represents examples of what should be addressed, and can be extended where required to meet a problem.
7. Qualitas gave an example regarding delivery times, where customers may feel they wait too long for furniture. Yet this may be the best that can be achieved in an industry with considerable product variation and increasing amount of furniture being imported. Consumer expectations will vary from sector to sector. The criteria envisage that the general guidelines will be converted into sector specific provisions through consultation between customer and industry representatives. In Qualitas' view each is likely to take a very different view of issues like delivery times, cancellation periods etc. The core criteria do not specify how the OFT plans to resolve these 'stalemates'.
8. Organisations who have expressed confidence about translating the criteria to their sectors include, the Banking Code Standards Board, Scottish Motor Trade Association, Society of Motor Manufacturers and Traders and the General Insurance Standards Council. The Glass and Glazing Federation believed the main criteria should apply equally to all sectors in order to ensure the same standards across different industries. ICSTIS viewed the criteria as being sufficiently generic to be capable of wide adoption as did the Federation of Information and Advice Centres.

Q4 Are the criteria sufficiently self-explanatory? If not, please identify those areas which require clarification.

1. Respondents' views fell mainly into the following three categories:
 - thought the criteria were sufficiently self-explanatory and required no further guidance;
 - thought the criteria were sufficiently self-explanatory but that guidance would be helpful; and
 - thought the criteria were not sufficiently self-explanatory and that guidance would be necessary.
2. The Consumers' Association stated that the clarity of the criteria is one of the strong points. They are flexible enough to be interpreted in a number of different ways, which is appropriate given the diversity of sectors they are intended to cover. But it should be made clear what standards the OFT wish to achieve.

Q5 Is it clear what is required for a code to reach stage one and what is required to progress to stage two? If not, please specify in what areas guidance would be useful

1. The majority of respondents were clear about what is required to reach Stage 1 and Stage 2.
2. Of those who required clarification, several were concerned about the timescale outlined in the consultation paper. They thought it was too tight to enable them to make the necessary revisions to their code once the final criteria are published in July 2001. The Society of Motor Manufacturers and Traders queried whether all core criteria needed to be met in order to achieve Stage 1. Others wanted more information about the approval mechanism. They wanted code sponsors to have guidance from the OFT as to how their codes measured up before they invested money and resources into applying for approval.
3. LACOTS was concerned that consumers may not understand the different stages and therefore there will be insufficient incentives for sponsors to move on to Stage 2. Consumer orientated information would need to be very clear on this. The Consumers' Association was also concerned about uncertainties for consumers throughout the process.

Q6 Should OFT produce guidance on the core criteria? For which criteria would guidance be particularly useful?

1. The vast majority of respondents wanted guidance on all of the criteria. There were also requests for model codes (Consumers' Association, British Holiday and Home Parks Association and National Caravan Council); multi-sectoral working parties (Institute of Consumer Affairs); and OFT helplines (Glass and Glazing Federation and Federation of Communication Services). LACOTS also suggested we provide information on the relevant statutory controls to trade sponsors. This is to ensure they are able to provide the relevant information to their members in relation to compliance with the law. The British Standards Institute offered their support with the development of detailed codes.
2. Of those who did not require more guidance, it was mainly on the basis that there may be a loss of flexibility if guidance is too prescriptive. The Direct Marketing Association, CBI, Qualitas and the Consumer Credit Association stated that flexibility is seen as one of the benefits of self regulation. The CBI stated that the question of guidance would benefit from consultation with prospective sponsors, so that there can be some exchange of views on establishing reasonable requirements. The Building Societies Association thought the criteria were fairly straightforward so guidance was not needed. The Electrical Contractors Association preferred to have the ability to consult with, and seek advice, from the OFT on an ongoing basis.

Q7 Should OFT stipulate the level of independent input required for the preparation of codes?

1. Opinion was divided on how much guidance the OFT should give regarding the level of independent input required. Some, like Qualitas thought that without guidance trade associations could seek more input than was necessary, which would have implications in terms of time and expense. It would also lead to differing standards across codes and will not achieve the aim of a 'standard' hallmark. The Mortgage Code Compliance Board was concerned that without more detail, code sponsors would be unable to gauge, in advance of submission to the OFT, whether the level of consultation has been sufficient.
2. Others, such as the Organisation for Timeshare in Europe believed that any requirements should be phrased in general terms and take into account the nature of the particular industry. The Consumers' Association and several trade associations also commented that it is difficult to be specific over the level of independent input because there is so much variation across sectors.

3. The cost and availability of sufficient competent and motivated consumer and independent members able to sit on advisory bodies, was a concern expressed by the British Cheque Cashers Association and others.
4. The Credit Services Association and the Giftware Association thought that code sponsors should be responsible for demonstrating that appropriate independent input had been achieved.
5. The Glass and Glazing Federation said that independent input is not vital for the drafting of the code, although there may be a case for some small element of independence in the monitoring of the code.

Q8 How should independence be defined in terms of compliance and redress mechanisms? The Consumer White Paper core principles stated that there should be independence wherever necessary or possible. Are there sectors where independence is not necessary? Please specify which sectors and why.

- 1 There was majority support for independence within compliance and redress mechanisms. However, definitions of how this could be achieved varied from the formal structure of Boards, Councils and Supervisory bodies with a majority independent membership, to simply providing access to an arbitration system such as the Institute of Arbitrators. Independence in redress procedures was often seen as more significant than in compliance mechanisms.
2. The Association of British Insurers agreed that a demonstration of 'independence' is important to engender confidence in all sectors, but account should be taken of the nature of the code. There is a need for a greater degree of independence for codes where a sector is largely unregulated, and a code has been introduced in lieu of statutory legislation.
3. The British Holiday and Home Parks Association and the National Caravan Council defined independence in terms of having 'no direct business interest'. Defining independence in terms of being outside the industry in question would not necessarily be helpful – it could add to costs whilst degrading expertise and knowledge of the industry concerned. The degree of independence is more significant for redress than for compliance.
4. The CBI supported the requirements that should be laid down in a code, particularly in relation to conciliation services which are often the most cost-effective and acceptable route to all parties for resolving a dispute. The important point is that prescription should not discourage innovation by code sponsors which benefit consumers.

5. The Consumer Credit Association agreed that a reasonable level of independence should be included, but this should not be called upon unless a fair settlement under conciliation cannot be reached.
6. The Federation of Information and Advice Centres suggested that independence should be defined as having a compliance and redress procedure, which is governed by an independently appointed panel with a majority of consumer representatives.
7. The Finance and Leasing Association did not think the OFT should stipulate the level of independence because of the diversity amongst the individual sectors. It was also important to have input from the industry itself, to ensure that it is realistic and proportional and has sufficient expertise.
8. LACOTS agreed the need for a level of independence particularly for redress mechanisms, but was concerned that having truly independent bodies for all compliance and redress mechanisms could leave the trade losing ownership of their codes.

The following respondents believed that independence was not necessary and/ or achievable:

British Association of Removers

- An independent redress system and associated disciplinary mechanisms would be extremely difficult to implement both in practical and cost terms.

British Vehicle Rental and Leasing Association

- Take the view that only the specialists from within the industry are equipped to detect and effectively monitor non-compliance in technical cases, although the AA and FTA currently assist in independent audit of standards. There has been no demonstrable need to date for independence in the redress mechanism.

Domestic Appliance Service Association

- Independent compliance and redress mechanisms are not viable or necessary in the industry.

Glass and Glazing Federation

- Because it uses an arbitration scheme run by the Institute of Arbitrators, it did not consider it so important to have a high level of independence in the monitoring of the code. It is becoming more difficult to obtain impartial advice from independent sources.

Mail Order Traders Association

- Believe that independence should be required when it is necessary. As a matter of business principle, ie minimising red tape, they do not think independence should be required wherever possible.

Q9 Should the criteria specify a timetable for regular formal reviews of codes by code sponsors? If so, what timescale would you suggest?

1. Opinion was fairly equally divided between those who wanted a timetable specified in the criteria and those who thought it was enough for there to be a requirement in the criteria, but for the frequency to be agreed with each individual sponsor.
2. Of those who specified a timescale, full review every three to five years was the most popular, although there was also some support for smaller reviews annually as a result of the Annual report, followed by a major review every five years.

ANNEXE B

VIEWS ON PRELIMINARY LIST OF PRIORITY SECTORS

A Agree with sectors listed on the preliminary list

1. Boleat Consulting
2. British Cheque Cashers Association (BCCA)
3. British Standards Institute (BSI)
4. Consumers' Association
5. Council of Mortgage Lenders – agree inclusion of credit
6. Department of Trade and Industry (DTI) – support inclusion of car repair and servicing
7. Federation of Communication Services
8. Federation of Information and Advice Centres (FIAC)
9. Finance and Leasing Association (FLA)
10. Financial Services Authority – endorse inclusion of credit
11. Giftware Association
12. Glass and Glazing Federation (GGF)
13. Institute of Consumer Affairs – agree inclusion of car traders
14. Mortgage Code Compliance Board
15. National Association of Citizens Advice Bureau (NACAB)
16. National Federation of Consumer Groups
17. Ombudsman for Estate Agents
18. Scottish Motor Trade Association.
19. South West London Consumer and Education Group for the South London Authorities – support inclusion of car traders

B Disagree with elements of the sectors listed on preliminary list

1. Consumer Credit Association: Priority should not be given to those sectors that already have effective and approved codes.
2. LACOTS: The credit sector is already highly regulated.
3. National Association of Funeral Directors (NAFD): Funeral sector should not be a priority.
4. National Consumer Credit Federation: Priority should not be given to sectors covered by legislation or have a code currently approved by the OFT.
5. Mail Order Traders Association (MOTA): OFT should concentrate on rogue traders rather than sectors e.g. they engage in credit and direct marketing but they are not a problem so it is therefore unfair to target a whole sector.

C Suggestions for additions to list A

- | | |
|---|--|
| 1. Aberdeen City Council | Building/house repair. |
| 2. Association of British Insurers | Plumbers and heating engineers. |
| 3. Banking Code Standards Board | Debt collection. |
| 4. Boleat Consulting | Building/house repair, telephone helplines and time slots for delivery and service calls. |
| 5. Confederation of Aerial Industries | Aerial installation etc. |
| 6. Consumers' Association | Tool hire. |
| 7. Creative Technology Design Ltd | Supply of internet connectivity services and the registration of domain names. |
| 8. Credit Services Association | Debt management. |
| 9. Electrical Contractors Association | Construction. |
| 10. Financial Services Consumer Panel | Mortgages and insurance. |
| 11. LACOTS | Home improvement market should not be excluded in its entirety, debt management, credit repair, all direct marketing activity not just direct marketing companies, home working schemes (unless Outworking Bill enacted), computers and mobile phones. |
| 12. The Mortgage Code Compliance Board | Mortgages. |
| 13. National Association of Citizens Advice Bureaux | Home improvements/repairs, repair/replacement/refunds on computers and accessing existing rights where company policies avoid this, particularly in the furniture and white goods sector. |

14. National Federation of Consumer Groups	Furniture, shoes, clothing, house and electrical repairs.
15. National Consumer Council	After sales service as an issue e.g. computers and telephone help lines.
16. North East London Consumer Advice and Education Liaison Group	Mobile telephones and computers
17. Norwich City Council	Electrical goods retailing.
18. Organisation for Timeshare in Europe	Timeshare industry or include timeshare as part of direct marketing.
19. Qualitas	Furniture retailers.
20. Retail Motor Industry Federation (RMIF)	Gas and electricity.
21. Radio, Electrical and Television Repairers Association (RETRA)	Electrical retailing.
22. Scottish & NI Construction Industry Trade Association	Construction.
23. SELECT (the Electrical Contractors Association of Scotland)	Construction via licensing.

D Respondents who have offered no comments on the preliminary priority list

1. Advertising Standards Authority (ASA) (*joint response with CAP)
2. AMD (Colin Adamson) (Consultant)
3. Mr Ammands (Consumer)
4. Association of British Travel Agents (ABTA)
5. Association of Master Upholsterers and Soft Furnishers Ltd
6. Better Regulation Task Force
7. Bourne Leisure Group
8. British Retail Consortium (BRC)
9. British Bankers Association
10. British and Irish Ombudsman Association (BIOA)
11. British Association of Removers
12. British Christmas Tree Growers Association

13. British Footwear Association
14. British Furniture Manufacturers
15. British Homes and Holiday Parks Association
16. British International Freight Association
17. British Marine Industries Federation
18. British Standards Institute (BSI) – Consumer Policy Committee
19. British Vehicle Rental and Leasing Association (BVRLA)
20. The Building Societies Association
21. Mr D Cash (Consumer)
22. Confederation of British Industry (CBI)
23. Committee of Advertising Practice (CAP) (*joint response with ASA)
24. Crossing the Boundaries Partnership ('The Partners' are TSDs of Gloucestershire, Oxfordshire, Shropshire, Warwickshire and Worcestershire)
25. Despatch Association
26. Department of the Environment, Transport and the Regions (Construction Division)
27. Department of the Environment, Transport and the Regions (Land & Property Division)
28. Direct Marketing Association (DMA)
29. Direct Selling Association (DSA)
30. Domestic Appliance Service Association (DASA)
31. European Fencing Association
32. Federation of Master Builders (FMB)
33. Federation of Small Businesses
34. Funeral Ombudsman Scheme (FOS)
35. General Insurance Standards Council (GISC)
36. Independent Committee for the Supervision of Standards of Telephone Information Services (ICSTIS)
37. The Independent Association of Estate Agents
38. The Introduction Services Federation
39. The Lord Chancellor's Department
40. Master Photographers Association
41. The Motorcycle Industry Association
42. National Association of Caravan Owners
43. National Association of Estate Agents
44. National Caravan Council
45. NC Consulting (Motor sector) (Consultant)
46. Professor Paul Dobson (Academic)
47. Recruitment and Employment Confederation
48. Referenceline Ltd
49. Royal Institute of Chartered Surveyors (RICS)
50. Society of Allied Independent Funeral Directors (SAIF)
51. Scottish Consumer Council

52. Society of Motor Manufacturers and Traders (SMMT)
53. Timeshare Consumers Association
54. Trade Association Forum (TAF)
55. The Vehicle Builders and Repairers Association Ltd (VBRA)

Summary

1. Of the 96 responses received only five have raised any objections to the priority sectors currently shown on our preliminary list. This represents 5.2 per cent who have raised an objection, as opposed to 94.8 per cent who are either content or feel no need/desire to offer an opinion on this question.
2. The 22 responses that we have received regarding additions to our priorities, some respondents have nominated more than one sector, breakdown as follows:
 - nine nominations for construction (including home repairs, improvements and maintenance);
 - five nominations for computers and related services;
 - three nominations for the furniture sector;
 - two nominations for mortgages;
 - two nominations for debt management;
 - two nominations for mobile phones;
 - two nominations for electrical goods retailing; and
 - one nomination for debt collection, electrical repairs, credit repair, insurance, shoes, clothing, gas, electricity, tool hire, aerial installation, all direct marketing activity, home working schemes, timeshare industry, registration of domain names, telephone helplines and time slots for delivery and service calls.

Rationale

3. Some of the organisations that have offered suggestions for other sectors that should be given priority status, have given no rationale for their suggestions. The ones that have stated the rationale for some of these additional priority sectors are listed below:

- Association of British Insurers – Rationale for plumbers and heating engineers. Merits inclusion due 'to the recent adverse publicity'.
- Boleat Consulting – Rationale for computer support services. '...there is widespread dissatisfaction with the inability to obtain the necessary and promised support'.
- Boleat Consulting – Rationale for telephone help lines. '...there is a suspicion, perhaps not well founded, that people are paying to hang on for someone to speak to them'.
- Boleat Consulting – Rationale for time slots for deliveries and service calls. 'Notwithstanding mobile phones some companies, e.g. Argos, seem unable to predict when they can deliver something within eight hours'.
- Confederation of Aerial Industries – Rationale for aerial installation. 'With digital transmission the consumer is bewildered and probably seriously unprotected so far as the nefarious practice in the TV/Radio world'.
- Consumers' Association – Rationale for tool hire. '...tool hire companies are patently falling below prescribed industry safety standards and the consequences of hiring unsafe equipment could result in a serious injury or even a fatality'.
- Creative Technology Design Ltd – Rationale for internet connectivity services. Abuse in the connectivity industry is extreme and is being tackled inadequately by TSDs and OFT. A CoP could assist with availability and speed of connections and the availability of helpdesks and support services.
- Creative Technology Design Ltd – Rationale for registration of domain names. There is no effective legal control for how companies represent this abstract, virtual product in their promotional activities. As companies and individuals become as dependent on internet communications as they are on the phone and fax numbers, effective regulation of domain name ownership and administration is becoming essential.
- Credit Services Association – Rationale for debt management. 'This sector is currently a matter of concern, especially with consumer protection bodies'.
- Electrical Contractors Association – Rationale for Construction. The Quality Mark for Builders scheme is not a self-regulatory regime it is a Government sponsored certification scheme which sits separately alongside,

and overlays, other regimes operated by trade associations such as the ECA. The OFT regime is quite different and associations such as the ECA may wish to go down the OFT rather than the Quality Mark for Builders route.

- Financial Services Consumer Panel – Rationale for mortgages and insurance
These codes 'would seem to fit the OFT's criteria'.
- LACOTS – Rationale for computers and mobile telephones.
'...these are highly competitive, fast moving trade sectors where the potential for consumer confusion is high'.
- Mortgage Code Compliance Board – Rationale for mortgages.
'Due to the size and impact on a consumers' resources'. In addition it might be appropriate for OFT to consider us as a lead example, having regard to the existence of the Mortgage Code Compliance Board as an independently structured monitor of the Code, with compliance monitoring systems and independent disciplinary processes.
- National Consumer Council – Rationale for after sales service.
'People often do not consider after sales service as a factor in making a purchase, but in purchases which involve a medium or long term relationship (when it may be difficult to change), it would be helpful to be steered to companies who expect to treat customers as if they are valued (e.g. telephone help lines for computers)'.
- North East London Consumer Advice and Education Liaison Group – Rationale for mobile phones and computers.
Increased numbers of complaints. Consumer vulnerability when dealing with computers, where an expert opinion is often required and consumers are blamed for not knowing how to use the equipment.
- Norwich City Council – Rationale for electrical retailing.
There is a well established case to include this sector and inclusion at an early stage would send out the right signals to a sector that currently meets all the OFT priority selection criteria.
- Organisation for Timeshare in Europe – Rationale for timeshare.
'Timeshare is a complex product and currently there is a substantial industry in the UK'.

- **Qualitas – Rationale for furniture.**
Consumer complaints about furniture and furnishings continue to be made. Further, following the recent collapse of a number of furniture retailers, consumer affairs programmes have highlighted the need for better consumer protection’.

- **Radio, Electrical and Television Repairers Association (RETRA) – Rationale for electrical retailing.**
This sector is of ‘substantial interest to consumers, especially as moves will be made within the decade to switch from analogue to digital transmissions’.

- **Scottish & NI Construction Industry Trade Association – Rationale for Construction.**
It is unlikely that the Quality Mark for Builders scheme will effectively self-regulate the sector. The scheme only applies in England. The scheme is currently not working due to excessive costs, bureaucracy and consequently low take up from the industry. In their regions a number of trade associations have been involved in developing licensing arrangements with the full backing of Trading Standards and the Scottish Consumer Council. The devolved administrators in Scotland and Northern Ireland are aware of this activity and have given their support. They are currently working on an overarching scheme covering their industry sectors and their regions which will meet OFT criteria but not the Quality Mark criteria. They must therefore be included in our priority sectors.

- **SELECT (the Electrical Contractors’ Association of Scotland) – Rationale for Construction.**
‘...the amount of media time given over to consumer problems with ‘cowboys’ in construction would have made an obvious candidate for OFT priority status’.

ANNEXE C

OFT'S CORE CRITERIA FOR THE NEW APPROACH TO CODES OF PRACTICE

Overarching principles

- a) Our aim is to set challenging but realistic standards for businesses to achieve. The overriding principle, that only codes which are effective in protecting consumer interests shall be approved, must be maintained. If it is not, the codes of practice regime will fail due to a lack of credibility and respect.
- b) A code must require code members to meet their obligations under consumer protection and other laws. A code should offer specific and worthwhile benefits beyond the law.
- c) The OFT has decided upon a two stage approach to codes of practice. At Stage 1 code sponsors will promise that their code meets the required criteria. Progression to Stage 2 and OFT approval will be made when evidence is produced to verify that the code sponsors deliver on the promise.
- d) The criteria apply to stages one and two except where otherwise indicated.

CRITERIA

Please note the core criteria remain as published in OFT's February 2001 consultation document, but have been renumbered in this report.

1 Organisational

- a) Code sponsors should have a significant influence on their sector. In practice membership would normally be a majority of firms in the sector, but this would not preclude support for a smaller code sponsor containing some of the more progressive elements in the industry.
- b) Compliance with the code shall be mandatory on code members.

- c) Code sponsors shall have independent disciplinary procedures available to deal effectively with cases of non-compliance.
- d) Code sponsors shall have adequate resources and be funded in such a way that the objectives of the code are not compromised.

2 Preparation of the Code

- a) Code sponsors shall be able to demonstrate that members are prepared to observe its provisions.
- b) Code sponsors shall be able to demonstrate that organisations representing consumers, enforcement bodies and advisory services have been adequately consulted throughout the preparation of the code.
- c) Code sponsors shall be able to demonstrate that organisations representing consumers, enforcement bodies and advisory services are being adequately consulted throughout the operation and monitoring of the code.

***Applicable to Stage 2 only.**

3 Content of the Code

- a) The code shall include measures directed at the removal or easing of consumer concerns and undesirable trade practices, arising within the particular business sector.
- b) The code shall require that code members ensure that the relevant staff know about and meet the terms of the code as well as their legal responsibilities. Appropriate training is to be provided.
- c) The content of the code shall address the following areas, as appropriate, to the sector:
 - clear and truthful marketing and advertising;
 - clear pre-contractual information;
 - clear terms and conditions of supply including fair contracts;
 - delivery/completion dates;
 - cancellation rights;
 - guarantees and warranties;

- protection of deposit or prepayments;
- after-sales service provisions; and
- additional effort/help to be provided to vulnerable consumers.

4 **Complaints Handling**

- a) Adequate procedures shall be available, within the code, for dealing with complaints from consumers, to include:
- a requirement that code members shall have in place speedy, responsive, accessible and user friendly procedures for dealing with consumer complaints. A specific reasonable time limit for responding to complaints shall be agreed;
 - a requirement that code members shall offer maximum co-operation with local consumer advisers or any other intermediary consulted by the consumer;
 - the availability of conciliation services directed at arranging a decision acceptable to both parties; and
 - availability of a low-cost, speedy, responsive, accessible and user friendly independent redress scheme as an alternative to seeking court action in the first instance. **Independence is vital in any redress scheme.** The scheme shall be binding in respect of code members who shall not be able to refuse to allow a complaint to go before the scheme if a customer so chooses. Furthermore the code member shall be bound to accept a judgement made under the scheme. Any such scheme shall be able to take into account possible breaches of the code where relevant to the complaint.

5 **Monitoring**

- a) The operation of the code shall be regularly monitored as follows:
- the code sponsor shall regularly review the code;
 - the code sponsor shall develop performance indicators, e.g. mystery shopping exercises and independent compliance audits, to measure the effectiveness of the code;
 - the code sponsor shall implement and publish the results of the performance indicators to demonstrate the effectiveness of the code;
***Applicable to Stage 2 only.**

- the code sponsor shall update the code provisions, as and when necessary, in the light of changing circumstances and expectations.
***Applicable to Stage 2 only.**
- consumer satisfaction shall be regularly assessed;
***Applicable to Stage 2 only.**
- the code sponsor shall publish annually a report on the operation of the code including in particular the numbers and type of complaints referred for conciliation and to the independent redress system. It would be preferable if the report were compiled by an independent person or body with powers to recommend actions; and
***Applicable to Stage 2 only.**
- the code sponsor shall provide copies of the annual reports to the OFT;
***Applicable to Stage 2 only.**

6 Enforcement

- a) The code sponsor shall establish a procedure for handling non-compliance by members with the code. The procedure shall include reasonable time limits.
- b) The code sponsor shall also set out a range of sanctions, e.g. warning letters, fines, termination of membership, for dealing with non-compliance.

7 Publicity

- a) Code sponsors and members shall ensure that their customers are aware of the code.
- b) Code members are to make clear, e.g. in advertising, point of sale, their adherence to a code of practice.
- c) Copies of codes shall be available without charge to customers, to members, to local consumer advisers and to others with a legitimate interest.
- d) Copies of any code related publicity generated by the code sponsor shall be provided to the OFT.
- e) Code sponsors and members shall publicise the fact that the OFT has approved the code by using the agreed OFT logo/mark.
***Applicable to Stage 2 only.**

ANNEXE D

List of respondents to the consultation paper – *The OFT's new approach to consumer codes of practice* issued 28 February 2001

● = Those on the consultee list:

- Aberdeen City Council
- Advertising Standards Authority
- AMD (Colin Adamson) (Consultant)
Mr R W Ammonds (Consumer)
- Association of British Insurers
- Association of British Travel Agents
Association of Master Upholsterers and Soft Furnishers Ltd

- Banking Code Standards Board
- Better Regulation Task Force
- Boleat Consulting
Bourne Leisure Group
- British Association of Removers
- British Bankers Association
- British Cheque Cashers Association
British Christmas Tree Growers Association
- British Footwear Association
British Furniture Manufacturers
- British Holiday & Home Parks Association Ltd
- British and Irish Ombudsman Association
British International Freight Association
- British Marine Industries Federation
- British Retail Consortium
- Building Societies Association
- British Standards Institute
British Standards Institute (Consumer Policy Committee)
- British Vehicle Rental and Leasing Association

- Mr D Cash (Consumer)
Committee of Advertising Practice
- Confederation of British Industry
Confederation of Aerial Industries
- Consumer Credit Association of the United Kingdom
- Consumers' Association

- Council of Mortgage Lenders
- Creative Technology (Microdesign) Ltd
- Credit Services Association
- Crossing the Boundaries Partnership ('The Partners' are the TSDs of Gloucestershire, Oxfordshire, Shropshire, Warwickshire and Worcestershire)

Despatch Association
DETR (Land and Property Division)

- DETR (Construction Division)
- Department of Trade and Industry
- Direct Marketing Association
- Direct Selling Association
- Domestic Appliance Service Association

Electrical Contractors Association

- European Fencing Industry Association Ltd

Federation of Communication Services Ltd
Federation of Information and Advice Centres
Federation of Master Builders

- Federation of Small Businesses
- Finance and Leasing Association
- Financial Services Authority
- Financial Services Consumer Panel
- Funeral Ombudsman Scheme

The GA (Giftware Association)

- General Insurance Standards Council
- Glass and Glazing Federation

- Independent Association of Estate Agents
- Independent Committee for the Supervision of Standards of Telephone Information Services (ICSTIS)
- Institute of Consumer Affairs
- Introduction Services Federation

- LACOTS
- Lord Chancellors Department

- Mail Order Traders' Association
- Master Photographers Association
- Mortgage Code Compliance Board
- Motor Cycle Industry Association

NC Consulting

- National Association of Caravan Owners
 - National Association of Citizens Advice Bureaux
 - National Association of Estate Agents
 - National Association of Funeral Directors
 - National Caravan Council
 - National Consumer Council
 - National Consumer Credit Federation
 - National Consumer Federation (formerly National Federation of Consumer Groups)
 - North East London Consumer Advice and Education Liaison Group
 - Norwich City Council
-
- Ombudsman for Estate Agents Company Ltd
 - Organisation for Timeshare in Europe

Professor Paul Dobson (Academic)

- Qualitas
-
- Radio, Electrical and Television Repairers Association
 - Recruitment and Employment Confederation
 - Referenceline Ltd
 - Retail Motor Industry Federation
 - Royal Institute of Chartered Surveyors

Scottish and Northern Irish Construction Industry Trade Associations

- Scottish Consumer Council
- Scottish Motor Trade Association
- SELECT (the Electrical Contractors' Association of Scotland)
- Society of Allied and Independent Funeral Directors
- Society of Motor Manufacturers and Traders Ltd
- South West London Consumer and Education Group

Timeshare Consumers Association

- Trade Association Forum
-
- Vehicle Builders and Repairers Association