

Codes of practice

Annexe D of the doorstep selling report

May 2004

What can voluntary codes of practice achieve?

- D.1 Voluntary codes of practice have the potential to deliver real benefits to consumers and reduce consumer detriment, by providing an effective but lighter touch alternative to statutory regulation. Self-regulation can provide greater flexibility and speed in addressing specific consumer problems within sectors than statutory regulation. By involving industry participants in tackling sector specific problems, it builds upon industry expertise and legitimate self-interest in addressing malpractice or poor standards in the relevant market place. Over time it should lead to increased standards of customer care across industry sectors as these voluntary standards are increasingly adopted and exceeded in order to attract and retain customers.
- D.2 Voluntary codes of practice should also be able to give consumers benefits above and beyond those available at law. Good codes should set out clearly what the consumer can expect from member businesses under the law, and what additional benefits the code will provide, notably in customer service.
- D.3 Effective codes, those that have high recognition among consumers and are well enforced, should also help to marginalise rogue traders within a sector. Whole sectors of business can suffer through the behaviour of the rogue element which can damage consumer confidence. Such traders are unlikely to subscribe to codes of practice, allowing consumers a better chance of avoiding them and enforcement authorities more opportunity to identify and deal with them.

OFT Approved codes

- D.4 There is an established means for developing codes through the OFT's Consumer Codes Approval Scheme (CCAS) which is based on the above principles. The Codes Team is currently negotiating with bodies from several sectors that engage in direct selling.
- D.5 CCAS is founded upon new powers conferred on the OFT by the Enterprise Act 2002. Unlike the superseded power under the Fair

Trading Act 1973¹, the OFT can now approve and withdraw approval from codes against published criteria – and promote approved codes using an official logo.

D.6 The aim of the CCAS is to achieve effective voluntary codes of process governing business dealings with consumers. This scheme is made up of two interdependent stages. At Stage One the code sponsor, through negotiations with the OFT, develops a code of practice that meets certain specified core criteria. At Stage Two, code sponsors demonstrate that their code is actually delivering on that promise. Code sponsors are required to provide evidence that the code is being effectively monitored and enforced and that it is delivering benefits to consumers.

D.7 The members of code sponsors, as well as the code sponsor themselves, that successfully negotiate this two-stage process will display an 'OFT Approved Code' logo which will be marketed as a quality indicator by the OFT. The Direct Selling Association (DSA) Code has achieved Stage One status under the CCAS. OFT hope to be able to approve the code in 2004.

D.8 In brief, the CCAS core criteria require that:

- the code sponsor has a significant influence on its sector
- the code includes measures directed at removing or easing consumer concerns and undesirable trading practices arising within the sector,
- code members' staff know about the code and that compliance with it is mandatory,
- the code covers, where applicable, advertising, pre-contractual information, delivery dates, cancellation rights, guarantees, fair contracts, protection of deposits, after sales service provisions and assistance for vulnerable consumers,

¹ Under the Fair Trading Act the OFT had a duty to encourage trade and professional bodies to develop codes of practice for the safeguarding and promotion of consumers' interests.

- the code has a system for dealing with complaints in a speedy, accessible and user friendly manner exists, including the availability of a low cost alternative redress mechanism
- consumer bodies have been consulted throughout the preparation, operation and monitoring of the code
- code sponsors monitor compliance and have independent disciplinary procedures for dealing with non-compliance, and
- code sponsors and members ensure that the public are aware of the benefits of the code.

D.9 The OFT's promotion will provide clear benefits for businesses. A code of practice that indicates high standards of customer service can be a very effective way for businesses to attract and retain customers. It enables them to send out clear messages to consumers about what they should expect and it allows them to differentiate themselves from others who may set themselves lower standards. OFT promotion will mean increased consumer awareness of approved codes.

Risks associated with the CCAS

D.10 The OFT is committed to promoting the CCAS and establishing the 'OFT Approved code' logo as a strong consumer brand that influences consumers' purchasing decisions. However, as with any venture, there are of course risks to this approach that should be considered.

Not enough traders sign up to the CCAS

D.11 It is important to the success of the scheme that coverage within a sector reaches a critical mass within a reasonable time frame. An approved code will be of limited value if consumers have difficulty identifying traders that are signed up to it.

Insufficient levels of consumer awareness

D.12 Equally important to the success of the CCAS is that the OFT and code sponsors alike ensure that they create a good level of consumer awareness of its benefits. As stated, the OFT is committed to a strong promotional campaign to ensure this is achieved. However, responsibility also rests with code sponsors to ensure that their members make appropriate efforts to publicise the benefits of the code themselves. OFT expects that businesses will have a commercial interest in complying with this requirement.

Insufficient levels of code compliance

D.13 One of the principles that the CCAS is founded upon is the fact that OFT approval will only be granted to codes that can prove they are delivering benefits to consumers. This requirement to provide evidence of sufficiently high code compliance levels is an ongoing one – sponsors of approved codes will have to convince OFT on an ongoing basis that their codes are continuing to deliver and the OFT can withdraw its approval for failing codes.

Risks associated with doorstep selling codes

Lack of consumer choice

D.14 While the aim of the CCAS is to encourage consumers to identify and select businesses that are signed up to an OFT Approved code, due to the often reactive nature of buying in the home, this becomes more difficult to achieve. Consumers who buy goods or services as a result of an un-solicited visit (cold call) do not choose who they buy from on their door or in their home. This potential problem would be lessened if an aforementioned critical mass is achieved for the medium of doorstep selling.

Abuse of the 'OFT Approved Code' logo

- D.15 Research shows it is very difficult to monitor companies and salespeople who sell in the home or on the doorstep. The potential for misuse of the OFT Approved Code logo is therefore greater in doorstep selling.
- D.16 Sponsors of approved codes have an obligation under the CCAS to monitor compliance with their codes and to take the necessary disciplinary action against their members – the ultimate being dismissal from their body. Dismissal would of course result in an individual trader losing the right to carry the OFT logo - a clear sign that they do not live up to the standards required. Further, a failure by a code sponsor to meet its obligations to monitor and enforce its code would result in code approval being withdrawn. All code members would then lose the right to display the OFT logo. The OFT is currently working on devising an adequate system for protecting the logo and guarding against its fraudulent use.